



Contract Signing Policy and Procedure

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POLICY/PROCEDURE

1. Introduction

Entering into contracts can create legally binding obligations and affect the University of Wolverhampton's (the University) financial health, sustainability and internal control environment.

Individuals who have the authority to enter negotiations, approve and/or sign contracts on behalf of the University do so pursuant to one of the following:

1. A resolution of the Board;
2. A valid delegation of authority from the Board of Governors or the Vice Chancellor; or
3. A purchase made in accordance with the University Financial Regulations.

A delegation is subject to automatic revocation at any time by the Vice Chancellor, Chief Financial Officer and/or Chief Operating Officer if the appropriate exercise of delegation is not being followed.

2. Purpose

The purpose of this policy is to support and enhance the University's internal control environment. Compliance with this Policy will support the sustained financial health of the University through the application of consistent management practices and controls in the contracting process.

The purpose of this policy is:

- to reduce risk to the University by ensuring that properly approved and signed contracts are in place before projects start; and
- to facilitate this risk management by having clear procedures in place to support contract signatories and other staff.

3. Scope

This policy and these procedures apply to all University staff, including those who are in their probationary period and employed by subsidiaries and external board members and contractors providing services to the University and their staff.

This policy and these procedures apply to ALL contracts entered into by the University or its subsidiary companies, including all agreements which have or might have legal effect.

University staff who fail to adhere to the terms of this policy may be subject to disciplinary action, up to and including dismissal.

4. Roles and Responsibilities

Faculties and Professional Services must have clearly identified processes for ensuring that the Contract Signing Policy and Procedures are complied with.

The Financial Regulations state that "it is the responsibility of Deans and Directors of Professional Services to ensure that their staff read and understand the Financial Regulations and underpinning procedures". In addition, the Faculty Registrar or nominated member in Professional Services

business area has responsibility for implementation of the Contract Signing Policy and Procedures within their Faculty or Service. Responsibilities include:

- ensuring contracts are sent for legal review in a timely manner;
- ensuring contracts are only signed off when approved by the legal advisor;
- ensuring that contracts are signed by the authorised contract signatory;
- ensuring that work does not start until the contract has been signed by all parties;
- ensuring that all original contracts are forwarded to Legal Services and copies provided to the correct parties; and
- ensuring that contracts are complied with (this may be shared responsibility, for example with named grant holders).

Note that in relation to research and enterprise activity, some of the above responsibilities will be delegated to Research Services.

Where required to do so the Faculty Registrar or nominated equivalent will act as the central point of contact for all issues relating to contracts in their Faculty or Professional Service.

5. Policy

All contracts must receive legal review before signature by either the internal legal team (Legal Services) or by external solicitors instructed by Legal Services.

Where parts of other Professional Services have a responsibility to review documents (for example the Information Governance Team for contracts where personal data is processed, Academic Partnerships for institutional partnership agreements and Procurement for purchasing contracts) it is still necessary to ensure that contracts receive legal review.

The contract review and approval procedures set out below are crucial to managing risk to the University and must be adhered to.

6. Procedures

6.1 Contract Review Process

In the first instance, the University's standard terms and conditions should be used, and Legal Services will advise which document would be most appropriate.

Where the other party insists on the using their own form of contract, ALL terms and conditions of other parties MUST be reviewed by Legal Services before they become binding.

This requirement for legal review includes variations to and extensions and renewals of contracts.

Oral agreements are not authorised regardless of whether there is a monetary exchange. All agreements must be committed to writing.

Due consideration must be given to the potential contractual position at the earliest possible stage of a project, and contractual documents submitted to Legal Services promptly. There can be short timescales or time and cost implications for projects which would benefit from early consideration. Early consultation regarding contracts also helps Legal Services develop an appropriate suite of model contracts, to streamline future work.

A review period of 14 days is required by Legal Services prior to execution of the contract. It is accepted that some contracts will necessitate a quicker response but early engagement with Legal Services will ensure undue delay.

High value and more complex agreements must be submitted a minimum of one month prior to the desired start or renewal date to allow for negotiation between the parties.

6.2 Contract Approval

All contracts presented for signature must be accompanied by the [Legal Services Referral Form](#). This document enables you to set out the rationale for the contract, any questions and/or concerns. Once reviewed Legal Services will complete a Legal Services Sign-Off form which acts as a formal control mechanism and records issues identified and actions taken to address them. It is the means by which contract signatories are required to satisfy themselves that the contract has received legal and financial approval and that all other necessary steps have been taken (for example, approval sought from Chief Financial Officer or Chief Operating Officer where required). Contract signatories must not sign a contract without a completed Legal Services Authorisation form.

