

FIERI LEADERSHIP AND DEVELOPMENT

Subcontracting Policy

2023-24

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Department:	Shared Services
Manager Responsible:	Adam Conlon

Reviewed and Updated:	October 2023
Issue Date:	October 2023
Next Review Date:	October 2024
Approved by:	Adam Conlon
Signed:	

Fieri Leadership and Development Subcontracting Policy

SECTION 1

CONTEXT

This Policy aims to clearly set out how Fieri Leadership and Development Ltd identifies selects and manages subcontractors.

Fieri Leadership and Development Ltd will utilise subcontracting on the basis that it will enhance the quality of provision through specific identified areas of expertise.

Fieri Leadership and Development Ltd will continue to work towards the majority of its provision being delivered directly and intends to operate in 2024 well within the required 25% of the subcontracting cap of the apprenticeship revenue stream.

Fieri Leadership and Development Ltd expectations for the academic year 2023-24:

APPRENTICESHIP PROVISION

<25% subcontracted provision for certain contextualised and specialist teaching and learning.

Direct delivery is the preferred delivery model, however, to satisfy the specific needs of learners and employers, we may look to subcontract to an appropriate third-party organisation.

The rationale for subcontracting will meet one or more of the following aims:

- Enhance the opportunities available to learners.
- Fill gaps in niche or expert provision or provide better access to training facilities.
- Support better geographical access for learners.
- Support an entry point for disadvantaged groups.
- Support individuals who share protected characteristics, where there might otherwise be gaps.

We will only engage subcontractors for delivery of the provision if we have staff with the knowledge, skills, and experience (for example, with appropriate qualifications or experience, as evidenced by their CVs) within our organisation to:

- Successfully select subcontractors in line with the requirements of these funding rules and our contract with ESFA, and
- Contract with and actively manage those subcontractors,
- Those charged with governance/board of directors and our accounting officer (senior responsible person) determine the subcontractors as being of high quality and low risk to public funds,
- We have robust procedures in place to ensure subcontracting does not lead to the inadvertent funding of extremist organisations.

1.1 FIERI LEADERSHIP AND DEVELOPMENT LTD INTENT

Fieri Leadership and Development Ltd is committed to providing learners and employers the best learning experience possible. Ensuring positive outcomes for learners and maximum impact for both learners and employers. To achieve this Fieri Leadership and Development has taken the strategic decision to work with partner organisations that can add relevant value and impact through their understanding of the employer's business.

Subcontractors will be selected based on their ability to deliver high-quality learning and assessment and excellent success rates.

Fieri Leadership and Development will ensure that:

- The proposed delivery is in the best interests of learners and employers
- The proposed provision fits with Fieri Leadership and Development's mission, objectives, and values,
- There is sufficient expertise within Fieri Leadership and Development Ltd to quality assure the provision,
- There is sufficient staff resource in support areas to administer the process,
- The Subcontractor is approved via our thorough due diligence process
- The Subcontractor agrees to work within the terms of our contract, and that a signed contract is in place.

Fieri Leadership and Development will:

- Provide eligibility checks, initial assessment activities and enrolment of learners.
- Take full responsibility for registering learners with awarding bodies and delivering English and maths functional skills as required.
- Fieri Leadership and Development will provide an English and maths specialist in all subcontracted provisions every week.
- Fieri Leadership and Development provides support and training opportunities to improve the quality of teaching and learning for learner programmes delivered by our delivery partners.
- Regular quality assurance of the sub-contractor provision and subsequent action plans ensure that all subcontractors maintain a high quality of teaching and learning.
- Funding is apportioned according to the proportion of provision and other services provided by the partner and Fieri Leadership and Development respectively.

1.2 CONTRACT

A draft contract will be written following a successful due diligence process. This will be agreed by both parties and agreed by SLT. If the contract value with any one party exceeds £100,000, the contract will need to be approved by the executive

team. No learners will be enrolled until the contract has been agreed and signed by the Finance Director.

The contract details the management costs, delivery arrangements, quality monitoring activities and costs and other supporting activities agreed between the parties. Payment terms, timing of payments and the process for invoicing are clearly included in the contract.

