
West Berkshire Council

Community Learning and Skills: Subcontracting Management Plan

Community Learning and Skills: Subcontracting Management Plan 2022-24

1. Rationale for subcontracting

West Berkshire Council subcontracts provision of Community Learning and Skills to provide wider access to learning opportunities for adults in the community, outside of the Council's own direct offer. Subcontracting enables the Council to respond to local need by working in partnership with specialist local providers to identify learning and skills gaps and develop an effective learning offer.

This model adds value, generating pound plus through the support of local charitable, voluntary and community organisations and their resources.

The Subcontracting Management Plan documents the steps taken to ensure robust subcontracting that achieves good learner outcomes and the best use of the Adult Education Budget (AEB) in West Berkshire.

2. Setting of the Community Learning Team subcontracting budget

Around March each year West Berkshire Council receives notification from the Education and Skills Funding Authority of the AEB allocation for the following academic year. This is based on previous years' allocation against year end outturn and any adjustments for reconciliation.

The AEB allocation is made up of two funding streams:

- a. Funding for Community Learning
- b. Funding for Adult Skills

Funding 2022-23 (forecast)	
AEB allocation – community learning (a)	£401,150
AEB allocation – adult skills (b)	£67,371
Total AEB budget	£468,521

The Community Learning lead will determine forecast team costs (referred to as *overall service costs*) for the academic year, based on previous years' costs and typically using March (p12) actuals and the Accountancy budget build (Resourcelink) estimates.

This cost is removed from the total AEB budget, with the balance available for commissioning adult learning in the district.

These costs support the running of the Community Learning Team and all associated costs. These include, but are not limited to:

- Staff salary costs
- Staff National Insurance contributions
- Staff Pension contributions
- Service Apprenticeship Levy contributions
- Staff work from home and other allowances (eg. First Aider)
- Staff expenses
- Staff telephony, IT and all consumables
- Contributions to central services (HR, Legal etc.)

The budget for commissioning adult learning in the district is therefore:

AEB Budget – (minus) overall service costs = (equal) Commissioning Budget

3. Level of funding retained

West Berkshire Council retains a level of funding from the Adult Education Budget (AEB) to support the improvement of community learning and skills locally.

The Community Learning Service leads on, administers, manages and quality assures subcontracted provision, benchmarking against other local authorities.

A level of 12% is retained for commissioned accredited learning (referred to as other learning programme funding or adult skills funding by the ESFA) as a contract management fee. The fee retained amounts to no more than the area cost uplift applied to the unweighted base rate of ESFA approved qualifications as listed on the [Hub](#)

When agreeing subcontracted levels, the Community Learning Service will convert the 12% retained amount to a day rate of the Community Learning Team plus indirect costs as below:

The Community Learning Team has four staff members: Manager, Principal Officer, Officer and Data/Finance/Systems Officer. Costs have taken team time needed to planning, developing strategic direction, mandatory training, staff management, prepare reports, briefing Members, collect, cleanse and submit data, procurement, contracting, administration, observations of teaching and learning, financial management etc. The current day cost of the team is **£717.23**.

40% indirect costs are added to this to cover premises, recruitment, HR, accountancy, audit, cleaning, telephones, utilities (as per ESF rules).

With indirect costs added, the day rate is £1,004.12. As an example, £1,200 retained funding on a £10,000 contract would equate to 1.195 days, or 9 hours of team contract management support. However, we do **not** limit the support to providers in this way and this is simply a guide.

Funding table 2022-23 (forecast)	
AEB allocation – community learning	£401,150
AEB allocation – adult skills	£67,371
Total AEB budget	£468,521
Funding subcontracted (internal/external delivery)	£249,461.17
*Funding retained (overall service costs)	£210,975.31
Total funding allocated for all delivery and service costs	£460,436.48
Funding retained from ESFA adult skills allocation towards management of adult skills subcontracting programme**	£8,084.52

Commissioned Community Learning (non-accredited) is funded under a grant arrangement and is **not** subject to the same 12% contract management fee.

