

Contracts Policy and Procedures

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Contracts Policy and Procedures

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1. Policy

1.1 Why is a contract required?

The purpose of the contracts policy is to ensure that all risks are effectively managed on behalf of the University. Contracts create legal rights and obligations which should be carefully considered before being committed to.

1.2 When is a contract required?

A contract may take a number of different forms:

- It may be made verbally
- It may be made by actions of the parties
- It may be made in writing

Although the law does not require contracts to be written, all University contracts should be in writing. This is to ensure that:

- The requirements of the University are clear
- The duty and obligations of both parties to the contract are clear
- The terms of the contract are clear

1.3 When does this Policy Apply?

Apart from the two exceptions noted below this policy applies to all contracts entered into by the University. The two types of contracts which are not covered by this policy are:

- a) contracts of employment prepared under the authority of the Executive Director of Human Resources. There are specific procedures which apply to employment contracts which take account of employment law issues. If any advice is required in relation to these types of contracts then the Human Resources Department should be contacted.
- b) Transactions which are undertaken and paid for by way of an RGU Purchase Order and invoices from the supplier, with no other additional contract documents being entered into. This is because RGU purchase orders automatically contain standard terms and conditions which have been agreed and authorised by the University.

Where a Service Agreement is required for a self-employed or independent contractor to be engaged on a temporary basis to perform services on behalf of the University (e.g. exercise instructors, educational workshop providers, assessors), you should also refer to the Contract for the Provision of Services (Service Agreement) Procedure. If there is uncertainty as to whether a contract is a contract for the Provision of Services then further advice should be sought from Human Resources.

1.4 Main Principles of this Policy

1.4.1 There are 2 procedures. Which procedure is to be followed depends upon the value and/or the duration of the contract.

- Contracts with a value of less than £10,000 AND a duration of less than 12 months follow the procedure in 2.2 below
- Contracts with a value of £10,000 or over follow the procedure in 2.3 below

- Contracts with a duration of more than 12 months (regardless of their value) also follow the procedure in 2.3 below

1.4.2 regardless of whether the procedure in 2.2 or the procedure in 2.3 is followed the contract must be signed by an authorised signatory. For contracts with a value of £100,000 or over the contract must be signed by 2 authorised signatories. The list of authorised signatories for the University is below and also listed at Appendix 1. Authorised signatories for group companies and wholly owned subsidiaries can be found here.

Authorised Signatories

Normally, the signatory will be the primary budget holder for the University entity responsible for the contract, except in the case of research contracts, each of which must be authorised by the Vice Principal (Research)

Responsibility	Title
Principal's Office	Principal and Vice-Chancellor
Academic Quality	Deputy Principal and Chief Academic Officer
Research	Vice-Principal
Commercialisation & Regional Engagement	Vice-Principal
Corporate Operations	Vice-Principal
University Advancement	Vice-Principal
Human Resources	Director
IT Services	Director
Finance and Procurement	Director
Estates and Property Services	Director
Oil & Gas Institute	Director

1.4.3 In general, approved contracts will be sent out to the other party(ies) for signature first, before being returned and signed by the University's authorised signatories.

1.5 Standard Contract Terms

1.5.1 All contracts shall contain:

- a) full legal designation of the contracting parties.

For the University (regardless of the faculty, school or department initiating the contract) this will always be the legal designation of the University itself, including its charity number and principal administrative office address. The full current legal designation for the University and all group companies and wholly owned subsidiaries can be found here.

For the other party this should include type of entity (whether a sole trader, partnership, company, etc), company number (where appropriate) and registered office or administrative office address.

- b) a clear duration. This means that the contract must have either i) a fixed termination date or, ii) if the contract is of indefinite duration, it must contain a clause giving the University the right to terminate the contract;
- c) relevant standard University contract terms and conditions;
- d) any specific clauses relevant to the particular contract;
- e) reference, as appropriate, to University policies regarding:
- Health and Safety
 - IT Acceptable Use and Security
 - Confidentiality, Data Protection and Freedom of Information
 - Intellectual Property
 - Bribery and Corruption
 - Ethics
 - Equality and Diversity
 - Any other relevant business conduct policies (see www.rgu.ac.uk/policies).

1.5.2 The work, or provision of goods, or provision of services must not commence until the relevant contract is concluded.

1.6 Application of the Policy

All University entities, including group companies and wholly owned subsidiaries, will adhere to the general principles of this Policy. Reference within the Policy and Procedures to the University shall, where the context allows, be taken to include group companies and wholly owned subsidiaries.

1.7 Failure to Comply with this Policy

Contracts not properly authorised and signed in accordance with this Policy will not legally bind the University and could be reduced or not honoured. In certain cases the individual signing the contract may be personally liable and/or disciplinary action could be taken.