Subcontracting will follow a thorough business case and due diligence process:

- Identify the need to sub-contract
- Identify prospective supplier base – pre-risk assessment
- Invite tender proposal
- Analysis of quality assurance arrangements
- Determine capability through a due diligence process
- Determine services and costings
- Agree contract
- Deliver contract

DETERMINE CAPABILITY

Following an initial discussion, a focused meeting will concentrate on capability and capacity to deliver contract requirements, as a prime and as the subcontractor. Both parties will need to undertake a capability assessment of each other to ensure clear clarity of contract, deliverables and ensure capacity and capability to deliver the apprenticeship. The assessment (capability) will be used to inform the depth and breadth of the examination. This forms part of a thorough due diligence activity.

- Consider the capability and capacity,
- Thoroughly examine the information provided,
- Conduct a financial audit,
- Interview the management team,
- Conduct a health, safety, and safeguarding assessment, which is inclusive of Prevent,
- Identify strengths, potential risks, and development needs.

Agreements entered into by a subcontractor and the main provider (Fieri Leadership and Development) are legal agreements and dispute resolution should be by the terms of the written agreement and ultimately would be enforceable through the courts.

Roles and Responsibilities

James Robinson

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Director

Responsibilities: Head of Finance, Designated Safeguarding Lead

Adam Conlon

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Director of Shared Services, Head of Policy

Mandie Willis

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Head of Apprenticeships

Responsibilities: Contract Management, Due Diligence, Quality Audit, Compliance

Susan Hewitt

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Apprenticeship Programme Manager

Responsibilities: Relationship Management, Internal Quality Assurance and Assessment

Julie Newton

Julie.newton@Fierileadership.com

Programme Coordinator Responsibilities: Programme administration, MIS and Compliance

SECTION 2

By our contractual agreement with the ESFA Fieri Leadership and Development Ltd must notify subcontracting.requirements@education.gov.uk about any known circumstances which may lead to a conflict of interest. For example, Fieri Leadership and Development and the proposed subcontractor have directors or beneficial owners in common.

Fieri Leadership and Development will:

- Not award the contract without written permission from the ESFA
- Keep evidence of both Fieri Leadership and Development request and the ESFA reply

Fieri Leadership and Development will not enter into a subcontract without ESFA permission, to any institution or organisation which is not permitted to recruit 16-18 year old apprentices and/or 19-25 year old high needs apprentices.

Fieri Leadership and Development Ltd will follow the ESFA subcontracting rules 2023 to 24 at all times which can be found here

[Apprenticeship funding rules 2023 to 2024 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

2.1 SELECTING A SUBCONTRACTOR

Fieri Leadership and Development Ltd must at all times ensure that we comply with current and relevant procurement regulations. Fieri Leadership and Development Ltd must ensure that we select subcontractor(s) fairly, transparently and without discrimination and ensure that potential subcontractors have sufficient capacity, quality and business standing to deliver the provision that is being subcontracted.

Fieri Leadership and Development Ltd operates as a Main Provider and will use its supply chains to optimise the impact and effectiveness of service delivery to the end user. Fieri Leadership and Development Ltd will therefore ensure that:

- Supply chain management activities comply with the principles of best practice in the skills sector.
- At all times undertake fair and transparent procurement activities, ensuring that all potential subcontractors undergo comprehensive due diligence to ensure that the highest quality of learning delivery is made available, demonstrating value for money, responsiveness, local skills priorities and positive impact on learner lives.
- These services, and the levels of funding being retained for them, will be clearly documented and agreed upon by all parties. The rates of such retained funding will be commercially viable for both sides and will be negotiated and agreed fairly and transparently reflecting the Fieri Leadership and Development Ltd risk table. They will be proportionate to the actual services being provided.

Fieri Leadership and Development Ltd will carry out its own thorough due diligence checks when appointing delivery subcontractors and ensure that we continue to undertake and review these checks on an annual/ongoing basis with each of our delivery subcontractors. As a minimum, we must undertake the checks identified in the following paragraphs.

We will review the circumstances and criteria in the funding higher risk organisations and subcontractors policy (hereafter referred to as “funding higher risk organisations policy”) in which the ESFA would consider a provider (including subcontractors) to be a high-risk provider and as a result will not consider funding or agree applications and/or bids for funding from them.

