



Contract Management Policy

Responsible Office	University Secretary's Office
Responsible Officer	University Secretary
Approving Authority	Senior Leadership Group
Date of Approval	03 August 2020
Effective Date	03 August 2020
Related Procedures	BSU Contract Approval Process: A How-To-Guide; BSU Collaborative Provision Handbook
Related University Policies	BSU Financial Regulations
Amended (if applicable)	N/A
Supersedes	New
Next review due	August 2025

1. Purpose

- 1.1. The purpose of this Policy is to:
- a. define the responsibilities of individuals who negotiate, approve or sign contracts on behalf of Bath Spa University (“BSU”);
 - b. specify who may sign contracts on behalf of BSU; and
 - c. define the responsibilities of the individual responsible for managing contracts post-signature.

2. Definitions

- 2.1. Contract – Includes:
- a. Any agreement, contract, subcontract, letter of intent, memorandum of understanding, memorandum of agreement, lease, license, donor agreement, deed, grant, certificate, instrument, assignment, indemnity, liability waiver, undertaking;
 - b. any other document which creates a legal obligation or which may be legally binding upon BSU;
 - c. any renewal of (a) or (b);
 - d. any variation of (a) or (b) that is required to be formally agreed in writing; and
 - e. any bids or tenders.

3. Policy

Roles

- 3.1. The following roles are referred to as part of this Policy:

Contract Negotiator

The individual(s) who negotiates the contract on behalf of BSU. The Contract Negotiator may also be the Contract Lead.

Contract Lead

The individual appointed to manage the negotiation and approval of the contract. The Contract Lead may also be the Contract Negotiator.

This should be an individual in the relevant BSU Department or School to whom the subject matter of the contract relates. For example, a contract sourced by Estates should appoint an appropriate Contract Lead within the Estates Department.

Contract Signatory

The individual with authority to sign the contract in accordance with the Financial Regulations or any process approved by the Board of Governors. The Contract Signatory must not be the Contract Negotiator or Contract Lead.

Contract Manager

The individual(s) appointed to have oversight of and manage the carrying out of the contract for the duration of the term of the contract.

This should be an individual in the relevant BSU Department or School to which the subject matter of the contract relates. For example, a contract sourced by Estates should appoint an appropriate Contract Manager within the Estates Department.

Compliance with relevant procedures

- 3.2. The Contract Negotiator must ensure that a Contract Lead is appointed to manage the negotiation and approval of the contract.
- 3.3. The Contract Negotiator and the Contract Lead must:
 - a. comply with all relevant procedures relating to the negotiation and execution of BSU contracts, including any guidance issued by the University Secretary's Office from time to time;
 - b. ensure that they have the requisite authority to enter into contract negotiations;
 - c. exercise their authority in a prudent manner;
 - d. assess the likely impact of the transaction on other departments of BSU and ensure that appropriate consultation takes place with all other departments which may be affected by the contract;
 - e. ensure that BSU has the means to meet all obligations in the contract, including in particular any significant financial commitments and/or any unusual terms. If there are any doubts as to BSU's ability to meet its obligations in the contract then such issue must be referred to BSU's Legal Counsel in all circumstances;
 - f. ensure that legal support or advice is obtained, unless otherwise agreed by the University Secretary or their authorised representative;
 - g. determine whether there are any issues which could give rise to financial consequences that should be reviewed by Finance (such as method of payment, tax consequences, method of acquisition);
 - h. ensure that all risks to BSU engendered by the contract have been considered, recorded as necessary and measures put in place to mitigate the risks so far as possible;
 - i. ensure that BSU procedures have been followed for the allocation of funds for the contract (including any appropriate provision in the Financial Regulations);
 - j. take into consideration the reputation and financial viability of the other party to the

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contract, including ensuring appropriate due diligence has been carried out. The due diligence should, as a minimum, normally include creditworthiness, insurance, affiliation, compliance (such as equality, modern slavery, money laundering and bribery), and (where relevant) digital accessibility checks. The financial viability of the other party must be approved by the Deputy Director of Finance;

- k. bring to the attention of the appropriate senior manager any proposed contract which is of sufficient importance because of its subject matter or specific provisions; and
 - l. ensure that the other party is made aware that the contract is not considered final and binding until it has been approved and signed in accordance with BSU procedures.
- 3.4. Not all contracts have to be in writing in order to legally bind BSU. Oral representations and agreements as well as conduct can potentially create legal obligations for BSU. As a general rule, BSU's business should be conducted through written contracts. Under no circumstance does an individual have authority to bind BSU (whether in writing, orally or by way of conduct) if that individual does not have the requisite signing authority in accordance with the Financial Regulations or any other process approved by the Board of Governors.