2. Procedure

2.1 Contract Preparation

There are a number of University Policies which are of relevance to contracts. Adherence with all approved University policies will be required, but particular attention should be paid to:

- the Financial Regulations, which sets out financial controls;
- Finance Scheme of Delegation, which specifies who has authority to authorise expenditure;
- Procurement Policy which ensures legality and value for money in relation to purchasing; and
- Research Governance Policy which ensures legality, integrity and openness in research contracts.

A member of the University who requires a contract or contract advice (“the contract initiator”) must first engage with the named contact in the appropriate Contract Department, as set out in the Table A. The Contract Department will advise on the most appropriate form of contract required. Where the contract is a sales contract ie it is a contract where money is being received by the University advice should always be sought from the Head of Commercialisation Support in the first instance.

Where there is any doubt about this first step, advice should be sought from the University Solicitor.

Table A: List of Contract Departments and Contacts

Contract Type	Contracting Department	Job Title
Academic Matters	Governance and Academic Quality	Academic Registrar
Research and Commercialisation (inc Univation)	Business and Enterprise Services	Head of Commercialisation Support
Procurement of goods and services(except IT and building services)	Finance and Procurement	Director of Finance
Building Services Property/ Lease	Estates and Property Services	Director of Estates and Property Services
ICT	IT Services	Director of Information Technology
All Other	Executive Support	University Solicitor

To enable the process of contract preparation, the Contract Department will require all relevant documentation which will normally include:

- full contract details including its purpose.
- any other relevant information such as deadlines, milestones or proposed payment terms.

- the appropriate internal authorisation, such as an approved tender report or a research proposal.

It is the responsibility of the contract initiator to ensure that relevant internal approvals and authorisations are obtained. Sections 2.2 and 2.3 below provide further information about approvals and authorisations.

The contract initiator is responsible for carrying out due diligence (ie background checks and investigation) on external third parties contracting with the University prior to the University entering into any contract with them. This may include asking the external third party to provide information in order to allow a review to assess, for example, employment, legal, tax, and insurance implications. Contracts involving academic matters must include authorisation from the Academic Registrar in relation to quality assurance matters. If required, advice on the most appropriate due diligence process should be sought from the Finance and Procurement Department or the University Solicitor.

Where proposals or expressions of interest are sought (such as with a tender or research contract), the terms of the contract should be provided to the external parties to the contract as soon as possible.

2.2 Contracts under £10,000 value AND duration of 12 months or less

2.2.1 Introduction

All contracts must, before being signed, first be approved. This is an internal University audit mechanism. Once approved the contracts themselves can then be signed by both the University and the other party/ies.

2.2.2 Drafting

If the contract is for commercial sales, consultancy or research which is bringing money into the University then BES must be involved in the proposals and in the drafting of the agreement. Please contact the Head of Commercialisation Support for further advice if required.

For all other contracts advice should be sought, if necessary, from the University Solicitor.

2.2.3 Approval by Secondary Budget Holder – Checklist

Before any contract which has a value of under £10,000 and a duration of 12 months or under is signed by either the external third party or an authorised signatory on behalf of the University, a checklist (See Appendix 4) must be completed. This is a single page document which is completed by the contract initiator. It shows key details such as Intellectual Property Rights ownership and financial provisions. The Checklist must be approved by the secondary budget holder before the contract itself is finally signed off.

The original checklist will be retained along with a copy of the contract by the University Solicitor's Office.

2.2.4 Signing by external party to the contract

Once the checklist has been completed and signed the contract is properly approved for release. It can then be forwarded to the external third parties who will sign and return it to the University.

2.2.5 Signing on behalf of the University by an Authorised Signatory

Once returned to the University the contract Initiator must then arrange for both copies of the contract to be signed on behalf of the University by an authorised signatory. This will usually be the primary budget holder for the University entity responsible for the contract (see Appendix 1). The exception is research contracts which must be authorised by the Vice Principal (Research).

The University authorised signatory must ensure that the checklist has been completed before signing the contract.

2.3 Contracts with value of £10,000 or over OR over 12 months duration (regardless of value)

2.3.1 Introduction

All contracts must, before being signed, first be approved. This is an internal University audit mechanism. Once approved the contracts themselves can then be signed by both the University and the other party/ies.

2.3.2 Approval by relevant persons - Approval sheet

Before any contract which has a value of £10,000 or over or a duration of over 12 months (regardless of the value) is signed by either the external third party or an authorised signatory on behalf of the University, an approval sheet (See Appendix 3) must be completed. This is a single page document which is completed by the contract initiator. It shows key details such as Intellectual Property Rights ownership and financial provisions. The approval sheet must be completed by all of the relevant internal University approvers before the contract itself is finally signed off.