- We will perform due diligence checks on subcontractors and apply the criteria in the funding higher risk organisations policy setting out when a provider is high risk and therefore not eligible to be appointed as a subcontractor.
- Fieri Leadership and Development Ltd.’s contract with any subcontractors will enable us (Fieri Leadership and Development Ltd) to take appropriate action in line with the funding higher risk organisations policy, not only if Fieri Leadership and Development Ltd deem it is necessary, but also where ESFA requires Fieri Leadership and Development Ltd to take appropriate action.
- Fieri Leadership and Development Ltd must also ensure any subcontractor has the financial ability to deliver the requirements of the subcontract. The following link provides information to help undertake a financial assessment of the subcontractor:

[Financial health guidance for organisations contracting with or applying to ESFA on GOV.UK.](#)

Fieri Leadership and Development Ltd must not and will not contract with brand new companies that have yet to submit their first statutory accounts unless they can thoroughly verify the new company’s financial capability.

Fieri Leadership and Development must not award or renew a subcontract to any organisation if:

- It has an above-average risk warning from a credit agency,
- It has passed a resolution (or the court has made an order) to wind up or liquidate the company, or administrators have been appointed,
- Its statutory accounts are overdue.

- If a subcontractor does not meet, or continues to meet, the minimum due diligence and financial health checks required, Fieri Leadership and Development must suspend the right of the subcontractor to recruit new learners. Depending on the circumstances we may be required by ESFA to terminate the subcontract if we have not already done so.
- Fieri Leadership and Development Ltd should refer to the list of declared subcontractors to determine if a subcontractor that we intend to use or are using already holds subcontracts with other organisations.
- For subcontractors in receipt of an aggregate subcontract value of ESFA funding for delivering education and training that totals £100,000 or more for each funding year, or where the subcontract from us would take the total value of such subcontracts to £100,000 or more, Fieri Leadership and Development Ltd must share the results of the checks with ESFA via a signed return on the template ESFA will provide by the dates provided to Fieri Leadership and Development Ltd. The ESFA will then undertake internal high-risk checks to determine if the subcontractor falls within the scope of the Funding higher risk organisations policy. If they do, Fieri Leadership and Development Ltd may be required to end the subcontract with that organisation, and the ESFA may restrict Fieri Leadership and Development Ltd.'s future use of subcontractors.
- Where a subcontractor has a subcontract valued at £500,000 or greater in any funding year, the ESFA will carry out additional financial health checks directly with the subcontractor, in line with financial health guidance for organisations contracting with or applying to the ESFA. Fieri Leadership and Development Ltd will be required to supply the ESFA with the relevant documents. If the subcontractor fails the ESFA financial health checks, Fieri Leadership and Development Ltd will be unable to take on any new subcontracted starts with the subcontractor.

The key principles of selecting a new sub-contracting partner are whether they:

1. Fit with our strategic objectives,
2. Bring positive local community benefits and wider participation,
3. Complement and add value to the work that Fieri Leadership and Development Ltd does,
4. Are aligned to the key sectors that Fieri Leadership and Development Ltd and the Government prioritise,
5. Are willing to engage in a mutually supportive relationship built on trust and respect,
6. Have a reputation and standing within the sector/market,
7. Comply with ESFA subcontracting regulations.

The first stage in the process of setting up a new arrangement between a subcontractor and Fieri Leadership and Development Ltd is Due Diligence. After an initial meeting, the sub-contractor will be asked to provide the documents stated in the due diligence letter.

- The due diligence process identifies the support required and associated costs and management fees for a delivery subcontractor. The report will clarify how the management costs are reasonable and proportionate to the delivery of high-quality teaching and learning and how each cost contributes to the delivery of high-quality learning. The report also highlights the reason for subcontracting.

2.2 MANAGING RISK

Fieri Leadership and Development Ltd retains ultimate responsibility for all aspects of the provision that it is contracted to deliver, including any elements that it chooses to subcontract. The risks for us include the subcontractor:

- Achieving poor achievement rates, which reduces Fieri Leadership and Development Ltd's overall performance,
- Generally putting Fieri Leadership and Development Ltd's reputation and achievement of the contract in jeopardy,
- Not achieving funding targets, leading to lower than budgeted management fees and reductions in future allocation,
- Underestimating the costs of administering the provision and contract,
- Competing for learners with other contracted provision,
- Failing to complete within the contract period, leaving learners on-programme,
- Failing to adhere to General Data Protection Regulations,
- Staff turnover of the subcontractor, affecting their capacity to deliver to the contract,
- Risks associated with health and safety, safeguarding, Prevent or equality and diversity issues,
- Negative publicity associated with the subcontractor.

