

# **OUTSIDE PARTY DUE DILIGENCE PROCEDURES**

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<b>Executive Sponsor</b>	Deputy Vice Chancellor (Engagement)
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## INTRODUCTION AND CONTEXT

Aston University is committed to grow and embrace new opportunities, and on many occasions this will be achieved through working with partners and other third parties. The University wants to work effectively with partners/third parties, whilst also ensuring that any risks in entering into these relationships are identified, considered and mitigated.

The purpose of due diligence is to take time to think through any potential risks involved in a relationship with a partner or third party, to consider whether the University is prepared to accept that risk and to take any actions possible to mitigate the risk.

Colleagues working with partners and third parties must be sure that the relationship is consistent with the University's Mission, Vision, Strategy and our Principles. Colleagues must be sure that the relationship does not carry significant risk, including security related risks, to the University and the individual staff members involved in the proposed collaboration. All colleagues are responsible for ensuring that all relationships with the University are properly considered and (where appropriate) authorised.

Due diligence is a structured process that must be followed when considering any arrangement with an outside party. The approach to due diligence must be appropriate and proportionate, but must be sufficiently thorough to protect the University.

Approval to enter into any arrangement with an outside party is given by the appropriate member of the Executive Board of the University, following an assessment of the probity, financial and academic soundness of the proposed partner. This assessment is taken following the assessment of information provided at three 'Gateways'. The Gateway process also covers assessment of the nature of the activity, including a business case setting out the benefit of the proposed activity to the University.

The purpose of carrying out the approval process is to safeguard the University against reputational damage which could be caused by entering into a relationship with an

inappropriate partner or conducting activity with a partner which puts the University or staff at risk. It is a requirement, therefore, of all members of the University to take due diligence seriously, to answer the questions at each stage of approval carefully and honestly and to follow the procedures set out precisely and thoroughly.

Due diligence is required when the University is entering into a relationship with another organisation. For example, it will be needed for research partnerships or academic partnerships. It will be required when entering into a funding partnership with a business, but it would not be required to assess businesses attending a programme run by the University. If there is any uncertainty whether due diligence is required the Executive member responsible for the relevant area of the University should be contacted for advice.

### **Existing arrangements**

Due diligence must be carried out on existing partnership or collaborative working arrangements as part of the renewal process of any agreement. The level of due diligence carried out should be proportionate and appropriate, giving consideration to the nature of the arrangement and the activity concerned. In addition to regular reviews, due diligence on existing partnerships might need to be carried out when there is:

- A change in ownership of the outside party
- A merger with another organisation
- An incident which raises concerns about the financial status of the organisation
- A partner which has a collaborative arrangement with the University enters into another partnership which might impact the reputation of the University
- Significant change in the nature of the arrangement with the outside party
- Relocation to a new country, or the activities with the University are to be managed from a different country
- A report from an external body which raises significant concerns about the standard of the work of the partner

### **Compliance**

The University has a culture where colleagues are encouraged to raise concerns, and to debate matters of importance. Colleagues should raise any concerns that they have about a potential arrangement with an outside body with the authorised officer identified at each 'Gateway' – as set out in these procedures. In the spirit of openness and transparency, staff who have concerns about new or existing arrangements are encouraged to come forward and express their concerns.

Concerns can be expressed to any manager in the University. If a colleague would prefer to speak to a senior colleague in confidence the Deputy Vice-Chancellor (Engagement) or the Chief Operating Officer can be contacted.

All employees who are involved in partnerships, collaborative working, research and related activities in the University should complete training relating to due diligence, which is provided by the University.

If a colleague attempts, in good faith, to comply with all these procedures but makes some errors, this will be addressed through education and training. The University will learn from the experience, and will review the due diligence processes to address any problems that might be raised. If a colleague deliberately misleads a senior member of management authorised to approve a relationship, or deliberately bypasses part of the approval process, this could result in disciplinary action.