The approvals required are:

- Budgetary Approval – the Head of School or Head of Department with budgetary responsibility for the contract.
- Financial Approval, including Insurance aspects - the Finance Director (or a nominee).
- Approval to ensure compliance with Procurement Policy (required for purchase contracts) – Procurement Section.
- Approval to ensure compliance with Research Policy, to protect the University's commercial interests and intellectual property - the Head of Commercialisation Support (or a nominee).
- Legal Approval - The University Solicitor.

The original approval sheet will be retained along with a copy of the contract by the University Solicitor Office.

2.3.3 Signing by external party to the contract

Once the approval sheet has been completed and signed, the contract is properly approved for release. It can then be forwarded to the external third parties who will sign and return them to the University.

2.3.4 Signing by Authorised Signatories

Once returned to the University the contract initiator must then arrange for both copies of the contract to be signed on behalf of the University by an authorised signatory. This will usually be the primary budget holder for the University entity responsible for the contract (see Appendix 1). The exception is research contracts, which must be authorised by the Vice Principal (Research).

The University authorised signatory should must ensure that the approval sheet has been completed before signing the contract.

2.4 Contract Registration and Retention

Once properly signed on behalf of the University, one **original** signed copy of the contract must be passed to the University Solicitor for registration and retention. Contracts which have originated from BES are retained by BES. The University Solicitor and BES each maintain a central register of all contracts that have been passed to them for retention. Other copies should be distributed as follows:

- One **original** or **certified** signed copy to the contracting third party; and
- One **copy** to the relevant Faculty, School or Department.

2.5 Amendments to Contracts

Any amendments to contracts must be prepared and authorised in accordance with the procedures under this Policy.

2.6 Exceptional Circumstances

In exceptional circumstances, the University's best interests may be served by minor variations in the operation of these Procedures. Such variations must be authorised formally by the Principal, Deputy Principal or Director of Finance.

Appendix 1 –The Contracts Scheme of Delegation

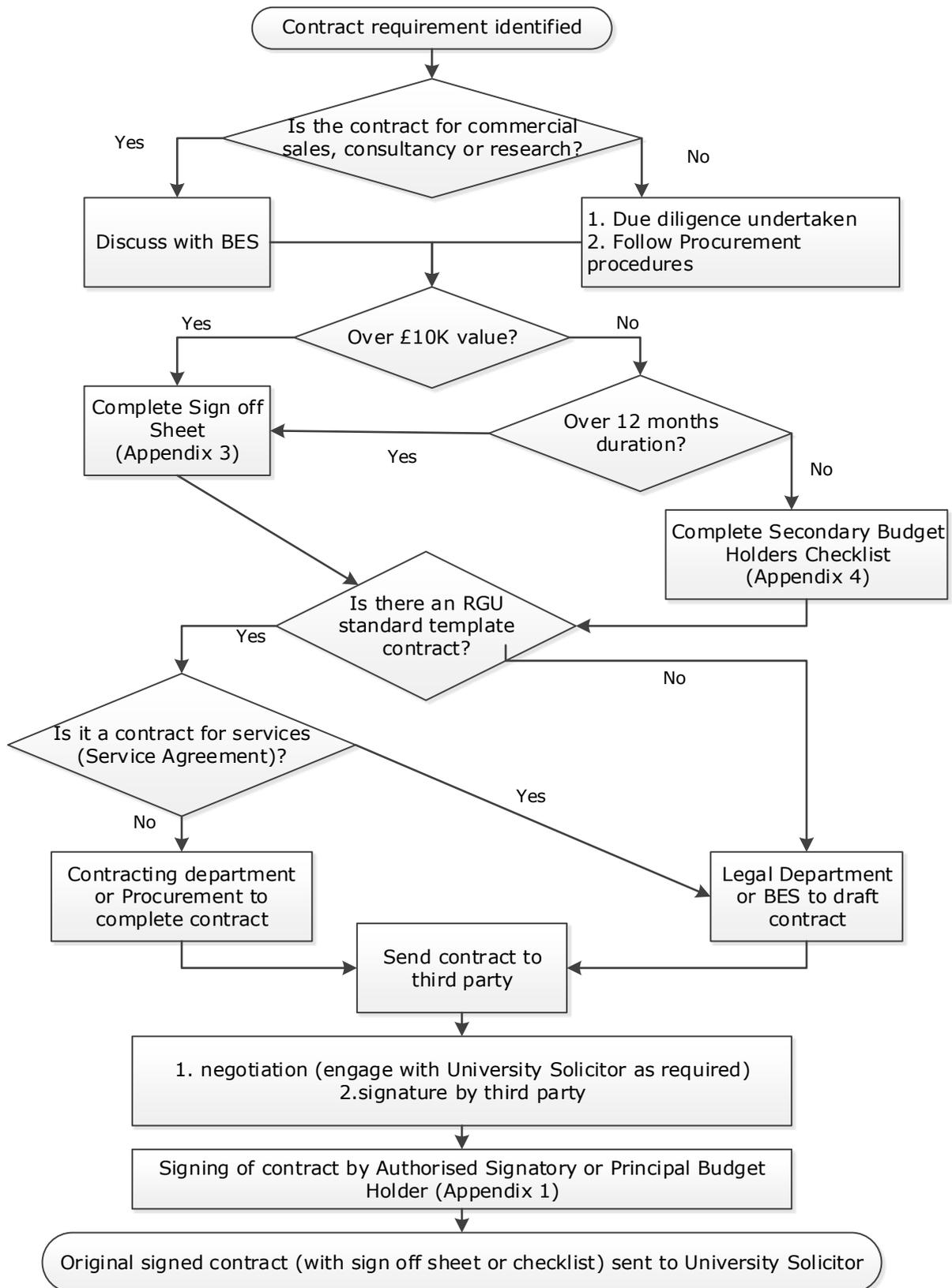
The following Officers are authorised as undernoted to contractually commit the University. For contracts of a value of less than £100,000, one signature is required. For contracts of a value greater than £100,000, two signatures are required, one of whom must be the Principal or the Director of Finance.

