

Policy Title: University Premises Leases or Licences

Policy Owner: Manager, Campus Operations and Resources

Keywords: 1) Lease 2) Licence 3) Feasibility Assessment

Policy Code: PL126 (fs038)

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1. INTENT

The purpose of this policy is to outline the process for committing Edith Cowan University (the University) to Lease or Licence premises either in the capacity of a Lessee/Lessor or Licencee/Licensor.

2. ORGANISATIONAL SCOPE

All ECU staff.

3. DEFINITIONS

TERM	DEFINITION
Condition Report	A report which outlines the findings of an inspection of a facility's state of repair including but not limited to building fabric, mechanical, hydraulic and electrical plant, fittings and furnishings.
Delegations Manual	The University guidelines that determine who may approve transactions/agreements up to and beyond stated thresholds.
Due Diligence	Due diligence is an investigation or audit of a potential investment or product to confirm all facts, such as reviewing all financial records, plus anything else deemed material. It refers to the checks the University should take before entering into an agreement or a financial transaction with another party.
FSC	Facilities and Services Centre
Initiator	The School or Centre who identifies the need for a Lease and commences the action of having a commercial contract prepared.

Landgate	The State Government Agency responsible for Western Australia's land and property information.
Lease	A grant of right to the exclusive possession of land given by one person (Lessor) to another person (Lessee) for a determinate term.
Lessee (or Licencee)	The Tenant.
Lessor (or Licensor)	Registered owner or Landlord of the premises.
Licence	Permission to enter the land and use it for some stipulated purpose or purposes and does not convey a right to exclusive possession or create an interest in the land.
Premises	A building and land or part thereof.
Risk Assessment	The identification, analysis and evaluation of risks.
The University	Edith Cowan University.

4. POLICY CONTENT

4.1 When a School or Centre Requires Off Campus Premises (*ECU as Lessee or Licencee*)

In circumstances where the Initiator wishes to enter into a Lease agreement for the ongoing rental of premises then the following steps are to be undertaken in the process of forming a contractual relationship with the Landlord.

- a) The Initiator who identifies the need for space prepares a [Feasibility Assessment](#) .

The [Feasibility Assessment](#) is to be approved by (i) Dean of School or Director of the Centre and (ii) the Director, Facilities and Services Centre.

- b) Should it be determined that there is not an appropriate space within the University, the Facilities and Services Centre (FSC), in conjunction with the Initiator, will seek to identify suitable premises off campus. FSC will arrange for an independent market review of the proposed rental rates.
- c) Once an appropriate location is identified, FSC will complete an assessment of the target premises. The assessment will include a risk assessment and condition report undertaken in consultation with ECU's Safety and Employment Relations team to determine whether the accommodation is fit for purpose.
- d) Subject to the successful outcome of the condition report and the risk assessment, the Lessor will (in normal circumstances) prepare a draft Lease agreement for consideration by FSC. At this stage, FSC and the University Office of Legal and Integrity, in conjunction with the Initiator, will undertake "due diligence" giving appropriate consideration to proposed rental rates, premises condition; proposed terms and conditions of the Lease and any other issues that might arise to the University.

- e) Once negotiations regarding the Lease terms and conditions have been finalised, the engrossed Lease will be firstly executed by the Lessor and then by the University. Approved Lease agreements will be executed under the terms of the (University) Delegations Manual.
- f) The Leased space will be allocated as School/Centre Space for space reporting requirements.

4.2 When the University Makes Premises Available to a Third Party (*ECU as Lessor or Licensor*)

The University either owns or controls land and buildings under the *Edith Cowan University Act 1984 (WA) (ECU Act)*. The *ECU Act* conveys the right upon the University to let part of the land provided that the purposes are incidental to the functions of the University. University lands which are under a Management Order are for educational purposes only. In certain circumstances a commercial or strategic benefit may flow to the University from leasing some University premises (either on-campus or off campus) to an external entity. In such circumstances, the Initiator will complete the following steps in order to enter into an agreement with any potential Tenant.

- a) If the Initiator is outside of FSC, they will liaise with FSC in order to ascertain whether the activity can be accommodated on campus. Should a suitable space be identified, the Initiator will prepare a [Feasibility Assessment](#) .

The [Feasibility Assessment](#) is to be approved by (i) Dean of School/Director of Centre and (ii) the Director, Facilities and Services Centre.

- b) The granting of a Lease or Licence may arise as a result of:
 - i. a tender process,
 - ii. a call for expressions of interest,
 - iii. a direct approach from an enterprise, or
 - iv. from an identified need.

The Initiator, in conjunction with FSC and the Office of Legal and Integrity, must undertake a process of completing "due diligence" in relation to the proposed Tenant's suitability.

- c) All Lease/Licence documentation will be drafted by the University Office of Legal and Integrity with input from FSC.
- d) Approved Lease or Licence agreements will be executed under the terms of the University Delegations Manual. If the Minister's consent to the Lease is required, this is arranged by FSC in conjunction with the Office of Legal and Integrity.
- e) In some instances a Lease may be required to be registered with Landgate. Three original documents are required for execution. FSC will assist with this process.
- f) The space leased to a third party will be allocated as School/Centre Space for space reporting requirements and will be subject to regular utilisation surveys.

4.3 Amendments to a Lease

- a) Any amendment made to a Lease/Licence agreement following execution by the University must be approved in accordance with the (University) Delegations Manual. The Office of Legal and Integrity must be engaged to prepare a Deed of Variation.
- b) Any extension to the initial term by virtue of exercising a further term option in the initial Lease/Licence must be approved by the University in accordance with the (University) Delegations Manual in instances whereby the University must approve that option.
- c) Should the initial term and all subsequent extension terms have expired then a new Lease/Licence agreement will need to be redrafted and approved. In preparing a new Lease, it will be at the discretion of the Director, Facilities and Services to determine whether a new [Feasibility Assessment](#) to be completed prior to another Lease being prepared.

4.4 Compliance

The Initiator, in conjunction with FSC, acting in either the capacity of the Tenant or Landlord, will be responsible for ensuring compliance with the documented terms and conditions of the Lease/Licence for the duration of the Lease term.

4.5 Records and Storage

The original of the executed Lease/Licence agreement will be stored in the University's official records with one copy of the Lease/Licence agreement provided to FSC. An original of the Lease/Licence agreement will be provided to the other party.

5. ACCOUNTABILITIES AND RESPONSIBILITIES

In relation to this policy, the following positions are responsible for:

The Policy Owner has overall responsibility for the content of this policy and its operation in ECU.

Staff are required to comply with the content of this policy and to seek guidance in the event of uncertainty as to its application.

6. RELATED DOCUMENTS:

6.1 The policy is supported by the following Guidelines:

- [Delegations Manual](#)
- [Disability Access Inclusion Plan \(DIAP\)](#)

6.2 Other documents which are relevant to the operation of this policy are as follows:

- [Feasibility Assessment](#)

7. CONTACT INFORMATION

For queries relating to this document please contact:

Policy Owner	Manager, Campus Operations and Resources
All Enquiries Contact:	Campus Leasing and Projects Manager
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8. APPROVAL HISTORY

Policy Approved by:	Vice-Chancellor
Date Policy First Approved:	25 May 2010
Date last modified:	March 2019
Revision History:	April 2013 - Links removed in the body of policy April 2016 – Changes to organisational structure reflected. Links fixed. March 2019
Next Revision Due:	April 2022
TRIM File Reference	SUB/16705-2