



cutting through complexity

Subcontracting arrangements

Blackpool Council

29 January 2016



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A. Recommendations

B. Client Contacts and KPMG Staffing

C. Full Disclaimer

Status of report

Discussion draft issued

Management responses received

Final report issued

Distribution

To: (For Action)

Steve Thompson (Director of Resources)

Audit Committee

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Section one

Executive summary

Background to the review

Blackpool Council (the Council) has a funding agreement in place with the Skills Funding Agency (the SFA) for the 2015/16 financial year. To deliver the agreed level of funding, the Council has contracted with five subcontractors to deliver part of this provision in accordance with the Council's desire to engage with and support learners requiring pre-basic skills support. The Council's subcontractors are:

- Blackpool and The Fylde College - £80,000 contract;
- The Volunteer Centre Blackpool, Wyre, and Fylde - £15,000 contract;
- Calico Enterprise Limited - £15,000 contract;
- UR Potential - £15,000 contract; and
- Lancashire Women's Centre - £5,000 contract.

The SFA has introduced a new requirement for this year in its guidance document '*Providing external assurance on subcontracting controls*' (the SFA Guidance), dated September 2015. This guidance outlines the SFA's requirement for the Council to obtain, on an annual basis, a report on the arrangements that the Council has in place to manage and control its subcontractors in line with the SFA Guidance. This work should be undertaken by an independent accountant.

In connection with that requirement, you have asked us to compare the Council's end-to-end subcontracting processes with the requirements set out in the Funding Agreements and the SFA's funding rules 2015/16 to reflect the requirements of section 9 of the SFA Guidance and report any recommendations to the Council's Audit Committee.

In the SFA Guidance, a "subcontractor" is defined as any legal entity that has an agreement with the Council to deliver education and training funded by the SFA.

The report is required to address the specific elements of the Council's end-to-end subcontracting process specified in clause 9 of the SFA Guidance which, in summary, cover the following areas:

- general subcontracting;
- selection and procurement;
- entering into a subcontract;
- monitoring;
- second level subcontracting;
- reporting on subcontracting; and
- fees and charges.

Once the report is finalised, the Council is required to complete and submit a certificate to the SFA confirming that the report identified no recommendations, or that any recommendations identified have been actioned in the form of an implementation plan with dates agreed.

Scope of the review

Responsibility for the establishment, maintenance and operation of subcontracting policies and procedures adequate for the needs of the Council is retained by the Council's officers.

Section one

Executive summary (cont.)

We evaluated the design and operational effectiveness of the policies and procedures in place intended to achieve compliance with the subcontracting requirements set out within the Funding Agreement, contracts and the funding rules 2015/16. Where gaps in policies, procedures and their operating effectiveness were identified we have reported recommendations for improvement to you within this report. We have undertaken this work through:

- interviews with key staff;
- comparing your subcontracting policies and process notes with the requirements referred to in Section 9 of the SFA Guidance;
- performing walkthroughs of your processes and procedures to assess their operating effectiveness; and
- inspecting other relevant evidence such as Council papers.

We have not expressed any opinion as to the adequacy, reliability or effectiveness of any systems of internal controls designed or operated by the Council. Our findings and recommendations are limited to the tests and procedures that we have performed. In this context our report has categorised our findings or recommendations in terms of our assessment of their severity to reflect the priority we suggest they should be given by officers.

Responsibility for the establishment, maintenance and operation of a system of internal controls adequate for the needs of the Council, including responsibility for evaluating the findings and recommendations that arise from the services and for monitoring corrective action taken, will be retained by at all times by the Council's officers.

Summary of Work Undertaken

We evaluated the design and operational effectiveness of the policies and procedures in place intended to achieve compliance with the subcontracting requirements set out within the Funding Agreement, contracts and the funding rules 2015/16. Where gaps in policies, procedures and their operating effectiveness were identified we have reported recommendations for improvement to you within this report. We have undertaken this work through:

- interviews with key staff;
- comparing your subcontracting policies and process notes with the requirements referred to in Section 9 of the SFA Guidance;
- performing walkthroughs of your processes and procedures to assess their operating effectiveness; and
- inspecting other relevant evidence such as board papers.

Section one

Executive summary (cont.)

Areas of Non-compliance with Subcontracting Requirements

We have summarised below the more significant areas where the Council's policies and procedures are not in compliance with the subcontracting requirements set out within the Funding Agreement and the funding rules 2015/16. These comprise our medium level recommendations and those areas we have rated as 'no compliance' on page 5.

- When selecting the subcontractors to appoint, the Council did not undertake a full assessment of the quality of provision that the subcontractor could deliver (**Recommendation Two**).
- A full due diligence exercise was not undertaken for each subcontractor (**Recommendations Three and Six**).
- The contracts signed with subcontractors did not include all of the clauses required by the SFA (**Recommendation 10**).
- The procedures for reviewing subcontractors' provision, including Observations of Learning and Teaching and unannounced site visits, are not documented or included in a Council agreed schedule of visits (**Recommendations Nine, 12 and 13**).
- The Council needs to develop and publish a Supply Chain Fees and Charges Policy that is compliant with the SFA requirements (**Recommendations 14 to 19**).

While we have identified 19 recommendations in total at the Council. While this is a large number, it should be recognised that of the Council's five subcontractors, four are small community based organisations with contracts values of £15,000 or less. It was important to engage with these small organisations to support the Council's objective to engage with pre-basic skills learners who would not attend other Council supported facilities such as their own learning centres or the Blackpool and The Fylde College.

In recognising the importance of engaging with these organisations, it was also recognised by the Council that their small size would mean that a number of requirements would not be met by the organisations when commencing the tendering process, which has led to a number of these recommendations being raised. As noted in the report, the Council is working with these organisations to support them to develop and ensure compliance with the SFA Funding Requirements.

