

Engagement of Consultants Procedure

1. Introduction

This procedure is designed to guide you through the key steps to follow when raising a consultancy contract. This procedure should be read in conjunction with the Engagement of Consultants Policy.

2. Contract tendering

Contract value between £5,000 and £50,000

For consultancy contracts with an estimated value of between £5,000 and £50,000 you must either follow a formal tendering process or obtain at least three written quotations. Where it is deemed unfeasible to follow either a formal tendering process or obtain at least three written quotations, a formal case must be made to the Head of Unit who will be required to formally approve any variation from normal process, clearly documenting the rationale for this variation.

The reasons for variation of the process are likely to be limited but may include cases where there is only one supplier or a genuine objective reason for expediency.

Once approval from Head of Unit is received, the Authorisation to Hire (Consultancy) should be sent to the Resourcing Hub along with the business case for review.

Contract value less than £5,000

For consultancy contracts with an estimated value of less than £5,000, it is not necessary to formally tender or obtain at least three written quotations. The Head of Unit (or authorised delegate) must, however, be satisfied that any proposed contract represents value for money and best meets the needs of the unit.

Overseas contracts

For consultancy contracts where the work is to be carried out overseas, all requests should be sent to People-Services-Policy@open.ac.uk.

3. Process for appointing external consultants

Stage 1

Complete the Authorisation to Hire (Consultancy), available from the People Services Intranet.

N.B. Do not make any informal offers prior to this as these may be considered a contract in the event of a dispute arising.

Attach a comprehensive list of services to be provided by the consultant to the contract. This list and any timescales will form part of the contract.

When completing the form, answer the questions fully to prevent delays.

Stage 2

The request form must be signed by an authorised signatory within the unit. The Unit must determine the tax/VAT status of the proposed contract by using the HMRC online Employment Status Service (ESS) tool at this link:

<http://tools.hmrc.gov.uk/esi/screen/ESI/en-GB/summary?user=guest>

If a consultant is likely to have tax and N.I. deducted at source, then they may be considered a worker. In these instances, the documents that show they are eligible to work in the UK must be asked for, verified, copied and retained, following the guidance in the Right to Work Procedures, before they are allowed to start work. Consultants who are currently working for the University or who have worked for the University in another capacity in the last six years may already have a valid Right to Work check in place. The Resourcing Hub will check the Right to Work system to determine whether a previous check was recorded and remains valid. Where this is the case, documents do not need to be re-checked. See the Right to Work System User Guides for further information.

Stage 3

A consultancy contract should be drawn up by the Unit.

Stage 4

The consultancy contract together with the 'Information Leaflet' relating to tax, National Insurance, VAT and expenses (if applicable) should be sent to the proposed consultant. If expenses are included in the consultancy contract, a 'Payment Release Form' should also be sent to the consultant.

The contract will not be accepted until a signed copy has been returned by the consultant to the Staff Payments Office in Finance and Business Services and that acceptance has been recorded on the Devcorn system. Until this has happened no payment can be authorised.

Stage 5

The consultant should not commence the provision of services under the contract until the signed consultancy contract has been received by the University. Details of consultancy contract acceptances are available on the Warnings, Errors and Exceptions Delivery (WEED) system, details of which are in the 'Procedures for Accessing WEED' available on the People Services Intranet. It is the responsibility of the Unit to release the payment using the Devcorn system on completion of the services, or at each payment stage.

Stage 6

On completion of a consultancy contract, a record of the consultant's performance should be kept in the unit for future reference.

4. The process for issuing consultancy contracts to OU staff

Step 1

The authorised Manager should complete the 'OU Staff Consultancy Request Form', available on the People Services Intranet.

Step 2

The authorised Manager should arrange for the form to be signed by the member of staff who will undertake the consultancy work and signed by the Head of Unit to authorise the request. Before the request is authorised, the Resourcing Hub will check the Right to Work system to determine whether the member of staff has a valid Right to Work check recorded and whether there are any restrictions on their permission to be in the UK and/or on the type/amount of work they can undertake. Any issues must be resolved and documents checked and verified **before** the individual is allowed to undertake the work. See the Right to Work Procedures and Right to Work System User Guides for further information.

Step 3

The authorised Manager should then forward the form to the Resourcing Hub.