### **Memorandum of Understanding**

A Memorandum of Understanding (MoU) is an agreement between two parties to progress a possible arrangement. An MoU is used to set out the agreed expectations between those two parties, on occasions stating on the face of the document that the arrangement is not intended to be legally binding. However, in some countries, an MoU indicates a high level of commitment, and could be seen as the partner indicating a legally binding contractual agreement irrespective of what is documented between the parties. Therefore, the due diligence process set out in these procedures must be followed before entering into an MoU regardless of the country concerned. An MoU can only be signed on completion of the due diligence processes, and by a manager authorised to sign the document.

## **Risk**

There is inherent risk in engaging with an unknown person or body outside the University. However, it is these engagements which lead to important developments for the University in research, academic excellence and business engagement. The purpose of effective due diligence is to assess the level of risk that a relationship might involve and to decide if the University has the appetite to enter into that level of risk.

The University's appetite for risk is determined by the Executive of the University, with guidance from Council. If any colleague requires more insight into the University's approach to risk they should seek guidance from the member of the Executive responsible for their area of work.

When assessing risk there is a need to think about potential future risk. For example, there could be political tensions in a country which are not causing a risk currently but could cause a risk in the future. If this is reasonably foreseeable that needs to be taken into consideration as part of the due diligence process. Of course, it is difficult to predict all risk, but there should be evidence that this has been considered.

There is a potential risk in everything. Identifying a risk does not mean that a partnership should not go ahead, but it does mean that careful thought should be given to whether the University is prepared to accept the risk.

## **Conflict of interest**

A conflict of interest occurs when someone has competing professional obligations, or has personal or financial interests which could affect decision making. For example, this could occur if a colleague has previously worked for an organisation and the University is considering partnering with that organisation. It could occur if a colleague has a close friend or family member working for an organisation that the University is considering partnering with.

Colleagues must always declare a potential conflict of interest. If it is not clear whether a situation is a potential conflict it should be declared to the colleague's line manager who will make an assessment.

If a colleague does have a potential conflict of interest they should aim not to take part in the due diligence process. If it is not possible to avoid taking part in the process they should make sure that everyone concerned is aware of the potential conflict of interest.

## **Record of due diligence activities**

The University's due diligence process requires the completion of 3 Gateways. There should be an audit trail showing that the proposal has passed through the first 2 Gateways. This audit

trail (electronic or paper) should then be submitted to the Partnership Relations Committee which forms the third Gateway.

The completion of the due diligence process and the associated approvals will be logged by the Partnership Relations Committee and will be recorded in the minutes of a monthly meeting of that Group. This log will provide an overview of activities being carried out across the University where due diligence has been required.

The Partnership Relations Committee will be able to advise anyone who is seeking approvals and wants to know if prior approvals with the particular entity have been sought, and what decisions were made. In addition to logging approved activities the log will contain a record of activities that have not been approved and the reasons for the rejection.

A report on due diligence completed, with an analysis of approvals and rejections, will be reported, by the Partnership Relations Committee, to the University Executive on an annual basis.

# 1. SCOPE OF THESE PROCEDURES

## 1.1 Purpose of these Procedures

Due diligence is the comprehensive appraisal, by the University, of a potential activity with a partner carried out before entering into a relationship with that partner. The purpose of these procedures is to set out the requirements of colleagues when developing arrangements with outside parties.

Colleagues are empowered to identify opportunities for new arrangements with outside parties within the remit of their post, whilst also giving suitable and appropriate consideration of risk. By compliance with these procedures colleagues are expected to be able to develop these arrangements conducting a risk informed approach in accordance with the Strategic Risk Policy.

These procedures incorporate three Gateways, and by working through these Gateways a colleague can be reassured that they have acted appropriately, are appropriately risk informed and are discharging their responsibilities in accordance with University policy. Certain colleagues (or their nominees) have authority to give approval at each Gateway, and/or provide advice and guidance to colleagues as required.

The process of due diligence requires an appropriate investigation of a proposed partner/relationship and activity, to be sure that it is:

- Aligned to the University's objectives
- Not exposing the University, and individual staff members, to unnecessary or excessive risk
- Bringing benefit to the University

## 1.2 What is covered by these Procedures

All arrangements with outside parties to the University are covered by these Procedures including (this is a non-exhaustive list) collaborative academic partners, research partners, suppliers, donors, businesses with which the University engage and members of the region and local community with whom the University does business.

