

Subcontracting funding summit

7 June 2018

LSECT
LEARNING & SKILLS
EVENTS, CONSULTANCY & TRAINING

Agenda

Slides will be emailed to delegates after the summit

- 10:30 Tactical versus strategic, total versus token and other key features of the subcontracting rules in 2017/18 and 2018/19
Nick Linford
- 11:10 Ofsted's approach to sub-contracting and best practice
Christopher Jones, senior HMI for FE & Skills and Specialist Adviser for Apprenticeships, Ofsted
- 11:50 Break for refreshments and networking
- 12:10 Managing new and existing subcontracting relationships - *getting due diligence and contracting right*
Mark Taylor, Partner, Corporate Education, Eversheds Sutherland
- 13:00 Break for lunch and networking time
- 14:00 Funding, data and compliance: Audit advice for prime and sub-contractors
Karl Bentley and Chris Mantel, RSM
- 15:00 What does the longer term future of EFA and SFA subcontracting look like (incl. RoAPT)?
Nick Linford
- 15:30 Prime and subcontracting networking time

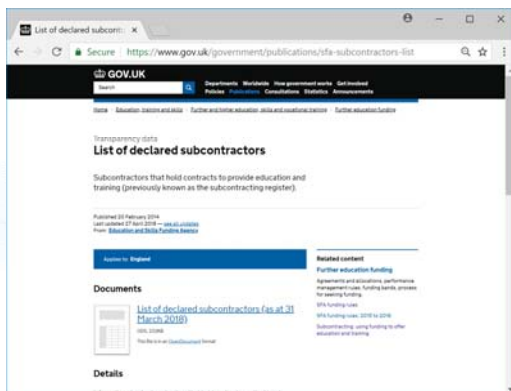
Tactical versus strategic, total versus token and other key features of the subcontracting rules in 2017/18 and 2018/19

Nick Linford



ESFA subcontracting volumes (self-declared)

The EFSA publish subcontracted contracts (self-declared over £100k)



<https://www.gov.uk/government/publications/sfa-subcontractors-list>

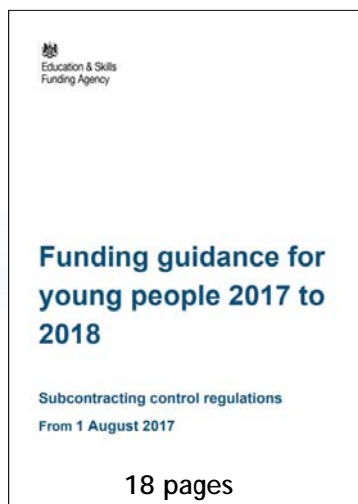
Contract values for 2017/18 collected for first time through the online Skills Funding Service (SFS).

Figures no longer reliable owing to apprenticeship levy policy

	End of 2013/14
Subcontracted Contracts	£919m 4,218
Av per contract	£217,913
	Dec 2015
Subcontracted Contracts	£586m 2,468
Av per contract	£237,615
	Jan 2017
Subcontracted Contracts	£693m 2,873
Av per contract	£241,118
	May 2017
Subcontracted Contracts	£809m 3,423
Av per contract	£236,377

Rules differ by funding stream

Study programme



<https://tinyurl.com/ms3t5cp>

AEB



Para 84 to 117 (5 pages)

<https://tinyurl.com/z52t5n5>

Apprenticeships from 1 May 2017

Training provider rules. Para P121 to P155 (5 pages)

Employer provider rules. Para EP106 to EP131 (5 pages)

Employer rules. E103 to E111 (3 pages)

<https://tinyurl.com/z6bfvtd>

Study programme subcontracting



<https://tinyurl.com/ms3t5cp>


Emphasis on risks of 'distant' subcontracting

Distant subcontracted delivery within study programmes

38. Distant provision is that which is outside the normal recruitment area of the directly funded institution, that is the area from which most ESFA-funded students travel to learn at the institution as explained in companion document funding regulations section 3. There are inherent difficulties for directly funded institutions in exercising the appropriate levels of control over distant subcontracted provision, thereby increasing the risk of poor provision being delivered, of safeguarding and/or funding irregularity.

39. Distant subcontracting arrangements, for the whole of a student's programme, should be by exception only and maintained schools and academies must completely discontinue them, as set out in paragraphs 24 to 31. For institutions with subcontractors that recruit students on distant provision the advice in this document will assist them in making sure they are only recording eligible students within their funding data returns.

