

Third-party Arrangements Manual

Purpose

This manual contains instructions that support the Risk and Compliance Policy (the **policy**) by providing consistency in managing third-party arrangements at UNSW.

Scope

This manual contains instructions for implementing the controls for critical and high-risk third-party arrangements at UNSW. This manual also contains forms and checklists for managing third-party arrangements.

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Controls for critical and high-risk third-party arrangements

- 1.1. All critical and high-risk third-party arrangements must follow the four-stage lifecycle below.
- 1.2. The four stages (or gates) are required to be completed sequentially to manage the risk. It is necessary to complete the gateway for each stage before proceeding to the next stage.
- 1.3. The gates for each stage are as follows:
 - Stage 1 (Initiate) Approval to engage with third-party
 - Stage 2 (Negotiate and execute) Approval of arrangement sign-off sheet and execution of agreement
 - Stage 3 (Manage) Manage the contract
 - Stage 4 (Review) Evaluate and review the arrangement

1. Stage 1: Initiate

Developing an "approval to engage" for the third-party arrangement

1.1. For critical and high-risk third-party arrangements, an approval to engage (or local compliant document) must be prepared. At a minimum, the approval to engage must address the following:

Issue	Where to go for guidance/ assistance
What is the issue or problem you are trying to solve?	Business case template
What are the deliverables or outcomes of the proposed arrangement? What other options did you consider achieving those outcomes?	Benefits realisation framework
Is the arrangement within UNSW's risk appetite, what are the risks involved in the arrangement, and how will these be managed? These risks must be identified:	 UNSW Risk & Compliance Policy, Risk Management Manual and Risk Appetite Statements Project management guidelines Conflict of Interest Disclosure and Management Policy Staff spinout framework Co-location of external organisations at UNSW Procedure
Can any of the risks arising from the arrangement be insured (e.g., through professional indemnity and/or public liability insurance)? Arrangements must have the appropriate coverage for insurable risks. Details of insured and uninsured risks must be included.	Consultation with UNSW's Insurance Manager
What due diligence will be undertaken on the third-party?	Refer to the relevant playbook or process requirements to get clarity on the level of due diligence required (e.g. research, transnational education, philanthropy etc.). Consult with your supervisor or contact the Risk Management team.
What other policies or procedures are applicable to the arrangement	Review Policy List. Staff involved in the arrangement must adhere to the Code of Conduct and Values, Conflict of Interest Disclosure and Management Policy amongst others.
Which procurement/selection process is to be adopted?	Procurement Procedure (section 4 in Finance Policy)
Who are the internal stakeholders you need to consult?	Consider the need to consult with Finance, Risk, Insurance, Legal & Compliance, Divisions of Research, Academic Quality and Education & Student Experience, as required
What governance structure and approval process are required?	Register of Delegations. Project, Program or Initiative governance, approvals and reporting frameworks and guidelines. Further guidance can be provided by Governance team.
What are the costs and benefits of the arrangement	Benefits realisation framework

Issue	Where to go for guidance/ assistance
What resources are required for the arrangement?	Consider internal & external resources
Who has the delegated authority to approve/sign the arrangement?	Register of Delegations. Further guidance can be provided by Governance team.

- 1.2. Staff should refer to the <u>Business case template</u> for guidance when preparing an approval to engage. Where appropriate, developing the approval to engage should be conducted in consultation with the relevant units of UNSW, such as Risk Management, Legal & Compliance, Finance (Including Insurance), Research, Estate Management, Procurement and Human Resources. Advice may also be sought from outside UNSW, where necessary and appropriate. Where internal or external sources have been consulted in preparing the approval to engage, details of the advice obtained should be included in the paper.
- 1.3. Any other processes which may apply to initiating the arrangement must be followed prior to proceeding to stage 2. For example, the framework for managing critical or high-risk educational third-party arrangements must be followed when preparing an approval to engage.

Endorsement of the "approval to engage" for the proposed third-party arrangement

- 1.4. Critical and high-risk third-party arrangements must not start unless the approval to engage has been endorsed by the head of the relevant faculty, school, division or department and approved by the University Leadership Team.
- 1.5. Approval of a third-party arrangement is not authorisation to enter transactions with external parties (e.g. to approve expenditure, enter contracts or memoranda of understanding etc.). Such transactions require the necessary financial delegation and delegation of authority. Legal advice may also be required.