## 1.3 Who is covered by these Procedures

All individuals engaging in arrangements with outside parties on behalf of the University.

# 2. DETAILED PROCEDURES STATEMENT

The University due diligence process for partnerships and collaborative working requires progress through 3 Gateways:

Gateway 1: Initial Assessment of Risk using Scout software

Gateway 2: Completion of activity-specific due diligence process

Gateway 3: Recording and oversight of due diligence approval decision

## 3. GATEWAY 1: INITIAL ASSESSMENT OF RISK

### 3.1 Introduction

The risk of working with a partner will be assessed using the Scout due diligence risk assessment software. This is technology which aids the decision making process.

The purpose of this assessment is to evaluate the potential strategic, financial and legal aspects of the outside party. The requirement, therefore, is to consider the:

- The reputation and financial security of the outside party
- The legal standing of the outside party.
- Any other risk factors that a tailored search using resources available through the internet will identify.

### 3.2 When should this Gateway be completed?

This Gateway must be completed:

- Before any commitment is made to enter into any documented arrangement.
- Before any financial commitments are made to explore a documented arrangement further.
- Before exploring specific activities that could be carried out with the outside party.
- Before any Memorandum of Understanding is signed.

If the activity involves working with a partner who has previously worked with the organisation there will be a requirement to complete this Gateway if:

- Two or more years has passed since the last engagement with the partner.
- The nature of the proposed activity with the partner is different to the previous activities which have taken place with the University.
- A change has occurred with the partner, as set out in the section 'Existing Arrangements' in the Introduction to this document.

### 3.3 Examples of when this Gateway would be applied

This Gateway should be completed before investing too much time and effort in discussing a potential activity with an outside party, to verify the financial and legal standing of the organisation.

These examples are for guidance only, and are not exhaustive.

- A colleague is wanting to discuss a possible academic partnership with another education provider. An assessment using Scout must be completed before discussing the nature of the partnership and the activities that it might include.
- A colleague is wanting to discuss a possible research collaboration with a private sector research body. An assessment using Scout must be completed before the nature of the research is discussed.
- A colleague is wanting to engage in the development of bespoke training for a local business. An assessment using Scout must be completed before the detail of the training is discussed.

### 3.4 Scout software

The Scout software is managed by the Finance Department. Any queries relating to its use should be addressed to the Head of Corporate Accounting or the Director of Finance.

Colleagues across the University will be trained in the use of the software, and anyone seeking approval of any arrangement with an outside party should refer to the relevant person in their area of the University. The trained person will produce a report on the entity following receipt of the Scout request form, which can be found at Appendix 1.

The report will always identify:

- The financial status of the organisation. (If the organisation is based outside the UK and state owned it will be exempt from reporting requirements and therefore it will not be possible to obtain a financial rating. If the organisation is based outside the UK and is very small it will also be exempt from reporting requirements. In these situations the organisation will be flagged as amber/red and will be referred to the Head of Corporate Accounting for evaluation).
- An evaluation of potential legal issues. (This includes assessment of the country, activities of the organisation, key connected people, etc. There will also be a number of automatic searches against specific websites in some of the risk areas which, while they won't form part of the score, will be visible to the user.)

If further information is required from this analysis process this should be specified on the request form at Appendix 1. The report that is generated will result in a RAG rating being given for the entity.

The output of this stage is a RAG rating as follows:

- The consideration of the arrangement with the outside party cannot proceed and must be referred to the Deputy Vice-Chancellor (Engagement) and the Chief Operating Officer if the proposer wants to pursue this further.
- The consideration of the arrangement with the outside party must be referred to the Director of Finance (if the report has identified potential financial issues) or the General Counsel (if the report has identified potential legal issues).
- The consideration of the arrangement with the outside party can move to Gateway 2.

### **3.5 Audit trail**

The audit trail must include:

- A copy of the completed Scout request form (appendix 1).
- A copy of the report generated by Scout

If the Scout assessment raised concerns which were then discussed with the Director of Finance, General Counsel, Deputy Vice-Chancellor (Engagement) or the Chief Operating Officer a record of that conversation must be logged along with the documents mentioned above.