To mitigate these risks a full **risk register** will be maintained at all times, updated along the full journey and an escalation log for concerns will be implemented for use to drive continuous improvement.

2.3 AUDIT AND DATA

A key element of the audit trail is the process undertaken to subcontract with a subcontractor. The following evidence is required:
Details of subcontract

- What is the nature of the provision and the contractual relationship involved?

Data sharing protocols

- Ensuring Fieri Leadership and Development Ltd and the Education and Skills Funding Agency have access to all information,
- Ensuring that the subcontractor complies with all Data Protection Legislation.

Fieri Leadership and Development Ltd and the Education and Skills Funding Agency have the right to audit all documentation about the subcontracted provision. A satisfactory audit is essential to avoid loss of funding through clawback or termination of contracts. Fieri Leadership and Development Ltd audit principles include:

- 100% audit of all starts and leavers, whether negative or completions,
- A sample of mid-point funding audits,
- Data auditing tools used to test the integrity of data submitted by the subcontractor.

Controls to ensure no double funding include:

- Gaining information on other prime contractors at the due diligence stage,
- Regular (quarterly) testing (PDSAT evaluation monthly),

Communicating with any other Prime contractors the subcontractor is working with.

SECTION 3

3.1 CONTRACTS

Fieri Leadership and Development Ltd must not make artificial distinctions or distortions when describing delivery arrangements to avoid the application of the subcontracting funding rules for ESFA-funded post-16 funding (excluding apprenticeships) from 2022 to 2023.

- By Fieri Leadership and Development Ltd ESFA agreement Fieri Leadership and Development Ltd must not enter into any agreement for brokerage.
- Fieri Leadership and Development Ltd must only award subcontracts for the delivery of ESFA-funded provision to legal entities. If the legal entity is a registered company, it must be recorded as 'active' on the Companies House database. Subcontractors must register on the UK Register of Learning Providers (UKRLP) and hold a valid UK Provider Reference Number (UKPRN) to be eligible to receive funding from the ESFA, either directly or through a subcontracting arrangement.
- Fieri Leadership and Development Ltd must not agree to the use of any subcontractor where this would require Fieri Leadership and Development Ltd to effectively subcontract ESFA funding to a second level of subcontractor. In other words, all subcontractors must have a direct subcontract with Fieri Leadership and Development Ltd.

Fieri Leadership and Development Ltd may have more than one subcontractor, but each subcontractor must have a direct subcontract with you. The restriction on the level of subcontracting is in place to ensure that:

- Lead providers retain clear and transparent accountability for the quality of training provision,
- Proper and appropriate controls are in place to manage the learner experience,
- Value for money is achieved by mitigating funding being utilised for multiple tiers of subcontractor management.

Fieri Leadership and Development Ltd must make sure that learners supported through subcontracting arrangements know about you and your subcontractors' roles and responsibilities in providing the learning.

Terms that must be included in contracts with subcontractors.

Before any subcontractor starts delivery of the subcontracted provision, the subcontractor must have a legally binding written subcontract with Fieri Leadership and Development Ltd.

The subcontract must entitle Fieri Leadership and Development Ltd to exercise management controls over the subcontractor's activity including access by auditors appointed by either Fieri Leadership and Development Ltd or the ESFA. The following paragraphs set out some provisions which must be included in each subcontract.

A list of all services Fieri Leadership and Development Ltd will provide to subcontractors and the associated costs for doing so. This must include:

- a list of individually itemised, specific costs that Fieri Leadership and Development Ltd will charge for managing the subcontractor and how these are reasonable and proportionate to the delivery of subcontracted provision,
- Specific costs for quality monitoring activities and specific costs for any other support activities offered by Fieri Leadership and Development Ltd to the subcontractor and how these contribute to the delivery of high-quality learning,
- Reference to Fieri Leadership and Development Ltd delivery subcontracting policy, including Fieri Leadership and Development Ltd rationale for subcontracting and where it can be found on the Fieri Leadership and Development Ltd website,
- A requirement to give the ESFA and any other person nominated in writing by ESFA, access to its premises and to all documents related to the subcontracted delivery,
- The subcontractor must be under an obligation to provide Fieri Leadership and Development Ltd with ILR data so that Fieri Leadership and Development Ltd data returns to ESFA accurately reflect the subcontractor's delivery information,

The subcontractor must provide Fieri Leadership and Development Ltd with sufficient evidence to allow Fieri Leadership and Development Ltd to:

