

WORKFORCE ENGAGEMENTS AND PAYMENTS POLICY 2016

The Vice-Principal (Operations) as delegate of the Senate of the University of Sydney, adopts the following policy.

Dated: 27 January 2016

Last amended: 27 April 2018 (administrative amendments only)

14 August 2020

18 May 2022

Signature:

Position: Ms Sara Watts, Vice-Principal (Operations)

Mr Stephen Phillips, Vice-Principal (Operations)

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Name of policy

This is the Workforce Engagements and Payments Policy 2016.

1 Commencement

This policy commences on 1 March 2016.

2 Policy is binding

Except to the extent that a contrary intention is expressed, this policy binds the University, staff, students and affiliates.

3 Statement of intent

This policy:

- (a) specifies, and distinguishes between, the four different types of workforce engagement at the University;
- (b) requires the features of an engagement to be assessed to ensure that the appropriate relationship is entered into, which may be as:
 - (i) an employee under a contract of employment;
 - (ii) a contingent worker engaged through a labour hire agency;
 - (iii) an independent contractor under a contract for service; or
 - (iv) a volunteer under a volunteer arrangement; and
- (c) promotes good practice in workforce engagement, including compliance with legal obligations and University policies relating to recruitment and procurement.

4 Application

- (1) This policy applies to:
 - (a) staff, students and affiliates; and
 - (b) the workforce engagement of:
 - (i) employees;
 - (ii) contingent workers engaged through a labour hire agency;
 - (iii) specified individuals engaged as independent contractors under a contract for services on a fee for service basis; and
 - (iv) volunteers.

- (2) This policy does not apply to contracts for:
- (a) the supply of goods and services which do not specify individuals to provide the agreed work or services to the University; or
 - (b) construction work and related goods and services which are administered by University Infrastructure (UI) and Central Operations Services (COS).

Note: Construction work includes building works, alteration, repair, maintenance, extension and demolition. Related goods and services includes project management, architectural services, design, engineering, surveying and quantity surveying.

5 Definitions

affiliate	<p>has the meaning provided in the Staff and Affiliates Code of Conduct 2021. At the date of this policy, that is:</p> <p>means a person appointed or engaged by the University to perform duties or functions on its behalf, including but not limited to:</p> <ul style="list-style-type: none">• an honorary title holder engaged under the Honorary Titles Policy 2013;• a consultant or contractor to the University; and• an office holder in a University entity, a member of any University committee, board or foundation. <p>An affiliate is not an employee of the University.</p>
contingent worker	<p>means an individual working at the University on temporary placement under an agreement with a labour hire agency.</p> <p>Contingent workers are not employees of the University.</p>
contracted supplier	<p>has the meaning given in the Procurement Policy 2019. As at the date of this policy, that is:</p> <p>means a supplier:</p> <ul style="list-style-type: none">• who has been evaluated through an approved procurement process by Procurement Services; or• with whom the University has entered into a formal contract for the provision of specified goods or services.
delegate	<p>means a person or persons holding delegated authority from the Senate, as set out in the University of Sydney (Delegations of Authority) Rule 2020.</p>
employee	<p>means an individual staff member of the University who contributes their labour and receives remuneration by way of salary or wages. An employee is engaged under a contract of employment directly with the University.</p>
Enterprise Agreement	<p>means the University of Sydney Enterprise Agreement 2018-2021 or any replacement agreement.</p>

independent contractor	has the meaning provided in the University of Sydney (Delegations of Authority) Rule 2020 . As at the date of this policy that is: means a party engaged directly by the University pursuant to a contract for services. – In the context of workforce engagements, this includes sole traders, companies or partnerships with whom the University enters into an agreement for the provision of specified individuals to supply specific skills, services or consultancy arrangements. – It does not include individuals engaged through a labour hire agency or employees of the University.
labour hire agency	has the meaning provided in the University of Sydney (Delegations of Authority) Rule 2020 . As at the date of this policy that is: means a recruitment agency or labour engagement specialist contracted by the University to provide temporary labour resourcing services.
services purchase request	means a request form submitted in UniBuy for services, which is used to assess the characteristics of the relationship and determine any additional University liability before issuing a purchase order.
UniBuy	means the University’s approved procurement system.
volunteer	means an individual who provides unremunerated services for the benefit of the University on a voluntary basis. Volunteers are not employees of the University.
worker	means a person who a relevant delegate has approved to perform paid or unpaid work for, or on behalf of, the University.