If it was not possible to generate a Scout report (because data was not available on Scout) a record of the assessment given by the Head of Corporate Accounting must be kept, along with the completed Scout request form. If additional conversations took place with other members of staff to approve the progression of the proposal a record of these conversations must also be kept.



## 4. GATEWAY 2: ASSESSMENT OF ACTIVITY

### 4.1 Introduction

If the proposal passes through the assessment at Gateway 1 it then passes to Gateway 2 which is the assessment of the activity. The purpose of this Gateway is to:

- Assess the nature of the activity, and whether carrying out that activity with the outside party would align with the University's objectives.
- Assess whether the activity would result in any risk to the University, and if so whether the level of risk is within acceptable levels in accordance with the Strategic Risk Policy.
- Assess whether the activity would bring benefit to the University.
- Review the business case for proceeding with the activity.

### 4.2 When should this Gateway 2 be completed?

This Gateway must be completed:

- After Gateway 1 has been successfully completed.
- Before any commitment is made to enter into a specific activity concerned with the outside party.
- Before any financial commitments are made to explore a documented relationship further.
- Before entering into any contractual obligations with the outside party.

### 4.3 Examples of when this Gateway 2 would be applied

These examples are for guidance only, and are not exhaustive.

- A colleague is wanting to formalise a series of new articulation agreements with another education provider. Gateway 2 must be completed before committing to any partnership activities.
- A colleague is wanting to conclude discussions about a research collaboration with a private sector research body or company. Gateway 2 must be completed before the content of the research is agreed and prior to any contract discussions.
- A colleague is wanting to engage in the development of bespoke training for an international company. Gateway 2 must be completed before a commitment to provide the training is given.

### 4.4 Gateway 2 Assessment

The Gateway 2 assessment requires the proposal to be put through detailed scrutiny, the nature of which depends on the activity being proposed. The University recognises that the questions to be considered to complete due diligence effectively will depend on the nature of the activity.

The proposer of the activity should identify the type of partnership that is being considered and contact the Authorised Officer, as listed below, for details of the scrutiny that must be completed.




<b>Activity</b>	<b>Authorised Officer</b>	<b>Executive member responsible for scrutiny</b>
International partnerships with academic institutions	Director of International Development	Deputy Vice-Chancellor (Engagement)
Research partnership	Director of Research Strategy, Funding and Impact	Pro Vice-Chancellor (Research)

<b>Activity</b>	<b>Authorised Officer</b>	<b>Executive member responsible for scrutiny</b>
Business engagement	The relevant Director in Business Engagement	Executive Director, Business Engagement
New supplier	Director of Finance	Chief Operating Officer
International government bodies	Director of International Development	Deputy Vice-Chancellor (Engagement)
International recruitment agent	Director of International Recruitment	Deputy Vice-Chancellor (Engagement)
Civic/Regional engagement	Director of Regional Strategy	Executive Director, Business Engagement
Donor or Alumni engagement	Director of Development and Alumni Relations	Deputy Vice-Chancellor (Engagement)

If the proposer is considering an activity which is not included in this list the Chair of the Partnership Relations Committee (see Gateway 3) should be contacted for advice on the scrutiny which will be required.

As part of the Gateway 2 assessment the proposer must submit the documents which have formed the audit trail in Gateway 1. It might also be a requirement to refer the proposal to a specific committee structure within the University, for example the Executive Engagement Group. The Authorised Officer will guide the proposer on any such requirements.

After all paperwork has been reviewed, and any relevant committee processes have been completed, the Authorised Officer will give a RAG rating to the proposal as follows:

-  The consideration of the activity cannot proceed without being referred to the Deputy Vice-Chancellor (Engagement) and the Chief Operating Officer.
-  The activity cannot be approved without further information. The information required will be identified by the Authorised Officer.
-  The activity is approved and now passes to Gateway 3 for logging.