2. Stage 2: Negotiate and execute

Agreement negotiation

2.1. Once the third-party arrangement has received approval to engage in stage 1, the next stage is to negotiate a written agreement (in whatever form is appropriate for the arrangement) and have it executed by the appropriate delegate. The following issues as a minimum need to be considered.

Issue	Where to go for guidance/ assistance
Who within the faculty, school, division, business unit or centre will negotiate the arrangement with the third-party? Will a UNSW document be used?	Consider the time needed to negotiate. Reach out to Legal & Compliance for a suitable agreement template.
Which stakeholders need to be consulted on and approve the terms of the arrangement?	Factor in the availability of stakeholders during the negotiation process. Seek guidance from relevant delegated authority. Arrangement sign-off sheet (refer to Appendix 1).
What terms and conditions are essential?	Consider clauses regarding ownership and use of IP, termination for convenience, indemnities, warranties, consequences of termination and appropriate continuity planning. Reach out to Legal & Compliance.

Issue	Where to go for guidance/ assistance
What (if any) additional due diligence or documentation is required at the point of execution?	Consider whether there is a need to obtain insurance certificates of currency, financial statements, conflict of interest declarations and external or internal formal due diligence inquiries and/or reports. Reach out to Assurance Manager.
Has the full scope of the engagement been included and clearly articulated in the arrangement?	Consider all deliverables and milestones and document appropriate change control processes.
If the agreement is with an overseas based entity, has the agreement been provided to the Compliance and National Security teams for review prior to execution (for notification under the Foreign Arrangement Scheme (FAS) or Foreign Influence Transparency Scheme (FITS), if necessary)?	Foreign Arrangements Framework. Reach out to National Security office.
Has the agreement been signed by the appropriate delegate?	Register of delegations. Signing of agreements and seal procedure. Reach out to Governance team.
Is a rights and obligations register needed, to clearly monitor roles, responsibilities, and milestones?	Reach out to Governance team.
Have meeting and reporting dates been set?	
Has the third-party been set up as a vendor in UNSW's finance system and a PO been raised?	Reach out to Finance Business Partner
Has a copy of the signed agreement been appropriately stored, and the details recorded in line with "Section 3: Storing third-party arrangements" of the policy?	UNSW Systems of Record. Reach out to Records team within Records & Archives.

Agreement sign-off

- 2.2. Before signing the agreement:
 - an Arrangement Sign-off Sheet must be signed to ensure that all required stakeholders have been consulted, necessary approvals have been obtained and the person signing the agreement has the delegated authority to execute
 - the document process checklist of "pre-completion requirements" must be completed. Refer to Appendix 2.
- 2.3. A faculty, school, division, or department may use its own contract/arrangement signoff sheet or use the Arrangement Sign-off Sheet at Appendix 1 as a template if it does not have its own arrangement approval process. This Arrangement Sign-off Sheet should be stored with the copy of the arrangement as set out in the policy.
- 2.4. When the agreement is signed, the "completion process" and "post-completion process" sections in the documents process checklist (refer to Appendix 2) are completed. The document process checklist is then stored with the copy of the arrangement as set out in the policy.

3. Stage 3: Manage

3.1. The agreement needs to be managed appropriately once it has been executed. Some issues to consider are as follows:

Issue	Where to go for guidance/ assistance
Are issues or incidents being raised and resolved in the agreed timeframe? Are they clearly articulated and documented?	Appropriate project governance (e.g. project board, or steering committee with relevant stakeholders)
Is the performance of the third-party being managed and reported in line with the agreement terms?	Terms of the relevant agreement
Are the project/initiative meetings (if required) minuted and being signed off by the required delegates?	Appropriate project governance, as per EPMO guidance
Are there variations to the arrangement that need to be agreed? Have these been documented and is funding available?	Review agreement for variation, change control process and notice requirements. Consult with Legal & Compliance. Ensure all variations are also electronically stored with the original agreement.
What risks and issues management process are to be used?	Consider if the agreement specifies a process
Has a review of the arrangement been scheduled at regular intervals?	Depending on the length of the arrangement, consider having a formal annual review on the anniversary date of signing
Are there other monitoring and review mechanisms at UNSW that exist and that are relevant to this arrangement?	For example, the academic offering review procedure for educational arrangements
Are accurate and complete records being kept, including records with respect to the evaluation, approval, and review of the arrangement?	Refer to the Recordkeeping Policy for guidance
Are the finances for the arrangement being managed in accordance with UNSW's finance policies and procedures? Arrangements must be fully costed (both direct and indirect costs), conducted in a competitively neutral way, all relevant taxes applied correctly (e.g. FBT, GST) and any surpluses dealt with appropriately.	Refer to the <u>Accounting Policy</u> and <u>Competitive</u> <u>Neutrality and Pricing Policy</u>

