

## Access to Music

### Subcontractor and supply-chain fees and charges policy

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Responsible for Policy Review: Margaret Woodcock

Approved by: Operations and Quality Services

Last Review: August 2018

Review Date: August 2019



## Introduction

The purpose of this document is to define the basis on which any subcontracting arrangements will be managed. Where appropriate, Access to Music (ATM) will contract with other parties to deliver programmes and activities funded by the government through its funding bodies. The organisation with which it contracts will be subject to the requirements set out below.

The management of subcontractors will be based upon the application of the risk principle. All subcontractors will be risk assessed in relation to the performance standards set in the quality framework. Information about the performance standards can be obtained from the ATM Director of Quality. All subcontractors will have a risk rating. This rating will determine the frequency and scope of the quality audits undertaken by ATM staff.

## Reasoning for offering partnering opportunities

ATM focusses the majority of its recurrent funding on meeting the needs of learners, employers and communities in the regions where its centres are based. These are supported, on the whole, by the College's internal delivery.

Like many other providers ATM will look to subcontract some elements of ESFA funded provision to meet our customers', both local and regional, needs or in order to:

- expand our provision with new courses or delivery models that ATM is currently not equipped to deliver or target specific communities ATM is unable to reach;
- diversify our provision in terms of scope or scale including the development of new SSA areas or geographies linked to new or existing business contacts that the College alone could not sufficiently provide coverage;
- grow our provision mix and provide customers with niche or specialist provision offered by partners;
- maintain market share and look to expand contract values supporting smaller providers to develop and grow their specialist provision.

## Supply Chain Fees and Charges for 2018/19

The typical percentage range of fees retained by ATM in 2018/19 to manage subcontractors will be 20%. This has been calculated to include the costs of managing and administering subcontracting arrangements, the electronic and paper systems used within the contract and the additional value offered to partners in terms of staff development and support to ensure compliance.

There may be some slight differences in fees charged for or the support provided to different subcontractors. These are for a variety of reasons but could include the use of College premises for delivery, specific delivery by College staff on elements of partners' programmes and additional support measure put in place to manage under performance by partners.

In return for the fees charged, ATM provides the following services and support:

- Access to ATM's staff development programme that includes opportunities for subcontractors staff to develop new course materials, improve teaching and learning practice and refresh knowledge of safeguarding, funding rules and audit compliance (including completing College paperwork and utilising ATM systems to track learners progress, attendance and progression);
- Training for the observation of Teaching, Learning and Assessment to enable partners staff to undertake graded observations following ATM policies and procedures;
- A dedicated subcontracting manager who is available to provide support and guidance and undertake, as a minimum, once-termly site visits, teaching and assessor observations, paperwork compliance checks and technical support;
- Access to a range of electronic tools to monitor learners' progress, attendance and progression;
- Administrative support to ensure all paperwork is audit and ILR compliant and safely stored and uploaded onto ESFA systems;
- Access to the ATM's Quality and staff development services that provide 1-to-1 support and training for teaching and delivery staff that are graded 3 or 4, with targeted action plans to improve their practice;
- Course delivery support and guidance from ATM's staff, both for specialised provision and maths and English
- Business Development and joint bidding opportunities to link with regional or national employers;
- Due diligence quality checks;
- Paperwork submission quality and accuracy checks;
- Monitoring visits, both announced and unannounced;
- Observations of teaching, learning and assessment;
- Enrolments once data submissions are fully correct;
- MIS data monitoring for completeness, accuracy and financial payments;
- Audit checks of files including management of funding agency audits;
- Course code set-ups for all courses to be delivered;

- Scheduling, monitoring and activating monthly partner payments;
- All items identified in the contract monitoring and review section of this policy.