The Legal Services Authorisation Form is an internal-only document containing information that is legal advice and is likely to be confidential and/or commercially sensitive to the University. It must not be sent to a party outside the University without the express permission of Legal Services.

Any pre-signatory actions set out in the Legal Services Authorisation Form must be completed before the contract is signed. Any post-signatory requirements set out in the Legal Services Authorisation Form must be monitored and completed.

When a staff member signs a document obligating the University, internally or externally, the staff member affirms that they:

- are acting within their delegated authority.
- are satisfied, after appropriate investigation and inquiry, that the obligations and promises within the document conform to University policy/procedures.
- are satisfied, after appropriate investigation and inquiry, that the substance of the document's promises and/or obligations meet valid purposes of the University's vision, including appropriate business purpose.
- are satisfied, after appropriate investigation and inquiry, that the information is accurate and that there has been adequate disclosure of any potential conflicts of interest.
- are satisfied, after appropriate investigation and inquiry, that the substance of the promises and obligations undertaken by the University are appropriate and outweigh the potential risks to the University in the undertaking.
- have consulted, where appropriate, with other specialist personnel (for example Legal Services, Finance, Risk Management, Human Resources etc.).
- have made appropriate inquiries and are satisfied that the University may lawfully undertake the promises and obligations described within the document.
- are satisfied, after appropriate investigation and inquiry, that the agreement does not conflict with existing University agreements.
- are satisfied, after appropriate inquiry, that any associated commitment of funds has been identified and has been budgeted and approved according to University Financial Regulations.
- are satisfied, after appropriate investigation, that the University's Financial Regulations have been followed.

If a business area routinely enters into contracts of similar nature or subject matter, the business area may request that Legal Services develops a Contract Template or rider for recurring use. Business areas using a Contract Template are required submit all individual contracts to the Office of the University Secretary:

- if the overall amount or term reaches thresholds which require additional review and approval;
- when material changes are requested by the third party; and
- at intervals no longer than three successive years.

Note: Situations involving the appointment, dismissal, promotion, salary re-grading and all other similar actions affecting University staff must have Human Resources approval.

6.3 Conflicts of Interest

It is the responsibility of all staff to ensure that the University does not knowingly enter into contracts that present conflicts of interest. Conflicts of interest are common in any organisation and may arise in relation to any contracts. A conflict of interest arises where an individual holds a personal interest, whether direct or indirect, which in the opinion of a reasonably informed and well-advised individual is sufficient to call into question the independence, impartiality, and objectivity that the individual is required to exercise in the performance of their duties.

All staff must exercise their authority in a manner consistent with the University [Conflict of Interest Policy](#). Where such a conflict of interest arises, the staff member must not sign the contract and will not participate in the contract approval process. In such a case the staff members immediate line manager will conduct the review and approval process.

Questions regarding the Conflict-of-Interest Policy should be directed to the Central Secretariat.

6.4 Data Processing and Sharing Agreements

Where personal data is being processed as part of the agreement, a data processing agreement or a data sharing agreement must be entered into with the other party. This type of agreement could be contained within the main contract, or as a separate document.

In the first instance, the University's standard data processing or sharing agreement templates should be used, and the Information Governance Team will advise which document would be most appropriate.

Where the other party insists on the using their own form of agreement, ALL terms of other parties MUST be reviewed by Information Governance before they become binding.

This requirement for Information Governance review includes variations to and extensions and renewals of contracts.

A review period of 14 days is required by Information Governance prior to execution of the contract. It is accepted that some contracts will necessitate a quicker response but early engagement with Information Governance will ensure undue delay.

High value and more complex agreements must be submitted a minimum of one month prior to the desired start or renewal date to allow for negotiation between the parties, as well as completion of a Data Protection Impact Assessment if necessary.

A [Data Protection Assistance Request Form](#) must be completed with all requests for review.

6.5 Research Bids and Tenders

Where available, funders' terms and conditions must be submitted to or obtained by Research Services prior to application for a research grant. Research Services will review the funder's terms and contact Legal Services to request a Legal Services Authorisation form if required at this stage. Note that the terms and conditions for research bids will **not** require a Legal Services Referral Form at bid stage provided that no commitment is being made at bid stage. Research Services will be responsible for checking whether a commitment is being made at bid stage and will implement appropriate escalations within their team to ensure that this is appropriately verified.

