



WANDSWORTH COUNCIL LIFELONG LEARNING - WANDSWORTH BOROUGH COUNCIL

Skills Funding Agency: Subcontracting Arrangements

27 JANUARY 2016

BACKGROUND

As part of its approach to mitigating the risks attached to the subcontracting of further education delivery from lead providers (those who contract directly with the Skills Funding Agency (SFA)) to other training providers, the SFA has included a new clause in its funding agreements for 2015/16. The clause requires lead providers that subcontract a defined level of provision to other training providers, to obtain external auditor assurance on the systems and controls they have in place for managing that subcontracted delivery. In September 2015 the SFA issued guidance on this new requirement in its document 'Providing external assurance on subcontracting controls' (the Guidance). The Council subcontracts to 5 training providers.

Respective responsibilities

In accordance with the Guidance, Wandsworth Borough Council's Lifelong Learning (WCLL) is required to certify that an external auditor has provided satisfactory assurance on the systems and controls it has in place to manage subcontractors delivering education and training funded by the Skills Funding Agency in 2015/16 and that the report provided either contains no recommendations or, where recommendations were identified, they have been implemented or there is an implementation plan and timeframe in place.

As the appointed external auditor, it is our responsibility to deliver a report of the sub-contracting systems and controls of WCLL in accordance with the requirements set out in the Guidance. The SFA's wording for this certificate is attached at Appendix C.

To this end we have agreed to perform the following work:

- Perform the review of subcontracting systems and controls which will involve:
 - Identify and sample test the design, implementation and effectiveness of controls operated over the 5 subcontracts in place for 2015/16
 - Obtain evidence to assess compliance with the SFA's funding rules to the extent required by the Guidance.
- Provide a report detailing the findings of the review including, where appropriate, recommendations for improvements to WCLL's arrangements.

It is the responsibility of WCLL to determine whether the work we have done is appropriate for the purpose for which it was intended.

Submission of the certificates of both the Council and the auditor to the SFA, by the 31 January 2016 deadline, is the responsibility of the Council. For the avoidance of doubt, we are not required to submit a final copy of our report to the SFA and, in accordance with the terms of our engagement letter, our report should not be made available to any other third party or reproduced or referred to in any other documents without our prior written consent.

Scope

We have obtained and documented an understanding of the Council's systems for managing subcontracting and, on a sample basis, tested the controls in place that are designed to ensure compliance with applicable SFA standards and funding rules.

CONCLUSION

Overall we conclude that limited assurance can be given over the design, implementation and operating effectiveness of controls for managing subcontracting arrangements in accordance with SFA requirements.

The limited assurance opinion reflects that there were three instances where funding rules had been breached and a number of other areas for improvement identified. Appendix A sets out our findings and associated recommendations for strengthening arrangements.

Our detailed findings and recommendations have been discussed and agreed with Andres Ochoa-Mikan, Interim Deputy Head of Lifelong Learning. His management responses to our recommendations are included in Appendix A.

Appendix C sets out the certification to be submitted to the SFA.

The wording in Appendix C is from the template as per the SFA guidance. Due to the limited assurance level being given over systems and controls, the Council should obtain the appropriate certification wording from the SFA to reflect this.

This does not have an impact on the wording of the external audit certification.