- Assess its performance against Ofsted's Education inspection framework,
- Incorporate the evidence it provides Fieri Leadership and Development Ltd with into Fieri Leadership and Development Ltd.'s self-assessment report; and guide the judgements and grades within Fieri Leadership and Development Ltd self-assessment report
- The subcontractor must always have suitably qualified staff available to provide the education and training funded by ESFA,
- The subcontractor must cooperate with Fieri Leadership and Development Ltd if the subcontract ends for any reason to make sure that there is continuity of learning,

The subcontractor must tell Fieri Leadership and Development Ltd if evidence of irregular financial or delivery issues arises. This could include, but is not limited to:

- non-delivery of training when funds have been paid,
- sanctions imposed by an awarding organisation,
- allegations of fraud,
- an inadequate Ofsted grade,
- allegations or complaints by learners, staff members, or other relevant parties.
- The subcontractor must not use ESFA funding to make bids for, or claims from, any European funding on its own behalf or on behalf of ESFA, The subcontractor must be bound by ESF clauses from Fieri Leadership and Development Ltd contract being included in the subcontract, even if the provision being subcontracted is not funded by the ESF,
- The subcontractor must not use ESFA funding as match funding for ESF projects,
- Fieri Leadership and Development Ltd must make sure its subcontractors comply with the requirements set out in the

<https://www.gov.uk/government/publications/subcontracting-funding-rules-for-esfa-funded-post-16-funding-excluding-apprenticeships/subcontracting-funding-rules-for-esfa-funded-post-16-funding-excluding-apprenticeships-2022-to-2023>

- Fieri Leadership and Development Ltd must ensure it includes in the subcontract provisions that enable Fieri Leadership and Development Ltd to terminate the subcontract should the subcontractor fail to meet the required due diligence or financial health requirements/standards,
- Fieri Leadership and Development Ltd must ensure that it includes in the subcontract provisions which require the subcontractor to inform Fieri Leadership and Development Ltd of any changes which impact its ability to meet the due diligence or financial health/ standards required and that Fieri Leadership and Development Ltd may, as a result, be required to terminate the subcontract with them,

- Fieri Leadership and Development Ltd should take its own legal advice about how best to incorporate these provisions and wider terms and conditions in your subcontracts.

3.2 FUNDING RETENTION

As part of Fieri Leadership and Development Ltd.'s funding agreement with the Education and Skills Funding Agency, Fieri Leadership and Development Ltd is required to publish details of subcontracting arrangements by completing the '**Declaration of Subcontractors**' return, including details of the funding retained from subcontracting partners.

Fees retention levels will be set according to the level of risk associated with the subcontractor.

All partners will have a standard '**Invoice Profile**' prepared, detailing the payment amounts, payment dates, invoicing requirements and how to deal with disputed invoices.

3.3 HEALTH AND SAFETY, SAFEGUARDING AND EQUALITY AND DIVERSITY

Fieri Leadership and Development Ltd requires that:

- Subcontracted provision sets appropriate standards for health and safety, safeguarding of learners and equality and diversity. This provision will be assessed.

To ensure the subcontractor complies with this, Fieri Leadership and Development Ltd will implement the following:

- Subcontractors will be asked to supply a copy of their Health & Safety Policy,
- Subcontractors will be asked to supply a copy of their Equality & Diversity Policy,
- Subcontractors will be sent Fieri Leadership and Development Ltd Safeguarding and Prevent Policy and will ask for written confirmation that they accept the terms contained in this,
- The contract will contain explicit reference to ED&I policies, Safeguarding, Prevent and DBS Checks,
- All on-site assessments (Quality Assurance, Audit and Contractual) will record compliance to these key policies as part of the assessment process
- All staff employed by the Subcontractor are expected to undertake DBS Checks, annual safeguarding training, and training on Prevent and Fundamental British Values - The subcontractor will notify Fieri Leadership and Development Ltd of its internal DSL and DDSL to enhance safeguarding for all learners.

3.4 COMMUNICATION STRATEGY

The main principles of communicating with sub-contractors are:

- Schedule of regular meetings set up,
- Subcontractor provides a named contact to Fieri Leadership and Development Ltd of a senior person,
- Notes/minutes of meetings kept on file and shared with the subcontractor,
- Records of e-mails, correspondence etc kept on file,
- Notes from audit/monitoring visits kept on file and shared with subcontractor.