All tender terms and conditions must be sent to Legal Services for review before submission of the tender. A Legal Services Authorisation form will be required for tenders as submission is often taken as legal acceptance of the terms.

All successful bids and tenders must be referred to Legal Services at award stage for review (whether reviewed at application stage or exempt at application stage).

6.6 University Standard Contracts

Where there is the option, University of Wolverhampton Terms of Business or model contracts should be used. Legal Services will advise which document is most appropriate.

Use of the University's Terms of Business is promoted in appropriate cases as a time efficient way to manage risks.

For the avoidance of doubt, agreements based on the University standard terms must be submitted to Legal Services for review and obtain a Legal Services Authorisation form in the same way as agreements based on other parties' terms.

6.7 Insurance and Indemnity Issues

Where an issue relating to insurance or indemnity is raised, the Legal and Insurance Caseworker will advise. The Legal and Insurance Caseworker will refer questions to the University's insurers where appropriate. The advice of the Legal and Insurance Caseworker and the insurers is binding and may only be departed from with the express authority of the Chief Operating Officer.

Where Legal Services believe it is appropriate any decision will be referred to the Chief Operating Officer for determination.

6.8 Authorised Contract Signatories

The Corporate Scheme of Delegation set Financial Authority Limits and also provide for authorisation processes for activity. When determining the appropriate signatory for contracts the relevant financial limit is the total potential financial liability to the University and not the price.

Legal Services will determine the appropriate level of contract signatory and will confirm this on the Legal Services Authorisation form. As a minimum, the level of authorised contract signatory set out in the Legal Services Authorisation form will be the level required by the Financial Authority Limits. It may be higher depending on the risk associated with the particular contract.

Where a contract signatory is absent or unavailable the contract must be referred upwards, for example, if a Dean is absent OVC sign-off is required.

6.9 Decision-making by Contract Signatories

It is recognised that contract signatories will face difficult decisions, particularly concerning the quantification of legal and commercial risk in relation to a particular project.

The Guidelines at Appendix 1 to this document are in force to assist contract signatories in high-risk areas. Where it becomes necessary from time-to-time additional Guidelines may be added.

6.10 Secure Storage of Contracts

Contracts can have legal effect for many years, even after the end of the work or the termination of the contract. It is essential that fire resistant secure storage is available on a long-term basis. A central store for contracts and other legal documents is managed by Legal Services.

The central store must be used for all signed original contracts. Once signed by all parties the Faculty or Professional Service must take sufficient copies of the original for their own use and **MUST** send the original signed document to Legal Services for secure storage.

7. Disputes

Where any member of staff becomes aware of a potential contractual or legal dispute, they must notify their Faculty Registrar or nominated equivalent in Professional Services.

The Faculty Registrar or nominated equivalent in Professional Services must ensure that the following occurs:

- their Dean of Faculty or Director of Professional Service is informed; and
- the matter is referred to Legal Services.

Once notified Legal Services will take appropriate action with the Legal and Insurance Caseworker. The Legal and Insurance Caseworker will liaise with and notify insurers as appropriate.

8. Non-compliance and Audit

A member of staff who fails to comply with the Contract Signing Policy and Procedures may be subject to disciplinary action under the University's disciplinary policy. As stated in the Financial Regulations it is the responsibility of Deans of Faculties and Directors of Professional Services to ensure that their staff read and understand this document.

If any points are unclear, please contact Legal Services.

Where Legal Services become aware of non-compliance with these procedures, they will record any such breach in the Legal Services Authorisation form and may refer the matter to the Chief Financial Officer for further action under the Financial Regulations or to Human Resources for investigation under the University's disciplinary policy.

Following consultation with the Chief Financial Officer, Finance will not issue a budget code for a project without confirmation that a signed and approved contract is in place. Compliance with the Contract Signing Policy and Procedures will be the subject of internal checks and audits of Faculties and Professional Services.

9. Staff Development

Staff development sessions regarding the Contract Signing Policy and Procedures and risk management in relation to contracts generally will be offered by Legal Services, Procurement and Finance.

It is the responsibility of Faculty Registrar or nominated equivalent in Professional Services to identify all staff who require training in the Contract Signing Policy and Procedures and to make Legal Services aware of them. There is an additional responsibility on individual staff to notify their Faculty Registrar or nominated equivalent in Professional Standards if they have not received training and are dealing with contracts.

