

Policy Redesign Project

All policies and procedures are being reviewed as part of this project. This document is pending review, but remains in effect until the review is carried out.

Independent Contractors Policy

Establishment: Council, 23 April 2009

Last Amended: Vice-President (Corporate Services), 8 September 2016

Nature of Amendment: Amendments to simplify and put into new policy/procedure templates; new subclause 5.1.3 included consequential to the establishment of the Child Safe Environment Procedures

Date Last Reviewed: August 2016

Responsible Officer: Director, Human Resources

1. Purpose

1.1 The *Independent Contractors Act 2006* in conjunction with the *Fair Work Act 2009* protects the rights and entitlements of independent contractors.

1.2 Independent contractors are capable of making important contributions to the University in terms of flexibility in the way services are provided. The purpose of this policy is to:

- outline the University's requirements for the engagement of independent contractors
- assist University staff to avoid the risks associated with entering into an improper arrangement with an independent contractor.

2. Scope

This policy applies principally to the engagement of individuals as independent contractors to provide services or specialised skills and expertise that are not readily capable of being provided by existing employees. The requirements of this policy also apply when contracting with companies and partnerships.

3. Definitions

An **independent contractor arrangement (contract for services)** between the University and an external service provider (an individual, company or partnership) exists where the service provider is engaged for the purpose of providing an agreed deliverable to the University and the associated work will be performed in a way that is characteristic of an independent contractor rather than an employee, as set out in the [Guidelines](#).

4. Policy Statement

4.1 An independent contractor arrangement will be subject to:

- the service provider holding a current Australian Business Number (ABN) or Australian Company Number (ACN); and
- satisfactory completion of the University's [Independent Contractor Services Agreement](#).

4.2 The service provider in an independent contractor arrangement must meet a majority of the characteristics of an independent contractor as outlined in the accompanying [Procedures](#). If these characteristics are not present in the case of an individual (sole trader), the intended relationship might be more indicative of an employment relationship.

4.3 An independent contractor who will be undertaking work on University premises is required to be a Flinders University Registered Contractor.

4.4 The University will not normally engage individuals as independent contractors, irrespective of whether the individual holds an ABN, in the case of:

- individuals undertaking teaching and related academic duties that form part of the normal academic activities of the University
- existing employees

5. Responsibilities

5.1 The responsible officer, in committing to an Independent Contractor Agreement on behalf of the University, must:

5.1.1 be satisfied that the service provider is not capable of being deemed as an employee, with the attendant financial risk to the University arising from liability associated with superannuation guarantee, payroll tax and employee entitlements;

5.1.2 give consideration to any associated actual or potential risks to the University in accordance with the [Policy on Delegation of Authority to Enter into Contracts](#) and manage any such risk in accordance with the University's [Risk Management Policy](#);

5.1.3 ensure that where prescribed function(s) are to be undertaken pursuant to the Children's Protection Act 1993 (SA), the service provider supplies evidence that relevant personnel have valid clearances to work with children;

5.1.4 give proper consideration to the appropriate level of access to University information and systems that an independent contractor may be granted;

5.1.5 ensure that an independent contractor who will be undertaking work on University premises is University registered (clause 4.3).

6. Supporting Procedures and/or Guidelines

[Independent Contractors: Procedures](#)

[Independent Contractors: Guidelines](#)