APPENDIX A - FINDINGS AND RECOMMENDATIONS

No.	Issue	Recommendation	Relevant rule	Management response	Significance
1.	Not all contracts with providers have been signed for the 2015/16 year. Other contracts have been signed but not all prior to the start of the year.	Obtain signed contracts by all parties before the start of the academic year to which the contract relates.	Funding Rule 32	We have demonstrated that contracts go through a negotiation phase where variations are made but note that this should be done prior to the start of the year. However, this was made difficult in 2015/16 by the fact that the contract allocation for the year was not received from the SFA until 26 August 2015.	High
2.	No conflict of interest checks are carried out on potential subcontractors.	Make and document an assessment of any potential conflicts of interest when considering applications for subcontracts. To assist with the assessment the application process should include more explicit questions regarding any potential conflicts and related parties.	Funding Rule 22	We will add this to the procedures at the expression of interest and selection phase of subcontracting.	Medium
3.	Company registration numbers are obtained from providers on the Expression of Interest forms as part of the application process. However, no evidence is retained to substantiate that WCLL check that these registration numbers are valid. Without evidence of this check, there is a control weakness around the award of contract only to legal entities.	Retain a record that a check has taken place to corroborate the legal status of all entities to which contracts are awarded for delivering funded provision. For instance, a log or documented confirmation of all applicants who have been confirmed as a legal entity.	Funding Rule 29	Agreed.	Medium
4.	No credit risk checks have been carried out on subcontractors. These should have been carried out before subcontracts were entered into, and then annually.	Perform annual credit checks of subcontractors prior to entering into subcontracts and obtain and retain evidence of the Accounting Officer's approval prior to entering into agreements with subcontractors.	Funding Rule 30	We acknowledge this and will carry out credit checks in future. Currently Funding Rule 27 prohibits the Council from subcontracting with any new learning providers because it has an 'inadequate' OFSTED rating. Therefore we have no option but to carry on using the current providers.	High

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5.	WCLL has contacts sufficient to enable it to cope with the loss of a subcontractor during an academic year, however there is no contingency plan documented for such an occurrence.	Document a contingency plan which is to be implemented in the event that a subcontractor cannot continue to provide learning services part way through the academic year.	Funding Rule 33	Agreed.	Low
6.	The standard subcontract does not contain a term providing that the Chief Executive has the right to enforce the terms of the subcontract.	Update the subcontract to include a term providing that the Chief Executive has the right to enforce the terms of the subcontract.	Funding rule 5.5	Agreed. We will submit an appendix to the contract with subcontractors for them to sign and agree.	Medium
7.	The standard subcontract does not contain a clause requiring WCLL to make payment to any sub-contractor within 30 days of receiving a valid claim for payment .	A term to this effect should be included in the subcontracts.	Funding rule 5.7	Agreed. We will submit an appendix to the contract with subcontractors for them to sign and agree.	Medium
8.	The standard contract does not contain a term stating that subcontractors must tell WCLL if evidence of any irregular financial or delivery activity arises.	Update the subcontract to include this term.	Funding rule 42	Agreed. We will submit an appendix to the contract with subcontractors for them to sign and agree.	Medium
9.	The standard contract does not include all European Social Fund (ESF) clauses from WCLL funding agreement with the SFA which must be included in the subcontract, even if the provision being subcontracted is not funded by the ESF.	Update the subcontract to include this term.	Funding rule 43	Agreed. We will submit an appendix to the contract with subcontractors for them to sign and agree.	Medium
10.	The standard contract does not state that subcontractors must not use SFA funding to make bids for or claims from any European funding on their own behalf or on the SFA's behalf.	Update the subcontract to include this term.	Funding rule 44	Agreed. We will submit an appendix to the contract with subcontractors for them to sign and agree.	Medium

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No.	Issue Identified	Recommendation	Relevant rule	Management response	Significance
11.	The standard contract does not state that subcontractors must not use payments made as match funding for ESF Co-Financing Projects.	Update the subcontract to include this term.	Funding rule 45	Agreed. We will submit an appendix to the contract with subcontractors for them to sign and agree.	Medium
12.	The fees and charges policy does not contain: <ul style="list-style-type: none"> - WCLL's reason for subcontracting. - WCLL contribution to improving WCLL and WCLL's subcontractor's quality of teaching and learning. - The support subcontractors will receive in return for the fee you charge. - If appropriate, the reason for any differences in fees charged for or support provided to different subcontractors. - Payment terms between you and your subcontractors; timing of payments in relation to delivering provision and timescale for paying invoices and claims for funding received. -How and when the policy is communicated to and discussed with current and potential subcontractors. 	Update the fees and charges policy address all of the SFA requirements.	Funding rule 59	Agreed. We will ensure that the relevant disclosures are made on the published fees and charges policy.	Medium