The table below illustrates the main contact points for sub-contractors:

Main contact for day-to-day enquiries	MIS Administration – julie.newton@fierileadership.com
Queries regarding audit	MIS Administration – julie.newton@fierileadership.com
Requests for PLR / Initial Assessment	MIS Administration – julie.newton@fierileadership.com
Contract issues	Mandie.willis@fierileadership.com
Due diligence, initial set up and contract queries	Mandie.willis@fierileadership.com
Queries about finance/invoicing	Mandie.willis@fierileadership.com
Curriculum advice, guidance, quality assurance	Sue.hewitt@fierileadership.com
Monitoring of Safeguarding log and interventions/actions	James.robinson@fierileadership.com
Complaints	Mandie.willis@fierileadership.com or sarah.lawson@fierileadership.com

SECTION 4

4.1 QUALITY ASSURANCE PROCESSES

Audit

Fieri Leadership and Development Ltd carry out a full funding audit on all learner documentation received. Audit errors will be highlighted to the Subcontractor and Fieri Leadership and Development Ltd may not process paperwork that has audit errors associated with it until these are resolved.

The final decision on the processing of data sits with the Head of MIS and will be based on risk. Paperwork that includes audit errors placing funds at risk will be automatically held for resolution.

The depth and frequency of audit visits will be based upon the risk level of the subcontractor but at least annually and will include:

- A discussion with tutors/trainers,
- A discussion with learners,
- Checks on registers/attendance,
- Checks on adequacy of resources,
- Tracking of learner progress.

The main areas that form part of the audit will be shared with the Subcontractor at the beginning of the contract and all audits will be followed up with a report within 2 weeks.

Internal Quality Assurance of Qualifications

Fieri Leadership and Development Ltd expects the Subcontractor to be familiar with any relevant Awarding Organisation requirements to ensure a fit-for-purpose provision against all relevant rules.

Fieri Leadership and Development Ltd will carry out the Internal Quality Assurance of Qualifications partially delivered by the Subcontractor. Fieri Leadership and Development Ltd will apply a rationale consistent with Fieri Leadership and Development Ltd's Quality Assurance Processes. A copy of this will be provided to Subcontractors when contracts are agreed.

Observation of Delivery

Fieri Leadership and Development Ltd will carry out observation of programme delivery with Subcontractors using the rationale set out in Fieri Leadership and Development Ltd policy for Observation of Teaching, Learning and Assessment. Observations may be pre-arranged or unannounced. The Subcontractor is required to provide Fieri Leadership and Development Ltd with a schedule of contact/teaching every month to allow Fieri Leadership and Development Ltd to make provision for Observations. Fieri Leadership and Development Ltd OTLA Policy will be provided to Sub-Contractors when contracts are agreed.

Fieri Leadership and Development Ltd Quality Leads, Quality Specialists or Curriculum Specialists will carry out Observations.

Staff

Staff CVs will be provided to Fieri Leadership and Development Ltd at the commencement of the contract.

Teaching staff should be competent teachers, trainers and facilitators. Similarly, staff involved in assessing learners should have the recognised Assessor qualification or equivalent (as per the assessment strategy of the qualification being assessed) or be working towards that Award and achieve it within 18 months of the start of the contract.

Staff having internal Quality Assurance or lead assessing duties should have a CAVA Level 4 or equivalent or be working towards that award and achieve it within 18 months of the start of the contract.

Copies of teaching staff CPD will be provided to Fieri Leadership and Development Ltd quarterly as per Fieri Leadership and Development Ltd self-assessment schedule.

Copies of DBS checks for all staff should be made available to Fieri Leadership and Development Ltd for inclusion on the Single Central Record.

Quality Standards

- Fieri Leadership and Development Ltd will agree on performance targets for retention and achievement rates with the Subcontractor on an annual basis and these will be monitored monthly,
- If the Subcontractor falls below the agreed performance targets, then Fieri Leadership and Development Ltd may provide early intervention with a notice to improve,

- The Subcontractor will operate an effective monitoring policy approved by us or alternatively adopt Fieri Leadership and Development Ltd monitoring requirements,
- The Subcontractor must work under the appeal and complaints procedures provided by Fieri Leadership and Development Ltd and are current on their website,
- The Subcontractor will be subject to an observation of teaching, learning and assessment that includes action plans for improvement.
- Team/staff meetings must take place regularly and formal minutes kept,
- The subcontractor will produce an annual Self-Assessment Report (SAR) and Quality Improvement Plan (QIP) plan on Fieri Leadership and Development Ltd requirements,
- The Subcontractor must ensure their provision meets all Ofsted requirements and work with Fieri Leadership and Development Ltd to achieve at least a Good grade.