AEB subcontracting - don't make it "tactical"

 Education & Skills Funding Agency

Adult education budget: funding rules

Version 1

For the 2018 to 2019 funding year (1 August 2018 to 31 July 2019)

This document sets out the funding rules that apply to all providers of education and training who receive adult education budget funding.

May 2018

Of interest to providers and employers

Emphasis on strategic not tactical

SFA Grant Letter 2016/17: "there continues to be levels of short term tactical subcontracting that are causing concern"

86. Your governing body or board of directors and your accounting officer (senior responsible person) must be satisfied that all your delivery subcontracting meets your strategic aims and enhances the quality of your learner offer. You must set out the reasons for subcontracting in your published supply chain fees and charges policy to reflect your strategic aims. You must be able to evidence this, such as minutes of meetings and written sign-off.

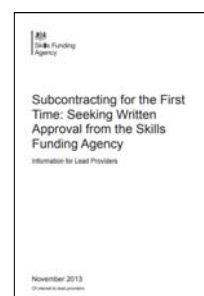
87. You must not subcontract to meet short-term funding objectives.

<https://www.gov.uk/government/publications/adult-education-budget-funding-rules-2018-to-2019>

AEB: Subcontracting for first time

Selection and procurement

90. If you have not previously subcontracted provision we fund, you must get our written approval before awarding a contract to a delivery subcontractor and keep evidence of this. You can find details about [seeking written approval](#) on GOV.UK.



AEB & appren: Second-level subcontracting

Second-level subcontracting

109. You must not agree the use of any delivery subcontractor where this would require you to subcontract education and training to a second level. All of your delivery subcontractors must be contracted directly by you.

P131. You must not agree the use of any delivery subcontractor where this would require you to subcontract apprenticeship training and/or on-programme assessment to a second level. All of your delivery subcontractors must be contracted directly by you.

<https://www.gov.uk/guidance/subcontracting-using-funding-to-offer-education-and-training#subcontracting-for-the-first-time>

Appren subcontracting: Don't make it a "token amount"

P123. At the outset of each apprenticeship, a main provider and employer will agree a plan for its delivery. You must directly deliver some of the apprenticeship training and/or on-programme assessment associated with each employer's apprenticeship programme. By apprenticeship programme we mean the apprentices that are being trained for the employer that has chosen you. The volume of training and/or on-programme assessment that you directly deliver for each employer must have some substance and must not be a token amount to satisfy this rule. It must not be limited to a brief input at the start of each employer's programme or involve delivery to just a few of a large number of apprentices.

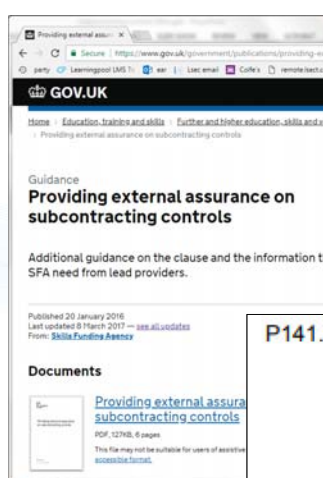
Rule applied for starts from:

- 1 May 2017 for levied employers (ACT 1)
- 1 January 2018 for levied employers (ACT 2)

P132. You must maintain the relationship with each employer at all times. You must not allow a delivery subcontractor to lead that relationship.

Requirement for external assurance (AEB and appren)

Note the difference between funding (AEB) and financial year (New apprens)



98. You must obtain an annual report from an external auditor if the AEB contracts with your delivery subcontractors will exceed £100,000 in any one funding year. The report must:

- 98.1 provide assurance on the arrangements to manage and control your delivery subcontractors, and
- 98.2 comply with any guidance issued by us

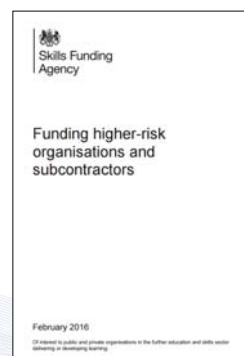
99. You must supply us with a certificate signed by the external auditor and an authorised signatory to confirm you have received a report that provides satisfactory assurance. We may ask you to provide a copy of the full report.

P141. You must obtain an annual report from an external auditor if the total apprenticeship contracts with your delivery subcontractors will exceed £100,000 in any one financial year. The report must provide assurance on the arrangements to manage and control your delivery subcontractors. The report must comply with any guidance issued by us. You must supply us with a certificate signed by the external auditor and an authorised signatory to confirm you have received a report that provides satisfactory assurance. We may ask you to provide a copy of the full report.