4. Allocation of Subcontracted Funding

Funding decisions are based on a number of rationales , as detailed in the [2022 - 25 Community Learning and Skills Strategy](#)

The procurement process is open in May each year to approve funding for the following academic year. There are two procurement routes providers can follow depending on quality and experience: 1) Direct Procurement and 2) Open Procurement

4.1 Direct Procurement

The Community Learning Team directly procures the majority of its provision with established local providers who have a proven record of good quality delivery, without the need to go to tender. Providers are requested to submit a course plan showing target groups, needs addressed, potential impact, course plan and costings.

Due to its minimum risk, direct procurement is on a spot purchase basis to support a flexible approach that can respond to need.

All established provider plans are submitted to the Community Education Fund Panel and are subject to the annual due diligence process to ensure providers continue to be low risk and quality of provision is good.

4.2 Open Procurement

An amount of funding is reserved to go out to open tender via a Community Education Fund to encourage and support new and innovative proposals. These proposals are typically for less than £10,000. Proposals are assessed by the Community Education Fund panel as described below.

The Community Learning Team uses the fund, its experience and expertise to support small providers to enter the market and build capacity. All providers are subject to a due diligence process and only contracted with **if their risk is low and their quality high.**

4.3 Community Education Fund (CEF) Panel

All proposals are submitted to the CEF Panel which can include representatives from Community Learning, Public Health, Economic Development, Adult Social Care, Children's Services, Early Years and the Community Learning Partnership.

Through this process the Community Learning Team is able to procure provision that targets key vulnerable groups and delivers low risk, high value for money solutions that support local providers and address local needs and Council priorities.

The CEF Panel reviews all plans to ensure they offer value for money, address local priorities, avoid duplication and identify joint working and shared funding opportunities. All bids are assessed against the following criteria resulting in a combined, moderated score for each proposal:

1. Programme Overview
2. Priority groups
3. Identification of local need
4. Working with other organisations
5. Course Delivery Plan
6. Delivering personalised learning
7. Staff Qualifications
8. Value for money

Funding requests typically outstrip available funding and additional consideration is given to designing a balanced programme that offers a broad curriculum offer at a variety of levels to support those most disadvantaged across the whole district. This can result in funding approval for part of a programme eg. to offer funding for 2 instances of a course rather than the 4 requested.

Some courses are not allocated funding because they were judged to either not meet the necessary learning element of the funding (e.g. appeared to be clubs where clients meet to share similar interests but are not necessarily actually learning anything new), or because they failed to meet one of the other requirements of the funding (e.g. courses that either the learner or employer should pay for or there is the potential of other available funding).

Funding allocated must be within the Commissioning Budget, as above (2).

4.4 Panel Decision

Following the CEF Panel, one of three decisions are made:

- a. Funding requested is granted
- b. Funding requested is not granted
- c. Funding is granted, at an amount different to that requested.

Providers are contacted via email with the outcome decision. Those who are granted funding are requested to respond to accept or decline the funding granted.

5. Due Diligence

All successful providers are subject to an annual due diligence process before contracts are raised and delivery begins. This process is completed in the August and involves the following checks:

1. Date and result of last Ofsted Inspection (if relevant)
2. UKRLP number
3. Date of Matrix accreditation (if relevant)
4. Receipt of bank details/new supplier requirements
5. Required Public and Employer Liability insurance in place
6. Credit score
7. Signed Direct Procurement form received (includes company information, trustees and conflict of interest).
8. Updated policies: Safeguarding, Equalities, Health & Safety
9. Tutor details (qualifications, CPD, DBS number/date) – held on Central Record
10. Contract meeting date
11. PO number covering agreed allocation

All due diligence checks are recorded on the Subcontractor Tracking Report

6. Contracts

Contracts are produced in consultation with Legal Services. Depending on the allocation the contract type can vary between a short contract letter for smaller allocations, variations or extensions of contracts previously awarded for continuation of the same provision or longer contracts that mirror the ESFA AEB contract held with West Berkshire. Each contract includes a named contract manager for that provider.

All contracts will include the full range of Annexes as well as the provider Toolkit, and access to the digital enrolment and learner feedback forms. These documents are needed to allow the subcontractor to meet obligations and requirements and ensure a quality and consistent approach to learning delivery.

7. Signing and storage of contracts/agreements

Providers are requested to sign and return all contract documentation. These will be retained by West Berkshire Council in the dedicated folder on the I: Drive, and/or with Legal Service, if required.