10. Exceptions

There are no exceptions to this policy.

11. Amendments

This Policy was approved by the University's Executive Board on 7th November 2023. The University may change this Policy at any time, and where appropriate. Where a policy is not due for review, but is found to require updating, it will remain published, unless the reasons for review render it obsolete.

12. Information and Resources

This policy and these procedures sit under the [University's Financial Regulations](#), which set out the University's policies on financial control.

13. Contact

For general queries, please contact the University Legal Team by email or phone.

Email: LegalServices@wlv.ac.uk

Phone: xxx

For general queries, please contact the University Corporate Compliance Team via email:

compliance@wlv.ac.uk.

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Appendix 1 Guidelines for Contract Signatories

A) Indemnities and Uninsured Risk

Contracts may contain indemnities. Indemnities are promises to pay a party for sums/events specified. Indemnities can be very wide ranging and may not be insurable risks, for example non-fault indemnities.

Indemnities will only be acceptable to the University in certain limited circumstances. Legal Services will seek to identify indemnities and liaise with the Legal and Insurance Caseworker regarding their status.

Uninsured risk can arise in other areas, for example where cover limits are exceeded, or subject matter is excluded from cover.

Where Legal Services and/or the Legal and Insurance Caseworker and/or the insurers have concerns about an indemnity or uninsured risk the matter must be referred to the Chief Financial Officer for determination if the relevant clauses cannot be removed or amended to resolve the issue.

B) Electronic Signatures

Electronic signatures may be executed or accepted on contracts pursuant to the specifications of the Chief Operating Officer.

C) International Financial Transactions

The Chief Financial Officer must be contacted to provide oversight and assistance when contract transactions involve foreign currency.

D) Restrictions on Activity

Some contracts contain clauses which may restrict the future activity of staff and/or students of

the University. Restrictions may be explicit, for example noncompete clauses, or implicit, for example assigning away intellectual property or onerous confidentiality clauses.

Restrictions on future activity, if accepted, may affect the University as a whole and not just the Faculty or Professional Service involved in that particular project. There are two main risks:

- 1) The University is unable to carry out its core business or to meet its strategic objectives as a result of contractual restrictions.
- 2) The University will be sued for failure to comply with a clause with restrictive effect.

Restrictions on future activity must be given careful consideration and are unlikely to be acceptable.

If Legal Services or a contract signatory has concerns about possible restrictive effect the express authority of the Chief Operating Officer is required if the relevant clauses cannot be removed or amended to resolve the issue.

E) Law and Jurisdiction

A contract should specify which laws apply to it (for example English law) and the jurisdiction which applies (that is which courts will have authority to determine any issue or dispute).

From the University's perspective, there are risks attached to any law that is not English law and jurisdiction that is other than the courts of England and Wales. The main risks are:

- 1) Legal advice cannot be given internally on any law other than English law. The cost of obtaining specialist legal advice on another law is likely to be prohibitive.
- 2) Some jurisdictions are excluded from insurance cover or have limited cover which exposes the University to uninsured risk.
- 3) The costs involved in handling disputes in another jurisdiction are higher than those in England and Wales due to the additional advice/legal input required.
- 4) The risks of non-payment for out of jurisdiction contracts are much higher as the University is unlikely to take steps to enforce the contract due to prohibitive cost/difficulties in enforcing judgements out of jurisdiction.

Except as set out below, any law other than English law, or jurisdiction other than England or England and Wales, must not be accepted without the express authority of the Chief Operating Officer.

The Chief Operating Officer may reach working agreements with Legal Services to identify specific cases where exceptions are permitted without the need for a referral. The exercise of these exceptions will be at the sole discretion of Legal Services.

F) Intellectual Property

Where ownership of intellectual property may be an issue, Legal Services will notify the other party that the University is only able to provide a license to use the foreground intellectual property in the goods or services the University will be providing. If the other party is desirous of owning the foreground intellectual property, you will have to notify Legal Services and the other

party of the cost.

For the avoidance of doubt, the University's background intellectual property cannot be assigned nor can a license to use the University's background intellectual property be given.

As a charity and holder of public funds, the University is required to manage its exposure to legal risks, and its associated funds carefully. By accepting adverse provisions within agreements, the potential costs of any litigation flowing from the contracts are likely to be substantial.