

## EI CONTRACTS/ERO CONTRACTS/LEGAL SERVICES/ROSLIN LEGAL TEAM

### ALLOCATION OF RESPONSIBILITY FOR ADVISING RE LEGAL AND CONTRACTUAL WORK

#### Introduction

This document aims to set out the various types of legal and contracting work which arise in the University and which team within the University is responsible for giving the advice for the work type in question.

In summary:

Type of work	Team	Email
Research Grant related and research contracts relating to philanthropic donations	ERO Contracts (shorthand for the contracts specialists in ERO's Research Contracts, Governance & Integrity team - RCGI)	<a href="mailto:ERO.Contracts@ed.ac.uk">ERO.Contracts@ed.ac.uk</a>
Industry related* <ul style="list-style-type: none"><li>• Amendments</li><li>• CDAs</li><li>• Consultancy</li><li>• IAAs</li><li>• PhD studentships</li></ul>	EI Contracts (shorthand for the contracts specialists based in Edinburgh Innovations)	<a href="mailto:EI.Contracts@ei.ed.ac.uk">EI.Contracts@ei.ed.ac.uk</a>
Other industry related* contracts	Legal Services	<a href="mailto:legalservices@ed.ac.uk">legalservices@ed.ac.uk</a>
All of the above activity where the lead PI is based at the Roslin Institute (including all individuals listed here, who are based in the Vet School but are viewed as being a division of the Roslin Institute: <a href="https://www.ed.ac.uk/roslin/people/clinical-sciences">https://www.ed.ac.uk/roslin/people/clinical-sciences</a> )	Roslin Legal Team	<a href="mailto:EBCampusLegal@ed.ac.uk">EBCampusLegal@ed.ac.uk</a>

\*"industry related" includes industry engagement, business development, enterprise support for the University, identification, management and commercialisation of University IP and the University's investment in technology-related companies.

<u>Work Type</u>	<u>Responsibility</u>	<u>Comment</u>
Accelerators and Incubators	Legal Services (supporting EI Enterprise Services)	<i>Incubators and accelerators are a recognised method of assisting spin-out or start-up businesses. They generally involve the University receiving funding so as to be able to provide spaces, desks, IT and other resources to the businesses. Legal Services will negotiate the overarching Accelerator Agreement with the funder and the development of the associated templates (such as occupancy agreements) and EI Enterprise Services will deal with the individual arrangements with the businesses using the agreed templates</i>
Amendments and variations to existing industry related agreements	EI Contracts	<i>This is to cover straightforward amendments to industry related agreements e.g. no cost extensions or extensions/amendments to industry related PhD studentship agreements. Amendments to research grant agreements (e.g. subcontracts already handled by ERO Contracts) remain the responsibility of ERO Contracts</i>
Clinical Trial/Study – UoE Sponsor	ERO Contracts	<i>Generally speaking clinical studies and trials and related agreements are dealt with by ERO Contracts</i>
Clinical Trial/Study – UoE Not Sponsor <ul style="list-style-type: none"> <li>• Academic and non-commercial cases</li> <li>• industrial collaboration / engagement is involved</li> </ul>	ERO Contracts  Legal Services	<i>This is an activity where responsibilities can change at the margins and in cases of doubt reference should be made to the guiding rationales at the end of this table. E.g. it can be the case that a company is involved in a trial/study which has research as its fundamental aim and in these cases ERO Contracts would have primary responsibility.  Irrespective of this, ERO Contracts would always be involved in the preparation of the necessary co-sponsorship, site agreements, etc.  The ACCORD SOPs indicate that ERO Contracts will lead the clinical trial contracting activities engaging with Legal Services &amp; EI Contracts as required, and ensuring that the kick-off meeting allocates responsibilities clearly between different teams.</i>
Confidentiality agreements with companies and businesses, which are industry related	EI Contracts	
Confidentiality agreements relating to research, where no commercial party	ERO Contracts	<i>ERO Contracts to inform relevant BD/EI Account Team about CDAs with non-commercial entities which are however in connection with commercialisation.</i>

