

Academies : Contract Training 5 February 2025

Ed Rimmell & Matthew Wolton

Commercial Partners





What we will cover

- Contracts as a tool for managing risk
- The importance of clarity
- Easy wins and common questions
- Contract management and using your rights

Contracts: a Risk Management Tool

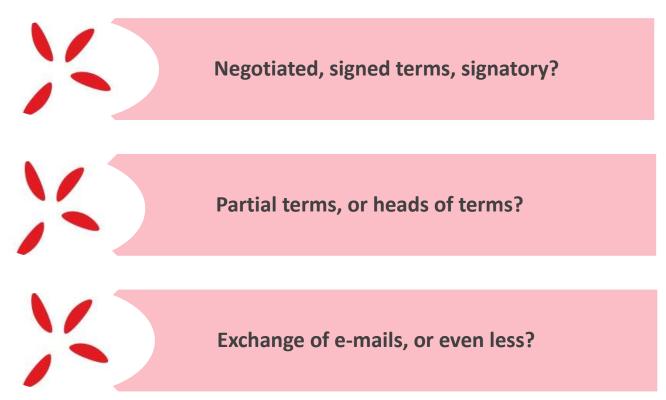


What is a contract and why getting it right is important

- Rights and obligations
- Enforceable
- Allocation of risk
- Expectation management
- Good governance



Is there a contract in place?





Whose terms should you contract on?

- Procured on framework terms?
- Procured on bespoke terms?
- Contracted on counterparty standard terms?
 - Bespoke, complex services?
 - Fit for purpose and reasonable?
- Procurement rules?

The importance of clarity





Where do things go wrong?

- Mis-aligned commercial understanding
- Not reading or understanding the terms
- Ambiguous terms
- Are you in control of your obligations?

Drafting basics

- Comprehensive
- Logical and methodical
- Nothing left to the imagination
- 'English comprehension'!
- Focus on what's important in the context



Service Scope



What is being done, by when, and by whom (and what is not being done)?

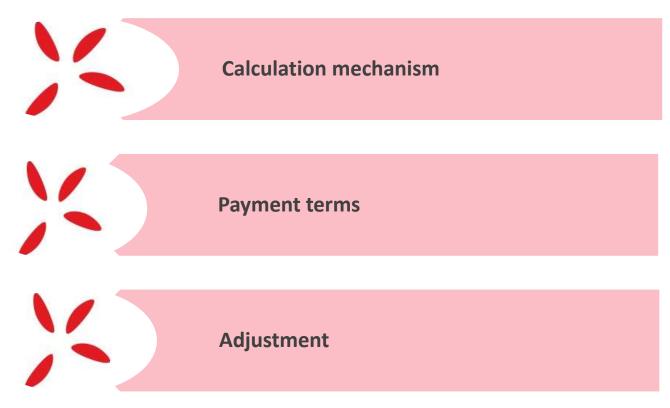


To what standard is it being done?



What levers can be pulled to make sure it is done to those standards?

Payment obligations



Easy wins and common questions



Term & Termination

- The risk of rolling contracts
- Break rights
- Termination for breach
- Specific termination rights compliance?



Performance Management

- Clear expectations from the start
- KPIs is everything measurable?
- Timing of payment e.g. against milestones?
- Audit rights



Liability

- Caps
- Exclusions
- Specific inclusions?
- Symmetry?



Context-specific terms

- Safeguarding
- Intellectual property
- Data protection
- TUPE
- Freedom of Information
- Force majeure





Some 'old chestnuts'

- Who are the parties? (MAT not school)
- Endeavours try or deliver?
- Reasonable?
- Indemnities
- Contract date (and 'back dating')

Contract Management





Using your rights

- Spend time on the molehills
- Importance of exercising your rights
- Diarise key dates
- Complying with the 'formalities'
- Recording and communicating your concerns

Change management

- Formality
- Clarity
- Consequences



Disputes

- Expensive and risky
- Evidence
- Insurance
- Legal support





Ed Rimmell
Partner - Commercial
erimmell@vwv.co.uk
+44(0) 7788 313 299





vwv.co.uk | Offices in London, Watford, Bristol & Birmingham Lawyers & Parliamentary Agents





Matthew Wolton
Partner - Commercial
mwolton@vwv.co.uk
+44(0) 7384 812 795



in linkedin.com/in/matthewwolton



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