4. Stage 4: Review

- 4.1. The person who signed the agreement, or their delegate, should review the third-party arrangement:
 - annually
 - when UNSW is aware of a change to the arrangement
 - when UNSW is aware of a change to the risk profile of the third party
- 4.2. As the arrangement continues, consider whether it should be left to run its course until its expiry, terminated early, or renewed at its conclusion. As part of the review process, an arrangement evaluation form may be used to ensure that appropriate factors have been considered.
- 4.3. A faculty, school, division or department may use its own evaluation form, or use the Arrangement Evaluation Form at Appendix 3 as a template if it does not have its own. Factors to consider as part of a review of the arrangement include:

Issue	Where to go for guidance/ assistance
Has the third-party's performance been reviewed in line with the arrangement or agreed process?	Consider KPIs (if any set out in the agreement)
Are there performance issues? If so, have these been clearly communicated to the third-party and have they been given an opportunity to address any issues?	Contract Management guidelines
Is a termination of the arrangement required? If so, what options exist for termination?	Review termination provisions of the agreement.
	Consider seeking advice from Legal team, if necessary.
Is an extension of the arrangement required or desirable? If so, how will this be documented and is funding available?	Review agreement for extension process and notice requirements. Document how value for money will be obtained by extending the arrangement.
Are the deliverables confirmed as meeting the required quality/standard? Who can verify this?	Acceptance criteria (if applicable) to be specified in the agreement
If all deliverables are met, has the handover of documents/training and risks to UNSW been confirmed?	
Has the third-party been off boarded from the UNSW IT system and handed back swipe cards, equipment, and documents (if required)?	
Have all invoices been paid?	
Has a third-party exit review or lessons learned process been completed? How is this communicated?	

Effective: [XX Month] 2024 Responsible: DVC TPA Lead: Director of Risk

Appendix 1: Arrangement sign-off sheet

You must complete this sign off with the attached checklist and attach it to any recommendation to a delegate to sign a document with a third-party under the UNSW Register of Delegations or Council resolution. You need to complete these for all contracts, agreements, deeds, memoranda of understanding, letters or any other documents with third parties which create legally binding relationships.

Please read the footnotes for further information and links to helpful websites

1.	Summary: Briefly summarise the transaction being recommended for execution	
2.	List the documents: List the documents to be executed, including the parties and the method of execution ¹	
3.	Authority to sign: What section of the Register of Delegations gives authority to the delegate to execute the document(s)? ² or	
	If a Council resolution has authorised the delegate to sign the document(s), please attach a copy of the resolution.	
4.	Risks and benefits: Outline the risks and benefits for the University of entering the transaction, including relative to other options considered ³	
5.	Financial impact: What is UNSW's commitment in dollar value, in-kind, and contingent liability and is the dollar commitment within budget ⁴	
6.	Risks: What is the risk rating to the University if this transaction is entered into? ⁵ Confirm that this transaction is within the risk appetite of UNSW?	
7.	SME advice: Have you received tax, insurance ⁶ or legal advice? If yes and an SME has raised issues, confirm that those issues have been addressed in the document	
8.	Procurement: If goods or services are being obtained, confirm that the Procurement policy has been complied with by attaching Procurement's sign off	
9.	Compliance: Confirm that the document complies with applicable laws and UNSW policies and procedures	
10.	Personal Property Securities Register: If UNSW is buying goods (including IP), confirm that the Personal Property	

¹ For example, does the document need to be witnessed or is it required to be signed under seal? Refer to the Signing of Agreements and Seal Procedure at https://www.unsw.edu.au/content/dam/pdfs/governance/policy/2022-01-policies/agreementsandsealprocedure.pdf

² Cite the relevant provision from the UNSW Register of Delegations (available at https://www.unsw.edu.au/content/dam/pdfs/governance/07-register-of-delegations/register-of-delegations.pdf.coredownload.pdf) or provide a copy of the relevant Council resolution.