<https://www.gov.uk/government/publications/providing-external-assurance-on-subcontracting-controls>

Additional SFA guidance

“The purpose of this document is to identify the criteria that would prevent an organisation being considered for funding. This applies both to organisations seeking funding directly from the SFA and to those proposing to deliver education and training services funded by the SFA under a subcontract. The SFA includes in all its funding agreements the right to require a lead provider not to enter into or to stop subcontracting arrangements.”



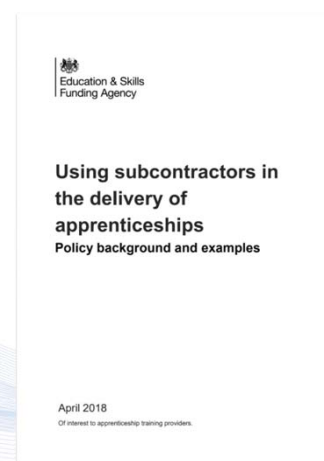
Reasons SFA can also refuse to fund organisations or permit subcontracting arrangements includes information from awarding bodies identifying significant irregularities in the award of qualifications within the last three years.

<https://www.gov.uk/government/publications/sfa-financial-assurance-higher-risk-providers-and-subcontractors>

Additional SFA guidance

“This publication provides policy context, clarification of key terminology and some illustrative examples around the use of subcontractors in the delivery of apprenticeships. It has been developed with input and advice from the ESFA’s Provider Reference Group. The publication also explains that we will review some of the apprenticeship subcontracting funding rules before August 2018.”

“We will continue to look closely at subcontracting practices, and will consider making further changes over time if necessary. We will work with employers and providers to make sure subcontracting practices are proportionate, deliver good value for taxpayers and good outcomes for employers and apprentices.”



<https://www.gov.uk/government/publications/apprenticeships-subcontracting>

Inspecting subcontracted provision in further education and skills

Chris Jones HMI
Specialist Adviser - Apprenticeships



March 16 2018

Slide 13

Session outline

- Our focus on subcontractors
- How we inspect and report on the achievement of learners and apprentices in subcontracted provision

Session outline

Slide 14



Policy update

'The conclusions ... raise big questions about **subcontracting** and the quality of apprenticeship training. I'm unconvinced and uncomfortable about the practice of giving a large sum of money to just one organisation. **Particularly when the recipient subcontracts much of that training**, taking a hefty cut and delivering little of value for the Government funding it receives.'

(Robert Halfon MP, November 2017)

Policy update

Slide 15



Policy update

'I have no doubt that all of you are acutely aware of the risks faced when large sums of money appear to be washing around the system, with **insufficient quality control**. Insufficient oversight and quality assurance undoubtedly resulted in too many **poor outcomes for learners...**'

(Amanda Spielman HMCI, November 2017)

Policy update

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Inspecting subcontractors



We inspect:

- **providers** who hold **direct contracts** with the funding agencies or levy payers
- **any provision** carried out on behalf of the provider through **subcontract(s) or partnership arrangements**, including by subcontractors that hold additional direct contracts of their own
- **how well** prime contractors **manage** the **performance** of their subcontractors/partners
- Ofsted reserves the right to inspect a subcontractor itself against the common inspection framework and handbook

Inspecting subcontractors

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Data



	Cohort 14-15	AR	Cohort 15-16	AR	Cohort 16-17	AR
Boxed Training	6	50%	8	38%	24	17%
Clear Training UK	595	86%	598	75%	509	47%
Input Services	150	96%	184	90%	332	93%
Tidy Progress	157	58%	106	34%	309	19%
Roadside Training	166	73%	108	71%	112	74%
Anything Everywhere	10	0%	55	14%	88	0%

Outcomes data

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What inspectors may ask provider:



The pre-inspection analysis may include:

- To what extent do the provider's leaders and managers evaluate accurately the subcontracted provision?
- Where improvements are required, how diligently do leaders and managers follow these up and what is the impact of any improvements?
- To what extent do the provider's leaders and managers support their subcontractors to help them improve? What do they do if they don't improve?

Emerging questions

Slide 19

What inspectors may ask provider:



- How good is the quality of subcontracted teaching, learning and assessment, including for English and mathematics?
- What is the standard of learners' work?
- Are the current learners at the subcontractor making good progress? If not, what action is being taken?
- Do subcontractors' managers and teachers monitor learners' attendance and what do they do if they are absent?

Emerging questions

Slide 20

What inspectors may ask provider:



- How effectively are subcontractors' leaders and managers ensuring learners are safe, and to what extent do they share safeguarding concerns and incidents with the provider?
- How effective is the 'service level agreement' or 'contract' at holding subcontractors to account?