### Payment

The standard payment terms are monthly in arrears based on actual delivery recorded on the College ILR. Full details of payments are included within Section 12 of the contract between ATM and subcontractors. These are summarised below:

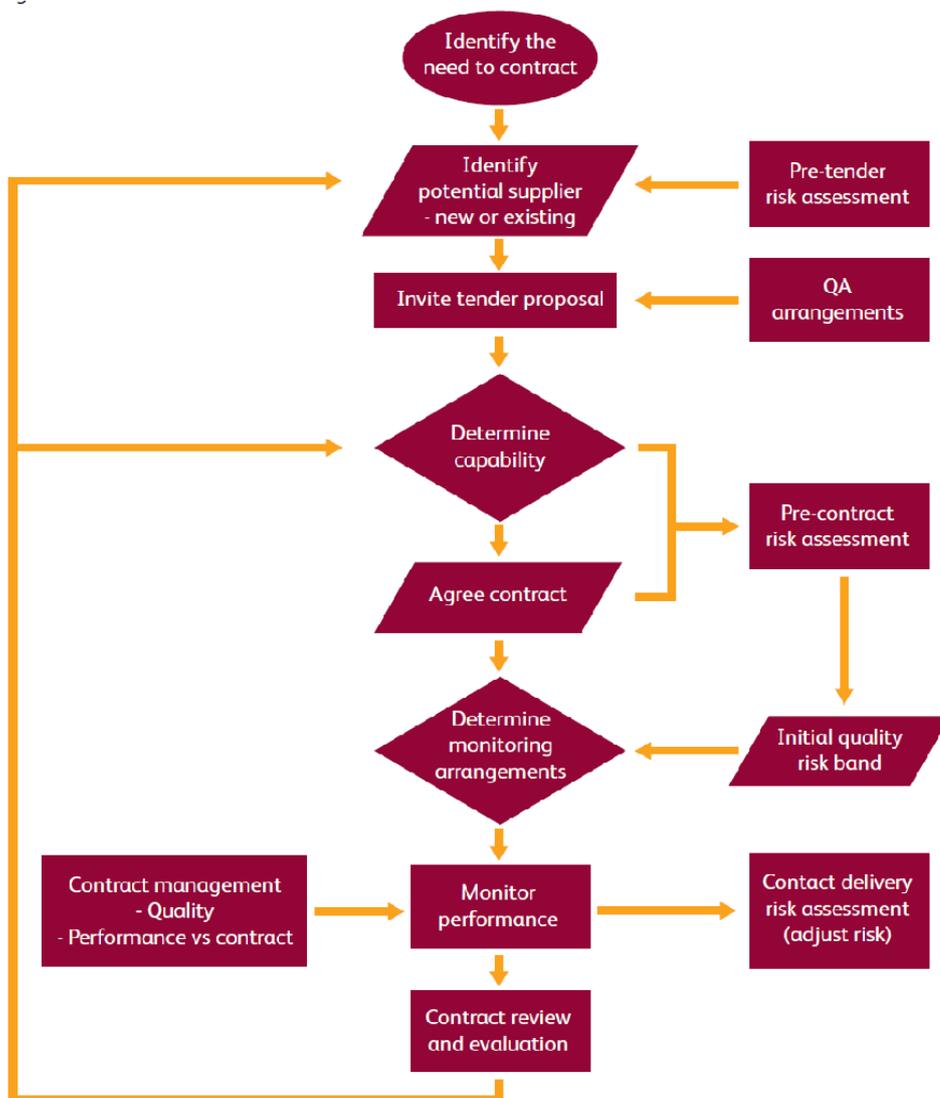
- ATM will make the payments to the Partner calculated and payable in accordance with Schedule 5 of the Contract.
- Payments will be made within 30 days to ensure compliance with the ESFA mandatory requirements as set out in the National guidelines
- If there are errors in audit of a sample of the evidence provided by the Partner to support the payments, ATM reserves the right to recover from the Partner an amount based on the error rate identified and the total value of this Agreement.
- Such amounts may be recovered by making deductions from future payments due to the Partner under this Agreement.
- If the funding money is withdrawn from ATM by the ESFA retrospectively, ATM reserves the right to withdraw funding from the Partner.

