

SUPPORTED BY

MAYOR OF LONDON

# Subcontracting Funding Retention and Charges Policy 2023 – 2024

Produced by	Jeanette Martin
Approved by	Patricia Carlisle
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Signed off by Jane McSherry – Director of Children, Lifelong Learning & Families	20 July 2023 
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Lead responsibility	Patricia Carlisle
Approved by	Anthony Hopkins
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Policy applicable to	All subcontractors and their staff
Policy published at	<a href="http://www.merton.gov.uk/adulteducation">www.merton.gov.uk/adulteducation</a>

## Scope

This policy applies to all subcontracting activity supported with funds supplied by the Greater London Authority (GLA) and/or the Education and Skills Funding Agency (ESFA), or any successor organisations. Where a partnership or collaboration is formed, these arrangements should not be confused with subcontracting, and they do not fall within the scope of this policy.

## Context

This policy is in place to outline our reasons for subcontracting, the measures in place to monitor the quality of our subcontractors, and our retention of funds and charges. The content of this policy has been developed in line with the GLA and the ESFA Funding and Performance Management rules.

A copy of the GLA funding rules for 2023-24 can be found [here](#).

A copy of the ESFA funding rules for 2023-24 can be found [here](#).

## Our commitment

The London Borough of Merton is committed to providing high quality and sustainable adult learning to improve the social, economic, health and wellbeing outcomes of our residents. We will deliver this through a strategic investment approach: commissioning provision to the best providers in the field and by developing sophisticated evidence based approaches to what we deliver.

We:

- ✓ align our processes with the GLA and ESFA requirements,
- ✓ undertake fair and transparent procurement activities which demonstrate value for money, and conduct robust Due Diligence procedures to ensure we commission to the best providers in the field,
- ✓ maintain and publish a Funding Retention and Charges Policy that relates the Management Fee (i.e. the retained funding) to the costs of the services provided. A published copy can be found [here](#).
- ✓ clearly document and agree with all appointed providers, the Funding Retained and Charges applied to each subcontract,
- ✓ submit any disputes that cannot be resolved between subcontractors to independent outside arbitration or mediation and abide by its findings.

## Rationale for subcontracting

Following an extensive consultation and review process in 2015, Merton Council took the decision that its Adult Learning Service contract out its provision to external organisations. In arriving at this decision the Council considered that “the commissioning model protects adult education in Merton” and that “this was not a cut to the service beyond any future reduction made by the ESFA” although it did recognise that “this model does not fully protect services from the impact of those cuts. As commissioners the Council will be in a position to steer provision and the spread of venues so that the service fully addresses the challenge of “bridging the gap” between east and west. This ability will be maintained.” (*Cabinet Committee minutes, 16th February 2015*).

Therefore, prospective subcontractors are invited to tender for the delivery of provision and a core team (Merton Adult Learning) manage the contracts.

Subcontracting enables Merton Adult Learning (MAL) to:

- ✓ engage with hard to reach learners via partnerships with appropriate community organisations.
- ✓ provide a wide range of expertise to meet the skills and learning needs of adults and employers in Merton.

- ✓ enable community based organisations to develop the capacity necessary to provide learning programmes to meet the needs of their clients.

## Quality assurance

The quality of subcontracted provision is monitored and managed according to the guidance to be found in the MAL Provider Handbook, the GLA and ESFA Funding and Performance Management rules, and the Ofsted Inspection Framework. These documents are supplied to all subcontractors at the start of the contract.

Subcontractors are required to give MAL sufficient evidence to allow us to assess the subcontracted provision and performance against the requirements of the documents listed above, and the contract.

## Improving our subcontractors' quality of teaching and learning

MAL is committed to continuous improvement across our service, and we include all subcontractors in our quality assurance processes. Subcontractors are supported by the Adult Learning team to maintain the same high quality standards expected across all aspects of the provision.

All subcontracted provision is included in our quality cycle which includes lesson observations, observations of information, advice and guidance, learner feedback, moderation of teaching, learning and assessment, CPD, quality and contract performance monitoring meetings, Advisory Panel meetings, self-assessment, and shared quality improvement plans.

## Supporting our subcontractors

To ensure a high quality standard of provision is maintained, MAL works closely with and supports all providers that have been subcontracted for delivery.

All contract agreements outline the processes and procedures for our subcontracted provision, as well as the roles and responsibilities for both parties. MAL provides ongoing support to subcontractors during their contracts. Details of the support provided and the costs for this are listed in the table below.