Emerging questions

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Representative samples



- When inspecting subcontracted provision, it is important that we acquire a breadth of evidence and make clear and succinct judgements based on a representative sample.
- All aspects may not be able to be covered realistically throughout the inspection week. Inspectors and providers should consider using webinar, telephone conference and other remote activities to extend the 'reach'.
- Inspectors and providers should ensure that the inspection covers all provision types where there are subcontractors.
- Providers and inspectors should ensure access to learner/apprentice portfolios (work scrutiny) and progress records to triangulate judgements.

Sampling

Slide 22

Additional resource



- The lead inspector will allocate at least one inspector who can focus primarily on the quality of education and training provided by subcontractors.
- The inspection report should contain enough detail about the quality and management of the subcontracted provision.
- The lead inspector will refer to named subcontractors in the body of the report to clarify their contribution to strengths and weaknesses in the main provider as necessary.
- The lead inspector will provide a list of subcontractors on the provider detail page (up to 20)

Inspector resource

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The inspection report:



- A clear evaluative statement on the effectiveness of the management of any subcontracted provision must be included in the report. (Leadership and management)
- A clear evaluative statement on the quality of any subcontracted provision must be included in the report, naming providers and giving examples where relevant. (Outcomes/PDBW and TLA)
- In short inspection letters, include a clear evaluative statement on the management and quality of any subcontracted provision.

Changes to reporting

Slide 24

Questions and discussion

Any questions?

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Ofsted on the web and on social media



www.gov.uk/ofsted
<http://reports.ofsted.gov.uk>



www.youtube.com/ofstednews



www.linkedin.com/company/ofsted



www.slideshare.net/ofstednews



www.twitter.com/ofstednews

General Ofsted

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**Managing new and existing
sub-contracting relationships – *getting it right***

16 March 2018

Mark Taylor
Partner



Managing Sub-Contracting in FE
The importance of getting it right

The Importance of Getting it Right

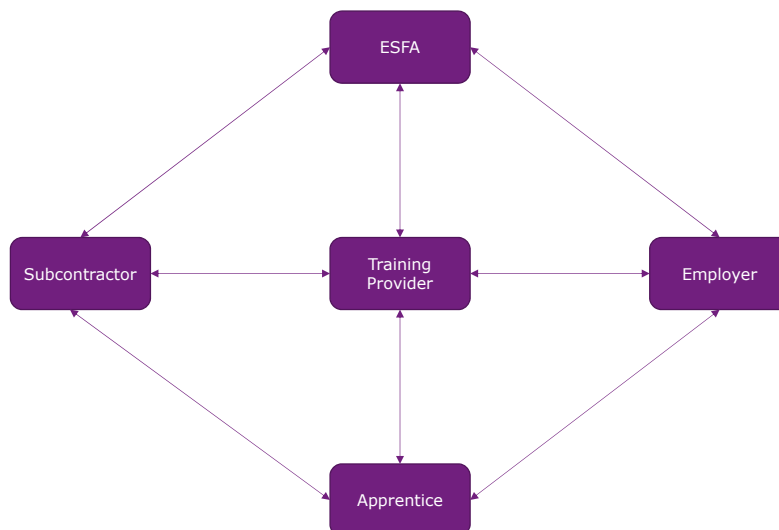
- Challenging times in the FE sector
- Anticipate and avoid problems by:-
 - choosing the right partner
 - minimising risk through the contract terms
 - practical and effective disputes resolution
- Provide structure for effective relationship management



Recent changes

- The apprenticeship levy
- Register of Apprenticeship Training Providers (RoATP)
- MORE funding rules (eg different rules for adult education budget and apprenticeship funding)
- Limitation on apprenticeship subcontracting

Contracting relationships



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Managing Sub-Contracting in FE

Choosing the right partner

Choosing the right Partner

- Absolutely vital to effective contracting
- Type of Due Diligence
 - Legal
 - Financial
 - Commercial/operational
- Scope of Due Diligence

Choosing the right Partner

- ESFA funding guidance
 - ensure the subcontractor has sufficient capacity, capability, quality and financial standing to deliver provision
- Pre-qualification process (previously Due Diligence Assurance Gateway)
- Sub-Contractor Declaration Form
- Prepare audit trail

Managing Sub-Contracting in FE

The Terms of the Sub-Contract

The Terms of the Sub-Contract

- Who is contracting?
- Back to back obligations/risks
- Incorporate the funding obligations?
- ESFA obligations
 - effective monitoring and control over subcontractor
 - provision of information and access
 - mandatory terms
 - ESF funds