PART 1 – DETERMINING THE APPROPRIATE ENGAGEMENT CATEGORY

6 Workforce engagement categories

- (1) The University will only enter into the following forms of workforce engagement, each of which must be approved by the relevant delegate.
 - (a) **Employees;**
Note: Refer to the Human Resources delegations in Part 6 of the [University of Sydney \(Delegations of Authority\) Rule 2020](#).
 - (b) **Contingent workers engaged through an approved labour hire agency;**
Note: Refer to the Agreement and Finance delegations in Part 6 of the [University of Sydney \(Delegations of Authority\) Rule 2020](#).

(c) Specific individuals engaged as independent contractors under a contract for services; or

Note: Refer to the Agreement and Finance delegations in Part 6 in the [University of Sydney \(Delegations of Authority\) Rule 2020](#).

(d) Volunteers.

Note: Refer to the Human Resources delegations in Part 6 of the [University of Sydney \(Delegations of Authority\) Rule 2020](#).

7 Assessing the nature of the relationship

- (1) Different legal rights and regulatory obligations apply to each form of workforce engagement. The relevant delegate is responsible for requiring that the engagement entered into is appropriate for the work that is to be undertaken and accurately reflects the nature of the relationship.
- (2) Before engaging an individual as an independent contractor, the delegate must assess the proposed relationship using the services purchase request form.

Note: Refer to the Staff Intranet information on [engaging an independent contractor](#).

- (a) If the engagement is assessed to be an independent contractor relationship the individual must be engaged under a contract for services in accordance with Part 4 of this policy.
- (b) If the engagement is assessed to be an employment relationship, unless an exemption has been approved by the Chief Financial Officer, the specified individual must be engaged as:
 - (i) an employee in accordance with Part 2 of this policy; or
 - (ii) a contingent worker through a labour hire agency in accordance with Part 3 of this policy.
- (3) Before engaging an individual as a volunteer in accordance with Part 5 of this policy, the delegate must be satisfied that there is a genuine volunteer relationship.

Note: Refer to Fair Work Ombudsman's [Unpaid work](#) fact sheet under [Volunteering](#).

8 General provisions

- (1) All staff and affiliates responsible for recommending or approving a workforce engagement must declare any conflict of interests with the engagement, whether actual, potential or perceived. Where a conflict exists, the declaration must be referred to the relevant delegate.

Note: See the [External Interests Policy 2010](#) and [Staff and Affiliates Code of Conduct 2021](#). See also the [Procurement Intranet pages](#) and the [Conflict of Interests Intranet pages](#).

- (2) Workforce engagements must reflect the University's strategic and operational objectives and its commitment to equity and diversity, including achievement of the [One Sydney, Many People](#) strategy and implementation of the University's [Disability Inclusion Action Plan 2019-2024](#).

- (3) All workers at the University have responsibilities for work health and safety as specified in the [Work Health and Safety Policy 2016](#) and the [Work Health and Safety Procedures 2016](#). All workers must work within the parameters of the University's [Safety Management System](#) and in accordance with [Safety Management Standards](#).
- (4) All individuals who commence work at the University must:
 - (a) be an Australian citizen or hold a visa with associated work rights appropriate to the nature of their engagement with the University, as required by the Department of Home Affairs;
Note: Refer to the [Visa and Work Rights Policy](#).
 - (b) if engaged in "child-related work", comply with the [Child Protection \(Working with Children\) Act 2012 \(NSW\)](#); and
Note: Refer to the [Working with Children and Vulnerable Adults Policy 2021](#).
 - (c) observe the University's rules, policies and procedures.
Note: Refer to the University's [Policy Register](#).
- (5) Income payments must be made in accordance with clauses 11, 13 and 15.