Recommendations Raised

We summarise below the number of recommendations raised as a result of our review. Our recommendations are graded using a combined assessment of risk of non-implementation and priority for the Council. High priority represents the most urgent and high risk category. On this occasion, no high priority recommendations were raised. A more detailed explanation of the relative ratings is included in Appendix A (recommendations).

We have raised 19 recommendations to address the development areas we have identified. These are summarised in the table below.

	High	Medium	Low	Total
Raised	0	4	15	19
Agreed	0	4	15	19
Not Agreed	0	0	0	0

Acknowledgement

We would like to take this opportunity to thank your staff for their assistance during this review.

Section two

Findings

Summary of Findings

The table below shows the main areas that we have tested, along with the results of our testing. We have graded these based on full compliance, partial compliance, no compliance or not applicable. Where an area of non-compliance has been identified we have expanded on this overleaf, as well as including a recommendation to officers.

Summary of Findings		
Area Tested	Observations	Rating
General subcontracting requirements	<ul style="list-style-type: none"> We have identified four areas of non-compliance in relation to Funding Rules 14, 16, 17 and Contract for Services Clause 5.10 / Conditions of Funding clause 4.9. See overleaf for details 	Partial Compliance
Selection and procurement	<ul style="list-style-type: none"> We have identified two areas of non-compliance in relation to Funding Rules 22 and 23. See overleaf for details. 	Partial Compliance
Entering into a subcontract	<ul style="list-style-type: none"> We have identified sixteen areas of non-compliance in relation to Funding Rules 28, 30, 32, 33, 34, 36, 38,39, 41, 42, 43, 44, 45, Financial Memorandum (FE) clause 9.4 / Contract for Services Clause 5.4 / Conditions of Funding (grant) clause 4.4 (employer) clause 4.14, Financial Memorandum (FE) clause 9.5 / Contract for Services Clause 5.5 / Conditions of Funding (grant) clause 4.5 (employer) clause 4.15, and Financial Memorandum (FE) clause 9.7 / Contract for Services Clause 5.7 / Conditions of Funding (grant) clause 4.7. See overleaf for details. 	Partial Compliance
Monitoring	<ul style="list-style-type: none"> We have identified three areas of non-compliance in relation to Funding Rules 46, 47, and 48. See overleaf for details. 	No Compliance
Second level subcontracting	<ul style="list-style-type: none"> We have confirmed with the Council that they do not have any second level subcontracting arrangements, and hence this area of testing was not applicable. 	Not applicable
Reporting on subcontracting	<ul style="list-style-type: none"> We have identified no issues with the controls in place around reporting on subcontracting. 	Full Compliance
Fees and charges	<ul style="list-style-type: none"> We have identified seven areas of non-compliance in relation to Funding Rules 55, 56, 57, 59, 60, 62, and 63. The remaining areas are not applicable to the Council. See overleaf for details. 	No Compliance

Section two

Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
General Subcontracting Requirements	14	Your Governing body / board of directors and your accounting officer must be satisfied that all subcontracting you undertake meets your strategic aims and enhances the quality of your offer to learners. Examples of the senior responsible person are: Chief Exec; MD; Principal or their equivalent. The reasons for subcontracting set out in your published supply chain fees and charges policy should reflect your strategic aims. You must not subcontract to meet short term funding objectives	<p>Approval of subcontracts would have been dealt with through a line management chain and approved by Assistant Deputy Director, who has since left the organisation and has not been replaced. No documentation is available to show the authorisation of the subcontracting.</p> <p>The Council has since instituted a Management Committee, which will make all such decisions going forth.</p> <p>See Recommendation One, Appendix A.</p>
General Subcontracting Requirements	16	You must only use subcontractors who your governing body /board of directors and your accounting officer determine are of a high quality and low risk.	<p>Procurement teams use a risk based approach for each subcontractor. As each subcontractor (with the exception of Blackpool and The Fylde College) is a relatively low level contract due to its very low financial value, they are considered a low risk subcontractor. They perform a quality evaluation for each potential subcontractor and base their decisions on a 60/40 quality/price ratio.</p> <p>However, their subcontractors have not yet been approved as high quality/low risk by their Management Committee, as it has only recently been formed.</p> <p>See Recommendation Two, Appendix A.</p>

Section two

Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
General Subcontracting Requirements	17	We expect you to have robust procedures in place to ensure that subcontracting does not lead to the inadvertent funding of extreme organisations.	<p>Four contracts are on the low end of their risk based approach and complete a self-declaration including questions about terrorist connections before a contract is entered into. After the contract has been signed, the contract management team undertake PREVENT training for the subcontractors.</p> <p>Blackpool and the Fylde College are covered under an Exceptions Process, and the due diligence undertaken for them relies on them being on the Register of Training Organisations as well as the List of Declared Subcontractors and an Outstanding Ofsted report. This is not in line with the SFA guidelines regarding Due Diligence.</p> <p>See Recommendation Three, Appendix A.</p>
General Subcontracting Requirements	Contract for Services Clause 5.10 / Conditions of Funding clause 4.9	The Contractor / Body must notify the SFA if there is a change in its name and or ownership. THE SFA reserves the right to terminate the contract if it considers in its absolute discretion that the change in ownership would prejudice The Contractors ability to deliver the services.	<p>The Council works with subcontractors on a regular basis, and no name changes have needed to be addressed in the past.</p> <p>No formal procedures are laid down for name changes or ownership changes of subcontractors</p> <p>See Recommendation Four, Appendix A.</p>