8. Monitoring of subcontractors and subcontracted provision

All subcontracted provision is monitored by the Community Learning Team. In addition to the due diligence checks (item 5) there are regular meetings and communication to ensure courses are delivered in line with the agreed framework, Council priorities, the Ofsted framework and ESFA funding rules. All meetings have agendas and minutes in place.

Each tutor is observed at least once a year by the community learning team with a strong emphasis on the quality of teaching and learning. Observations are supported by a range of CPD opportunities through the annual Tutor Forum, funding of professional training and

invites to industry workshops and webinars. In addition to teaching skills tutors are required to regularly update their adult safeguarding and PREVENT training through industry specific on-line provision. All training is recorded and monitored via the Tutor Central Record.

For each course the providers must ensure the following documents are submitted:

1. Course Outlines
2. Learner enrolments
3. Registers
4. Learner Feedback
5. End of Course Report

The payment of funding is linked to the delivery of the above documentation based on the following:

1. 30% paid on receipt of the course outline
2. 30% paid on receipt of learner enrolment forms
3. 40% paid on receipt of registers and final documentation.

There are occasionally exceptions made with smaller providers receiving 50% on receipt of the course outline to support cash flow and larger providers receiving payment on completion of course and submission of all paperwork. To support fast payment the smaller providers are added to the Council's quick payment system (1 week turnaround).

The community learning team works with providers to ensure funding is available to deliver the agreed programme. At no time is the full allocation paid before the start of the agreed programme.

9. Additional Subcontractor Support

The CL team provide a number of opportunities to support subcontractors in the development and delivery of services.

In addition to the annual Tutor Forum and CPD opportunities outlined above (8) subcontractors are encouraged to contribute and participate in the following:

1. Annual Learner Achievement Awards
2. Making It Happen newsletter (x2/year)
3. West Berkshire Community Learning Partnership (termly)
4. Promotion of courses on Council social media, across the Partnership and with Berkshire Opportunities
5. Regular sector updates, government consultations, local initiatives

10. Data Requirements

There is a dedicated Data and Finance Officer (DFO) based within the community learning team responsible for all ESFA data requirements.

The community learning course outlines, enrolment forms and attendance registers feed into the dedicated LearnerTrack MIS system.

In line with ESFA requirements the DFO produces regular returns to the ESFA to report on AEB funded provision. In addition the system provides analysis across the provision that is used to monitor provider performance, identify areas of concern and support future planning.

11. Community Learning Team

All contracts will be contract managed by named managers and officers from within West Berkshire Council Community Learning team, who have a clearly defined role to contract manage. Each team member is experienced in contract management within the community learning sector. The Principal Community Learning Officer and Community Learning Officer also have strong knowledge of the local community, the needs of residents and strong links with local post 19 providers.

The Post-16 Adviser is the Community Learning Lead with responsibility for the ESFA contract and is the community learning budget (cost centre) manager. Responsibilities includes the driving of the Community Learning contract management performance and representing the service at senior management level which includes the Procurement Board and Corporate Board and quarterly reports to the Elected Member with Portfolio ownership for education.

The Post-16 Adviser (Adult and Community Learning Lead) also reports to the the Community Learning Scrutiny Group (the relevant senior level governance structure) on all aspects of the service including contract management and performance.

12. Communication of Contract Management Plan

This plan is communicated to current and potential subcontractors by being made available on the Council's website on the *Working with Community Learning* page: <https://www.westberks.gov.uk/community-education-fund>

Current and potential subcontractors can discuss the plan with the Community Learning Team by contacting them at email acsteam@westberks.gov.uk or 01635 519060.

13. Review of Plan

This plan will be reviewed annually. If significant or substantial changes are made to ESFA funding or guidance or there are other central or local government changes that may affect it, the policy will be amended in year as necessary.

Signed

A handwritten signature in black ink, appearing to read 'Ian Pearson', is written over a horizontal line.

Ian Pearson
Head of Education Services

Annex 1: ESFA Subcontracting Funding Rules

The Community Learning procurement and contract management process reflects the [ESFA sub-contracting Funding Rules for ESFA funded post-16 funding 2022-23](#) (clauses 35 to 80).