The Terms of the Sub-Contract

- Educational oversight – who wears the trousers?
- Clear quality standards & performance levels
- Audit & inspection rights
- Contract/performance review meetings
- Creation and maintenance of records required
- Oblige provision of information
- Provide specific details of the information required (what, when and how frequently)

The Terms of the Sub-Contract

- Duration
 - Fixed term
 - Rolling contract?
- Termination
 - Expiry
 - Breach - right to remedy?
 - Insolvency
 - Significant changes in funding requirements
 - On notice
- Intervention/step in

The Terms of the Sub-Contract

- What's this going to cost us?
- Clear payment amounts (or formulae) and details of payment dates
- Clear invoicing requirements



The Terms of the Sub-Contract

- Other legal terms to include in your subcontract
 - Data Protection Act compliance (including GDPR)
 - safeguarding
 - intellectual property
 - FOIA assistance
 - confidentiality
 - health and safety

The Terms of the Sub-Contract

If things go wrong:

- Ensure reporting requirements provide enough information to spot areas of concern
- Warranties/indemnities/guarantees
- Set out how disputes should be resolved
- Insurance obligations
- Teach out – contingency plan
- Recovery of materials and learner data
- Assistance for apprentices who are made redundant

Key challenges/disputes

- Withholding payment for breach of terms can amount to repudiatory breach of contract itself
- Subcontractors often fail to provide all learner records and data – can use this as a bargaining tool to secure further payment
- If fraud issues are detected may need to involve the Police and/or ESFA
- Once terminated:
 - often subcontractors experience financial difficulty/go bust;
 - can be very difficult to obtain copy records to prevent ESFA clawback;
 - additional costs involved with taking on learners or transferring to new provider;
 - may have to liaise with an insolvency practitioner re records/missed payments.
- Reputational issues

Top tips for dealing with key challenges/disputes

- Read termination and dispute resolution mechanisms carefully before taking action
- Consider whether there is an ability to re-negotiate or agree exit arrangements
- Fraud issues - may need to provide records to the police consider data protection obligations
- Consider if missing data may be obtained from third parties eg learners, examination boards, ESFA
- Maintain adequate audit trail throughout to reduce risk of clawback

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ESP_CORP #2378258

Subcontracting: Funding, Data and Compliance

AUDIT | TAX | CONSULTING



Subcontracting

- Still considered the highest risk area by the ESFA
- Outcome of the Luis Michael Training Case will not change that perception
- Six convictions and a combined 25 years jail time

SO IGNORE THE RISKS AT YOUR PERIL

AND NO MATTER WHAT HAPPENS THE ESFA ALWAYS RECOVERS FUNDING FROM THE
PRIME



Rules

The rules for subcontracting can be found in

Funding Guidance for Young People 2017 to 2018 - Subcontracting control Regulations

Adult Education Budget: funding and performance management rules 2017-18 – specifically paragraph 79 to 111

Apprenticeship funding and performance management rules for training providers May 2017 to March 2019 paragraphs P121 to P155

Addendum to the apprenticeship funding and performance management rules May 2017 to March 2018 (covers exemptions for non levy paying employers from 1 May 2017 to 31 December 2017)

Advanced Learner Loans funding and performance management rules paragraph 22



What is subcontracting?

ESFA AEB Definition

- We define a delivery subcontractor as a separate legal entity that has an agreement with you to deliver any element of the education and training we fund. A separate legal entity includes companies in your group, other associated companies and sole traders. It also includes individuals who are self-employed or supplied by an employment agency, unless those individuals are working under your direction and control, in the same way as your own employees.

ESFA Young People Definition

- 10. Subcontracted delivery is defined as provision delivered by a third party organisation with whom the institution directly funded by the ESFA has entered into contractual arrangements for the delivery of a proportion of the education provision funded by the ESFA, and for which payments are dependent on student numbers and/or formula funding values.

Advanced Learner Loans Definition

- A separate legal entity that has an agreement with you to deliver any element of the education and training we fund or which is funded through Advanced Learning Loans. A separate legal entity includes companies in your group, other associated companies and sole traders. It also includes individuals who are self-employed or supplied by an employment agency, unless those individuals are working under your direction and control, in the same way as your own employees.

So if you don't manage and direct the staff delivering or you're paying for activity that's linked to the funding values it will be defined as subcontracting

And don't forget...

- You are responsible for all the actions of your delivery subcontractors connected to, or arising out of, the delivery of the services which you subcontract.