<u>Work Type</u>	<u>Responsibility</u>	<u>Comment</u>
Other confidentiality agreements – e.g. for an academic collaboration	Legal Services	
Consultancy	EI Contracts	<i>First port of call: relevant EI Account Team, which deals with the day-to-day matters using agreed templates.</i>
Contract Dispute	Legal Services	
Contract Research - see “ <i>Research – contract research</i> ” below		
Data Transfer/Sharing – both incoming and outgoing	ERO Contracts EI Contracts Legal Services Legal Services	<i>Agreements relating to the transfer /sharing of data for research purposes are the responsibility of ERO Contracts.            Agreements relating to transfer/sharing of data for industry related agreements with which EI Contracts is dealing            Agreements relating to transfer/sharing of data for industry related agreements with which Legal Services is dealing            Agreements concerning education; non-research contracts involving data protection matters (e.g. UoE procuring new IT systems which use data); framework agreements and and information security issues are the responsibility of Legal Services.</i>
Data transfer / sharing – outgoing for commercial use – e.g. as a method of exploiting the data concerned	Legal Services (supporting EI Enterprise Services)	<i>If the underlying arrangement is about ‘testing’ the data to see if it is suitable for a proposed use, the more appropriate agreement may be an evaluation licence, which should be referred to EI Enterprise Services</i>
Data Protection Law matters	Legal Services	
EC funded research including <ul style="list-style-type: none"> <li>• Research Collaborations – both where UoE is the Lead and not the Lead</li> <li>• Marie Curie funding</li> <li>• IMI funding</li> <li>• ERC funding</li> </ul>	ERO Contracts	

<u>Work Type</u>	<u>Responsibility</u>	<u>Comment</u>
Education	Legal Services	<i>The University enters into many collaborative or other contractual arrangements for the delivery of education. Legal Services deal with all of these. Agreements relating to Centres for Doctoral Training (CDTs) are a mixture of education and research and are also dealt with by Legal Services. The associated internships for the students' work experience which are industry related studentships are dealt with by EI Contracts.</i>
EI's own business	EI Contracts to be first point of contact – referring on to Legal Services as appropriate	<i>Where EI itself is entering into contractual arrangements – e.g. hiring consultants to assist its activities, acquiring software for its own use, entering into contracts with, say, patent agents</i>
Equipment/Facility Agreements – Outgoing/Service/Hire – associated with EI's role in relation to consultancy and service arrangements with paying customers	EI Contracts	<i>It is the intention that EI Contracts will be responsible for this work type where the underlying transaction involves EI providing UoE equipment, or services using UoE equipment, or access to UoE facilities, to external customers for payment. This is associated with EI's consultancy services and the first port of call is the relevant EI Account Team.</i>  <i>Occasionally equipment agreements are needed when researchers need access to equipment for their research or they are sharing their equipment with other researchers. In these cases EI Contracts should pass the instruction on to ERO Contracts</i>
Freedom of Information law matters	Legal Services	
General Legal Advice outwith the other categories of work types in this table	Legal Services	
Heads of Terms/ Heads of Agreement for commercial deals in the area of industrial liaison	EI's Account Teams (business development executives) – supported by Legal Services	<i>These documents generally set out the commercial deal negotiated between the parties and are the responsibility of the executives negotiating these deals. If legal questions arise they should be referred to the team which would deal with the subsequent agreement – most likely Legal Services who would be dealing with the subsequent industry collaboration or technology licence, but may be ERO Contracts for research grants.</i>

