

Contracts Policy (MPF1247)

1. Objective

1.1. The objectives of this policy are to minimise the University's exposure to legal, financial and reputational risk while balancing the needs of the University to efficiently enter into and manage contracts and conduct its business.

2. Scope

2.1. This policy applies to:

a) all University staff and honorary appointees of the University (University personnel); and

b) all contracts entered into (or proposed to be entered into) by the University except for employment contracts.

2.2. Controlled entities must adopt and implement this policy, with appropriate amendments, or a policy which is equivalent to this policy in all material respects.

2.3. For a controlled entity that adopts this policy, references to the University are deemed to be references to the controlled entity, or to both the controlled entity and the University, as the context requires.

3. Authority

3.1. This policy is made under the [University of Melbourne Act 2009 \(Vic\)](#) and the [Vice-Chancellor Regulation](#).

4. Policy

Pre-contractual matters

4.1. Discussions before or without a formal written contract, may create binding legal obligations for the University. Except in exceptional circumstances, University personnel must avoid making any commitments to a third party if there is no written contract, or commencing any work before a contract is executed by all parties.

4.2. Contractual and pre-contractual negotiations must comply with all laws and the University's statutes, regulations, policies and processes (for example, competition and consumer laws governing misleading and deceptive conduct and anti-competitive conduct, and laws relating to foreign influence or sanctions).

4.3. University personnel who are involved in negotiating or approving contracts must ensure that any probity risks, including conflicts of interest (actual or perceived) are appropriately managed or avoided, in accordance with University policies.

Contract requirements

4.4. Contracts entered into by the University must:

- a) be in the best interests of the University;
- b) be consistent with the University's objects and functions; and
- c) comply with all laws, University statutes, regulations, policies and processes.

Use of contracts

4.5. Contracts entered into by the University must be referred to Legal Services for review unless they are:

- a) Standard contracts; or
- b) Contracts that comply with section 4.6.

Managing non-standard contracts

4.6. Non-standard contracts, or changes to standard contracts do not need to be referred to Legal Services if the signing delegate is satisfied (having taken guidance on the matter as is considered appropriate in the circumstances) that:

- a) the contract, or the change to a standard contract is low risk (as outlined in the [Risk Assessment Guidance](#)) or it follows guidance provided or published by Legal Services; and
- b) the requirements of section 4.4 are met.

Obtaining external legal advice

4.7. Before obtaining legal advice (on a contract or otherwise) directly from an external legal adviser, the General Counsel for the University must be notified and any University policy which relates to briefing external lawyers must be complied with.

4.8. Contracting activities which are required to support significant transactions or projects may require support from external law firms. Legal Services manages a panel of external legal advisers who have agreed to certain fees and conditions. Legal Services will assist in the engagement of external lawyers, but, in most cases, the cost of obtaining external legal advice will be the responsibility of the relevant division. Legal Services does not have a general legal expenses fund to pay for external legal advice. Where significant projects are proposed, Legal Services should be engaged early to assist in planning for the project and ensuring appropriate legal support can be provided and/or funded by the project.

Memoranda of understanding (MOUs)

4.9. For the avoidance of doubt, MOUs (memoranda of understanding) which are expressed to be non-binding (in whole or in part) are contracts for the purposes of this policy because:

- a) the University takes into account the detrimental impact on its reputation which may occur if the University fails to deliver as 'promised' under an MOU; and

b) MOUs are often used when dealing with international parties and a number of international jurisdictions regard MOUs as legally binding and treat them as such in that country.

Approval, execution and retention of contracts

4.10. Contracts must be approved and executed in accordance with the requirements of this policy and the University delegations.

4.11. The University may accept electronic copies of executed contracts and electronic signatures in accordance with relevant State, Territory and Commonwealth legislation. Guidance on these requirements can be provided by Legal Services.

4.12. All fully executed contracts must be captured in the University's legal agreements register (Content Manager) with required key information to facilitate reporting, accountability and on-going contract management.

Management of contracts

4.13. The signing delegate must nominate a specific University contract manager (ideally by position title) to:

a) manage the University's performance of and receipt of benefits under each contract entered into by the University; and

b) ensure that any variation to the contract (including any renewal, extension or termination) is documented. Each variation is itself a separate contract and this policy applies to it.

4.14. For research contracts executed via RIC, the UoM contract manager is the lead researcher who is named as the agreement administrator in Themis (or the equivalent UoM research management system).

4.15. Wherever possible, the University should avoid appointing students, honorary staff or contractors as a University contract manager.

4.16. Any disputes arising under a contract must be promptly notified:

a) to the signing delegate who executed the contract; and

b) unless the dispute is low risk and unlikely to become litigious, to Legal Services.

5. Roles and responsibilities

| <i>Role/Decision/Action</i> | <i>Responsibility</i> | <i>Conditions and limitations</i> |
|--|---------------------------|--|
| Approve standard contracts templates | University Legal Services | |
| Ensure the contract meets the requirements of this policy and any other relevant policies. | Signing delegate | Contracts may also require approval from other University delegates as per the |

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| | | Delegations Policy (MPF1301) and the University delegations. |
| Ensure copies of fully executed contracts are captured in the University's legal agreements register as required by this policy | Signing delegate or University contract manager | |
| Appoint the University contract manager | Signing delegate | |
| Ensure proper performance of the contract and management of all related obligations of the University under the contract | University contract manager or Signing delegate | |
| Ensure fully executed contracts are correctly stored and managed in the University's legal agreements register in compliance with the Records Management Policy (MPF1106) | Records & Information team | |

6. Definitions

Contract means a contract, deed, MOU or other instrument between the University and another party that creates obligations for performance by the University and/or which confers rights or benefits upon the University.

Controlled entity means an incorporated legal entity which is wholly owned by the University or over which the University has effective control. If a controlled entity itself establishes an entity which that controlled entity wholly owns or over which it has effective control, then that entity will be a controlled entity for the purposes of this policy.

Signing delegate means the delegate who is authorised under the University delegations or any specific instrument (such as a power of attorney) to sign contracts.

Standard contract means any contract made using a template which has been prepared, or advised on, by Legal Services, including fast track agreements and industry standard agreements, and includes contracts which follow standing guidance provided by Legal Services.

University contract manager means the University staff member or representative responsible for managing and implementing a contract as described in section 4.13 of this policy.

University personnel has the meaning given in section 2 of this policy.

POLICY APPROVER

Vice-President (Administration & Finance) and Chief Operating Officer

POLICY STEWARD

General Counsel and Executive Director, Legal and Risk

REVIEW

This policy is to be reviewed by 29 July 2025.

VERSION HISTORY

| Version | Approved by | Approval Date | Effective Date | Sections modified |
|---------|---|----------------|------------------|---|
| 1 | Council | 29 April 2013 | 29 April 2013 | N/A |
| 2 | Vice-Chancellor | 16 August 2016 | 7 September 2016 | New version arising from the Policy Consolidation Project. |
| 3 | Vice-Chancellor | 7 March 2019 | 30 April 2019 | Changed Policy Approver to Vice-President (Administration & Finance) and Chief Operating Officer (previously Vice-Chancellor) |
| 4 | Vice-President (Administration & Finance) and Chief Operating Officer | 29 July 2022 | 25 August 2022 | New version arising from overall review; simplification of contracting processes at the University; clearer alignment of this policy to the University's delegations. Completed Major Review checklist. |