Contract Approval

- 3.5. The Contract Lead must satisfy themselves that all relevant procedures have been complied with in accordance with paragraph 3.3 of this Policy prior to approving the contract.
- 3.6. Approval of a contract indicates that:
- a. the individual is satisfied that all necessary steps have been taken to ensure that the form and content of the contract are satisfactory; and
 - b. the individual recommends that the contract be signed by the Contract Signatory.

Contract Signature

- 3.7. No person is authorised to sign a contract on behalf of BSU unless:
- a. The transaction has been reviewed and approved in accordance with paragraph 3.3 of this Policy; and
 - b. The signatory has authority to sign the contract in accordance with the BSU Financial Regulations or any other process approved by the Board of Governors.
- 3.8. Any variation or renewal of a contract should, so far as possible, be signed by the Contract Signatory of the original contract.
- 3.9. From time to time, the Board of Governors may authorise other individuals to sign specific contracts or types of contracts.

Risk

- 3.10. It is the responsibility of the Contract Signatory to bring to the attention of the Vice-Chancellor (or to the Board of Governors where the Vice-Chancellor is the

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Contract Signatory) any proposed contract which in their judgment presents an unusually high level of risk to BSU, involves precedent setting issues or the nature of which might reasonably be seen to have an effect on BSU beyond its normal business operations.

Custody and Storage of Contracts

- 3.11. The Contract Lead must ensure that the original contract signed and dated by the signatories of both BSU and the other party is sent promptly to BSU's Legal Counsel for storage.
- 3.12. The Contract Lead must also ensure that a copy of the signed contract is provided to the Contract Manager.

Contract Management

- 3.13. The Contract Lead must ensure that a Contract Manager is appointed from the date of contract signature (at the latest).
- 3.14. The Contract Manager must:
 - a. ensure that the following details are recorded on a database approved by the University Secretary's Office:
 - i. the contract start date;
 - ii. the contract termination date;
 - iii. the contract automatic renewal date (where applicable); and
 - iv. any notice period required for either termination or renewal of the contract;
 - b. ensure that their professional contact details are recorded as the point of contact for the contract on a database approved by the University Secretary's Office, and are updated with those details of any replacement Contract Manager; and
 - c. oversee and manage the carrying out of the contract.
- 3.15. The Contract Manager should ensure that any renewal (whether an automatic renewal or negotiated renewal) or termination of the contract, whichever may be required, is appropriately managed in accordance with any notice period required in the contract. The Contract Manager should seek the support of BSU's Legal Counsel for clarification of the wording for any notification of renewal or termination and method of service for such notification.

Conflict of Interest

- 3.16. All persons involved in negotiating, approving or signing contracts or overseeing/managing contracts on behalf of BSU must immediately disclose any conflict of interest or potential conflict of interest to their line manager and to the University Secretary.

Legal Name of BSU

- 3.17. Contracts must be entered into in the name of "Bath Spa University" and should disclose BSU's status as an exempt charity.

Notices

- 3.18. The address for notices in a contract must be Newton Park, Newton St Loe, Bath, BA2 9BN, United Kingdom unless otherwise agreed with the University Secretary, and must be copied to BSU's Legal Counsel.

Governing Law and Legal Jurisdiction

- 3.19. BSU's preferred position in contracts is for the governing law (*i.e. the law that supplies the legal framework within which the contract takes effect*) and the legal jurisdiction (*i.e. the court(s) of a named country that will settle any dispute or claim in relation to the contract*) to be England and Wales. BSU's Legal Counsel should be consulted before any other governing law and/or legal jurisdiction is agreed with another party.

Contracts in Languages other than English

- 3.20. BSU's Legal Counsel should be consulted in respect of contracts in languages other than English or required signature of an English and non-English version of a contract.
- 3.21. The Contract Lead should ensure that a professional translation of a contract is obtained where the original is not written in the English language and such expense should preferably be borne by the other party.