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No.	Issue Identified	Recommendation	Relevant rule	Management response	Significance
15.	The requirements to disclose information regarding subcontractors is not complete. Only the Apprenticeship providers have been disclosed alongside the fees and charges policy. There are no community learning providers disclosed.	Update the fees and charges policy address all of the SFA requirements.	Funding rule 62 & Funding rule 63	We assumed this only applied to apprenticeship funding per guidance from SFA staff. Management to investigate further.	High
16.	Many of the control deficiencies identified could be eradicated if supplemented by use of a checklist or procedure document which includes the processes required to ensure all SFA rules are adhered to. This would effectively provide a control for ensuring all rules are adhered to.	Produce and utilise a checklist and/or procedure document for complying with the SFA rules on an annual basis.	N/A	A review process is to be implemented.	Low

APPENDIX B - DEFINITIONS

LEVEL OF ASSURANCE	DESIGN of internal control framework		OPERATIONAL EFFECTIVENESS of internal controls	
	Findings from review	Design Opinion	Findings from review	Effectiveness Opinion
Substantial	Appropriate procedures and controls in place to mitigate the key risks.	There is a sound system of internal control designed to achieve system objectives.	No, or only minor, exceptions found in testing of the procedures and controls.	The controls that are in place are being consistently applied.
Moderate	In the main there are appropriate procedures and controls in place to mitigate the key risks reviewed albeit with some that are not fully effective.	Generally a sound system of internal control designed to achieve system objectives with some exceptions.	A small number of exceptions found in testing of the procedures and controls.	Evidence of non-compliance with some controls that may put some of the system objectives at risk.
Limited	A number of significant gaps identified in the procedures and controls in key areas. Where practical, efforts should be made to address in-year.	System of internal controls is weakened with system objectives at risk of not being achieved.	A number of reoccurring exceptions found in testing of the procedures and controls. Where practical, efforts should be made to address in-year.	Non-compliance with key procedures and controls places the system objectives at risk.
None	For all risk areas there are significant gaps in the procedures and controls. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Poor system of internal control.	Due to absence of effective controls and procedures, no reliance can be placed on their operation. Failure to address in-year affects the quality of the organisation's overall internal control framework.	Non-compliance and/or compliance with inadequate controls.
Recommendation Significance				
High	These relate to the identification of control weaknesses which may result in WCLL not satisfying specific requirements within the 2015/16 SFA rules and have the potential, if not addressed, to undermine WCLL's ability to effectively manage their subcontractors in line with the objectives of the contract.			
Medium	These relate to the identification of potential control weaknesses or breaches of the 2015/16 SFA rules, we do not however feel these significantly undermine the subcontracting procedures.			
Low	These relate to observations where changes to arrangements could further enhance the control WCLL has over its subcontracting management, or would simplify the controls processes.			

APPENDIX C - CERTIFICATE

Providing external assurance on subcontracting controls

Certificate

Lead Provider

We certify that the report prepared by BDO LLP provides satisfactory assurance on the systems and controls we have in place to manage subcontractors delivering education and training funded by the Skills Funding Agency in 2015/16.

We certify that the report identified no recommendations or, where recommendations were identified, either these have been implemented or there is an implementation plan that sets out when the recommendations will be completed by.

The full copy of the report and, where relevant, the implementation plan are available to the SFA if required.

Name: Andres Ochoa-Mikan

Job title: Deputy Head of Lifelong Learning

Signature: Andres Ochoa-Mikan

Date: 27/01/2016

External Audit Company

We certify that we have delivered a report of the subcontracting systems and controls of Wandsworth Council Lifelong Learning in accordance with the requirements set out in 'providing external assurance on subcontracting controls'.

Name: Lisa Clampin

Job title: Partner

Signature: Lisa Clampin

Date: 27/01/2016

For and on behalf of BDO LLP



FOR MORE INFORMATION:

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