Section two Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
Selection and Procurement	22	<p>When appointing subcontractors you must avoid conflicts of interest and you should:</p> <p>22.1: Tell the Chief Executive, in writing, about any circumstances (e.g. where you and your proposed subcontractor have common directors) which might lead to an actual or perceived conflict of interest</p> <p>22.2: Not award the contract without the Chief executive permission in writing and</p> <p>22.3: Send your request to your central delivery service adviser.</p>	<p>Conflicts of Interest are addressed in the Ground for Exclusion document which is held for four contracts. Conflicts of interest declarations must be completed pre-contract stage and are completed on a risk based approach. However, as the four smaller contracts are not considered large contracts, there is no investigation of this to confirm a lack of conflict of interest.</p> <p>The conflict of interest for the Blackpool and The Fylde College is covered by the Exceptions Process, which involved viewing the College's latest Ofsted report as well as identifying if the College was on the List of Declared Subcontractors from the SFA.</p> <p>See Recommendation Five, Appendix A.</p>
Selection and Procurement	23	<p>You must carry out your own Due Diligence checks when appointing subcontractors. You must not use the Register of Training Organisations as a substitute for carrying out your own due diligence checks.</p>	<p>Blackpool Council procurement team use a risk based approach to the appointing of subcontractors. If a contract is worth less than £85,000, it is considered lower risk and is not always subject to the due diligence procedures of credit risk, etc. Many items of due diligence are covered via a Grounds for Exclusion document, which is a self-certification document completed by each subcontractor.</p> <p>However, the College was appointed through an Exceptions Process, which involved viewing their latest Ofsted report and verifying that they are already under contract with SFA funding through the List of Declared Subcontractors. This is not in line with the SFA Funding Rules.</p> <p>See Recommendation Six, Appendix A.</p>

Section two Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
Entering into a sub contract	28	All learners who are provided with education and training under a subcontract remain your responsibility. This includes learners funded by us or through a 24+ Advanced Learning Loan. If your subcontractor fails to deliver, you will be responsible for making alternative arrangements for the delivery of education and training and/or repaying Skills Funding Agency or Loan funding.	<p>Contracts include a Business Continuity Plan in Section 9, which stipulates that each subcontractor must institute their own business continuity plan and, in the event of a service disruption, 'continue to provide the affected services...in accordance with the Business Continuity Plan'.</p> <p>There are no more formal procedures for continuity of learning or repaying SFA.</p> <p>See Recommendation Seven, Appendix A.</p>
Entering into a sub contract	30	<p>You must not award a subcontract to any organisation if:</p> <p>30.1 it has an above average risk warning from a credit agency;</p> <p>30.2 it has passed a resolution (or the court has made an order) to wind up or liquidate the company, or administrators have been appointed, or</p> <p>30.3 its statutory accounts are overdue.</p>	<p>Blackpool Council procurement team use a risk based approach to the appointing of subcontractors. If a contract is worth less than £85,000, it is considered lower risk and is not always subject to the due diligence procedures of credit risk, etc. Many items of due diligence are covered via a Grounds for Exclusion document, which is a self-certification document completed by each subcontractor.</p> <p>However, the College was appointed through an Exceptions Process, which involved viewing their latest Ofsted report and verifying that they are already under contract with SFA funding through the List of Declared Subcontractors. This is not in line with the SFA Funding Rules.</p> <p>See Recommendation Six, Appendix A.</p>

Section two

Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
Entering into a sub contract	32	You must have a legally binding contract with each subcontractor that includes all the terms set out below in paragraphs 35 to 45.	<p>All contracts are signed and dated.</p> <p>Contracts do not have all terms as set out in paragraphs 35-45 of the SFA's Funding Rules 2015-2016. The requirements of rules 36, 38, 39, 41, 42, 43, 44, and 45 are missing from the contract.</p> <p>Delivery of provision began in late September, however contracts were not always signed at this time as they need to be signed by someone with suitable authority within the subcontracting organisation, which may cause delays in signing.</p> <p>See Recommendation Eight, Appendix A.</p>
Entering into a sub contract	33	<p>You must have a contingency plan in place for learners in the event that:</p> <p>33.1 you need to withdraw from a subcontract arrangement</p> <p>33.2 a subcontractor withdraws from the arrangement, or</p> <p>33.3 a subcontractor goes into liquidation or administration</p>	<p>Contracts include a Business Continuity Plan in Section 9, which stipulates that each subcontractor must institute their own business continuity plan and, in the event of a service disruption, 'continue to provide the affected services...in accordance with the Business Continuity Plan'.</p> <p>There are no more formal procedures for continuity of learning.</p> <p>See Recommendation Seven, Appendix A.</p>

Section two

Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
Entering into a sub contract	34	<p>We need assurance that education and training provided by subcontractors will keep to our funding rules. You must make sure that the terms of your subcontracts allow you to:</p> <p>34.1 monitor the subcontractor's activity</p> <p>34.2 have control over your subcontractors, and</p> <p>34.3 monitor the quality of education and training provided by subcontractors</p>	<p>There is a master schedule of when subcontractors are due for review meetings. However there is no schedule for each individual subcontractor. The existing control schedule does not identify a programme of Observations of Teaching and Learning Assessments or unannounced visits. No evidence to suggest that these meetings are signed off by management or that the schedule is reviewed monthly as necessary.</p> <p>Observations of Teaching and Learning Assessments are present for each individual subcontractor and issues identified are followed through on the next OTLA. However no escalation procedures are included and there is no evidence to suggest that OTLAs are reviewed internally or signed off at the manager level.</p> <p>See Recommendation Nine, Appendix A.</p>
Entering into a sub contract	36	<p>Subcontractors must keep to our funding rules.</p>	<p>The Council's Self-Assessment Report includes the statement 'Ensure quality monitoring of subcontractor takes place' under the heading 'Key Actions to be taken to improve and develop provision' to demonstrate that the quality reviews undertaken ensure that subcontractors keep to the SFA funding rules.</p> <p>However, no such clause has been found in the contracts.</p> <p>See Recommendation Ten, Appendix A.</p>