<u>Work Type</u>	<u>Responsibility</u>	<u>Comment</u>
Heads of Terms / Heads of Agreement in advance of a research grant with non-commercial funder	ERO Contracts	
Impact Acceleration Account (IAA) matters	EI Contracts	<i>Impact Acceleration Account funded projects involve standard contracts where EI is administering a pot of money awarded to the University by a grant funder, in connection with its industrial liaison role, and to be distributed amongst researchers who have applied to IAA for a relatively small amount of funding for a relatively small project.</i>
Internships	EI Contracts	<i>These are generally the equivalent of a short studentship. They often arise in the context of Centres for Doctoral Training.</i>
Investment matters connected with spin-out companies	Legal Services	
IP Transfer – outgoing – but not including Student Assignations for which see below under “Student Assignations”	Legal Services (supporting EI Enterprise Services)	<i>The Enterprise Services Team deals with the day-to-day matters using its own templates. Where there are queries these are referred to the Legal Services team</i>
IP Transfer – incoming	Legal Services	
IP Infringement	Legal Services	<i>This can arise in the context of using images, photos and other works belonging to third parties. Sometimes the University’s Scholarly Communications Team helps with these matters.</i>
Mergers	Legal Services	
Miscellaneous IP Query outwith the other categories of work types in this table	Legal Services	

<u>Work Type</u>	<u>Responsibility</u>	<u>Comment</u>
Material Transfer Agreements (MTAs) – both incoming and outgoing for academic use	ERO Contracts	<i>See row below for where the transfer of materials is to a business for evaluation and/or commercial use.</i>
Material Transfer Agreements (MTAs) – outgoing for commercial use	Legal Services (supporting EI Enterprise Services)	<i>If the underlying arrangement is about ‘evaluating’ the material to see if it is suitable for a proposed use, the more appropriate agreement may be an evaluation licence, which should be referred to EI Enterprise Services. Where MTAs involve the granting of IP rights to a third party, for commercial use, EI Enterprise Services should be notified.</i>
MoUs	EI Contracts, ERO Contracts and Legal Services	<i>“MoU” is a widely used term covering a broad range of agreements from simple documents of only a few pages – which are generally non-binding – to much more complicated agreements involving significant expenditure and strategic University activities. Generally speaking EI Contracts should deal with straightforward MoUs in its domain (industry related), ERO Contracts should deal with these for research and Legal Services should deal with the rest.</i>
Novation Agreements – as part of a grant transfer (See Transfer of Grant below)	ERO Contracts	<i>In the context of the University these arise when researchers transfer employment from one university to another. Generally speaking, grants are terminated at the old university and the unspent balance of the grant is covered by a new grant to the new university. But there can be agreements with commercial bodies and the practice in HE is for the new university to novate these types of agreements to it and to agree the terms of the novation agreement with the other university and the third party commercial company involved.</i>
Novation Agreements as standalone arrangements and not part of a grant transfer	Legal Services	
Other one-off arrangements	Legal Services	
Procurement matters	Legal Services	<i>Legal Services assists the University’s Procurement Office with contracts for the purchase of goods, services and works. Occasionally ERO Contracts may be involved (eg in connection with drug supply arrangements for a clinical trial).</i>

<u>Work Type</u>	<u>Responsibility</u>	<u>Comment</u>
Publishing Agreements	Academics themselves with assistance from the Scholarly Communications Team ('SCT') <a href="mailto:scholcomms@ed.ac.uk">scholcomms@ed.ac.uk</a>	<i>In UoE – along with other research intensive universities – academics own the copyright in their journal articles and books and accordingly deal with these matters in their personal capacities. The SCT has significant experience is dealing with these and is often willing to assist academics.</i>
Publication queries	Legal Services	<i>These often relate to authorship disputes</i>
Research Collaboration – Academic – grant funded	ERO Contracts	<i>These collaborations can sometimes involve incidental industry arrangements – e.g. where a company supplies data, materials or other resources needed for grant funded research; or where a company is subcontracted to perform service work for a research grant.</i>
Research Collaboration – Industrial – non-grant or EC funded (other than IAA funded projects)	Legal Services	<i>These collaborations are industry-led</i>
Research - contract research – being research attended to by UoE only for a business customer paying a commercial price	Legal Services	
Research – UoE only – grant funded	ERO Contracts	<i>First port of call: the appropriate Research Funding Specialist in ERO: <a href="https://www.ed.ac.uk/research-support-office/about-us/research-funding-specialists">https://www.ed.ac.uk/research-support-office/about-us/research-funding-specialists</a></i>
Research – EC – see “EC Research” above	ERO Contracts	
Revenue Sharing	Legal Services	<i>Straightforward arrangements are attended to by EI’s Enterprise Services Team.</i>
Spinout/startup	Legal Services	
Staff secondment – grant related	ERO Contracts	
Staff secondment – other	Legal Services	