PART 2 – EMPLOYEES

10 Terms of employment

- (1) Human Resources manages staff employment.
 - (a) Appointment requirements for continuing and fixed term staff are specified in the [Recruitment and Appointment Policy 2021](#).
 - (b) Appointment requirements for casual staff are specified in the [Casual Employment Policy](#).
- (2) Unless an exemption is approved under subclause 10(3), all staff recruitment must be:
 - (a) initiated, managed and approved in the [Human Resources Management System](#); and
 - (b) managed by [Human Resources Recruitment Operations](#).
- (3) Exceptions to the standard approval processes must be approved by the Vice-Chancellor or Vice-Principal (Operations) in consultation with the Chief Human Resources Officer.
Note: Refer to clause 16 of the [Recruitment and Appointment Policy 2021](#).
- (4) Staff may be employed in the following categories:
 - (a) **continuing employment** under an employment contract that contains a starting date but no date or contingency upon which the contract will come to an end;



- (b) **funding contingent continuing employment** under an employment contract that contains a starting date and no end date, but includes a provision that the contract comes to an end when the funding is no longer available;
 - (c) **fixed-term employment** under an employment contract that contains a starting date and an end date or a contingency (such as the completion of a specified project) upon which the contract will come to an end. Staff covered by the [Enterprise Agreement](#) may be appointed on a fixed term basis if the reason for the engagement satisfies the criteria stipulated in the [Enterprise Agreement](#); or
Note: Refer to clauses 24-32 of the [Enterprise Agreement](#).
 - (d) **casual employment** under an employment contract whereby the staff member is engaged and paid by the hour. Casual staff are usually employed to meet short-term skill requirements, or where the business need is short-term, unpredictable or insufficient for an appointment on either a continuing or fixed-term basis.
- (5) Staff may be employed to work the equivalent of either full-time or part-time working hours.
Note: Refer to Part E of the [Enterprise Agreement](#) and [Flexible Working Arrangements Policy](#).
- (6) Staff, other than casual staff, are entitled to paid annual leave, sick leave, public holidays and other employment benefits as provided in their contracts of employment. Casual staff are paid a loading in lieu of these benefits.
Note: The majority of staff members are covered by the employment benefits in the [Enterprise Agreement](#).
- (7) Staff performance is managed in accordance with the [Performance Planning and Development Policy 2012](#).

11 Remuneration

- (1) All payments to staff members for performing work under their contract of employment must be paid as salary or wages and made through the University's Human Resources payroll system.
- (2) Payments for overtime, additional hours or "above load" duties to eligible staff must be approved by the relevant Faculty General Manager, School General Manager or Head of Administrative Area before the additional hours are worked or duties are performed.
- (3) University staff members seeking to engage in secondary employment or outside earnings must comply with the:
 - (a) [Staff and Affiliates Code of Conduct 2021](#);
 - (b) [Outside Earnings of Academic Staff Policy 2011](#); and
 - (c) [External Interests Policy 2010](#).

PART 3 –CONTINGENT WORKERS

12 Terms of engagement

- (1) Unless an exception has been approved by the Chief Human Resources Officer, all engagements of individuals through labour hire agencies must be initiated through [Human Resources Recruitment Operations](#) using a [job requisition](#) in the Human Resources Management System. .

Note: Individuals must be engaged through labour hire agencies that are University contracted suppliers, or otherwise approved by Procurement Services.

- (a) Where a highly specialised skill requirement cannot be met from the list of approved labour hire agencies, the engagement of alternative suppliers must be negotiated by [Human Resources Recruitment Operations](#) in consultation with Procurement Services.
- (b) Procurement Services must approve the engagement of the appropriate labour hire agency in accordance with the [Procurement Policy 2019](#) and its related procedures.
- (2) Any extension or variation to an engagement of a contingent worker through a labour hire agency must be arranged through Human Resources Recruitment Operations and approved by the relevant delegate. In making such a decision, the total cost of the engagement must be considered, not just the cost of the extension or variation.

13 Payments

Payments to labour hire agencies must be made in accordance with *the* [Supplier and Payment Procedures 2019](#).

Note: Refer to the [Supplier and Payment Procedures 2019](#); and [Contingent Labour Hire Procedures 2015](#).

PART 4 – INDEPENDENT CONTRACTORS

14 Terms of engagement

- (1) Unless an exception has been approved by the Chief Financial Officer, an engagement with an independent contractor to supply the services of specific individuals, including consultants, must be managed in accordance with the [Procurement Policy 2019](#) and its related procedures, including meeting sourcing, quotation and tender requirements.

Note: Refer to the Staff Intranet information on [engaging an independent contractor](#). Also refer to [UniBuy Procurement Procedures 2019](#) and to the Services Purchase Request form in UniBuy.

