

## Principles & Practices Governing All Contractual Arrangements

First Produced:	13/9/95	Authorisation:	Te Kāhui Manukura
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Review Cycle:	5 year cycle		
Applies From:	Immediately		

### 1 Introduction

#### 1.1 Purpose

The purpose of this policy is to ensure that all contracts, partnerships, sponsorships, and similar agreements (other than enrolments, employment contracts, and routine orders) between Ara Institute of Canterbury <sup>1</sup>and other bodies are in Ara Institute of Canterbury's best interests, are clearly stated, legally authorised and safely recorded.

This includes contracts and agreements related to course/programme development and/or delivery.

#### 1.2 Scope and Application

- a This policy applies to all contracts, memoranda of understanding, consortia, sponsorships, agreements, and leases (other than those listed in 1.2b) for the supply of goods and services by Ara to other parties, or by other parties to Ara. Contracts may include agreements related to any of the following:
  - i to develop, deliver and/or award courses/programmes, with or on behalf of any other body/organisation
  - ii to sub-contract development and/or delivery to another organisation on behalf of Ara
  - iii to provide goods or services
  - iv to obtain goods or services
  - v to express a mutually beneficial arrangement
  - vi to enter into a sponsorship or other partnership arrangement
  - vii to set up student work experience/internships
  - viii to lease or sublease facilities or equipment.
- b This policy does not apply to enrolments of individual students, individual or collective employment contracts, or routine orders for the supply of goods and services on normal commercial terms.
- c It relates primarily to NZQA Quality Assurance System Question 6.

<sup>1</sup> From herein referred to as Ara

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### 1.3 Formal Delegations

- a The CFO has delegated responsibility to approve the final 'sign off' of all contracts/agreements covered by this policy. In his/her absence, authority is delegated to a specified person or persons nominated by the CFO.
- b Refer 3.2 and 3.3 for responsibilities held by specified senior managers.

### 1.4 Definitions

- a **Contract:** Formal or legal agreement between two or more people or parties. Note that a contract may be binding even if not recorded formally in writing. Contracts may also be referred to in other terms, e.g. 'memorandum of understanding', 'agreement or heads of agreement', 'lease', 'heads of settlement', 'memorandum of undertaking', or 'consortium'.
- b **Common Seal:** Official seal of the Ara Council, as required by s167 of the Education Act 1989 and as provided in Ara Council Standing Order 4.5.

<p><b>Related Ara Procedures</b>(indicate if attached to policy or where they can be found)</p> <ul style="list-style-type: none"> <li>•</li> </ul>	<p><b>Related Ara Policies</b></p> <ul style="list-style-type: none"> <li>• Financial Delegations</li> <li>• Disclosure &amp; Conflict of Interest</li> <li>• Purchasing &amp; Disposal</li> <li>• HR Management</li> <li>• Staff Contracted to External Consultancy Projects</li> <li>• Programme Design, Development and Approval of Programmes</li> <li>• Educational Partnerships, Articulation &amp; Other Relationships</li> </ul>
<p><b>Related Legislation or Other Documentation</b></p> <ul style="list-style-type: none"> <li>• Checklists and templates for contracts, available from CFO or Financial Accountant</li> <li>• Programme Design, Development and Approval Guidelines: (contact the relevant Academic Division staff)</li> <li>• Work Integrated Checklist (available from Academic Division)</li> </ul>	<p><b>Good Practice Guidelines</b>(indicate if attached to policy or where they can be found)</p> <ul style="list-style-type: none"> <li>•</li> </ul>
<p><b>References</b></p> <ul style="list-style-type: none"> <li>•</li> </ul>	
<p><b>Notes</b></p>	

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## 2 Principles

- 2.1 The development and negotiation of all contracts/other agreements that commit Ara to any contractual arrangements (including course or programme development, delivery and/or awarding qualifications) are required to address the stated criteria and checked to ensure all internal and external standards are met.
- 2.2 Contracts are drafted in consultation with or by the relevant senior manager using standard formats.
- 2.3 All contracts are developed and presented in a consistent format and to the stated criteria to ensure that Ara does not enter into any contractual arrangements that would be inconsistent with its objectives or put Ara at undue risk.
- 2.4 All contractual arrangements require prior approval and authorisation by a senior manager, currently the CFO, who has delegated authority to ensure compliance with this policy and is responsible for checking that the relevant criteria and internal/external requirements are met.

