

CONTRACTS: Dotting the i's and crossing the t's.



What is a contract?

A contract is a legally binding agreement—a promise to do something. The Contracts Team at Manchester deal with a variety of agreements, most notably research contracts which define the share of technical, commercial and economic risks of each party, the funding body's expectations from the University/academic staff/researcher/student and the University's expectations from the funding body by defining the normal performance required from each party to the contract.

Why are contracts required?

Contracts safeguard a party by setting out the details under negotiation - the work scope, time, costs, dispute resolution etc.

As contracts are legally binding agreements, this prevents either party from altering the agreed details without another's consent.

A contract should demonstrate compliance with statutory provisions which the University is subject to.

*"An ounce of prevention is worth a pound of cure."
(Benjamin Franklin)*

Types of contracts (non-exhaustive)

Research Contract – see earlier definition.

CDA—allow for open discussions and disclosures to take place under conditions of confidentiality.

MTA—outlines the restrictions for the transfer of materials e.g. liability for usage, publication, ownership of the material.

Consultancy Agreement – a consultant with specialist knowledge provides services to another party.

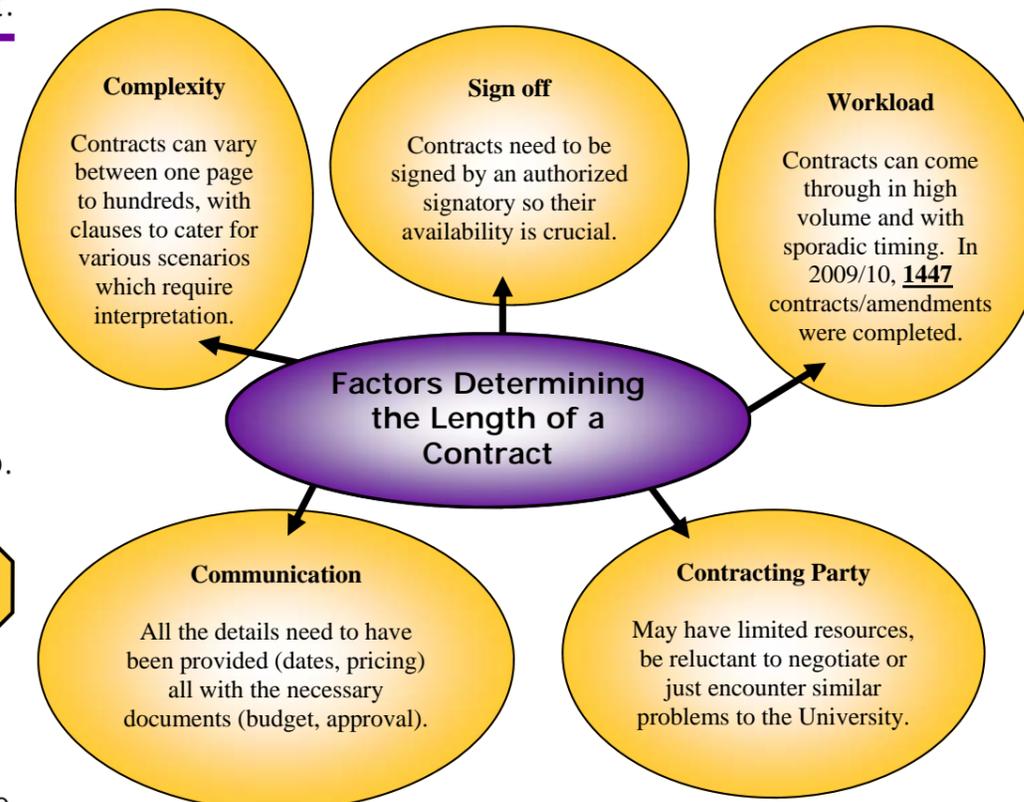
Studentship Agreement – the sponsorship of a student's studies by an organisation outside of the University.

KTA – to facilitate collaboration with other parties, allowing activities that demonstrate practical application and knowledge-base expansion to take place.

Memorandum of Understanding – expresses an intention on a certain line of action without being legally binding.

Donation – a gift by a legal entity to another to cause a benefit, without consideration returned to the donor.

Grant – financial assistance from government funded organizations for specified purposes.



Common points of negotiation

Indemnity – the compensation to a party due to loss they suffer as a result of breach of contract. This could be beneficial to the University as a form of insurance for incomplete work for example, but could also pose a risk as fault need not be assessed so if the University is found liable the compensation may not be limited.

Intellectual Property – creations of the mind which are recognised as being worthy of protection. Unexpected and varied types of IP may arise from research, and a contract should cater for the protection of a potentially valuable asset.



Confidentiality – allows for a party's information to remain private. A contract can govern how this best be accomplished and for instances where it may be unnecessary.

Governing law – the legal jurisdiction of litigation. Disputes can prove even more difficult if the governing law is from an unfamiliar country with different legal procedures and politics.

The process at Manchester

Pre-contractual

- The pre-contractual process should be completed at School level, from initial contact with a contractor to the approval and costings.

The contract

- There will either be the drafting of a contract based on University templates or the review of the contractors terms and conditions.
- The Contracts Team will negotiate to ensure greatest benefit and minimal risk within the contract.

Following agreement

- Upon agreement of the terms and conditions, the contract is recommended for signing by both parties.
- Following completion, the contract is indexed on RMS, with any Oracle stages arranged at School level.

The team at Manchester (2011)

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