<u>Work Type</u>	<u>Responsibility</u>	<u>Comment</u>
Student Assignations of IP – industry related	EI Contracts	<i>These documents often include confidentiality obligations and are dealt with by EI Contracts as part and parcel of their studentships remit.</i>  <i>Now and again students will transfer IP to the University solely to assist with a patenting matter, a technology transfer deal or a company spin-out being attended to by EI. In these cases responsibility is again with EI Contracts</i>
Student Assignations of IP – related to research grants	ERO Contracts	<i>Where assignation of student IP is required to meet the terms of a research grant, this is within the remit of ERO Contracts.</i>
Studentships involving industrial partners	EI Contracts	<i>Note that Student Assignations of IP are part and parcel of studentships and are dealt with by EI Contracts – see “Student Assignations of IP – industry related” above</i>
Studentships with no industrial connection	ERO Contracts	<i>Agreements for funding studentships with no industrial connection (including those between the University and Associated Institutions, charities and third sector organisations) are the responsibility of ERO Contracts. Often these are done within Schools themselves.</i>
Transfer of Contracts (other than in relation to transfer of grants – for which see below)	Legal Services	
Transfer of Grants	ERO Contracts	<i>Where a PI is joining or leaving the University and there are a range of agreements falling between more than one team, a cross-team working approach should be set up, with kick-off meeting and an agreed team sheet setting out responsibilities.</i>

## General guidance

### a) First port of call

**ERO** has research as its main area of activity. ERO is to refer its initial contractual requirements to **ERO Contracts**.

**EI**'s primary responsibilities relate to money-making business activities such as Consultancy, Technology Transfer, Business Development and Company Formation. EI BDEs (and all other BDEs across the University) are to refer their contractual requirements to:

- **EI Contracts** for Confidentiality, Consultancy and Assignations of IP matters, Industry related studentships;
- **Legal Services** for all other matters such as industry partnerships, technology licensing, company formation

**b) Activities at the margins**

There can be a lack of clarity at the margin between research and business transactions. To resolve these consider:

- if the outcome of discussions is research for the public good, ERO and ERO Contracts should be the first port of call;
- if the outcome of discussions is research as part of a money-making business transaction for UoE, EI and EI Contracts should be the first port of call;

Similarly:

- if the funding is from business EI Contracts should be the first port of call;
- if the funding is from a grant, or the University is self-funding then ERO Contracts should be the first port of call.

And, re clinical trials:

- ERO Contracts should be made aware if there is a clinical trial aspect to the transaction (due to their role in managing clinical trial contracts)

**c) Passing on work between teams**

There is mostly only one team mentioned in the Responsibility column for each activity. This means that now and again teams will receive instructions which are not really for them given the underlying deal. In these circumstances receiving the instruction should quickly pass the instruction on to the correct team and the correct team should immediately correspond with the user and accept the transfer of responsibility.

**d) Large or novel projects**

Now and again there are large projects requiring the teams to collaborate to provide the necessary legal and contractual service. These large projects are dealt with on a case-by-case basis. In these situations the Teams need to agree on which individual will have overall responsibility for the large project and that person will take the lead in moving the service along, calling a kick-off meeting and maintaining a team sheet showing key contacts and responsibilities.

Note prepared by EI Contracts, Legal Services and ERO Contracts  
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