## 3 Associated Procedures for Ara Academic & Corporate Policy on: Principles & Practices Governing All Contractual Arrangements

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<b>Contents:</b>	3.1	Criteria for Evaluation of Contracts/Other Agreements
	3.2	Negotiating, Tendering and Drafting Contracts/Other Agreements
	3.3	Vetting, Checking and Approving Contracts/Other Agreements
	3.4	Final 'Sign Off' and Sealing
	3.5	Recording and Storing
	3.6	Reviewing

### 3.1 Criteria for Evaluation of Contracts/Other Agreements

Contracts, partnerships, sponsorships, and other agreements under consideration are measured against the following criteria:

- a Alignment with Ara Investment Plan, business plans and partnership with Te Runanga o Ngai Tahu.
- b Compliance with NZ law and relevant external requirements (e.g. programme approval).
- c Financial viability and market forces.
- d Immediate and future benefits (financial or other) for Ara.
- e Immediate and future financial impact and obligations.
- f Levels of risk (financial and/or other).
- g Ara Institute of Canterbury's and the other party/parties' reputation, business practices, and quality systems.
- h Real or potential conflict(s) of interest.

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### **3.2 Negotiating, Tendering and Drafting Contracts/Other Agreements**

- a All contracts to which this policy applies must be drafted in consultation with or by the relevant senior manager, using the standard formats and checklist for contracts.
- b The CFO must be notified of all contractual negotiations in progress, and is responsible for ensuring the criteria covered in 3.1 are considered. The CFO may also be involved in the contract negotiation process.
- c The CFO must be consulted when determining costs and prices for goods and services to be included in tenders and contracts prior to this being discussed with the other party.
- d The Academic Director, as well as the relevant academic managers, must be consulted if the proposed contract/agreement contains any course or programme development, delivery and/or joint awarding of a qualification. This is to ensure that all internal and external requirements are considered at the initial stage(s).
- e The International Director must be consulted if the contract/agreement contains any international components.
- f The Facilities Manager must be consulted if any acquisition or disposal of owned or leased land or plant is involved.

### **3.3 Vetting, Checking and Approving Contracts/Other Agreements**

- a The requirements set out in 3.1 and 3.2 must be considered during the vetting, checking and approving stages.
- b The standard contract format (contact Finance Division for advice) and checklist must be used when drafting contracts.
- c All contracts/other agreements must be approved by the senior manager responsible for performance or delivery under the terms of the contract, in consultation with others (see 3.2 d - f).
- d Some contracts will require Council, Academic Board, and/or Executive approval, and may also be subject to external approval (e.g. some educational contracts require NZQA and/or Tertiary Education Commission approval). Requirements are to be checked with the appropriate manager(s) set out in 3.2 before finalising the contract.

### **3.4 Final 'Sign Off' and Sealing**

- a All contracts/other agreements ready to be signed or have the Common Seal affixed must be forwarded to the CFO, with the completed Checklist and Record, for a final check before the contract is signed. The CFO will approve the contract to proceed, based on evidence that all relevant people have been consulted, all requirements are met, and all aspects of the contract are acceptable.
- b Note that educational related contracts/agreements must also include evidence of approval by the Academic Board and/or the relevant academic managers where applicable.
- c All contracts that require affixing the common seal must be presented to the Chief Executive or the Council Secretary for signing and sealing.

### **3.5 Recording and Storing**

- a The original or a signed copy of all contracts/documents are to be forwarded to the Finance Division for safekeeping.

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- b A copy of the contract will be scanned into the Executive electronic file system for additional safety.
- c The division overseeing the delivery of the contract is also expected to retain a copy of the contract.

### **3.6 Reviewing**

All contracts of a greater duration than one year must contain a provision for review, including a date by which the review is to be completed, and by whom.

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