Support for Service Managers when managing a subcontract

<u>How to manage the performance of a subcontractor.</u>

When the contract is signed, the service should seek to set up regular meetings with the subcontractor. These meetings might be monthly, quarterly or yearly depending on the size and type of service being subcontracted e.g. meetings at least once a year for contracts that are under £50k per annum, twice a year for contracts between £50k – £150k and at least quarterly or monthly for contracts over £150k. Plan meetings in advance ensures the right representatives from each organisation can attend and allows a routine formal route for issues to be escalated throughout the year. The contract also allows for a meeting to be set up at any time should ELFT need. These meetings are audited by both internal and external leads in ELFT and the Contracts team will request copies of minutes, actions and plans that are recorded to provide evidence for these audits at any time throughout the year.

Ensure that all relevant persons are either in attendance at the meeting or have sent a representative who is able to answer questions and take back actions. Before the meeting an agenda should be sent out, including any minutes from previous meetings, outstanding actions etc. Any reports which detail the performance of the subcontractor should be received at least a week in advance of this meeting along with any other papers. This will allow service managers time to review and make note of highlights and queries that they have to discuss in the meeting.

**Please see the available templates in the intranet

Questions that should be answered:

- Are we happy with the service?
- How is the performance against any KPIs / Outcome measures / activity reporting
- As a result of this review, does anything need to happen – a credit note, an action plan etc
- Are there any operational issues that need to be discussed – staffing, estates, IT systems
- Are there any issues with payments, invoices
- Are their changes to the contract that need to happen – a change in scope of the service, change in performance or reporting measures, increase/decrease in costs
- Does anything need to be escalated to senior leadership in the Trust
- Has anything changed in terms of data processing/collection/storage that needs to be reviewed as per GDPR guidance
- Has the subcontractor provided evidence for their compliance of the employment checks responsibility of the contract?

At the meeting there should be a designated minute taker to document the discussion. The meeting should discuss all the items on the agenda and note any under and over performance of the subcontractor. It is important that all KPIs are discussed and documented as evidence of performance management for audit purposes.

Compliancy checks in Contract Monitoring meetings

The Trust has to periodically obtain assurance from the supplier that appropriate compliance is being achieved in relation to the staff they employee to support our staff and service users. These checks should be undertaken at least once a year, or more frequently for larger services; or after significant changes in the service. A sample of staff (chosen by ELFT not the supplier) should be reviewed and the following checked:

- Identity check
- Right to work check
- References
- DBS
- Occupational Health Check

Dependant on the role it may be relevant to obtain evidence of the following;

- Professional registration
- Qualifications

Furthermore as part of the Trust obligations regarding diversity and equality, at least once a year or more frequently for larger services or after significant staff changes in the service the Trust should discuss the supplier's plans and actions regarding its policy and training on diversity and inclusion.

After the meeting any minutes and actions should be circulated for comment and action – a copy should be sent to elft.contracts@nhs.net. Any escalated issues should be flagged with the relevant director and the Contracts team to support and flag any risks.

How to manage the underperformance of a subcontractor

When a subcontractor is not meeting the required specification in the contract, the first step is to notify them in writing that the Trust has identified underperformance and allow the subcontractor a chance to respond. It will also help to be clear on any risk to service users, legal obligations and share an expected response with an expected timescale.

For example, a Service Manager notes that the waiting time for a service user accessing a subcontracted MSK service has breached 3 months in a row the KPI stated in the contract. The Service Manager has mentioned the underperformance at an operational meeting but the performance has not improved, so they email the subcontractor's contract lead copying in the contract team and relevant director, flagging the issue and asks for an explanation, appropriate action and timescale for when this will be rectified.

**If needed please use the Remedial Action Plan template as a guide and for documenting the progress of the plan in performance meetings.

When a remedial action plan has not been met to the level specified in the contract, this needs to be acknowledged in written communication from the relevant director to the subcontractor. The Trust has the option to partially or wholly terminate the contract, withhold funding etc.

Information sharing

The ICO audits the Trust in how it manages data relating to staff, service users etc. When setting up a contract the process and content of the data we share with our subcontractors will be defined however on a routine basis or if there are changes to the service we receive we will need to confirm that the contracts definition of information sharing is up to date. This supports managing risk around data sharing and confirms our compliance to the standards set out with the ICO.

Our responsibilities to our subcontractors

Service Managers need to ensure that they have processed any waivers, purchase orders, invoicing arrangements and processes to receive data and issues from our subcontractors.

For a guide on waivers and POs, please see "Support for Service Managers when setting up a Subcontract"