Section two Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
Entering into a sub contract	38	Subcontractors must give us, and any other person nominated by us, access to their premises and all documents relating to Agency-funded provision.	<p>The Council's SAR includes 'Ensure quality monitoring of subcontractor takes place' under the heading 'Key Actions to be taken to improve and develop provision', which may not be enough to demonstrate that the subcontractor has given access to their premises or all documents to the SFA.</p> <p>Additionally, no such clause exists in the contracts.</p> <p>See Recommendation Ten, Appendix A.</p>
Entering into a sub contract	39	<p>Subcontractors must give you sufficient evidence to allow you to:</p> <p>39.1 assess their performance against Ofsted's Common Inspection Framework</p> <p>39.2 incorporate the evidence they provide into your self-assessment report, and</p> <p>39.3 guide the judgements and grades within your self-assessment report</p>	<p>Evidence from each of 2014/15's subcontractors has been provided and has been incorporated into the SAR for 2014/15.</p> <p>However, there is no clause within the contracts requiring subcontractors to provide this information, it has been provided to date on a voluntary basis.</p> <p>See Recommendation Ten, Appendix A.</p>
Entering into a sub contract	41	Subcontractors must co-operate with the lead provider to make sure that there is continuity of learning if the subcontract ends for any reason.	<p>Contracts include a Business Continuity Plan in Section 9, which stipulates that each subcontractor must institute their own business continuity plan and, in the event of a service disruption, 'continue to provide the affected services...in accordance with the Business Continuity Plan'.</p> <p>There are no more formal procedures for continuity of learning.</p> <p>See Recommendation Seven, Appendix A.</p>

Section two

Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
Entering into a sub contract	42	<p>Subcontractors must tell you if evidence of any irregular financial or delivery activity arises. Irregular activity could include, but is not limited to:</p> <p>42.1 non-delivery of training when funds have been paid</p> <p>42.2 sanctions imposed on the subcontractor by an awarding organisation</p> <p>42.3 an inadequate Ofsted grade</p> <p>42.4 complaints or allegations by learners, people working for the subcontractor or other relevant parties, and</p> <p>42.5 allegations of fraud</p>	<p>No formalised procedures detailing how the Council ensures such information is declared.</p> <p>Additionally, this clause is not present within the contracts.</p> <p>See Recommendation Ten, Appendix A.</p>
Entering into a sub contract	43	<p>All European Social Fund (ESF) clauses from your funding agreement with us must be included in the subcontract, even if the provision being subcontracted is not funded by the ESF. (full details of the clauses which are to be included in the subcontract regarding ESF are para 20 - 20.5 in the contract for services - education and training 2015-2016.</p> <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/457852/Financial_Memorandum__FE__15-16.pdf</p>	<p>This clause is not present within the contracts.</p> <p>See Recommendation Ten, Appendix A.</p>
Entering into a sub contract	44	<p>Subcontractors must not use our funding to make bids for or claims from any European funding on their own behalf or on our behalf.</p>	<p>This clause is not present within the contracts.</p> <p>See Recommendation Ten, Appendix A.</p>
Entering into a sub contract	45	<p>Subcontractors must not use payments made as match funding for ESF Co-Financing Projects.</p>	<p>This clause is not present within the contracts.</p> <p>See Recommendation Ten, Appendix A.</p>

Section two

Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
Entering into a sub contract	Financial Memorandum (FE) clause 9.4 / Contract for Services Clause 5.4 / Conditions of Funding (grant) clause 4.4 (employer) clause 4.14	Where the Provider has sub-contracted any duties or obligations arising out of this Financial Memorandum, the College shall ensure that there is in place a legally binding sub-contract and send copies of the subcontract to the SFA if requested in writing to do so. Where the College enters into a sub-contract for the purpose of delivering the Provision, the College shall ensure that the sub-contract includes any terms specified in the Funding Rules.	The Council has contracts with their subcontractors, but the contracts do not all include the terms in the Funding Rules. The requirements of rules 36, 38, 39, 41, 42, 43, 44, and 45 are missing from the contract. See Recommendation Ten, Appendix A.
Entering into a sub contract	Financial Memorandum (FE) clause 9.5 / Contract for Services Clause 5.5 / Conditions of Funding (grant) clause 4.5 (employer) clause 4.15	The Provider/ body / employer shall ensure that any sub-contract entered into for the purpose of delivering the Provision under this Financial Memorandum contains a term providing that the SFA has the right to enforce the terms of the sub-contract.	This clause is not present within the contracts. See Recommendation Ten, Appendix A.
Entering into a sub contract	Financial Memorandum (FE) clause 9.7 / Contract for Services Clause 5.7 / Conditions of Funding (grant) clause 4.7	The Provider shall make payment to any sub-contractor within 30 days of receiving a valid claim for payment and ensure that any sub-contract entered into for the purpose of delivering the Provision under this Financial Memorandum contains a term giving effect to this requirement.	Some of the purchase orders have not been raised in line with the 30 day policy. However, the current system in place means that some of the invoices are not sent directly to the correct office, and must be redirected to the Lifelong Learning administrative team. After the correct team receives them, provided there is the correct documentation to support the invoice, a purchase order is raised, sent to Accounts Payable and paid. This is done within 30 days. See Recommendation Eleven, Appendix A.

Section two

Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
Monitoring	46	You must robustly manage and monitor all of your subcontractors to ensure that high-quality delivery is taking place that meets the specific funding requirements for each programme being delivered.	<p>Observations of Teaching and Learning have been completed for each of the five subcontractors, but no unannounced visits have been undertaken.</p> <p>Clause 16.1 of the contracts say 'The Authority may monitor the performance of the Services by the Service Provider.'</p> <p>Clause 16.2 of the contracts say 'The Service Provider shall co-operate, and shall procure that its Sub-Contractors co-operate, with the Authority in carrying out the monitoring referred to in clause 16.1 at no additional charge to the Authority.'</p> <p>See Recommendation Twelve, Appendix A.</p>
Monitoring	47	<p>You must carry out a regular and substantial programme of quality-assurance checks on the education and training provided by subcontractors, including visits at short notice and face-to-face interviews with staff and learners. The programme must:</p> <p>47.1 cover whether the learners exist and are eligible</p> <p>47.2 involve direct observation of initial guidance</p> <p>47.3 involve direct observation of assessment, and</p> <p>47.4 involve direct observation of the delivery of learning programmes</p>	<p>Observations of Teaching and Learning have been completed for each of the five subcontractors.</p> <p>A master schedule shows contract review meetings with each subcontractor, but does not specify what themes each meeting will be or what specifically will be discussed at each meeting.</p> <p>See Recommendation Thirteen, Appendix A.</p>
Monitoring	48	The findings of your assurance checks must be consistent with your expectations and the subcontractor's records.	<p>See Funding Rule 34</p> <p>See Recommendation Six, Appendix A.</p>