Normally, one signatory will be the principal budget holder for the University entity responsible for the contract, except in the case of research contracts, each of which must be authorised by the Vice Principal, Research and Commercialisation.

Responsibility	Title
Principal's Office	Principal and Vice-Chancellor
Academic Quality	Deputy Principal and Chief Academic Officer
Research	Vice-Principal
Commercialisation & Regional Engagement	Vice-Principal
Corporate Operations	Vice-Principal
University Advancement	Vice-Principal
Human Resources	Director
IT Services	Director
Finance and Procurement	Director
Estates and Property Services	Director
Oil & Gas Institute	Director

For an up to date list of authorised signatories for all University group companies and wholly owned subsidiaries please see [here](#)

Appendix 2 – Flow Chart



Appendix 3 – Approval sheet



(REQUIRED IF VALUE IS £10K OR MORE OR DURATION GREATER THAN 12 MONTHS)

Names of Parties: _____ ROBERT GORDON UNIVERSITY
eg RGU, Univation

and _____

Initiating School/Department: _____

Commencement Date: _____

Duration / Term: _____

Goods/Services/Works to be Provided: _____

Value/Cost: _____

Financial Provisions:
Source of Funding _____

Payment Terms _____

Monitoring and Review Arrangements: _____

Approvals:

1. Head of School/Department
(Requirement and Budget) _____

2. Procurement Dept
(Policy compliance – purchase contracts only) _____

3. Director of Finance or Nominee
(Financial Arrangements) _____

4. Head of Commercialisation Support or Nominee
(BES contracts and IPR) _____

5. University Solicitor
(Legal- not required if using standard RGU approved T&Cs) _____

Once fully signed, this sheet should be kept with the original Contract and, once the Contract is signed, both returned to the University Solicitor

Name: Signature: Date:
(Initiator)

**Appendix 4 – Checklist for Secondary Budget Holder
(required for contracts if value less than £10K and duration of 12 months or less)**

Parties: ROBERT GORDON UNIVERSITY

and _____

Commencement Date: _____

Duration / Term: _____

Goods/Services/Works to be Provided: _____

Value: _____

Financial Provisions:
Source of Funding _____

Payment Terms _____

Monitoring and Review Arrangements: _____

Please confirm that the procurement policy has been applied

Note – by signing this form you are confirming that you are content with all aspects of the contract, including the following:

The Scope of the Contract Does the contract cover everything that you want it to – is it detailed enough and clear enough? If you are in doubt contact the University Solicitor

Ability to Terminate the Contract Can the University get out of the contract before the end of the term if it needs to in the future? If you are in doubt contact the University Solicitor

Intellectual Property Rights Is the contract likely to give rise to intellectual property rights eg something which is subject to copyright or which someone may wish to patent? If so does the contract detail who would own this copyright and who would have the right to patent it? If you are in doubt contact Business and Enterprise Services (BES)

Insurance Is there appropriate insurance cover in place? (e.g. does the contractor need to have public liability insurance or professional indemnity insurance) if you are in doubt contact the Insurance Section within Finance.

Name: Signature: Date:.....
(Initiator)

Name: Signature: Date:.....
(Secondary Budget Holder)