³ If a business case or other document has been approved previously and contains this information, you can attach it and cross reference to the relevant paragraphs here

⁴ Where there are resource implications for faculties or divisions other than the faculty/division recommending the execution of the document, provide evidence of sign-off by those faculties/divisions. For research contracts, state whether minimum economic cost recovery has been applied to the contract amount, or approval has been received to waive or reduce it. For in-kind contributions, confirm that a process has been put in place to capture them

⁵ Please refer to the Risk & Compliance Policy and Risk Management Manual

⁶ In relation to insurance requirements, you must contact the UNSW Insurance Manager.

Securities Register has been searched and records UNSW's interest 8	
11. Autonomous and UN Sanctions: If the transaction involves parties who are not Australian entities or (for individuals) not Australian citizens/permanent residents, confirm that:	
 a) all relevant parties have been searched against DFAT's Consolidated List⁹ and are not Designated Persons or Entities; b) the parties are not based in a country that is currently subject to UN or Autonomous Sanctions¹⁰ c) the transaction does not involve activities involving a country that is subject to UN or Autonomous Sanctions. 	
advice that the transaction complies with sanctions laws? ¹¹	
12. Services to the public: Does the transaction involve a contract between UNSW and a private sector entity to provide services to the public on behalf of UNSW ¹² ?	
If yes, please refer to the clause number in the contract which gives UNSW an immediate right of access to certain information held by the contractor ¹³ .	
13. Consultation: Please give details of your consultation process within UNSW, including names, titles and dates of persons consulted and any concerns they raised which have not been dealt with in the document	

⁷ For information about the PPSR, see https://www.ppsr.gov.au/

You can register UNSW's interest at https://www.afsa.gov.au/about-us/ppsr/personal-property-securities-register-ppsr
 See https://www.afsa.gov.au/about-us/ppsr/personal-property-securities-register-ppsr
 See https://www.dfat.gov.au/international-relations/security/sanctions/consolidated-list. Search for any name matches against names of relevant parties. If there is a match, the person or entity is 'Designated' and UNSW is prohibited from entering into an agreement with them. If there is a partial match, check against the other information fields provided by DFAT in the Consolidated List. For further information, contact UNSW Legal & Compliance at https://www.unsw.edu.au/planning-assurance/legal-compliance

¹⁰ For current UN and Autonomous Sanctions lists of sanctioned countries and details of sanctioned activities that apply to each country, refer to https://www.dfat.gov.au/international-relations/security/sanctions/sanctions-regimes. For further information, contact UNSW Legal & Compliance at https://www.unsw.edu.au/planning-assurance/legal-compliance

¹¹ If you require advice, contact UNSW Legal & Compliance at https://www.unsw.edu.au/planning-assurance/legal-compliance

¹² Contact Legal & Compliance if you need more information regarding whether services are "to the public".

¹³ Where a private sector entity provides services to the public on behalf of UNSW, s121 of the GIPA Act requires UNSW to include a clause providing an immediate right of access to information held by the contractor relating to the performance of the service, or collected as part of offering/providing the service

14. Conflicts of interest declaration

To the best of my knowledge after making reasonable enquiries, I declare that neither I nor any of my Associates¹⁴ have any private interests, including the following, which may conflict with my recommendation to you to sign the attached documentation:

- a) income or other financial benefit from any source e.g. other employment or consultancy
- b) appointments or offices whether paid or unpaid e.g. directorships
- c) interests in any trusts, shareholdings, unlisted companies, partnerships, investments or other financial or business interests
- d) obligations, expectations of reward or other interests arising from a contract, agreement or understanding
- e) any other potential, real or perceived conflict of interest (as set out in the UNSW Code of Conduct) relating to this document or the transaction more generally¹⁵.

I have made reasonable enquiries and I am not aware of any other person acting on behalf of UNSW and involved with this transaction having a potential, real or perceived conflict of interest (as set out in the UNSW Code of Conduct) relating to this document or the transaction more generally; or if a conflict has been declared, the proposed conflict management plan has been approved and is attached.

Signature of officer making recommendation

Title, date

Please also complete the 'Document process checklist' over the page. Following execution, the COMPLETION PROCESS and POSTCOMPLETION PROCESS sections of the Checklist should be completed.

The completed checklist and other relevant documents must be captured in RAMS or another system of record. Please refer to the Recordkeeping Policy¹⁶ for more information.