Learner and Employer Voice

The learner and employer (if applicable) voice will be captured using the mechanisms outlined in the Fieri Leadership and Development Ltd Feedback Policy that will be provided to the Subcontractor upon agreement of the contract.

These mechanisms include online surveys, on-programme and end-of-programme evaluations, focus groups and learner forums.

The Subcontractor will provide copies of any learner and employer feedback they gather to the Fieri Leadership and Development Ltd for analysis.

4.2 KEY STAFF

Matt Johns

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Finance and Legal Director

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Operations Director

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Julie Newton

Apprenticeship Programme Coordinator

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Sue Hewitt

Apprenticeship Programme Manager

Sue.hewitt@fierileadership.com

4.3 MONITORING AND REVIEW PROCESS

The monitoring and review cycle will ensure a process of continuous improvement, allowing Fieri Leadership and Development Ltd and the Subcontractor to have an open and honest approach to managing the quality of provision throughout the life of the contract.

Fieri Leadership and Development Ltd are responsible for the actions of the subcontractors connected to, or arising out of, the delivery of the services, which Fieri Leadership and Development Ltd subcontract. If the subcontractor fails to deliver, Fieri Leadership and Development Ltd will be responsible for making alternative arrangements for the delivery of education and training, protecting the audit trail, and/or repaying ESFA or ESF funding.

Fieri Leadership and Development Ltd must manage and monitor each subcontractor to ensure that high-quality delivery is taking place that meets the requirements of the contract Fieri Leadership and Development Ltd has entered into with ESFA for the provision of ESFA-funded delivery (which includes compliance with ESFA-funding rules). Fieri Leadership and Development Ltd must ensure safeguarding is rigorously policed, and is inclusive of Prevent.

It is not acceptable for any staff with a direct or indirect financial interest in the subcontractor to undertake any management control activities This includes signing time sheets or invoices, as well as organising and/or carrying out monitoring activity or visits to check the subcontractor delivery.

Fieri Leadership and Development Ltd must carry out a regular and substantial programme of quality assurance checks on the education and training provided by subcontractors including spot checks and face-to-face interviews with staff and learners. The programme must:

- Include verifying that learners exist and meet the eligibility criteria for ESFA Funding,
- Involve direct observation of initial guidance, assessment and delivery of learning programmes, training and/or direct observation of assessment.

The findings of Fieri Leadership and Development Ltd assurance checks must be consistent with Fieri Leadership and Development Ltd expectations and the subcontractor's records.

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

SECTION 5

5.1 Termination of Sub-Contracted Provision and Management of Disputes

Disputes

Provision for resolving disputes is contained within the overall Main Contract. This sets out how disputes will be resolved and the escalation procedures.

Termination:

Provision for termination of a contract is contained in the Main Contract. The process for resolving disputes / terminating contracts is shown below:

- Initial dispute raised by Prime or Subcontractor
- Meeting with all parties (consultation with SLT if required)
- If resolved written confirmation is provided to both parties
- If unresolved - escalate to next level as per complaints and disputes process
- Meeting of all parties
- If resolved written confirmation is provided to both parties
- If unresolved SLT is to discuss and review the evidence and discuss termination of the contract
- Outcome meeting with all parties. A formal termination agreement was sent or remedial actions and controls agreed upon and formalised

SECTION 6

6.1 Subcontracting reporting and external audit requirements

Fieri Leadership and Development Ltd must record subcontracted provisions in line with the published guidance for the school census and the individualised learner record (ILR) data returns.

If Fieri Leadership and Development Ltd returns ILR data, by Fieri Leadership and Development Ltd ESFA contract (s) Fieri Leadership and Development Ltd must submit a fully completed subcontractor declaration by the dates given by the ESFA. This will be at least twice during the funding year. If there is no subcontracting Fieri Leadership and Development Ltd must still provide a nil return to confirm this. Fieri Leadership and Development Ltd must also update Fieri Leadership and Development Ltd.'s subcontractor declaration if the subcontracting arrangements change during the year.

This is done via the [MyESFA account](#).

By Fieri Leadership and Development Ltd ESFA contract(s), Fieri Leadership and Development Ltd must obtain an annual report from an external auditor if the aggregate total of all subcontractors delivering ESFA funded provision on Fieri Leadership and Development Ltd behalf exceeds or **is anticipated** to exceed £100,000 in any single funding year. Whilst otherwise excluded from this, for calculation of the aggregate total of subcontractor delivery Fieri Leadership and Development Ltd must include delivery of apprenticeships.

Fieri Leadership and Development Ltd must supply the ESFA with both a report and certificate signed by an external auditor that assures the arrangements to manage and control your delivery subcontractors. Fieri Leadership and Development Ltd must send a copy of the external auditor's final report including the action plan of agreed recommendations and certificate via ESFA Document Exchange or by email to subcontracting.requirements@education.gov.uk.

The ESFA will review this as part of their overall assurance arrangements.

SECTION 7

7.1 ESFA Funding Rules

ESFA Subcontracting funding rules for ESFA funded post-16 funding (excluding apprenticeships) 2023 to 2024

[Subcontracting funding rules for post-16 education and training - GOV.UK](#)

SECTION 8

8.1 Subcontractors and Subcontracted Provision

Monitoring of subcontractors and subcontracted provision.

In addition to the measures detailed above and to the ESFA's Subcontracting funding rules for ESFA-funded post-16 funding (excluding apprenticeships) 2023 to 2024 and Fieri Leadership and Development Ltd contract, Fieri Leadership and Development Ltd must monitor their subcontractors to ensure that learners have full access to free funded education and training, including (but not limited to) information about and access to, 16 to 19 bursary and other student support funding, information, advice, and guidance (IAG) and access to learning support if required.

Controls over students, tutors, and provision.

Fieri Leadership and Development Ltd must be able to demonstrate that Fieri Leadership and Development Ltd exercises all the following key controls:

- Fieri Leadership and Development Ltd can enrol or reject learners as Fieri Leadership and Development Ltd would do if the learners were to be taught on Fieri Leadership and Development Ltd.'s site,
- Learners sign a learning agreement at the time of enrolment; the agreement must reflect the outcome of initial guidance and assessment for an individual student and set out their study programme and any learning support to be provided,
- Learners' eligibility for ESFA funding is confirmed through an enrolment form and/or learning agreement, which must include Fieri Leadership and Development Ltd name and logo, and which is signed by the Learner at the start of their programme,
- A learning programme and its means of delivery have been clearly specified by Fieri Leadership and Development Ltd,
- There are arrangements for assessing the progress of individual learners,
- There are procedures for Fieri Leadership and Development Ltd to regularly monitor the delivery of programmes provided in Fieri Leadership and Development Ltd name throughout the programme.

Subcontractors with contracts with multiple institutions:

- Fieri Leadership and Development Ltd must establish whether any of Fieri Leadership and Development Ltd subcontractors work with other directly funded ESFA lead providers,
- 1 - Fieri Leadership and Development Ltd must make sure that they are the only provider that is claiming ESFA funding for the learners that Fieri Leadership and Development Ltd is claiming funding for. Learners must not be enrolled at more than one directly funded ESFA provider,
- 2 - Fieri Leadership and Development Ltd, as the lead provider, must claim all the funding for an ESFA-funded learner. When a learner is attending different directly funded providers for different components of their programme of study, the lead provider must record all these components and indicate on the individualised learner record or school census which elements are delivered via a subcontracting arrangement,
- All individual students must have the correct unique learner number recorded,
- An exception to rules 1 and 2 directly above is where a learner is enrolled on a Diploma in Sporting Excellence in addition to their main study programme.

Distance subcontracted delivery:

- Only in exceptional circumstances should institutions make subcontracting arrangements for delivery outside their normal recruitment area. ('normal recruitment area' is defined in the funding regulations guidance).
- Fieri Leadership and Development Ltd must seek approval to continue with or embark on new arrangements for distance subcontracting. Further details including what to include in the request and where to send it are available in the link below: <https://www.gov.uk/government/publications/further-details-about-reforms-to-subcontracting-education-for-learners-over-16>
- Where Fieri Leadership and Development Ltd enters into distance subcontracting relationships, Fieri Leadership and Development Ltd must exercise the same level of management, control, and safeguarding of learners and assure Fieri Leadership and Development Ltd still meets all necessary rules.