Section two

Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
Fees & Charges	55	Your supply-chain fees and charges policy must be reviewed and signed by your governing body / board of directors and your accounting officer.	<p>The Management Committee is newly implemented and was not available to sign off on the Supply-Chains Fees and Charges Policy, but will be doing so in future.</p> <p>The Assistant Deputy Director used to be responsible for signing off of Supply-Chains Fees and Charges Policy. However, he is no longer with the organisation.</p> <p>See Recommendation One, Appendix A.</p>
Fees & Charges	56	You must publish your supply-chain fees and charges policy on your website before entering into any subcontracting agreements for the 2015 to 2016 funding year.	<p>The Supply Chain Fees and Charges Policy is published on the Council's website. It was published for 2014/15 and only the date was updated for the 2015/16 year on 12 November 2015. Contract with Blackpool and the Fylde College is signed 15 October 2015 and other contracts are dated 24/25 September 2015.</p> <p>See Recommendation Fourteen, Appendix A.</p>
Fees & Charges	57	Your fees and charges policy must only include 'provision subcontracting'. Provision subcontracting is when you subcontract the delivery of full programmes or frameworks. It is not subcontracting the delivery of a service as part of the delivery of a programme (for example, buying the delivery of part of an apprenticeship framework or outreach support). If you are not sure whether your subcontracting arrangements are defined as 'provision subcontracting', please discuss this with our Central Delivery Service.	<p>The Supply Chain Fees and Charges Policy does not include a description of what, specifically, the fees and charges relate to.</p> <p>See Recommendation Fifteen, Appendix A.</p>

Section two Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
Fees & Charges	59	<p>You must, as a minimum, include the following in your supply-chain fees and charges policy.</p> <p>59.1 Your reason for subcontracting.</p> <p>59.2 Your contribution to improving your and your subcontractor's quality of teaching and learning.</p> <p>59.3 The typical percentage range of fees you retain to manage subcontractors, and how you calculate this range.</p> <p>59.4 The support subcontractors will receive in return for the fee you charge.</p> <p>59.5 If appropriate, the reason for any differences in fees charged for or support provided to different subcontractors.</p> <p>59.6 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.</p> <p>59.7 How and when the policy is communicated to and discussed with current and potential subcontractors.</p> <p>59.8 Timing for policy review.</p> <p>59.9 Where the policy is published.</p>	<p>The Supply Chain Fees and Charges Policy has a number of points required by Funding Rule 59, but is also missing a number of them as well.</p> <p>See Recommendation Sixteen, Appendix A.</p>
Fees & Charges	60	<p>You must also publish the actual level of funding paid and retained for each of your subcontractors in 2015 to 2016. This data must be published within 30 days of the 2015 to 2016 ILR closing.</p> <p>60.1 The actual level of funding paid and retained must only include 'provision subcontracting', which is defined in paragraph 57</p>	<p>This information is not published online for 2014/15.</p> <p>See Recommendation Seventeen, Appendix A.</p>

Section two Findings (cont.)

Areas of non-compliance			
Area Tested	Funding Rule	Description of rules	Observations and recommendations
Fees & Charges	62	<p>You must, as a minimum, include the following in your published supply-chain fees and charges.</p> <p>62.1 Name of the subcontractor.</p> <p>62.2 The UKPRN number of the subcontractor.</p> <p>62.3 Contract start and end date.</p> <p>62.4 Type of provision (for example, 16 to 18 apprenticeships, 19+ apprenticeships, classroom learning, workplace learning).</p> <p>62.5 Funding we have paid to you for provision delivered by the subcontractor in that academic year.</p> <p>62.6 Funding you have paid to your subcontractor for provision delivered in that academic year.</p> <p>62.7 Funding you have retained in relation to each subcontractor for that academic year.</p> <p>62.8 If appropriate, funding your subcontractor has paid to you for services or support you have provided in connection with the subcontracted provision.</p>	<p>The Supply-Chains Fees and Charges Policy is missing this information. The Council did not review supply chain fees and charges policy for 2015/16.</p> <p>See Recommendation Eighteen, Appendix A.</p>
Fees & Charges	63	<p>You must publish this information on actual fees and charges alongside your supply-chain fees and charges policy.</p>	<p>This information is not published online.</p> <p>See Recommendation Nineteen, Appendix A.</p>

Appendix A

Recommendations

Recommendations

This appendix summarises the recommendation that we have identified from our work. We have given each of our observations a risk rating (as explained below) and agreed with officers what action you will need to take.

Priority rating for recommendations raised		
<p>High priority: a significant weakness in the system or process which is putting you at serious risk of not achieving your strategic aims and objectives. In particular: significant adverse impact on reputation; non-compliance with key statutory requirements; or substantially raising the likelihood that any of the Council's strategic risks will occur. Any recommendations in this category would require immediate attention.</p>	<p>Medium priority: a potentially significant or medium level weakness in the system or process which could put you at risk of not achieving your strategic aims and objectives. In particular, having the potential for adverse impact on the Council's reputation or for raising the likelihood of the Council's strategic risks occurring.</p>	<p>Low priority: recommendations which could improve the efficiency and/or effectiveness of the system or process but which are not vital to achieving the Council's strategic aims and objectives. These are generally issues of good practice that the auditors consider would achieve better outcomes.</p>

No.	Priority	Issue and recommendation	Management response	Officer and due date
1516-SFA-01	<p style="text-align: center;">● (Low)</p>	<p>Funding Rules 14 and 55</p> <p>The approval of subcontracts would have been dealt with through a line management chain and approved by Assistant Deputy Director, who has since left the organisation and has not been replaced. No documentation is available to show the authorisation of the subcontracting.</p> <p>The Council has since instituted a Management Committee, which will make all such decisions going forth.</p> <p>We recommend that the Council put in place a procedure to authorise the subcontractors and the Supply-Chain Fees and Charges Policy each year by the Management Committee.</p>	<p>Procedure written to cover the new Management Committee signing off subcontracting arrangements and Supply-Chain Fees and Charges Policy</p>	<p>Responsible Officer</p> <p>Senior Manager (Lifelong Learning)</p> <p>Due Date</p> <p>April 2016</p>

Appendix A

Recommendations (cont.)