This policy has been shared with all current partners and is available to download via <https://www.accesscreative.ac.uk/about/policies-procedures/>

This policy is reviewed on an annual basis to allow for any alterations in ESFA funding guidance; this enables ATM to ensure partners are fully aware of these changes in addition to any alterations in our policy.

### Subcontracting Process Overview

To ensure clarity from the outset the College has ensured that it has robust systems in place that are consistent and highlights roles and responsibilities; this will remove any risk of confusion and uncertainty from the outset and is shown in the diagram below:



### Identification of need to subcontract

The College has two main identification points:

- its annual delivery cycle in August-July of each year enables ATM to become aware of any potential spare capacity within its current contracts by March of each year. Existing supply chains are made aware of the volumes available and are asked to submit a business case (see sections below).
- additional business development or contract opportunities are generated by ATM or the supply chain and specialist or geographically specific partners are required to service some of these needs.

### **Due Diligence**

All potential and current Subcontractors will supply ATM with all relevant information requested within the ATM due diligence form documentation, to protect learners and to ensure the subcontractor is a legally, financially and educationally sound organisation, prior to a contract being signed.

Subsequently, subcontractors should notify ATM of any changes in circumstances or personnel related to the contract immediately. This process will be repeated on an annual cycle with a specific focus upon financial and quality related performance updates.

### **Decision Process**

In addition to the Due Diligence documentation subcontractors will also provide a business case which will include:

- organisation overview
- structure - legal and operational
- rationale for contract request
- demand-led evidence
- added value to prime contractor and sector
- current offer and track record of successful delivery
- QA/QI systems
- financial health check
- completed Agency Register (online due diligence process)
- references from previous clients, as and when necessary

The application processes and base documentation will form the main decision making process to select a subcontractor.

ATM will be looking for flexibilities that develop and deliver an offer that meets the needs of local people, employers and the wider community. The costs/benefits of an internal solution (investment) against an external solution (subcontract) will also be considered, as will the leverage that subcontracted work can provide to key College and/or government growth targets, especially for 16-18 year old learners.

### **Contracting**

Based on approval and through discussion or negotiation, both ATM and the subcontractor will agree the contract content and value. The following core contract components will be agreed:

- Subcontractor profile
- Subcontractor duty (and KPIs)
- ATM contract
- ATM management and service charges based on due diligence results
- Contract volume and value.

The contract will reflect the in-year ESFA funding rules and updates. All contracts are legally binding and will need to be signed by all parties prior to the commencement of delivery.

The College will declare to the ESFA the subcontractor arrangement.

During the contracting year, if there is any evidence of a subcontractor's irregular financial or delivery activity, ATM will carry out an investigation and will report the outcome of the investigation, in writing, to the ESFA relationship manager within 10 days of the investigation being complete.

### **Other Requirements**

All subcontractors holding contracts with an overall value of £100,000 must be listed on the Register of Training Organisations before the College will enter into a subcontract with them.

The College will only subcontract for delivering funded provision to legal entities. If the legal entity is a registered company, it must be recorded as 'Active' on the Companies House database.

### **Performance Data**

Subcontractors will provide a range of data, at the frequencies specified in the contract and those specified in the Partner KPI Areas with Targets and Thresholds agreed at contract negotiation and identified within the contract. Should Subcontractors fail to deliver the data consistently, ATM will impose financial penalties.

### **Delivery Quality**

Subcontractors will ensure that all learners are given inductions to their courses or programme. The induction given must be consistent with the standards specified by ATM for the management and delivery of learner inductions.

All courses should include an initial assessment process that enables learners and staff to identify what they want to achieve from the course. This process should ensure that:

- Learners have the necessary aptitudes, attributes and abilities to help them successfully complete the courses for which they are applying.
- Any learning support needs are accurately identified.
- Learners have the information they need to help them make well informed judgements about the relevance of their courses to their short and longer term employment and learning goals.

Any identified support needs will be fed back to ATM to ensure that the subcontractors have access to appropriate learner support arrangements.