^{14 &#}x27;Associate' means any of the following:

a) your spouse, partner, parent, child, sibling, business partner or friend;

b) the spouse, partner, parent, child, sibling, business partner or friend of a person referred to in a) above if that relationship is known to you; c) any other person who is known to you for reasons other than that person's connection with UNSW or that person's public reputation.

¹⁵ For more information, please refer to the UNSW Conflict of Interest Disclosure and Management Policy at https://www.unsw.edu.au/content/dam/pdfs/governance/policy/2022-01-policies/conflictinterestpolicy.pdf

¹⁶ https://www.unsw.edu.au/content/dam/pdfs/governance/policy/2022-01-policies/recordkeeping.pdf

Appendix 2: Document process checklist

To be attached to all contracts, agreements, deeds, memoranda of understanding and letters or any other documents creating legally binding relationships.

APPROVALS:	YES	NO	N/A	APPROVED/
				COMPLETED
Council approval required?				□17
If answer to 1 is yes, recommendation of Council committee required?				□18
If answer to 1 is no, approval delegated under Register of Delegations				□19
PRE - COMPLETION REQUIREMENTS:				
4. Risk Assessment completed				
5. Due Diligence completed				
6. Costs of transaction included in budget				
7. Transaction valued at \$150K or more with a private (non-state or non-federal government) entity? ²⁰				
8. Complies with legislation, UNSW policy and guidelines				
Searched the Personal Property Securities Register				
Arranged to record interest on Personal Property Securities Register				
11. Non-Australian parties checked and cleared against DFAT Consolidated List				□ ²¹
12. Sanctions law compliance determined				□22
13. Export Control compliance determined				□ ²³
14. Any issues raised by UNSW Legal & Compliance addressed				
15. Intellectual property rights determined				
16. Advice obtained that transaction covered by insurance ²⁴				
17. Tax or other expert advice obtained ²⁵				
18. Conflicts declaration completed and no conflicts declared (or if a conflict has been declared, the conflict management plan has been approved) ²⁶				

¹⁷ Cite Council resolution and provide a copy

Cite resolution of Council committee and provide a copy
 Cite paragraph from the UNSW Register of Delegations and name and position of delegate
 If yes, a copy of the contract must be provided to Legal & Compliance or Strategic Procurement for inclusion in the GIPA Contracts Register within 45 working days of signing ²¹ See footnote 10 above

²² See footnote 11 above

²³ See footnote 12 above

²⁴ Attach copy of advice

²⁵ Attach copy of any advice

²⁶ For more information, please refer to the UNSW Conflict of Interest Disclosure and Management Procedure at Conflict of Interest Disclosure and Management Procedure (unsw.edu.au)

COMPLETION PROCESS:		
19. Document executed by UNSW		
20. Document executed by other party/parties		
21. Document dated		
POST-COMPLETION PROCESS:		
22. Stamp duty		
23. Recorded UNSW's interest on Personal Property Securities Register		
24. Document copied to official file with all other supporting documents		
25. Original signed contract saved to RAMS/other system (e.g. Ivalua)		
26. Contract details lodged for the GIPA Contract Register, if required		

Appendix 3: Arrangement evaluation form

Agreement Name/Number	[click to insert]				
Other party details	Name:	[click to insert]			
	ABN (if applicable):	[click to	o insert]		
	Address:	[click to	o insert]		
Term of the Arrangement	From [date] to [date]				
Arrangement Type	Services/Consultancy				
	Gift/donation/sponsorship				
	Goods/Asset Purchase				
	Other		Please describe		
Arrangement Description	[describe what the Arrangemen	t was fo	ii d		
Objectives	What were the objectives of the Arrangement? Were they met?		[click to insert]		
Risks	What risks were identified? Were the risks appropriately managed?		[click to insert]		
Deliverables	Were the deliverables delivered on time and within budget?		[click to insert]		
KPIs/Service Levels	Were the KPIs or Service Levels met?		[click to insert]		
Variations	Was the Arrangement varied? Why?		[click to insert]		
Issues/disputes	Were there any issues or disputes? Were these managed appropriately?		[click to insert]		
Relationship	Did you have a good relationship with the other party?		[click to insert]		
Recommendation	Would you use the other party again?		[click to insert]		
Comments	[Please keep your comments su appropriate. Avoid using any en		and objective, providing examples where anguage]		