No.	Priority	Issue and recommendation	Management response	Officer and due date
1516-SFA-02	● (Medium)	<p>Funding Rule 16</p> <p>The Procurement Team uses a risk based approach for each subcontractor. As each subcontractor (with the exception of Blackpool and The Fylde College) is a relatively low level contract in financial terms, they are considered a low risk subcontractor. They perform a quality evaluation for each potential subcontractor and base their decisions on a 60:40 quality:price ratio.</p> <p>However, the subcontractors have not yet been approved as high quality/low risk by the Management Committee, as it has only recently been formed.</p> <p>We recommend that each subcontractor should be approved by the Management Committee, specifically addressing the quality and risk levels of each individual subcontractor.</p>	<p>Procedure written to cover the new Management Committee signing off subcontracting arrangements for each individual subcontractor including the quality and risk levels of each individual subcontractor.</p>	<p>Responsible Officer</p> <p>Senior Manager (Lifelong Learning)</p> <p>Due Date</p> <p>April 2016</p>
1516-SFA-03	● (Medium)	<p>Funding Rule 17</p> <p>Four contracts are on the low end of their risk based approach and complete a self-declaration including questions about terrorist connections before a contract is entered into. After the contract has been signed, the contract management team undertake PREVENT training for the subcontractors.</p> <p>Blackpool and The Fylde College are covered under an Exceptions Process, and the due diligence undertaken for them relies on them being on the Register of Training Organisations as well as the List of Declared Subcontractors and an Outstanding Ofsted report. This is not in line with the SFA guidelines regarding Due Diligence.</p> <p>We recommend that the Council perform full due diligence procedures for all potential SFA subcontractors.</p>	<p>Procurement procedures to be amended to include full due diligence for SFA contracts.</p>	<p>Responsible Officer</p> <p>Head of Procurement / Head of Legal</p> <p>Due Date</p> <p>April 2016</p>

Appendix A

Recommendations (cont.)

No.	Priority	Issue and recommendation	Management response	Officer and due date
1516-SFA-04	● (Low)	<p>Contract for Services Clause 5.10 / Conditions of Funding clause 4.9</p> <p>The Council works with subcontractors on a regular basis, and no name changes have needed to be addressed in the past.</p> <p>We recommend that the Council institute formal procedures for name and ownership changes to notify the SFA so that this can be adopted if a change occurs in the future.</p>	Procurement procedures to be amended to address the notification of the SFGA for name and ownership changes for SFA contracts.	<p>Responsible Officer</p> <p>Head of Procurement / Head of Legal</p> <p>Due Date</p> <p>April 2016</p>
1516-SFA-05	● (Low)	<p>Funding Rule 22</p> <p>Conflicts of Interest are addressed in the Ground for Exclusion document which is held for four contracts. Conflicts of interest declarations must be completed pre-contract stage and are completed on a risk based approach. However, as the four smaller contracts are not considered large contracts, there is no investigation of this to confirm a lack of conflict of interest.</p> <p>The conflict of interest for the Blackpool and The Fylde College is covered by the Exceptions Process, which involved viewing the College's latest Ofsted report as well as identifying if the College was on the List of Declared Subcontractors from the SFA.</p> <p>We recommend that the Council ensure that for any SFA sub-contract entered into, that a process be undertaken to identify any potential conflicts of interest, or confirmation that no potential conflicts have been identified.</p>	Procurement procedures to be amended to ensure identification of any potential conflicts of interest, or confirmation that no potential conflicts of interest have been identified for SFA contracts.	<p>Responsible Officer</p> <p>Head of Procurement / Head of Legal</p> <p>Due Date</p> <p>April 2016</p>

Appendix A

Recommendations (cont.)

No.	Priority	Issue and recommendation	Management response	Officer and due date
1516-SFA-06	● (Medium)	<p>Funding Rule 23, 30, and 48</p> <p>The Procurement Team use a risk based approach to the appointing of subcontractors. If a contract is worth less than £85,000, it is considered lower risk and are not always subject to the due diligence procedures of credit risk, etc. Many items of due diligence are covered via a Grounds for Exclusion document, which is a self-certification document completed by each subcontractor.</p> <p>Blackpool and The Fylde College was appointed through an Exceptions Process, which involved viewing their latest Ofsted report and verifying that they are already under contract with SFA funding through the List of Declared Subcontractors. This is not in line with the SFA Funding Rules.</p> <p>We recommend that the Council implement all due diligence procedures for all SFA subcontractors.</p>	Procurement procedures to be amended to address all due diligence procedures for SFA contracts.	<p>Responsible Officer</p> <p>Head of Procurement / Head of Legal</p> <p>Due Date</p> <p>April 2016</p>
1516-SFA-07	● (Low)	<p>Funding Rule 28, 33, and 41</p> <p>Contracts include a Business Continuity Plan in Section 9, which stipulates that each subcontractor must institute their own business continuity plan and, in the event of a service disruption, 'continue to provide the affected services...in accordance with the Business Continuity Plan'.</p> <p>There are no more formal procedures for continuity of learning or repaying SFA.</p> <p>We recommend that the Council institute formalised contingency plans for learner continuity as well as repaying the SFA.</p>	Procedures to be put in place to institute formal contingency plans for learner continuity and repaying the SFA.	<p>Responsible Officer</p> <p>Senior Manager (Lifelong Learning)</p> <p>Due Date</p> <p>April 2016</p>

Appendix A

Recommendations (cont.)