So is it worth the risk?



Key considerations

Tactical versus strategic or triangle vs. parallelogram...

- You must not subcontract to meet short-term funding objectives.
- You must provide a fully completed Subcontractor Declaration Form by the dates we will give you. This will be at least twice during the 2017 to 2018 funding year. If you do not return the form on time, we will suspend your payments. If you do not subcontract, you must still provide a nil return form to confirm this.

So.... If you have subcontractors only appearing on the second declaration with all activity planned to be completed by the end of the year regardless of start date you may get some difficult questions



Key Considerations

Monitoring Activity

- 102. You must carry out a regular and substantial programme of quality-assurance checks on the education and training provided by delivery subcontractors, including visits at short notice and face-to-face interviews with staff and learners. The programme must:
 - 102.1 include whether the learners exist and are eligible
 - 102.2 involve direct observation of initial guidance, assessment, and delivery of learning programmes
- 103. The findings of your assurance checks must be consistent with your expectations and the delivery subcontractor's records.

Young Peoples Guidance -

- 17. When directly funded institutions do not appropriately manage and monitor subcontracted delivery, the ESFA may remove student numbers and the associated funding from their allocation even if there are no concerns over the subcontracted provision's quality. The ESFA may also require the institution to discontinue the subcontracting arrangement either with immediate effect or from the end of the current funding year.

This guidance also contains several paragraphs relating to subcontracting at a distance which **MUST** be considered and acted on.

So if you stay in the office and manage from afar you may have a problem...



What you probably don't want us to talk about...



Apprenticeships

The elephant in the room...

P140. At the outset of each apprenticeship, a main provider and employer will agree a plan for its delivery. You must directly deliver some of the apprenticeship training and/or on-programme assessment associated with each employer's apprenticeship programme. By apprenticeship programme we mean the apprentices that are being trained for the employer that has chosen you. The volume of training and/or on-programme assessment that you directly deliver for each employer must have some substance and must not be a token amount to satisfy this rule. It must not be limited to a brief input at the start of each employer's programme or involve delivery to just a few of a large number of apprentices.

So what is a token amount? Collins English Dictionary defines 'token' as:

- 1. an indication, warning, or sign of something
- 2. a symbol or visible representation of something
- 3. something that indicates authority, proof, or authenticity



Apprenticeships

- Rule was suspended for non levy from 1 May 2017 to 31 December 2017
- Rule appears to be back in play but has never gone away for Levy employers
- DSATs can identify where non compliance appears to have taken place
- A comparison on the Employer Identifier field and the UKPRN field will reveal a lot. Where there are no blank UKPRN returns against a specific employer we can see that the subcontractor is delivering all provision to that Employer
- Where we see a small level of activity this may be deemed 'token'
- Subcontractors must sign the Contract of Service/Written Agreement
- It's an easy check to do so expect auditors to be looking for it...



Apprenticeships

New policy document 'Using subcontractors in the delivery of Apprenticeships – Policy background and examples'

Published April 2018 – key sections

'When an employer's apprenticeship programme includes subcontracted delivery, the provider will draw up a written agreement with the employer specifically to set out which parts of the programme will be delivered by the provider and which parts by the subcontractor. By keeping this agreement up to date, changes in delivery over time can be recorded.'

A matter of substance...

'We do not define or quantify 'substance' in absolute terms. We also do not define a point in time at which the level of substance should be measured. This is because an employer's apprenticeship programme may well evolve over time, with a varying nature and scale as apprentices start and finish their programmes. We do not expect auditors to determine compliance with this rule against an arbitrary quantification of 'substance'.'



Apprenticeships

Other key points:

Vast majority of employers have a large number of providers to choose from so it is unreasonable for a provider and employer to be working together if the provider has no real training offer to make to a particular employer

There is no requirement for a provider to deliver some of each apprentice's training or on-programme assessment.

Individual provider legal entities that share links through being in the same group, sharing directors, shared ownership or shared brand will still need to be considered as subcontractors



When is P140 met?

Prime Provider	Subcontractor	Meets requirement?
4	2	
1	9	
1	1 (maths and English only)	
5 (maths and English only)	15	
12	1	
0	5	
150	150 (specialist support only)	
0	20 (shared ownership)	



Apprenticeships –Employer is the subcontractor?

Version 6 of the funding rules is an amalgamation and clarification of several rules:

- P172. You must not offset the negotiated price with the costs of any service provided by the employer. If the employer is legitimately delivering relevant training or an eligible cost supported by these rules then this must be included into the overall price. The cost of the apprenticeship must be transparent.

