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

Signature:

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 either:
   (i) employment;
   (ii) engagement through a labour hire agency;
   (iii) contract for service; or
   (iv) 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 labour hire agencies;
      (iii) specified individuals engaged 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;
   (b) construction work and related goods and services which are administered by University Infrastructure (UI) and Central Operations Services (COS).

Note: This work includes construction, alteration, repair, maintenance, extension and demolition. Related goods and services includes project management, architectural services, design, engineering, surveying and quantity surveying.
5 Definitions

affiliate has the meaning provided in the Code of Conduct – Staff and Affiliates. At the date of this policy, that is:

clinical title holders; adjunct, conjoint and honorary appointees; consultants and contractors to the University; holders of offices in University entities, members of Boards of University Foundations, members of University Committees; and any other persons appointed or engaged by the University to perform duties or functions on its behalf.

An affiliate is not an employee of the University.

approved supplier has the meaning given in the Procurement Policy 2019. As at the date of this policy, that is:

means a supplier:

- 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.

contingent worker engaged through a labour hire agency means an individual working at the University on temporary placement under an agreement with a labour hire agency.

Contingent workers are not employees of the University.

delegate means a person or persons holding delegated authority from the Senate, as set out in the University of Sydney (Delegations of Authority) Rule 2020.

employee 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.

Enterprise Agreement means the University of Sydney Enterprise Agreement 2018-2021 or any replacement agreement.

independent contractor means a party engaged directly by the University pursuant to a contract for services. This includes sole traders, companies or partnerships with whom the University enters into an agreement for the provision of specific individuals to supply specific skills, services or consultancy arrangements. It does not include individuals engaged through labour hire agencies. Independent contractors are not employees of the University.

independent contractor’s personnel means individuals specified in the independent contractor agreement. Independent contractor’s personnel are not employees of the University.
labour hire agency means a recruitment agency or labour engagement specialist contracted by the University to provide temporary labour resourcing services.

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 under a contract for services (independent contractors)
   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 features of the relationship using the University’s Labour Based Services Pre-Engagement Decision Tree and, as applicable, the contractor/employee assessment tool.

**Note:** Refer to the information on engaging an independent contractor, the Labour Based Services Pre-Engagement Decision Tree and contractor/employee assessment tool.

(a) If the engagement is assessed to be one of an independent contractor, the individual must be engaged under a contract for services in accordance with Part 4 of this policy.

(b) If the engagement does not qualify as an independent contractor, 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 fact sheet: 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 Code of Conduct – Staff and Affiliates. 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 Wingara Mura objectives 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 2012 and the Work Health and Safety Procedures 2012. All workers must work within the parameters of the University’s Safety Management System and in accordance with Safety Management Standards.

(4) All individuals working at the University must:

(a) either be an Australian citizen or hold, or obtain, 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);
   Note: Refer to the Working with Children Policy 2014.

(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 - EMPLOYMENT

10 Employment: terms of employment

(1) Human Resources manages staff employment.
   (a) Appointment requirements for continuing and fixed term staff are specified in the Recruitment and Selection Policy.
   (b) Appointment requirements for casual staff are specified in the Casual Employment Policy.

(2) Unless an exception is approved under subclause 10(3), all staff recruitment must be:
   (a) initiated through the request to engage approval process; and
   (b) managed by Human Resources Recruitment Operations.

(3) Exceptions to the standard approval processes must be approved by the Provost, or Vice-Principal (Operations) in consultation with the Chief Human Resources Officer.
   Note: A list of pre-approved exceptions is available on the Staff Intranet.

(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 the Enterprise Agreement clauses 24 – 32
(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 the *Enterprise Agreement Part E* 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 **Employment: 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) *Code of Conduct - Staff and Affiliates*

(b) *Outside Earnings of Academic Staff Policy 2011*

(c) *External Interests Policy 2010*

**PART 3 – CONTINGENT WORKERS ENGAGED THROUGH AN APPROVED LABOUR HIRE AGENCY**

12 **Labour hire agencies: 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 and the request to engage approval process.

Note: Refer to the Temporary Labour Hire Procedures 2015 and Request to Engage form.

(2) Individuals must be engaged through labour hire agencies that are University approved 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, 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.

(3) 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 Labour hire agencies: 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 Temporary Labour Hire Procedures 2015

PART 4 – SPECIFIC INDIVIDUALS ENGAGED THROUGH A CONTRACT FOR SERVICES (INDEPENDENT CONTRACTORS)

14 Contract for services: terms of engagement

(1) Unless an exception has been approved by the Chief Finance 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, tender and insurance requirements.

Note: Refer to information on engaging an independent contractor on the Staff Intranet

(2) A purchase order must be created for the engagement and the following documents must be attached to the purchase order:

(a) a standard University Services Agreement which includes the terms of the engagement approved by the relevant delegate;
(b) a copy of the completed contractor/employee assessment showing a contractor relationship;
(c) a copy of the insurance cover specified in the agreement; and
(d) copies of the required quotations.