35: Before any subcontractor starts delivery of the subcontracted provision, the subcontractor must have a legally binding written subcontract with you.

36: The department does not provide a template for subcontracts. The subcontract must entitle you to exercise management controls over the subcontractor's activity including access by auditors appointed by either your organisation or ESFA. The following paragraphs set out some provisions which must be included in each subcontract.

37: As a minimum, you must make sure your subcontracts include the provisions set out within this section.

38: A list of all services your organisation will provide to them and the associated costs for doing so. This must include:

38.1: A list of individually itemised, specific costs that you will charge for managing the subcontractor and how these are reasonable and proportionate to the delivery of subcontracted provision.

38.2: Specific costs for quality monitoring activities and specific costs for any other support activities offered by you to the subcontractor and how these contribute to the delivery of high-quality learning.

38.3: Reference to your delivery subcontracting policy, including your rationale for subcontracting and where it can be found on your website.

39: A requirement to give ESFA and any other person nominated in writing by ESFA, access to its premises and to all documents related to their subcontracted delivery.

40: The subcontractor must be under an obligation to provide you with ILR data so that your organisation's data returns to ESFA accurately reflect your subcontractor's delivery information.

41: The subcontractor must provide you with sufficient evidence to allow you to:

41.1: Assess its performance against Ofsted's common inspection framework.

41.2: Incorporate the evidence it provides you with into your self-assessment report; and

41.3: Guide the judgements and grades within your self-assessment report.

42: The subcontractor must always have suitably qualified staff available to provide the education and training funded by ESFA.

43: The subcontractor must co-operate with you if the subcontract ends for any reason to make sure that there is continuity of learning.

44: The subcontractor must tell you if evidence of irregular financial or delivery issues arise. This could include, but is not limited to:

- 44.1: Non-delivery of training when funds have been paid.
- 44.2: Sanctions imposed by an awarding organisation.
- 44.3: Allegations of fraud.
- 44.4: An inadequate Ofsted grade.
- 44.5: Allegations or complaints by learners, staff members, or other relevant parties.
- 45: The subcontractor must not use ESFA funding to make bids for, or claims from, any European funding on its own behalf or on behalf of ESFA.
- 46: The subcontractor must be bound by ESF clauses from your contract being included in the subcontract, even if the provision being subcontracted is not funded by the ESF.
- 47: The subcontractor must not use ESFA funding as match funding for ESF project.
- 48: You must make sure your subcontractors comply with the requirements set out in these funding rules.
- 49: You must ensure that you include in your subcontract provisions that enable you to terminate the subcontract should your subcontractor fail to meet the required due diligence or financial health requirements/standards.
- 50: You must ensure that you include in your subcontract provisions which require your subcontractor to inform you of any changes which impact its ability to meet the due diligence or financial health/require standards required and that your organisation may as a result be required to terminate the subcontract with them.
- 51: You should take your own legal advice about how best to incorporate these provisions and wider terms and conditions in your subcontracts
- 52: As a subcontractor, West Berkshire Council is responsible for the actions of your subcontractors connected to, or arising out of, the delivery of the services, which you subcontract. If your subcontractor fails to deliver, you will be responsible for making alternative arrangements for the delivery of education and training, protecting the audit trail, and/or repaying ESFA or ESF funding.
- 53: As a subcontractor, West Berkshire Council must manage and monitor all your subcontractors to ensure that high-quality delivery is taking place that meets the requirements of the contract you have entered into with ESFA for the provision of ESFA funded delivery (which includes compliance with ESFA funding rules). You must ensure safeguarding is rigorously policed.
- 54: It is not acceptable for any staff with a direct or indirect financial interest in the subcontractor to undertake any management control activities This includes signing time sheets or invoices, as well as organising and/or carrying out monitoring activity or visits to check the subcontractor delivery.
- 55: As a subcontractor, West Berkshire Council must carry out a regular and substantial programme of quality assurance checks on the education and training provided by subcontractors including spot checks and face to face interviews with staff and learners.

The programme must:

55.1: Include verifying that learners exist and meet the eligibility criteria for ESFA Funding.

55.2: Involve direct observation of initial guidance, assessment and delivery of learning programmes, training and/or direct observation of assessment.