No price reduction where Employer delivers elements

This includes activities that contribute towards the standard/framework even if done as part of the regular job

Needs to be treated like any other subcontractor including due diligence and returned in the ILR with correct UKPRN

Subject to audit and Ofsted

ROATP rules apply i.e. can't do more than £100,000 unless employer is on the register



Changes for 2017/18

- You must publish your delivery subcontracting fees and charges policy on your website before entering into any subcontracting agreements for the 2017 to 2018 funding year.

Have you revisited prior to commencing delivery?

- You must also tell us the actual level of funding paid and retained for each of your delivery subcontractors in 2017 to 2018. You must email this information to your provider management manager/advisor using a template we will supply to you. We will let you know the date by when you must do this. We will publish the information on our website.

Rather than publishing on your own website you're now required to submit to the agency



Advanced Learner Loans

As of 2017/18 the subcontracting of loans has been prohibited per the following rule:

- 22. You must directly deliver provision to learners who are funding their provision with a loan. You must not subcontract loans provision. The definition of sub-contractor is given in the glossary.
- There is also a new DSAT report, 18A-406, subcontracted provision funded by an Advanced Learner Loan.

Audit would expect to see this report either blank or relating to learners who started in a previous academic year where you have had permission from the ESFA to carry on into the current academic year.



Requirement for Subcontracting Audit

Last two years ESFA have required a 'controls' audit of subcontracting where the prime has over £100,000 of subcontracting across all contracts

- It is coming for 2017/18 – exactly when we can't confirm
- Three month lead in time – published in June, work needs to be completed and reported by end of September 2018
- There will be some amendments to the process to account for post May 2017 Apprenticeship starts but 16-18 subcontracted provision is currently out of scope (but this might change in future years)



What we find

- Continued growth of subcontracting after Ofsted Inadequate grade
- No assessment process as part of due diligence – still folders of documents with no decision making process. Why are you working with that organisation?
- Governors not consulted on subcontracted arrangements or lack of approval
- Lack of reporting to Governors on progress against contracts
- Incomplete or incorrect declarations



What we find

- Subcontractors not being monitored – notably where provision is residual
- Still a reluctance to visit to provision delivered at a distance
- Lack of due diligence where consultants are used – are they truly independent?
- Contracts not signed even though provision has been running for several months
- Provision in ILR not covered by the contract e.g. 16-18 activity on an AEB only contract
- Prevent not being covered



ESFA Funding Audit approach

Approach for 2017/18 has not been published yet but expect it to cover:

- UKPRN on ILR reconciles to submitted Declaration
- Name of subcontractor reconciles to UKRLP website name
- Subcontractor is on ROTO where £100,000 is delivered across all contracts
- Legally binding contract in place
- All required clauses included in the contract
- Procedures for monitoring including ESF match funding requirements
- Second tier subcontracting

ESF match funding compliance at subcontractors is also covered as part of the approach



ESFA Funding Audit - Subcontracting

AEB and Apprenticeships

- Subcontracting declarations not completed fully
- UKPRN not recorded on the ILR where subcontracting is taking place
- Incorrect UKPRN recorded on the ILR when compared to UKRLP and declaration
- Subcontractor name on declaration not reconciling to UKRLP website
- Contracts not signed or missing required clauses
- No monitoring of subcontractors
- ESF requirements not being met – missing policies and logos



ESFA Funding Audit - Subcontracting

16-18 Subcontracted Provision

- Planned hours recorded on the ILR where evidence is not retained by the prime – how were the original hours validated?
- Lack of monitoring of provision especially where it is at distance from the prime
- 16-18 learners enrolled on traditional distance learning AEB provision – insufficient evidence to support hours claimed



QUESTIONS
AND ANSWERS?