## Setting funding retained and charges

Our standard management fee will be 15% of all formula funded adult skills and 20% of all community learning funding drawn down against the provision to be delivered. This amount represents the costs that we incur in identifying, selecting, managing, and administering all subcontracted provision. It is based on the amount of quality assurance activity that would attach to the lowest possible risk subcontractor. See **Appendix 1** for retained costs table.

Further charges may be added to the standard fee to cover additional costs that we consider necessary. These costs are usually costs that are necessary to ensure the quality of teaching and learning based on our assessment of risk. Examples of additional costs that may result from a medium or high risk rating are:

- ✓ additional site visits
- ✓ additional lesson observations
- ✓ additional support for delivery staff
- ✓ more rigorous verification.

Occasionally, additional costs may result from extra administration or compliance or from the provision of bespoke services by MAL to the subcontractor (for example provision of resources, internal verification, awarding body fees, student support costs).

MAL will consider the clawback of funding paid to our providers if there is under-delivery or a specific reason to warrant the recovery of funds paid. This will be in line with contract arrangements and as appropriate to the funding paid and circumstances surrounding the reason for clawback.

Subcontractors are required to:

- ✓ ensure learners receive high quality, impactful learning and that high levels of achievement are sustained
- ✓ fulfil the requirements of their contract and key performance indicators
- ✓ always have suitably qualified and safely recruited staff available to provide the education and training that MAL funds
- ✓ provide access to staff and classes as part of monitoring visits
- ✓ attend monitoring and contract meetings
- ✓ ensure learners are informed of the subcontract relationship with MAL
- ✓ ensure a safe and inclusive learning environment for all learners
- ✓ make available on request all forms and other documents, including enrolment forms, associated with the eligibility to study and enrolment of learners
- ✓ make available on request all initial assessment documents and ILPs
- ✓ make available on request all registers and achievement records
- ✓ work with MAL on the production of a thorough self-assessment report (SAR)
- ✓ implement and action a quality improvement plan that links with the SAR
- ✓ provide complete and error-free ILR data according to the schedule (see below)
- ✓ have a contingency plan in place and co-operate with MAL to make sure there is a continuity of learning should a risk to delivery occur, or if the subcontract ends for any reason
- ✓ tell us if evidence of any irregular financial, quality assurance or delivery activity arises. Irregular activity could include, but is not limited to non-delivery of training when funds have been paid, sanctions imposed on the delivery subcontractor by an awarding organisation, an inadequate Ofsted grade, complaints or allegations by learners, people working for the delivery subcontractor or other relevant parties, and allegations of fraud

## Assessing risk

MAL uses the following standard factors to assess the risk rating of each subcontractor:

- ✓ evidence of the quality of delivery
- ✓ performance against contract and key performance indicators
- ✓ type of provision
- ✓ contract duration with MAL and any mid-contract changes
- ✓ feedback from learners and/or partners
- ✓ qualifications, experience, and training of staff involved in the delivery
- ✓ quality of physical resources

Providers will be assessed as HIGH, MEDIUM or LOW, and MAL may implement an additional management charge where needed.

In the event of the subcontractor being unable to complete their contract, MAL will endeavour to ensure minimum disruption to students whilst alternative arrangements are secured in line with the contingency plans that relate to the contract.

## Payment terms

All subcontractor payments will be calculated as a percentage of the funding generated by actual activity recorded in MAL's Individualised Learner Record (ILR) data and paid within 30 days of receipt of a valid claim for payment. Claims will only be valid when contractors have fulfilled the terms of their contract and dependant on adequate provision of supporting evidence. MAL will generate a statement of funding earned by a subcontractor against which an invoice can be submitted.

To ensure payment can be made in the correct period, error-free data must be received no later than the last date for subcontractor to submit their ILR. Data that is submitted after this date, or submitted with error, is likely to miss the payment for that month. See schedule below.

MAL will determine that each cost claimed by a subcontractor is reasonable and proportionate to the delivery and contributes to high quality learning. We do this by:

- ✓ requesting course delivery plans from tender bid stage which agree a value per course / learner, and are evaluated as part of the award process
- ✓ having a KPI on value for money which is reviewed as part of the quality cycle and contract arrangements
- ✓ ongoing review and approval of course delivery plans throughout the contract period
- ✓ including pound plus requirements within tender bids and contract arrangements

Return	Return date	Last date for subcontractor to submit ILR data
R01	25/08/2023	06/09/2023
R02	26/09/2023	05/10/2023
R03	26/10/2023	06/11/2023
R04	27/11/2023	06/12/2023
R05	20/12/2023	05/01/2024
R06	26/01/2024	06/02/2024
R07	26/02/2024	06/03/2024
R08	25/03/2024	05/04/2024
R09	26/04/2024	07/05/2024
R10	28/05/2024	06/06/2024
R11	25/06/2024	04/07/2024
R12	26/07/2024	06/08/2024
R13	02/09/2024	16/09/2024
R14	03/10/2024	17/10/2024

## Sharing information with subcontractors, partners and stakeholders

We commit to ensuring that all existing and potential subcontractors have sight of this policy and any other relevant documents as part of the tendering and contractual process.