Where appropriate, the assessment should also gather necessary information about health and medical records, previous relevant experience, depending on the nature of the course itself and specifically where the nature of the course presents significant health and safety issues. ATM Health & Safety policy and risk assessments must be adhered to.

Tutors must maintain learner progress records at an appropriate level of detail, in relation to the context and length of the course or programme.

ATM Quality documents provide the benchmark for the detail of records required.

All courses will have their content defined within a scheme of work and their sessions will be planned using an appropriate lesson/session plan. Both these should be consistent with the requirements defined in ATM Quality documents.

Requirements in relation to observation of teaching and learning are defined in ATM Quality documents.

Subcontractors will register their learners with the appropriate examination boards within agreed timescales and abide by awarding body regulations. Subcontractors will maintain assessment and verification, and/or moderation arrangements that are consistent with the requirements of the awarding bodies, examination boards and the Sector Skills Councils, where the latter make recommendations regarding assessment and verification arrangements.

Subcontractors must ensure that appropriate staff attend staff development events and any training organised by ATM which has been put in place to address issues identified in quality or compliance post-audit action plans. Failure to attend such events will result in the organisation's risk assessment rating being increased. This action is likely to increase the frequency of quality and/or compliance audits undertaken. Other penalties may also be applied.

'Appropriate staff' are normally defined as individuals who have relevant managerial authority and responsibility for the subject being addressed through the training. The exception to this definition will be where training is designed for practitioners.

Subcontractors will ensure that they maintain effective employer engagement. Employer engagement processes must be consistent with the standards specified by ATM for the management and delivery of learner inductions.

## **Health & Safety**

Subcontractors must provide details on request to ATM, of how they ensure that facilities used to deliver learning meet all Health & Safety regulatory and legislative requirements, including where required specific health & safety reports, audits and risk assessments.

Subcontractor tutors must be capable of and must undertake activity and facility risk assessments at a frequency consistent with the type of activity and the nature of the facility being used.

Subcontractors must ensure that appropriate staff attend ATM staff development events and any training organised by ATM which has been put in place to address issues identified in quality or compliance post-audit action plans relating to Health & Safety. Failure to attend such events will result in the organisation's risk assessment rating being increased. This action is likely to increase the frequency of quality and/or compliance audits undertaken. Other penalties may also be applied.

'Appropriate staff' in this instance are normally defined as individuals who have relevant managerial authority and responsibility for Health & Safety.

## **Information, Advice and Guidance**

Subcontractors will be required to demonstrate that they provide information, advice and guidance (IAG) at an appropriate range of venues and through a range of media, including the internet, to a standard that is consistent with that offered by ATM. IAG should include:

- Initial advice and guidance to inform the learner's choice of programme or course
- On-programme advice and guidance to help learners:
  - ❖ Develop ideas for future learning or employment

- ❖ Who have personal situations such as substance misuse, housing problems, pregnancy etc, identify and make contact with relevant organisations
- ❖ Make specific choices about future learning or employment.

### **Facilities and Resources**

All facilities and resources used must be 'fit for purpose' and comply with all current Health & Safety legislation. Any new premises or change of premises used for the delivery of programmes funded by the College need to be risk assessed and details supplied to the College prior to commencement of any delivery.

### **Self-Assessment**

All subcontractors will be required to undertake a self-assessment process in relation to the Common Inspection Framework and produce a SAR which clearly and specifically identifies and evaluates the courses and programmes which they are contracted to deliver. The SAR and resulting action plan must be submitted as specified in the contract.

### **Contract Standards**

All subcontractors will be required to demonstrate how they will meet the ATM's contract standards in relation to providing a high quality service at all points of a learner's journey and how they will communicate these standards to learners.

Subcontractors will be required to meet the performance targets set out in the contract and those specified in the Partner KPI Areas with Targets and Thresholds agreed at contract negotiation and identified within the contract. Should Subcontractors fail to meet the performance targets, ATM will work with the subcontractor on an improvement plan and monitor performance; further continued poor performance will result in notice to improve as well as financial penalties.