#### **4.5 Further guidance**

In assessing whether the partnership can go ahead the Authorised Officer must be satisfied that:

- The activity aligns with the University's objectives
- Any risk that would be incurred in entering into the arrangement with the outside party is within the level of risk deemed acceptable by the University in accordance with the Strategic Risk Policy
- The activity will bring benefit to the University.
- There is a sound business case for proceeding with the activity.

## 5. GATEWAY 3: RECORDING AND OVERSIGHT OF DUE DILIGENCE APPROVAL DECISION

### 5.1 Introduction

If the proposed activity passes through the first 2 Gateways, the final stage will be to record the due diligence approval decision. The form at Appendix 2 must be completed for this purpose.

This recording is a crucial part of the process, because it ensures that the University has an audit trail of all decision making and a log of approved partnerships. It also allows the University to have an oversight of the decisions that have been made, to identify trends of approvals and rejections and to give informed advice on the decision making process.

All proposals that complete Gateway 1 should be logged at this stage, even if they are rejected. Understanding the rejections helps the University to understand and monitor the approach to risk taking.

### 5.2 When should this Gateway 3 be completed?

This Gateway 3 must be completed:

- After Gateway 1 is completed (if the decision is not to progress to Gateway 2)
- After Gateway 2 has been completed (regardless of whether the decision is to proceed or not)

### 6.3 Examples of when this Gateway 3 would be applied

These examples are for guidance only, and are not exhaustive.

- A colleague is proposing a partnership with an academic partner. The decision has been made to proceed with the partnership.
- A colleague is proposing a partnership with an academic partner. Concerns about the financial status of the partner were raised as a result of the Scout report, and following conversations with the Director of Finance it has been decided not to proceed with the proposal.
- A colleague is proposing a research partnership. The decision has been made to proceed with the partnership.
- A colleague is proposing a research partnership, and concerns were raised about the legal status of the partner as a result of the Scout report. Following conversations with the General Counsel it has been decided not to proceed with the proposal.

### 6.4 Gateway 3 process

Gateway 3 is the operation of the Partnership Relations Committee. This Group will meet on a monthly basis and will be responsible for oversight of all due diligence decisions made in the University. The Partnership Relations Committee reports into the Executive Engagement Group (EEG).

The terms of reference of this Group are to:

- Record all due diligence decisions made in the University
- Check that there is an adequate audit trail showing the decision making process which has taken place for all proposals requiring due diligence
- Advise on queries relating to due diligence
- Identify trends in due diligence decisions (for example, this could be trends in decision making by sector, country, type of proposal)