- (2) All engagements of independent contractors under a contract for services must be accompanied by a completed services purchase request form together with specified supporting documents.
- (3) During the engagement of an independent contractor, the manager or the project officer specified in the contract for services, must monitor performance against contractual requirements.
- (4) Any further engagement or variation to a contract must be approved by the relevant delegate in accordance with the [Procurement Policy 2019](#). In making such a decision, the total cost of the engagement must be considered, not just the cost of the extension or variation.
- (5) Any non-standard agreement or any proposed variation to a standard agreement for engaging an independent contractor must be approved by the Office of General Counsel, in consultation with Procurement Services.

15 Payments

Payments to independent contractors must be made in accordance with clause 8 of the [Supplier and Payment Procedures 2019](#).

PART 5 – VOLUNTEERS

16 Terms of engagement

- (1) Volunteers are affiliates of the University.
Note: See [Affiliates Policy](#). Refer to volunteer information on the [Affiliate Intranet pages](#).
- (2) The relevant delegate must arrange for a volunteer to be issued with a letter which:
 - (a) acknowledges and defines the role;
 - (b) sets out the volunteer's responsibilities to the University and the University's responsibilities and obligations to the volunteer;
 - (c) specifies performance expectations; and
 - (d) provides information about terminating the relationship where performance or other responsibilities are not being adequately met.

Note: See Affiliates [Policy](#). Refer to Staff Intranet information on [Affiliates](#) and the [Volunteer Letter Template](#).

17 Payments

- (1) Volunteers are not remunerated for their service.
- (2) Reimbursements made to volunteers must be made through the University's accounts payable system, in accordance with the [Supplier and Payment Procedures 2019](#).

PART 6 – REVIEW OF WORKFORCE ENGAGEMENTS

18 Reviewing contingent worker and independent contractor engagements

- (1) The relevant delegate must initiate a review of the University's engagement of a contingent worker or independent contractor:
 - (a) if there is any material change in the circumstances of the engagement, or
 - (b) before a renewal of the engagement.
- (2) The review must:
 - (a) consider the relationship in accordance with Part 1 of this policy;
 - (b) determine whether or not the engagement is still required; and
 - (c) if so, determine the appropriate basis upon which the engagement should continue.
- (3) Subject to Part 1 clause 8, the outcome of the review must be one of the following:
 - (a) to continue the engagement in accordance with the terms of the current contract until the end of the contract period, unless there is a mutual agreement to enter into a new arrangement;
 - (b) to cease the engagement if the requirement no longer exists;
 - (c) to enter into an employment relationship in accordance with Part 2;
 - (d) to enter into an engagement as a contingent worker through a labour hire agency in accordance with Part 3; or
 - (e) to enter into a new contract for services in accordance with Part 4.
- (4) Where, in the opinion of Human Resources or Procurement Services staff, an existing or proposed workforce engagement does not comply with University policy, they must refer the matter to:
 - (a) the relevant delegate; or
 - (b) as necessary:
 - (i) the Chief Human Resources Officer; or
 - (ii) Chief Financial Officer.

PART 7 – ADMINISTRATION

19 Procedures

- (1) The Chief Human Resources Officer is the principal owner of this policy, and the Chief Financial Officer is the owner of Parts 4 and 6 of this policy.
 - (a) Formal policy reviews are the responsibility of and must be initiated jointly by both the Chief Human Resources Officer and the Chief Financial Officer.
- (2) The Chief Human Resources Officer may determine procedures relating to Parts 1 to 3 inclusive and 5 of this policy.
- (3) The Chief Financial Officer, in consultation with the Chief Human Resources Officer, may determine procedures relating to Parts 4 and 6 of this policy.

NOTES

Workforce Engagements and Payments Policy 2016

Date adopted:	27 January 2016
Date commenced:	1 March 2016
Date amended:	27 April 2018 (administrative amendments only) 14 August 2020
Policy Owners:	Chief Human Resources Officer and Chief Financial Officer
Review date:	27 January 2021
Related documents:	<i>Child Protection (Working with Children) Act 2012 (NSW)</i> <i>Work Health and Safety Act 2011 (NSW)</i> <i>University of Sydney (Delegations of Authority) Rule 2020</i> <i>University of Sydney Enterprise Agreement 2018-2021</i> <i>Affiliates Policy</i> <i>Casual Employment Policy</i> <i>External Interests Policy 2010</i> <i>Honorary Titles Policy 2013</i> <i>Outside Earnings of Academic Staff Policy 2011</i> <i>Performance Planning and Development Policy 2012</i> <i>Procurement Policy 2019</i> <i>Recruitment and Appointment Policy 2021</i>