No.	Priority	Issue and recommendation	Management response	Officer and due date
1516-SFA-08	● (Low)	<p>Funding Rule 32</p> <p>All contracts are signed and dated.</p> <p>Contracts do not have all terms as set out in paragraphs 35-45 of the SFA's Funding Rules 2015-2016. Clauses for rules 36, 38, 41, 42, 43, 44, and 45 are not included within the contract.</p> <p>Delivery of provision began in late September, however contracts were not signed at this time as they needed to be signed by someone with suitable authority within the subcontracting organisation, which caused delays in signing the contract at the subcontractor.</p> <p>We recommend that the Council reviews the SFA funding rules and updates its contracts to include all relevant clauses. Contracts should be prepared in a timely manner to allow them to be signed by both parties before the provision begins.</p>	<p>Contract variations to be made to current contracts to reflect all relevant SFA clauses. Procedures put in place to ensure future contracts are signed by both parties before provision begins.</p>	<p>Responsible Officer</p> <p>Head of Procurement / Head of Legal</p> <p>Due Date</p> <p>April 2016</p>

Appendix A

Recommendations (cont.)

No.	Priority	Issue and recommendation	Management response	Officer and due date
1516-SFA-09	● (Low)	<p>Funding Rule 34</p> <p>There is a master schedule detailing when subcontractors are due to have a review meeting. The existing control schedule however does not identify a programme of Observations of Teaching and Learning Assessments or unannounced visits. No evidence is retained to demonstrate that these meetings are signed off by management or that the schedule is reviewed monthly as necessary.</p> <p>Observations of Teaching and Learning Assessments are present for each individual subcontractor and issues identified are followed through on the next OTLA. However no escalation procedures are included and there is no evidence to suggest that OTLAs are reviewed internally or signed off at the manager level.</p> <p>We recommend that the Council:</p> <ul style="list-style-type: none"> ▪ institute unannounced visits to each subcontractor in order to assess their performance; ▪ review each visit or meeting internally, signing off to confirm it has been carried out, and any issues identified have been followed through with the subcontractor; ▪ create a master schedule for each individual subcontractor that includes: <ul style="list-style-type: none"> – a programme of announced and unannounced visits and other contact; and – a timetable for the return of enrolment forms and registers. <p>Additionally, we recommend that the control schedule should be reviewed monthly and any outstanding items followed up on.</p>	<p>Quality Monitoring Controls to introduce to create an individual file for each subcontractor and transfer both the existing controls and additional controls covering the whole recommendation for monitoring.</p>	<p>Responsible Officer Adult Learning Quality Manager</p> <p>Due Date April 2016</p>

Appendix A

Recommendations (cont.)

No.	Priority	Issue and recommendation	Management response	Officer and due date
1516-SFA-10	● (Medium)	<p>Funding Rule 36, 38, 39, 42, 43, 44, 45, Financial Memorandum (FE) clause 9.4 / Contract for Services Clause 5.4 / Conditions of Funding (grant) clause 4.4 (employer) clause 4.14 and Financial Memorandum (FE) clause 9.5 / Contract for Services Clause 5.5 / Conditions of Funding (grant) clause 4.5 (employer) clause 4.15</p> <p>No such clauses has been found in the contracts as required by the SFA Funding Rules.</p> <p>We recommend the Council institute a contract variation to each agreement to adjust existing contracts as well as ensure that 2016/17 contracts include appropriate clauses.</p>	<p>Contract variations to be made to be made on existing 15/16 subcontracts and procedures are put in place to ensure 16/17 sub contracts include all relevant SFA clauses.</p>	<p>Responsible Officer</p> <p>Head of Procurement / Head of Legal Services</p> <p>Due Date</p> <p>April 2016</p>
1516-SFA-11	● (Low)	<p>Financial Memorandum (FE) clause 9.7 / Contract for Services Clause 5.7 / Conditions of Funding (grant) clause 4.7</p> <p>Some of the purchase orders have not been raised in line with the 30 day policy. However, the current system in place means that some of the invoices are not sent directly to the correct office, and must be redirected to the Lifelong Learning administrative team. After the correct team receives them, provided there is the correct documentation to support the invoice, a purchase order is raised, sent to Accounts Payable and paid. This is done within 30 days.</p> <p>We recommend to have all subcontractors be required to send invoices directly to Lifelong Learning team at the City Learning Centre so as to expedite the process.</p>	<p>Build the requirement into the subcontract procedures and documents.</p>	<p>Responsible Officer</p> <p>Senior Manager (Lifelong Learning) / Head of Procurement</p> <p>Due Date</p> <p>April 2016</p>

Appendix A

Recommendations (cont.)

No.	Priority	Issue and recommendation	Management response	Officer and due date
1516-SFA-12	● (Low)	<p>Funding Rule 46</p> <p>Observations of Teaching and Learning have been completed for each of the five subcontractors, but there is no evidence that unannounced visits have been undertaken.</p> <p>Clause 16.1 of the contracts say 'The Authority may monitor the performance of the Services by the Service Provider.'</p> <p>Clause 16.2 of the contracts say 'The Service Provider shall co-operate, and shall procure that its Sub-Contractors co-operate, with the Authority in carrying out the monitoring referred to in clause 16.1 at no additional charge to the Authority.'</p> <p>We recommend that the Council include clauses into the contracts of how specifically each subcontractor will be monitored.</p> <p>The Council should also develop formal written procedures of how and when subcontractors will be managed, and what specifically will be discussed at various different types of meetings and observations, i.e. an observation of teaching and learning as opposed to a contract review meeting.</p>	<p>1) Contract variations to be made on monitoring arrangements for 15/16 subcontracts.</p> <p>2) Procedures documenting current practice and addressing the recommendation in place.</p>	<p>Responsible Officer</p> <p>1) Head of Procurement / Head of Legal Services</p> <p>2) Senior Manager (Lifelong Learning)</p> <p>Due Date</p> <p>April 2016</p>
1516-SFA-13	● (Low)	<p>Funding Rule 47</p> <p>Observations of Teaching and Learning have been completed for each of the five subcontractors.</p> <p>A master schedule shows contract review meetings with each subcontractor, but does not specify what themes each meeting will be or what specifically will be discussed at each meeting.</p> <p>We recommend that the Council undertake visits at short notice as well as reviews of documentation.</p>	<p>Procedures documenting current practice and addressing the recommendation in place.</p>	<p>Responsible Officer</p> <p>Senior Manager (Lifelong Learning)</p> <p>Due Date</p> <p>April 2016</p>