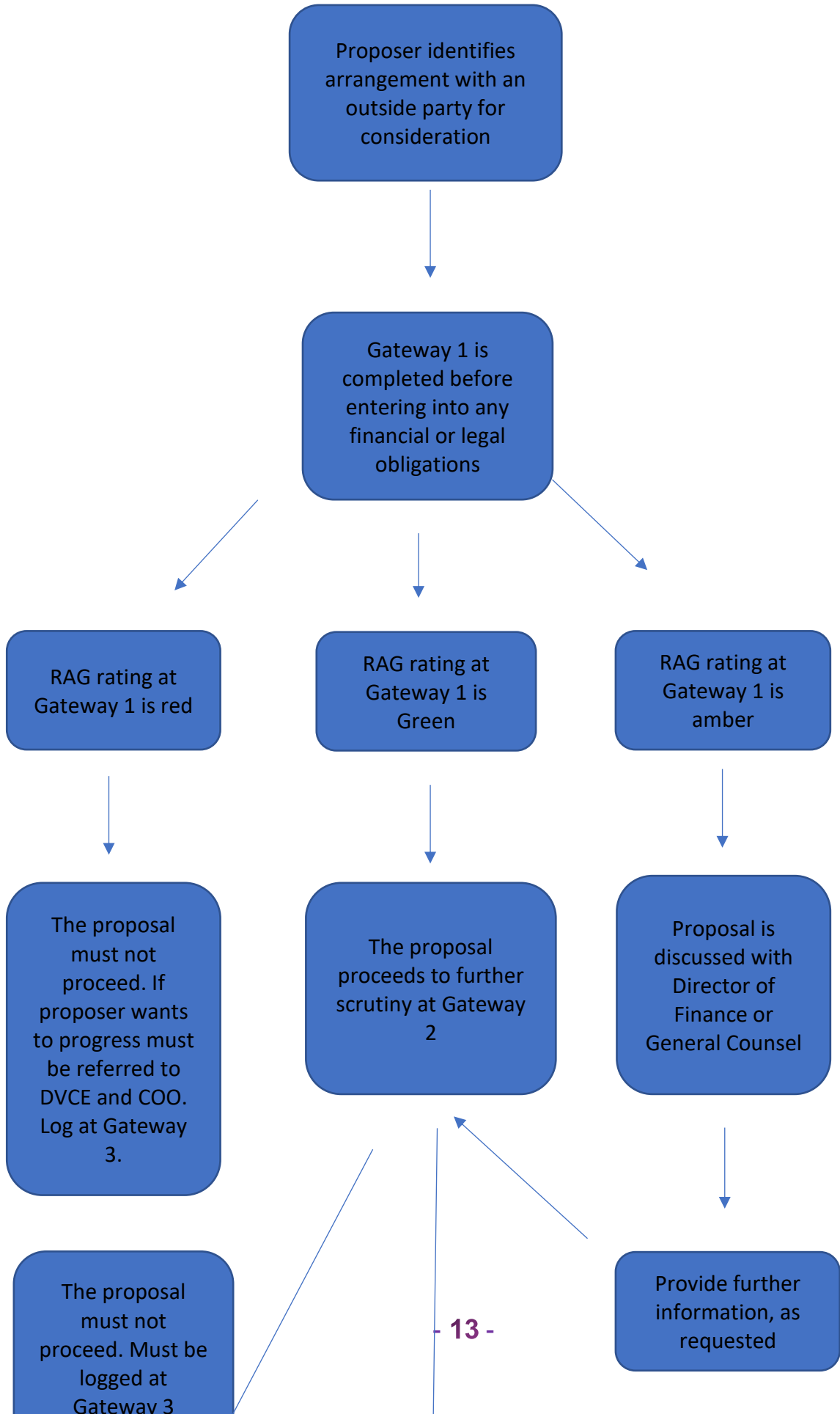
- Discuss trends in due diligence decision making in the Higher Education sector and disseminate this information as appropriate
- Provide guidance to the University on due diligence decision making

