

# Indemnity and Insurance Policy

## Section 1 - Indemnity - Staff and Other Officers

### University Employees

(1) As an employer, QUT Council indemnifies staff in respect of the lawful and proper actions considered to be within the scope of their employment at the University.

(2) Council recognises that many officers perform difficult and delicate duties and functions, and that in the course of such duties they may be exposed to claims for damages. Such officers should not be restricted in carrying out their duties and functions by any fear that they may have to make payment regarding any claim arising out of due performance of these duties and functions.

(3) QUT accepts full and sole responsibility for all claims including the cost of defending or settling them in cases where, in the reasonable opinion of the Council, the officer concerned has diligently and conscientiously endeavoured to carry out their duties and has complied with QUT policies and procedures.

(4) Where QUT makes any payment in settlement of a claim which has arisen as a result of an officer endeavouring to carry out their duties in a conscientious and diligent manner, it will not seek to exercise any claim for contribution from the employee.

(5) The University does not accept any liability for any act of an employee which is not related to or connected with their employment. This means that staff are insured by QUT only against claims for damages made against them as a result of their work for QUT.

### Members of QUT Committees and Voluntary Officers

(6) The University provides an indemnity to non-staff who are acting as a QUT committee member or as an individual acting in a voluntary capacity on behalf of QUT.

## Section 2 - Indemnity - External Parties

(7) QUT enters into a number of contracts that require the provision of guarantees or indemnities to external parties. QUT has a general approval under the [Statutory Bodies Financial Arrangements Act 1982 \(SBFA Act\)](#) to provide guarantees or indemnities subject to:

- a. Council having endorsed that the University's risk mitigation and control strategies are appropriate to manage the risk of providing the guarantees or indemnities.
- b. Where QUT does not hold appropriate insurance coverage for the activities of members of its governing body or committees, QUT employees or students of the University, or where QUT is not satisfied that consultants or contractors engaged by the University hold appropriate insurance coverage for these activities, Council must be satisfied that risks are mitigated and warranted prior to the provision of a guarantee or indemnity.

(8) QUT officers who have delegated authority ([Register of Authorities and Delegations](#) (QUT staff access only)) may

only enter into contracts containing an indemnity clause in favour of another party where the risk is determined to be low / medium. Where the risk is extreme / high, approval by the Treasurer is required.

(9) Low / medium risk indemnities include the following:

- a. indemnities that are covered by QUT's existing insurance policies or can be covered through an extension to such policies, at minimal cost; and
- b. indemnities that are not covered by QUT's insurance policies or where cover is only available at a prohibitive cost, but where a risk assessment ([Risk Management Policy](#) and [Enterprise Risk Management](#) (QUT staff access only)) of the activity has been carried out by the area assessing the impact of the indemnity and the relevant delegated officer concludes the risk to the University in giving an indemnity would be low / medium.

(10) Extreme/high risk indemnities are those where insurance cover is not available or is only available at a prohibitive cost and where a risk assessment of the activity involved concludes the risk to QUT in giving an indemnity would be extreme/high. Note: The cost of additional cover is an issue for the area involved in the contract negotiation to consider and fund.

(11) The following process is to apply:

- a. each case is to be assessed in terms of QUT's existing insurance coverage;
- b. if the indemnity is covered by QUT's insurance policies then the indemnity is regarded as low / medium risk and the associated contract may be executed;
- c. if the proposed indemnities are not covered by QUT insurance policies or coverage is only available at a prohibitive cost, then a written risk assessment is to be carried out by completing the [Risk Assessment worksheet](#) (QUT staff access only). The risk assessment is to be reviewed by the relevant delegated officer ([Register of Authorities and Delegations](#) (QUT staff access only));
- d. upon receipt of such risk assessment and any legal opinion considered necessary, the relevant delegated officer will decide whether the indemnity is low / medium risk or extreme / high risk and whether the contract should be executed on behalf of the University;
- e. if the delegated officer determines that the indemnity is extreme / high risk, a risk mitigation strategy is to be prepared and forwarded to Risk and Audit Committee for consideration and recommendation to Council;
- f. if the risk remains extreme / high following consideration of the risk mitigation strategy, Council will authorise the Vice-President (Finance) and Chief Financial Officer to seek the Treasurer's approval, as required under the [Statutory Bodies Financial Arrangements Act 1982](#); and
- g. upon treasurer's approval, the delegated officer may sign the contract on behalf of the University.

(12) Wherever possible, indemnities should be worded to ensure that any liability being accepted by QUT falls within the scope of coverage provided by QUT's insurance policies. Indemnity clauses entered into by QUT with third parties have no bearing on the coverage provided by QUT's insurance policies, i.e. insurers will ignore the indemnity and settle / defend any claims made against QUT in accordance with the policy coverage.

(13) Advice from QUT insurers, as well as legal advice, should be sought on the wording of appropriate amendments to the relevant clauses in order to ensure QUT's interests are not prejudiced and risks are minimised.

## Section 3 - Insurance

(14) Finance Operations oversees the appointment of an insurance broker to manage the University's insurance requirements. Details of the insurance broker and the procedures to be followed if the need to make a claim arises are available on the [Finance](#) website.

(15) The following types of insurance are provided:

- a. corporate travel;
- b. personal accident;
- c. motor vehicle;
- d. work experience;
- e. industrial special risk;
- f. public and products liability;
- g. professional indemnity (including medical malpractice insurances);and
- h. directors and officers liability.

(16) Information on workers' compensation insurance as required under the [Workers' Compensation and Rehabilitation Act 2003](#) is in the [Workplace Health and Rehabilitation Policy](#).

## **Section 4 - Writs and Legal Liability**

(17) A register of writs containing potential University liability is maintained by the Director, Finance Operations. All writs, with the exception of workers' compensation writs, are to be channelled through the Vice-President (Administration) and University Registrar's Office.

(18) The following procedures provide a guide for the processing of writs, depending on the nature of the writ.

### **Writ of Non-Party Discovery**

(19) Writs of non-party discovery are served on the Vice-President (Administration) and University Registrar. In the event that the writ is served by mail or served on another University officer, it should be forwarded to the Vice-President (Administration) and University Registrars Office for action.

### **Workers' Compensation Writs**

(20) Workers' compensation writs should be forwarded to the Health, Safety and Environment Department for action. Further information on procedures to be observed when [Workers' Compensation](#) (QUT staff access only) writs are served is available from the Health, Safety and Environment website.

### **Other Writs**

(21) All other writs, including claims covered under University insurance liability policies and contractual disputes not covered by insurance, should be forwarded to the Vice-President (Administration) and University Registrar's Office for determination of the appropriate action.

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	20th April 2005
<b>Review Date</b>	31st December 2023
<b>Approval Authority</b>	QUT Council
<b>Approval Date</b>	20th April 2005
<b>Expiry Date</b>	Not Applicable
<b>Policy Owner</b>	Leanne Harvey Vice-President (Administration) and University Registrar
<b>Author</b>	Leanne Harvey Vice-President (Administration) and University Registrar
<b>Enquiries Contact</b>	Leanne Harvey Vice-President (Administration) and University Registrar