Step 4

The Resourcing Hub will approve the request on behalf of the University Secretary and issue the consultancy contract.

The list below sets out the consultancy work which may be carried out by Open University (OU) academic staff.

PAYMENT NOT ALLOWED BY THE OU	PAYMENT ALLOWED BY THE OU
Drafting study units or other OU modules	Feasibility studies for external bodies
Reading and commenting on modules and other OU study material	Materials preparation for external unit's bodies
Developmentally testing OU study material	Consultancy advice/reports for external bodies
Advising on OU module plans or study materials	Research and/or development contracts for external bodies
Undertaking feasibility or other studies for OU modules or study materials	Teaching for external bodies
Work related to module presentation	
Adaptation of OU study materials for external bodies including OU worldwide Ltd, including writing assessment material	
Any research or project work internal to the OU which would normally be covered by study leave	
Work undertaken in relation to OU validated provision	
Moderating and monitoring duties	

5. Payment information

- Consultants' fees will be subject to tax and national insurance deductions at source (see point 3 below for exceptions).
- Self employed consultants must follow the procedures set out in the information leaflet which accompanies their contract offer in order for gross payments to be made to them by the University. The University has a statutory obligation to report all payments made gross to self employed persons to HM Revenue & Customs.
- Allow for an additional 12% National Insurance charge when budgeting for consultants' costs. (The actual charge will depend on the consultant's total earnings from the University in the pay period. The Staff Payments Office can advise further on this). The 12% NI charge will not apply to those categories of consultants where gross payments are made, i.e:
 - i. freelance editors, proof readers and indexers, illustrators, cartoonists and sound and vision specialists where the Employment Status Service (ESS) tool has indicated self-employment;

- ii. where the fee is below the Earnings Threshold for National Insurance contributions.
- Do not include employer's National Insurance contributions in the 'proposed fee' on the form.

5.1 Level of payment

- (i) Staff members engaged on consultancy work for an outside body on behalf of the University may receive additional payment, provided that such payments are met in full by the terms of the contract.
- (ii) The rate of payment is determined by the University Secretary or delegated representative, who considers the nature of the work, the time involved and the rate which the contractor proposes.
- (iii) The following conditions must be satisfied:
 - All associated costs must be included in the contracts.
 - 40% allocation to overheads must be included in the contracts.
 - The rate does not exceed the maximum as outlined in the published 'Consultancy Rates'. Exceptions to this must be approved by the Deputy Group People Director.
 - Conditions surrounding level of payment as outlined in Payment Information above apply.

5.2 Reimbursement

The approved consultancy rates for authoring and assessing are revised annually in line with inflation. The 'Consultancy Rates' are published on the People Services Intranet.

The published rates should also be used as a guide for payment for other external consultants.

5.3 Expense payment

A maximum of 10% of a consultancy fee may be used to pay for incidental expenses for example photocopying, telephone, postage but not typing which is the consultant's responsibility.

Consultants' travel expenses may be paid in addition to normal fees at the OU's normal mileage rate. Where other travel is undertaken (e.g. taxi, rail, air etc) or where substantive or overnight accommodation is required, receipts

must be provided in support of any claims. In such cases prior approval for such expenditure must be obtained.

6. Consultancy payments for University staff during maternity/ adoption leave

Where a member of staff undertakes consultancy work for the University (i.e. work outside of their contract of employment) during their maternity or adoption leave period, they will lose the right to receive any SMP/SAP which would have been payable in relation to the week(s) in which the work was undertaken. This will not affect any entitlement to contractual maternity or adoption pay under the University's maternity or adoption leave schemes. If the work is undertaken in one of the first 6 weeks of maternity or adoption leave (when SMP/SAP is payable at a higher rate), this period will be extended so that the individual still receives 6 weeks of SMP/SAP at the higher rate. The overall duration of the statutory maternity/adoption pay period will not be extended. A Keeping In Touch (KIT) day cannot be used to undertake the consultancy work.

Members of staff responsible for engaging consultants should highlight the implications, where applicable, before the work is agreed.

7. Useful references

Engagement of Consultants Policy

Right to Work Procedures

Authorisation to Hire (Consultancy)

Consultancy Appointment Form for OU Staff

Consultancy Rates

Additional Duties Contract Rates

[Information Leaflet for Consultants](#) (available on the Finance and Business Services Intranet)