55.3: The findings of your assurance checks must be consistent with your expectations and the subcontractor's records.

56: The prevent duty applies to subcontracted provision. It requires providers to have due regard to the need to prevent people from being drawn into terrorism. West Berkshire Council subcontracted providers must comply with relevant legislation and any statutory responsibilities associated with the delivery of education and safeguarding of students, and this includes students receiving provision under a subcontracting arrangement.

14. Subcontracting reporting and external audit requirements

57: As a subcontractor, West Berkshire Council must record subcontracted provision in line with the published guidance for the school census and the individualised learner record (ILR) data returns.

58: West Berkshire Council return ILR data, and in accordance with your ESFA contract (s) you must submit a fully completed subcontractor declaration by the dates given to you by ESFA. This will be at least twice during the funding year. If you do not subcontract you must still provide a nil return to confirm this.

59: As a subcontractor, West Berkshire Council must also update your subcontractor declaration if your subcontracting arrangements change during the year. This is done via your MyESF account.

60: As a subcontractor, West Berkshire Council, in accordance with your ESFA contract(s), must meet ESFA subcontracting standard as detailed in the [subcontracting standard guidance](#), if the aggregate total of all subcontractors delivering ESFA funded provision on your behalf exceeds or is anticipated to exceed £100,000 in any single funding year. Whilst otherwise excluded from these rules, for the purposes of calculation of aggregate total of subcontractor delivery you must include delivery of apprenticeships.

61: The [auditors guidance](#) available to help West Berkshire and their reporting accountants to understand ESFA's expectations in terms of reasonableness and proportionality. The auditors guidance explains the process as to how the standard will be achieved, provides example of evidence requirements and expectations on what is required if the standard is not achieved.

62: As a subcontractor, West Berkshire Council must send a copy of the external auditor's final report including the action plan of agreed recommendations and assurance declaration via ESFA Document Exchange by 31 of July 2023. Further information can be found in the [Document Exchange user guide](#). ESFA will review this as part of our overall assurance arrangements.

63: If ESFA does not receive the auditor's report on the subcontracting standard by 31 July 2023, you as the lead provider will be deemed as non-compliant if no subcontracting report on the subcontractor is provided by this date and funding may be affected/delayed.

15. Contract management of *all* subcontracted external and internal delivery will include:

- An annual planning meeting
- An annual contract review meeting and additional support meetings as requested or required
- Three Provider Meetings across the academic year where the provider network (Community Learning Partnership) will come together to share good practice, raise issues or concerns and hear important service updates and information. These will be managed and chaired by the Service.
- Confirmation of allocation and payment process
- Policies and Procedures guidance including Prevent and Safeguarding Support
- Advice on Government policy
- Full suite of course paperwork and support and training as required for tutors and managers in ensuring accurate completion
- Full tutor pack containing templates of all required paperwork and training, if required, on their completion.

Financial Support – each subcontractor will receive a financial support and payment service:

- Funding will be confirmed before the start of each academic year and an individual Purchase Order Number issued to each partner
- Returns of paperwork will be made in line of the course start and end dates in order to claim funding three times over the course duration or academic year
- After all paperwork has been processed, subcontractors will be informed of the invoice amount
- Invoices must be sent to Customer Services - Exchequer, West Berkshire Council, Council Offices, Market Street, Newbury, RG14 5LD Berkshire.
- Payment will be issued by BACS 30 days after receipt of invoice
- Specific financial advice will be provided in relation to West Berkshire Council processes, AEB funding rules and other ESFA finance policy
- Additional financial support for learner support is available on a case by case basis as determined by the needs of the learner.

Data input, monitoring and analysis support – each subcontractor will receive support for both data entry and data analysis:

- Provision of online enrolment forms to enable learners to be enrolled onto courses
- All learner enrolment and course data will be input by the service, unless directly input by the subcontractor
- Any errors or missing data will be notified to the subcontractor for follow up
- Additions and corrections will be completed by the service on the subcontractor's behalf on receipt of correct data
- The ILR file will be created and submitted to the ESFA as required

- All in-year data returns will be completed and submitted on the subcontractor's behalf
- Learner and tutor feedback will be collected and input for each subcontractor as applicable
- Individual and overall service targets will be shared with subcontractors including regular analysis of delivery against target as part of the contract review process.