In compliance with the GLA and the ESFA requirements we publish this Funding Retention and Charges Policy and the MAL actual subcontracting funding paid and retained on our [website](#).

This policy is reviewed each year, updated as required and published on the MAL website. All contracted providers are sent a copy of the policy annually at the start of a new academic year.

## List of Subcontractors

2023-2024 (as at December 2023)

- ✓ South Thames College Group (Merton College)
- ✓ Richmond and Hillcroft Adult Community College (RHACC)
- ✓ Global Solution Services (GSS)
- ✓ Adult Training Network (ATN)
- ✓ Learn English Together in Merton (previously MHTS)

- ✓ Need 2 Succeed
- ✓ TEC Training GB Limited
- ✓ Twin Training International Limited
- ✓ The Training Place of Excellence

#### 2022-2023

- ✓ South Thames College Group (Merton College)
- ✓ Richmond and Hillcroft Adult Community College (RHACC)
- ✓ Global Solution Services (GSS)
- ✓ Adult Training Network (ATN)
- ✓ Merton Home Tutoring Service (MHTS)
- ✓ Need 2 Succeed
- ✓ TEC Training GB Limited
- ✓ Twin Training International Limited
- ✓ The Training Place of Excellence

Note: From August 2022 MAL implemented contractual arrangements under an Approved Provider List agreement. Delivery under these contracts will be formed as 'call off' provisions as and when need arises.

The Approved Provider List are:

- ✓ South Thames College Group (Merton College)
- ✓ Richmond and Hillcroft Adult Community College (RHACC)
- ✓ Global Solution Services (GSS)
- ✓ Adult Training Network (ATN)
- ✓ MI ComputoSolutions (MIC)
- ✓ Merton Home Tutoring Service (MHTS)
- ✓ Need 2 Succeed
- ✓ Ripe Enterprises
- ✓ TEC Training GB Limited
- ✓ The Training Place of Excellence
- ✓ Twin Training International Limited

Support area	Support provided	Overall ESFA funding retained costs	Overall GLA funding retained costs
<b>Quality Assurance</b> MAL ensures a high standard of the quality of provision through a robust management and monitoring process	<ul style="list-style-type: none"> <li>✓ regular quality and contract meetings</li> <li>✓ monitoring visits</li> <li>✓ in partnership with the subcontractor, observations of teaching, learning and assessment and the sharing of effective practice</li> <li>✓ review of initial assessment processes to ensure they are robust and fit for purpose</li> <li>✓ RARPA checking, including the review of Individual Learning Plans (ILPs) and learner progress</li> <li>✓ monitoring of learner voice including tracking learner survey and attending forums</li> <li>✓ compliance eligibility and checking</li> <li>✓ performance management</li> <li>✓ checking and review of forms and other documents associated with the confirmation and eligibility to study and enrolment of learners</li> <li>✓ checking of registers and attendance</li> <li>✓ monitoring of retention and achievement</li> </ul>	£2,677.00	£107,113.00
<b>Administration, MIS and Finance</b> MAL provides data analysis and tracking support to ensure providers are on track to meet their contract, and are paid appropriately	<ul style="list-style-type: none"> <li>✓ audit of the ILR returns to ensure that they are accurate and complete, and providing assistance on funding and eligibility queries</li> <li>✓ ILR submission and error tracking / corrections support</li> <li>✓ producing regular monitoring reports to share with the subcontractor</li> <li>✓ data support</li> <li>✓ contract administration</li> <li>✓ production of earnings statements and invoice payment</li> </ul>	£2,000.00	£79,151.00
<b>Leadership and Management</b> MAL ensures the provision meets the strategic objectives of the service	<ul style="list-style-type: none"> <li>✓ provider induction</li> <li>✓ collaboration of the self-assessment process and the production of a thorough self-assessment report and quality improvement plan</li> <li>✓ monitoring delivery to ensure that it meets the terms of the contract</li> <li>✓ identifying and collaborating on training opportunities</li> <li>✓ provision of a provider handbook and policies</li> <li>✓ single central record checking</li> <li>✓ safeguarding and Prevent awareness</li> <li>✓ advisory panel meetings</li> <li>✓ communication of key strategic information, sector and funding updates</li> </ul>	£2,000.00	£88,178.00