THANK YOU FOR
YOUR TIME AND
ATTENTION

Contact me at Karl.Bentley@rsmuk.com or on 07800 617220



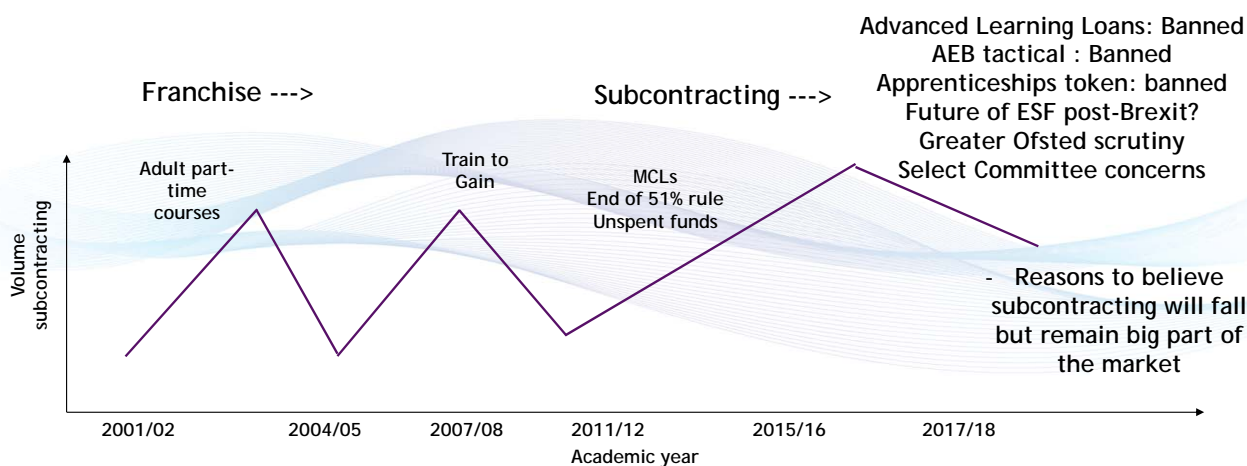
What does the longer term future
subcontracting look like?

Nick Linford

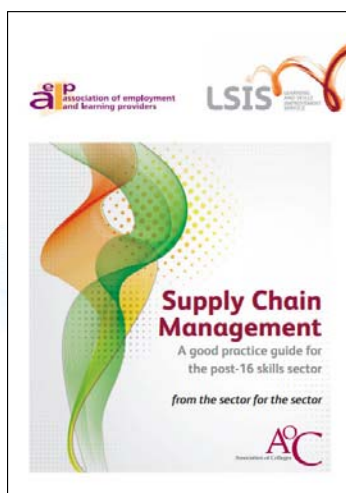
LSECT
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The history and future of subcontracting

Risk or reward?



Future of sector best practice guidance?



<https://tinyurl.com/yb5e5bkl>
April 2015



<https://tinyurl.com/y9v9jklk>
March 2018



?

Apprens: Who can be a subcontractor? (this might change)

P126. You must only use delivery subcontractors that satisfy one of the following three criteria.

- 126.1. They are on the published register of apprenticeship training providers and have applied by the main or supporting application routes.
- 126.2. They are the apprentice's employer or 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.
- 126.3. They are not on the published register of apprenticeship training providers but will deliver less than £100,000 of apprenticeship training and on-programme assessment under contract across all main providers and employer-providers from 1 April to 31 March each year (for the first year this is 1 May 2017 to 31 March 2018).

Employer provider subcontracting to training provider (this might change)

EP140. You may subcontract the delivery of part of an apprenticeship to an approved external training provider and should follow the rules set out in paragraphs 106 to 131 for subcontracting.

Employer being used as a subcontractor (this might change)

E106. Where you are the delivery subcontractor you must only report actual costs of delivery to the provider.

Change to rules for 2018/19?

“We will keep this publication under review through testing the value it is adding in supporting employers and providers in delivering quality apprenticeships. In the coming months, we will be reviewing at least two other aspects of the subcontracting funding rules. The first is subcontracting fees and charges; so that we can be assured that our funding is being used for recognised costs. The second is the evidence requirements associated with the subcontracting funding rules. Any subsequent changes to our rules would come into force from August 2018.”



<https://www.gov.uk/government/publications/apprenticeships-subcontracting>

Adult Education Budget devolution

Ministerial letter to the SFA: “I would expect to see less sub-contracting as funding is put in the hands of users or allocated more locally. It will be for employers to choose their own provider of apprenticeship training when we move into the levy system, and I would expect providers to make their arrangements directly rather than via sub-contracting.

“As the AEB becomes devolved, it will be for local commissioners to take a view about the acceptability of sub-contracting for the money they allocate. Where sub-contracting forms a significant part of a local area’s provision, area reviews will want to consider any specific recommendations in the configuration of this provision as part of future arrangements.

Grant letter: <http://tinyurl.com/zkrbsuf>

“As we move to local commissioning and devolution, commissioners will expect local resources to be deployed to support their local area. We will share information on where your sub-contracted provision is delivered with areas that have a skills devolution agreement or a skills incentive pilot to inform their discussions with you.”

2016/17 provider allocation letters

'Associate partnership' deals...

Just say no

Final Q&A

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