Publicity and Marketing Support – each subcontractor will receive marketing and communications support:

- Courses promoted on social media, and other platforms
- Appropriate courses advertised via Berkshire Opportunities
- All subcontractors will be invited to take part in annual Adult Learner Achievement Awards event to promote and celebrate adult learning in the district.

Additional Support - each subcontractor will receive additional support:

- All data input and data quality control to ensure ILR and data uploads meets ESFA requirements
- Support from the Service to manage the contract and associated support to ensure all ESFA requirements are met
- One to one support for teaching, management and administrative staff as requested or identified; this is particularly relevant for new subcontractors
- Support to identify strategic and funding opportunities within and outside West Berkshire
- Delivery support is available equally to all providers. Greater support is available for new and inexperienced subcontractors, or where existing subcontractors have staff changes, as required.

16. Monitoring of subcontractors and subcontracted provision

70: As a subcontractor, West Berkshire Council must ensure your subcontractor's evidence meets the requirements of the ESF funding rules and is maintained and is accessible until at least 31 December 2034. West Berkshire Council will be notified of any change to this date.

73: In addition to the measures detailed in 33 to 35 of these funding rules and your contract, West Berkshire Council must monitor your subcontractors to ensure that learners have full access to information, advice, and guidance (IAG) and access to learning support if required.

17. Controls over students, tutors, and provision

74: As a subcontractor, West Berkshire Council must be able to demonstrate that you exercise all the following key controls:

74.1: You can enrol or reject learners as you would do if the learners were to be taught on your own site.

74.2: Learners sign a learning agreement at the time of enrolment; the agreement must reflect the outcome of initial guidance and assessment for an individual student and set out their study programme and any learning support to be provided.

74.3: Learners' eligibility for ESFA funding is confirmed through an enrolment form and/or learning agreement, which must include your name and your logo, and which is signed by the Learner at the start of their programme.

74.4: A learning programme and its means of delivery has been clearly specified by you.

74.5: There are arrangements for assessing the progress of individual learners.

74.6: There are procedures for you to regularly monitor the delivery of programmes provided in your name throughout the period of the programme.

18. Distance subcontracted delivery

80: West Berkshire Council must not make subcontracting arrangements for *delivery* outside the normal recruitment area of West Berkshire.

19. Contract end

Managers and officers within the Community Learning team will work closely with subcontractors on a regular basis to ensure the provision goes to plan.

Managers and officers within the Community Learning team will have the autonomy to do this using their previous skills, knowledge and expertise. Senior colleagues are readily available to support and assist as necessary.

Managers and officers within the Community Learning team will collect regular information to monitor subcontractor performance around:

- Course starting dates against planned starting dates
- Initial learner enrolment, and regular attendance throughout the provision
- Progress of learning throughout the provision, to include, but limited to, observations of teaching and learning at appropriate points, talking to both the tutor and learners, reviewing progression paperwork, including ILPs and RARPA compliance, reviewing learner progress surveys, intended destination surveys, satisfaction surveys and any other form of feedback that will help contract management and future planning.
- Follow the Complaints Policy against *any* complaint, notifying senior colleagues at all stages to ensure mitigation and resolution.
- Ensuring all safeguarding practices and processes are followed at *every* point, including any concerns that are raised by any learner, parent/carer, staff member or other wider colleague(s).
- Payments, following the payments scheduling, supporting the Finance Officer to ensure timely Purchase Orders, invoices, processing and payments.
- Gathering all required learner data in a robust and timely manner to enable accurate and timely ILR uploads in line with the upload schedule.
- On completion of the learning provision, gathering all required documentation, including learner and staff surveys.
- Evaluate performance against proposed plans, using management information to monitor performance against overall performance and wider West Berkshire Council key

performance indicators such as employment status, ethnicity, disability, area of deprivation, age etc.

- Providing input in to reports for Senior Leaders, Council Members and Members of the Community Learning Scrutiny Group.
- Encourage nominations for the annual Learner Achievement Awards, and support as needed.
- Gather good news stories, and photos, to be included in the Making it Happen newsletter.