ATM staff will support those subcontractors who require further development to reach the required standard in the expectation that subcontractor staff will subsequently maintain this standard.

### **Safeguarding**

Subcontractors will be required to have in place safeguarding arrangements which are consistent with the standards specified in the guidance documentation provided by ATM.

### **Recruitment Profiles and Delivery Locations**

Subcontractors may be required to ensure that programmes are delivered in specific localities, depending upon the nature of the contract. They may be required to recruit learners from a specific profile e.g. age, NEET.

### **Audit Procedures**

ATM will conduct audits of subcontractors as specified in the Quality Assurance arrangements in the contract and those specified in the Partner KPI Areas with Targets and Thresholds agreed at contract negotiation and identified within the contract.

ATM will provide reasonable advance notice in writing of proposed visits to the subcontractor of the scope and date of each audit, unless it is an announced audit.

Post-audit action plans will be produced where necessary and Subcontractors will be supported through training and mentoring to achieve the aims set out in the action plans. Subcontractors who consistently fail to attend training or engage in the mentoring scheme risk having their payment profile revised.

### **Policy and Procedures**

Subcontractors will be required to demonstrate that they have robust quality audit arrangements, consistent with the requirements related to the audit activities undertaken by ATM as specified above.

They will be required to maintain, review and update policies and procedures in line with national legislation and as appropriate to the nature of their contract in the following areas:

- Health & Safety
- Equality & Diversity
- Safeguarding
- Performance management information
- Data protection
- Staff recruitment and development
- Financial management
- Quality Assurance, including performance monitoring and development of:
  - ❖ Teaching practice
  - ❖ Initial assessment
  - ❖ Additional learning support
  - ❖ Information, advice and guidance
  - ❖ Self-assessment
  - ❖ Service standards

## **Contract Monitoring and Review**

Subcontractor performance will be monitored on an ongoing basis and will also include attendance at Performance Review Meetings (PMRs) that will be scheduled at termly intervals throughout the year. Feedback on performance will be provided in writing, by phone or email and will require actions to address any identified issues. The methods used will depend upon the circumstances at any point in time. Feedback will also be provided at contract review meetings, as part of PMR. The frequency of these meetings will depend upon the performance of the subcontractor.

Where performance falls below the standard required, subcontractors will be issued with a notice to improve. Support will be provided to help subcontractors develop and enhance the quality of their delivery. If a subcontractor fails to meet the necessary improvements within the agreed timescales, it may be necessary to implement contract termination procedures.

### **Monitoring will include:**

- having monthly conference calls and/or visits
- examining MIS and claims
- scheduled support visits.

### **Review will involve:**

- quarterly formal meetings
- an examination of all aspects of the contract
- planning future actions.

### **Evaluation will include:**

- annual assessments/audits
- looking at contract performance
- the contract renewal decision-making process.

The level of contract management and service provided by the College to the subcontractor will be determined at approval stage, but could be increased in year as performance levels are reviewed.

If during in year monitoring there is any evidence of a subcontractor's irregular financial or delivery activity the College will carry out an investigation and will report the outcome of the investigation, in writing, to the ESFA relationship manager within 10 days of the investigation being complete.

If a subcontractor is found to be subcontracting to a second level the contract will be stopped and a decision will be made to determine actions to safeguard the provision of the subcontracted learners.

## **Contract Termination**

ATM will work with its subcontractors to ensure that all learners receive high quality, safe and inspiring training, with all the necessary support for individuals to achieve their aims and progress on to employment.

Should a subcontractor consistently fail to improve any element of its performance which is deemed to be unsatisfactory or inadequate, or consistently fail to engage in training or with the quality support systems which are in place, ATM reserves the right to terminate the contract to protect the learners. ATM also reserves the right to terminate the contract if the subcontractor has been deemed to have breached the terms of the original contract.

If contract termination procedures are implemented, subcontractors are contractually required to cooperate fully with this process. Failure to comply with the requirements will result in significant penalties.