



Commercial Activity

- Purpose of Policy** To provide guidance on commercial activity and non-primary purpose trading.
- Overview** The policy gives an overview into how the University should undertake non-primary purpose trading and commercialisation.
- Scope:**
- Mandatory Policy** Any staff involved in undertaking commercial activities, including trading and/or commercialisation.

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Commercial Activity

Introduction

The three key areas of activity within the University are Teaching, Research and Knowledge Exchange. All three receive some financial support from government sources, be it the Scottish Funding Council, Research Councils or others. In all areas, it is possible also to undertake initiatives on a commercial basis, as indeed it is in a number of areas that are ancillary to the above.

As a consequence of the development of full economic costing across Higher Education in recent years, a greater awareness of costing and pricing has gradually emerged. Universities are, generally, seeking to further embed TRAC (the Transparent Approach to Costing) within their management processes and decision-making. Determining whether to undertake activities on a commercial basis should now involve ensuring that the full economic costs of such activity are sufficiently understood. Prices of services may then be set both in the knowledge of full costs and in terms of what the market may be likely to bear.

Commercialisation

In University parlance, the term "commercialisation" is usually applied in a context where Intellectual Property is to be exploited. It may cover knowledge exchange activities. Depending upon the circumstances, it may result in the establishment of spin-out or start-up companies, or consultancy contracts or commercial research projects being undertaken. These activities are supported by Edinburgh Innovation (EI), and are not further discussed here. Further information can be found on EI's website <https://www.ed.ac.uk/edinburgh-innovations>.

Trading

For this Guidance:

'Primary purpose trading' is indicated by the governing documents of the University as falling within its charitable objects and this activity has a 'charitable purpose'.

'Non-primary purpose trading' is taken to mean the provision of goods and services to third parties - i.e. parties external to the University. Whilst it is possible for both primary and non-primary purpose trading to be undertaken from within the University itself, much of the trading that a university would wish to undertake is non-primary purpose trading.

Non-primary purpose trading is best carried out in a separate legal entity, so that the University's assets - which were provided for charitable purposes - are not endangered by undertaking commercial activities. Also refer to guidance on Subsidiary Companies and Internal Trading at: <https://www.edweb.ed.ac.uk/finance/for-staff/financial-regulations-policies-and-procedures/policies-and-procedures>.

When trading with third parties, there are a number of issues that need to be borne in mind. Schools contemplating providing goods and/or services to outside parties must ensure that the University's terms of trade are properly understood. For further advice and information, please refer to EI: <https://www.ed.ac.uk/edinburgh-innovations>.



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Pricing

Pricing of goods and/or services should have regard to both (a) the full cost (i.e. direct costs, plus overheads) of producing the goods or delivering the service, and (b) an assessment of what the market will bear. Specific advice on the pricing of individual goods and services may be sought from College Accountants or the Finance Department.

Terms of Trade

Terms of Trade, also known as **Conditions of Sale** or **Terms and Conditions**, are designed to protect the seller's rights, to limit potential liabilities and provide some degree of security for the recovery of the debt, following the supply of goods or services.

It is essential that **both contracting parties** (i.e. buyer and seller) **agree Terms of Trade between them before, or at the time that a contract is made**. This will set the ground rules between them. It will mean that both parties know exactly what is expected of them and may prevent unnecessary disputes.

Areas which are covered include:

- Quality
- Price
- Quotations
- Delivery/date/arrangements
- Risk and property/retention of title
- Terms of payment
- Time limit for raising disputes
- Right to interest and compensation for debt recovery costs
- Loss or damage in transit
- Acceptance of goods
- Variations to contract
- Patent rights/indemnity
- Force majeure
- Jurisdiction/applicable law
- Assignment and subletting of contract
- Right to progress and inspect goods
- Warranties and liability
- Severability
- Insolvency and bankruptcy

For advice on the University's Terms of Trade, or on the process for raising invoices, please contact the Income Section of the Finance Department: finance.helpline@ed.ac.uk or +44 (0)131 651 5151 (option 1).



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Value Added Tax - the VAT status of goods

The University is not immune from VAT. Indeed, the default position is that VAT is payable on goods and services bought, or chargeable on goods and services sold. However, VAT is far from being a straightforward tax, and advice must always be sought from the Finance Department, VAT and Tax team on finance.help@ed.ac.uk.

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Document control

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Signature of approver	
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Section responsible for policy maintenance & review	Finance Information, Reporting and Strategy Team

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11/1/2019	v.1.1 Update contacts to Finance helpline; update ERI website links to EI	n/a