Appendix A

Recommendations (cont.)

No.	Priority	Issue and recommendation	Management response	Officer and due date
1516-SFA-14	● (Low)	<p>Funding Rule 56</p> <p>The Supply Chain Fees and Charges Policy is published on the Council's website. It was published for 2014/15 and only the date was updated for the 2015/16 year, this was done on 12 November 2015. The contract with Blackpool and The Fylde College was signed on 15 October 2015 and other contracts are dated 24 or 25 September 2015.</p> <p>We recommend that the Council be sure to publish the policy before contracts are signed.</p>	<p>Procedure written to cover the new Management Committee signing off Supply Chain Fees and Charges Policy and published before contracts are signed.</p>	<p>Responsible Officer</p> <p>Senior Manager (Lifelong Learning)</p> <p>Due Date</p> <p>April 2016</p>
1516-SFA-15	● (Low)	<p>Funding Rule 57</p> <p>The Supply Chain Fees and Charges Policy does not include a description of what, specifically, the fees and charges relate to.</p> <p>We recommend that the Council ensure that future supply chain fees and charges policies state specifically that fees and charges relate only to provision subcontracting.</p>	<p>Supply Chain Fees and charges Policy to be amended to include the recommendations and published.</p>	<p>Responsible Officer</p> <p>Senior Manager (Lifelong Learning)</p> <p>Due Date</p> <p>April 2016</p>

Appendix A

Recommendations (cont.)

No.	Priority	Issue and recommendation	Management response	Officer and due date
1516-SFA-16	● (Low)	<p>Funding Rule 59</p> <p>Supply Chain Fees and Charges Policy has a number of points required by Funding Rule 59, but is also missing a number of them as well.</p> <p>We recommend that the Council include the following points within their Supply-Chain Fees and Charges Policy:</p> <ul style="list-style-type: none"> ▪ Your contribution to improving your own quality of teaching and learning; ▪ The typical percentage range of fees you retain to manage subcontractors, and how this range is calculated; and ▪ If appropriate, the reasons for any differences in fees retained or support provided to different subcontractors. <p>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.</p>	Supply Chain Fees and Charges Policy to be amended to include the recommendations and published.	<p>Responsible Officer</p> <p>Senior Manager (Lifelong Learning)</p> <p>Due Date</p> <p>April 2016</p>
1516-SFA-17	● (Low)	<p>Funding Rule 60</p> <p>This information is not published online for 2014/15.</p> <p>We recommend that the Council publish information on the actual level of funding paid and retained for each of your subcontractors in 2015/16 within 30 days of ILR closing.</p>	Procedure in place and included in the Quality Tracker.	<p>Responsible Officer</p> <p>Business Manager</p> <p>Due Date</p> <p>March 2016</p>

Appendix A

Recommendations (cont.)

No.	Priority	Issue and recommendation	Management response	Officer and due date
1516-SFA-18	● (Low)	<p>Funding Rule 62</p> <p>The Supply-Chains Fees and Charges Policy does not contain a number of pieces of information required by the SFA Funding Rules, including:</p> <ul style="list-style-type: none"> ▪ The name of the subcontractor. ▪ The UKPRN number of the subcontractor. ▪ Contract start and end date. ▪ Type of provision (for example, 16 to 18 apprenticeships, 19+ apprenticeships, classroom learning, workplace learning). ▪ Funding paid by the Council to the subcontractor for provision delivered by the subcontractor in that academic year. ▪ Funding the Council has paid to the subcontractor for provision delivered in that academic year. ▪ Funding the Council has retained in relation to each subcontractor for that academic year. ▪ If appropriate, funding the subcontractor has paid to the Council for services or support the Council has provided in connection with the subcontracted provision. <p>The Council did not review Supply Chain Fees and Charges Policy for 2015/16.</p> <p>We recommend that the Council publish this information within the supply-chain fees and charges policy.</p>	Supply Chain Fees and Charges Policy to be amended to address the recommendations and published.	<p>Responsible Officer</p> <p>Senior Manager (Lifelong Learning)</p> <p>Due Date</p> <p>April 2016</p>
1516-SFA-19	● (Low)	<p>Funding Rule 63</p> <p>This information is not published online.</p> <p>We recommend that the Council publish information on the actual fees and charges alongside your Supply Chain Fees and Charges Policy online.</p>	Supply Chain Fees and Charges Policy to be amended to address the recommendations and published.	<p>Responsible Officer</p> <p>Senior Manager (Lifelong Learning)</p> <p>Due Date</p> <p>April 2016</p>

Appendix B

Client contacts and KPMG staffing

Client Contacts

During the review we worked with the following people:

Mike Taplin	Senior Manager (Lifelong Learning)
Trevor Rayner	Head of Procurement

We would like to thank these individuals for their help and kind assistance during the audit.

Staffing

The following KPMG staff were involved in the review of subcontracting provision:

Karin Hahn	Auditor
Reena Ghelani	Assistant Manager
Iain Leviston	Manager
Clare Partridge	Director
Tim Cutler	Partner

Appendix C

Full Disclaimer

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