[Staff and Affiliates Code of Conduct 2021](#)

[Visa and Work Rights Policy](#)

[Working with Children and Vulnerable Adults Policy 2021](#)

[Work Health and Safety Policy 2016](#)

[Contingent Labour Hire Procedures 2015](#)

[Procurement: Non-Allowable Expense Procedures](#)

[Supplier and Payment Procedures 2019](#)

[UniBuy Procurement Procedures 2019](#)

[Work Health and Safety Procedures 2012](#)

AMENDMENT HISTORY

Provision	Amendment	Commencing
6; 7(1); related documents	Updating references to <i>University of Sydney (Delegations of Authority – Administrative Delegations) Rule 2016</i>	6 June 2017
6; 11(2)	Amendments relating to organisational design changes	6 June 2017
12(1) note; 14(1) note	Updated references to new Request to Engage Form	6 June 2017
9(4)(a)	Replaced Department of Immigration and Border Protection with Department of Home Affairs	20 April 2018
6; 10(4)(c)	Updated references and clauses to align with the <i>Enterprise Agreement 2018-2021</i>	27 April 2018
10(3); 12(1); 18(5)(b); 19 (1)-(3)	References to Director, Human Resources changed to Chief Human Resources Officer	27 April 2018
5(1); 6; 7(1)(b); 8(2)(b)(ii); Part 3; 18;	Replaced references to “Temporary workers engaged through a labour hire agency” with “Contingent workers engaged through a labour hire agency”	14 August 2020



18(1); 18(3)(d);		
6	Added the <i>Procurement Policy 2019</i> definition of approved supplier	14 August 2020
	Amended the definition of 'independent contractor's personnel'	
5; 7(1);	Updated references to the <i>University of Sydney (Delegations of Authority) Rule 2020</i>	14 August 2020
2(b)	References to Campus Infrastructure and Services changed to University Infrastructure (UI) and Central Operations services (COS)	14 August 2020
7(1)	Streamlined the description of the workforce engagement categories	14 August 2020
8(2); 14(1); 18	Strengthened the assessment requirements before an individual can be engaged as an independent contractor	14 August 2020
9(1); 12(2)(b); 13; 14(1) and (3); 15(2); 17	Updated references to the <i>Procurement Policy 2019</i> ; the <i>Supplier and Payment Procedures 2019</i> which replaced <i>Accounts Payable Payment Procedures</i> ; and to related Intranet resources	14 August 2020
10(2)(b); 12;	Updated references to Sydney Recruitment to Human Resources Recruitment Operations	14 August 2020
11	Amendments relating to delegation changes	14 August 2020
18	Updated requirements for reviewing existing contingent worker and independent contractor engagements	14 August 2020
3(b)	Updated to current wording	18 May 2022
4(1)(b)	Updated to current wording	18 May 2022
5	Definition of 'affiliate', 'independent contractor' amended; 'approved supplier' changed to 'contracted supplier'. New definitions added for 'services purchase request' and UniBuy'	18 May 2022
5; 11(3)(a)	Updated reference to the <i>Staff and Affiliates Code of Conduct 2021</i>	18 May 2022



6(c); 7(2); 7(3)Note; 8(1)Note; 8(2,3,4); 10(2,3); 14; 15(1) deleted; 16(2); 18(2,3,4); 19(1)	Administrative amendments	18 May 2022
8(2)	Updated reference to <i>Wingara Mura</i> to the <i>One Sydney, Many People Strategy</i>	18 May 2022
9(4)(b)	Updated reference to the <i>Working with Children and Vulnerable Adults Policy 2021</i>	18 May 2022
10(1); Related documents	Updated reference to the <i>Recruitment and Appointment Policy 2021</i>	18 May 2022
10(3)	Updated approval and policy reference for exemptions in accordance with the <i>Recruitment and Appointments Policy 2021</i>	18 May 2022
10(2)(a) and (b)	Added reference to the University's Human Resources Management System	18 May 2022
11(3)(a); Related documents	Updated title to the <i>Staff and Affiliates Code of Conduct 2021</i>	18 May 2022
12(1)	Updated reference to the Request to Engage form with the job requisition in the Human Resources Management System	18 May 2022
12(1) Note; 13; Related documents	Updated reference to the <i>Contingent Labour Hire Procedures 2015</i>	18 May 2022