Note: Refer to UniBuy Procurement Procedures 2019.

(3) 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.

(4) The Office of General Counsel must approve any non-standard agreement, or any proposed variation to a standard agreement, in consultation with Procurement Services.

(5) The manager or project officer specified in the Services Agreement must monitor performance against agreed outcomes during the engagement.

15 Contract for services: payments

(1) Invoices must be validated against the approved purchase order and must comply with the terms in the relevant University Services Agreement.

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

PART 5 – VOLUNTEERS

16 Volunteers: 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 volunteers to be issued with a letter which acknowledges and defines their role and sets out their responsibilities to the University and the University’s responsibilities and obligations to them. The letter must specify performance expectations and provide information about terminating the relationship where performance or other responsibilities are not being adequately met.

Note: See Affiliates Policy. Refer to information on Affiliates and the Volunteer Letter Template.
17 Volunteers: 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 – REVIEWING EXISTING ARRANGEMENTS

18 Reviewing contingent worker and independent contractor engagements

(1) The relevant delegate must initiate a review of the University’s engagement of a contingent work 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(2), the outcome of the review must be one of the following:

(a) 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) cease the engagement if the requirement no longer exists;

(c) enter into an employment relationship in accordance with Part 2;

(d) enter into an engagement as a contingent worker through a labour hire agency in accordance with clauses Part 3; or

(e) enter into a new contract for service in accordance with Part 4.

(4) Where, in the opinion of Human Resources or Procurement Services staff, an engagement or proposed engagement does not comply with University policy they must refer the matter to:

(a) the relevant delegate; or

(b) as necessary the:

   (i) Chief Human Resources Officer; or

   (ii) Chief Procurement Officer.
PART 7 – ADMINISTRATION

19 Procedures

(1) The Chief Human Resources Officer is the principal administrator of this policy and the Chief Financial Officer is the administrator of Parts 4 and 6 of this policy. Formal policy reviews are the responsibility of, and must be initiated by, both jointly.

(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
Administrator: Chief Human Resources Officer; Chief Financial Officer
Review date: 27 January 2021
Related documents:

Child Protection (Working with Children) Act 2012 (NSW)
Work Health and Safety Act 2011 (NSW)
University of Sydney (Delegations of Authority) Rule 2020
University of Sydney Enterprise Agreement 2018-2021
Affiliates Policy
Casual Employment Policy
Code of Conduct - Staff and Affiliates
External Interests Policy 2010
Honorary Titles Policy 2013
Outside Earnings of Academic Staff Policy 2011
AMENDMENT HISTORY

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<td>6; 7(1); related documents</td>
<td>Updating references to University of Sydney (Delegations of Authority – Administrative Delegations) Rule 2016</td>
<td>6 June 2017</td>
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<td>6; 11(2)</td>
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<td>12(1) note; 14(1) note</td>
<td>Updated references to new Request to Engage Form</td>
<td>6 June 2017</td>
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<td>9(4)(a)</td>
<td>Replace Department of Immigration and Border Protection with Department of Home Affairs</td>
<td>20 April 2018</td>
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<td>6; 10(4)(c)</td>
<td>Updated references and clauses to align with the Enterprise Agreement 2018-2021</td>
<td>27 April 2018</td>
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<tr>
<td>10(3); 12(1); 18(5)(b); 19 (1)-(3)</td>
<td>References to Director, Human Resources changed to Chief Human Resources Officer</td>
<td>27 April 2018</td>
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<tr>
<td>5(1); 6; 7(1)(b); 8(2)(b)(ii); Part 3; 18;</td>
<td>Replaced references to Temporary workers engaged through a labour hire agency with contingent workers engaged through a labour hire agency</td>
<td>14 August 2020</td>
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<td>18(1); 18(3)(d);</td>
<td>Added the <em>Procurement Policy 2019</em> definition of approved supplier. Amended the definition of 'independent contractor's personnel'.</td>
<td>14 August 2020</td>
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<td>6</td>
<td>Updated references to the <em>University of Sydney (Delegations of Authority) Rule 2020</em></td>
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<td>5; 7(1);</td>
<td>References to Campus Infrastructure and Services changed to University Infrastructure (UI) and Central Operations services (COS).</td>
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<tr>
<td>2(b)</td>
<td>Streamlined the description of the workforce engagement categories.</td>
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<td>8(2); 14(1); 18</td>
<td>Strengthen the assessment requirements before an individual can be engaged as an independent contractor.</td>
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<td>9(1); 12(2)(b); 13; 14(1) and (3); 15(2); 17</td>
<td>Updated references to the <em>Procurement Policy 2019</em>; the <em>Supplier and Payment Procedures 2019</em> replaced <em>Accounts Payable Payment Procedures</em>; and to related intranet resources</td>
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<td>10(2)(b); 12;</td>
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<td>11</td>
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