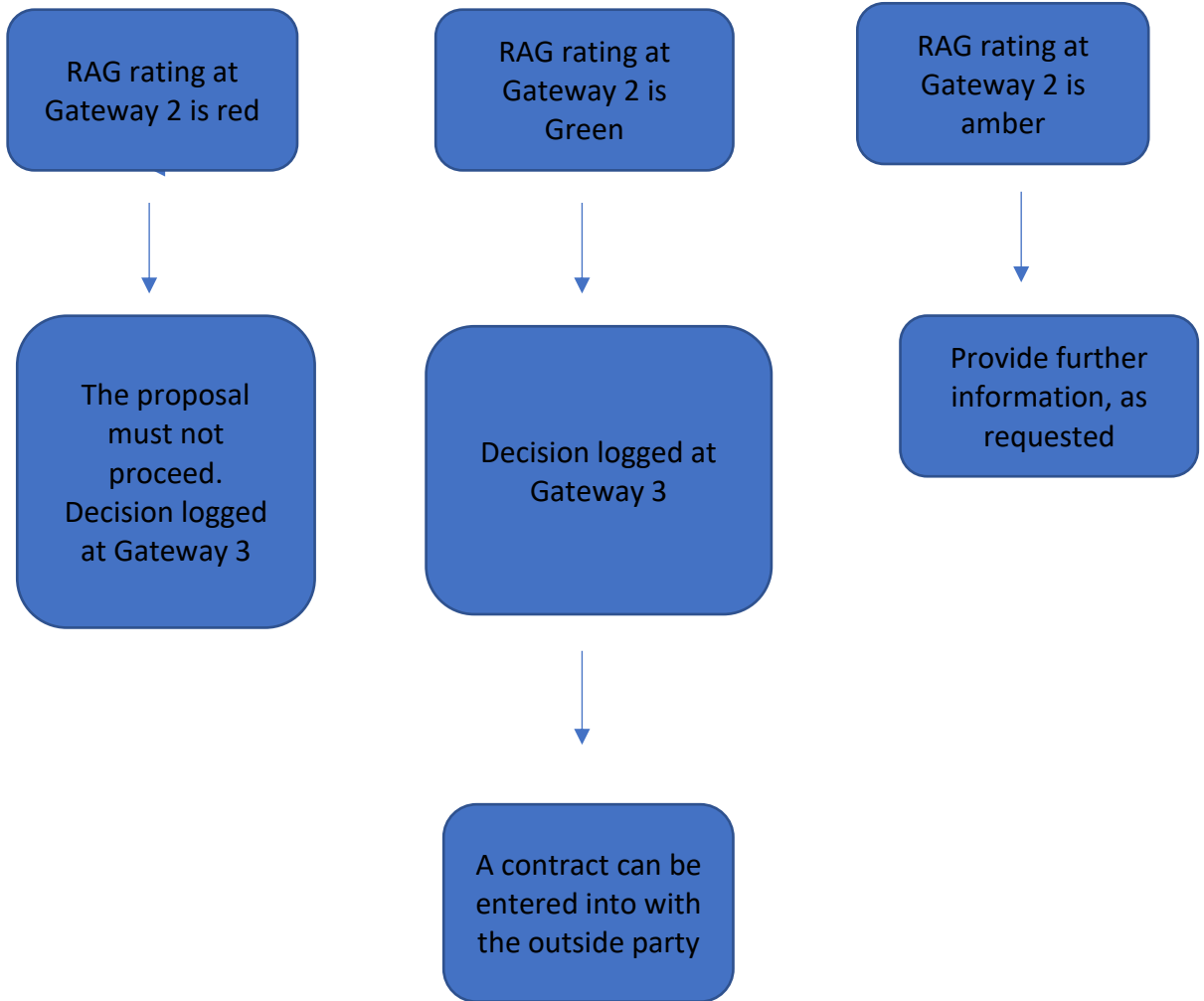
## **6.5 Partnership Relations Committee**

The membership of the Partnership Relations Committee is:

- Deputy Vice-Chancellor (Engagement) - Chair
- Associate Pro-Vice Chancellor (Engagement) - Interim Chair
- Director of Finance
- General Counsel
- Director of Research Strategy, Impact and Funding
- EPS Representative (TBC)

## 6. FLOWCHART FOR THESE PROCEDURES





## APPENDIX 1

### SCOUT REQUEST FORM

Name of proposer:	Job title of proposer:
Name of assessor:	Job title of assessor:
Name of proposed partner:	Address of proposed partner:
What conversations have already taken place about this proposed partnership? Summarise the output of those conversations, and identify who was involved in the discussions.	
Any key words to be used in searching for information. For example, words relating to the products of the organisation, specific activities of the organisation, the country or city where the organisation is based.	
What is the nature of the proposed partnership? Is any specific search required with reference to the nature of the proposed partnership?	
Decision (delete as appropriate): <i>This form, along with the report from Scout, must be forwarded to the relevant Assessor</i>  Green (proceed to Gateway 2) Amber (refer to Director of Finance/General Counsel) Red (refer to Deputy Vice-Chancellor (Engagement) and Chief Operating Officer)	
Decision on activity:	
Date:	Signed:

**APPENDIX 2**

**FORM TO BE COMPLETED FOR GATEWAY 3**

Name of proposer:	Job title of proposer:
Name of assessor:	Job title of assessor:
Name of proposed partner:	Address of proposed partner:
Summary of proposed partnership	
Gateway 1 feedback (please summarise any feedback given at this Gateway, including any further information requested and provided):	
Gateway 2 feedback (please summarise any feedback given at this Gateway, including any further information requested and provided):	
Any other relevant information	
Decision of assessor (delete as appropriate):  Approved/Further information required (please specify)/Not approved	
Reasons for decision:	
Date:	Signed:













