

# Service Level Agreements/Contracts

## Checklist of Contents



The contents of individual contracts should be tailored to specific circumstances, and should be drafted or checked by your legal adviser(s). However, the following will prove a useful checklist. The Office for Government Commerce provides model terms and conditions (<http://www.ogc.gov.uk>).

### Tips

- the success of the collaboration depends on the contract AND on the relationship between the partners; focus on both;
- establish communication channels between partners from the start, if there are any contentious issues, consider using an independent facilitator such as an LSIS adviser to help the process;
- agreed levels of performance should be the minimum, not averages (averages can imply a wide range from outstanding to inadequate);
- ensure that contracts specify how disputes are resolved and how changes are incorporated;
- ensure a balance between compliance and detail, and the flexibility to respond to changes in the environment and the market (for example, changes in government policy, and in employer and learner needs);
- the contract should not reflect micro-management, rather risk-assessed monitoring and control, and collaborative working.

Source: adapted from The Subcontracting Toolkit for the Learning and Skills Sector (2010), Nick Linford, [www.lsect.com](http://www.lsect.com)

TITLE OF CLAUSE	IN PLACE (y/n)?	AMEND (y/n)?	COMPLETE (y/n)?	ACTIONS/COMMENTS
<b>1) Agreement date and parties; jurisdiction</b> Include the legal name of the lead contractor and sub-contractor. Specify the jurisdiction (usually Law of England)				
<b>2) Definitions</b> For example, “Academic year” means a year running from 1 August in one calendar year to 31 July in the following calendar year. You may wish to specify the financial year. Consider anything which could be misunderstood in the contract and define here.				
<b>3) Duration of agreement</b> Such as ‘Twelve months from... unless terminated in accordance with terms and conditions of the contract’. Given the sub-contractor is handing over their allocation this section may include a clause regarding extensions. Include any review points (and diary them up so you remember them!)				
<b>4) Payment terms</b> Usually payment within 30 days of date of properly prepared invoice. Some contracts withhold payment until it is received by the lead contractor from the funding organisation; this is not recommended.				
<b>5) Price (distribution of income) /costs</b> This might be the percentage of Skills Funding Agency instalment to be paid. In previous years the LSC have recommended no more than 15% retention of instalment funding by the lead provider. However, circumstances will differ so the percentage may be higher or lower. Importantly, the Skills Funding Agency ‘requires the retention of funds to be proportionate to the costs incurred’. Be sure to specify who will pay for specific items such as accreditation costs and any additional costs in programme delivery such as study visits.				

<p><b>6) Funding compliance</b> Both parties must comply with the Skills Funding Agency Funding and Audit Guidance, such as making sure all relevant forms, agreements, applications or other documents which are required to be sent to the Skills Funding Agency are, if necessary, completed and signed by the relevant authorised officer of the sub-contractor. You may wish to include other financial compliance issues such as agreements to audit by company auditors.</p>				
<p><b>7) Records and information</b> This would include maintaining and making available appropriate evidence, such as records of both attendance and non-attendance. Specify how long records must be kept, and which records. You may wish to specify that the lead contractor has reasonable access to records held by the subcontractor, or vice-versa. Many contracts include deadlines for supply of information between partners, and, in some cases, penalties for late submission.</p>				
<p><b>8) Control of the programme(s)</b> The lead contractor ultimately is responsible and at all times to be in control.</p>				
<p><b>9) Enrolment</b> For example, ensuring appropriate initial guidance and assessment, individual learning plans, signed enrolment forms and the timescale within which the signed forms must be sent to the lead partner.</p>				
<p><b>10) Delivery of provision, assessment and achievement</b> This would include who can and who cannot deliver provision, and the basis on which staff are employed. So CVs might need to be supplied and vetted by the lead provider. This section would also include arrangements for when learners withdraw or achieve, and how quickly learners should receive their certificates. You may wish to draw up a statement of the programme(s) to be delivered, with payment dates, as a separate annex to the contract.</p>				

<p>This annex can be negotiated and agreed at regular and appropriate intervals, either annually or more frequently. It will give the parties a focus to review the contract delivery.</p>				
<p><b>11)Equal opportunities</b>  This might say that the sub-contractor must comply with the Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000) and Special Educational Needs and Disability Discrimination Act 2001 (incorporated into Part IV of the Disability Discrimination Act 1995). The lead partner may also have their own Equalities Policy which the sub-contractor would need to comply with. Equality and Diversity should cover positive aspects, such as promoting diversity, as well as compliance with legislation. Ofsted will expect all parties to the agreement to play their part in closing the ‘achievement gap’ – contributing to raising the achievement of any cohort or group of learners which are achieving at a lower level than others.</p>				
<p><b>12)Monitoring and compliance</b>  Without micro-managing, you may wish to specify the monitoring processes which the lead contractor requires. This will apply to records of key processes (registration of learners, production of learning plans, assessments etc).For example, the lead partner can attend any part of the sub-contracted provision, and access facilities and paperwork and that agreed performance targets, such as delivery profiles and Minimum Levels of Performance, in the agreement are achieved.</p>				
<p><b>13)Health and safety liability</b>  This includes notifying the lead partner of any accidents and of near-misses, and that relevant legal requirements relating to health and safety need to be complied with. It may include a clause such as “the sub-contractor will indemnify the lead partner fully in respect of any liability as a result of any act or omission on the part of the sub-contractor”.</p>				

<p><b>14)Insurance</b> Such as the sub-contractor must maintain adequate insurance cover, and on request produce a certified copy of all related insurance policies.</p>				
<p><b>15)Co-operation and reputation</b> This might include nominating a contract lead individual, and how often parties agree to meet. Also, agreeing that neither party will do anything to bring each other's reputation into dispute. This section may include restrictions on marketing materials during and after the agreement period.</p>				
<p><b>16)Learners with additional support requirements</b> This section might outline how the sub-contractor supplies the relevant additional support assessment form, and adheres to the Skills Funding Agency guidelines</p>				
<p><b>17)Termination</b> For example, stating that the lead partner can terminate the agreement by written notice if there is a material breach, or if the subcontractor ceases trading or is wound up by reason of bankruptcy or action of its creditors, and vice versa. This would also include how much notice is needed dependent on the circumstance</p>				
<p><b>18)Confidentiality</b> A statement about how neither party will disclose the contents of the Agreement except, for example, if required as part of an audit or by the courts.</p>				
<p><b>19)Copyright</b> If appropriate, who maintains copyright in any resources produced as part of the delivery</p>				

<p><b>20)Quality assurance and improvement</b>          Include reference to any joint processes such as lesson observation, and how the parties will contribute to self-assessment and improvement planning; include reference to any other processes such as ISO 9000.</p>				
<p><b>21)Procedure for changes to the contract/SLA</b>          This should state that changes can only be agreed in writing and both all parties. You may wish to specify the review process here, with dates and/or frequency.</p>				
<p><b>22)Key personnel</b>          Whilst unwise to specify names, the roles of key personnel, including those authorised to agree the contract and any changes, can be noted.</p>				