

University Subsidiary Company and Joint Venture Policy			Ref: GS0015
Brief Description & Purpose:	This policy set out the principles that apply in relation to the formation, governance and dissolution of University subsidiaries and joint ventures.		
Applicable to (list cohorts):	Staff: All staff, including Governors and co-opted Board Committee Members	Students: Not applicable	Third Parties: Not applicable
Effective From:	28 October 2013	Approved date:	28 October 2014
Approval Authority:	Employment & Finance Committee	Last reviewed date:	31 March 2023
Executive Owner:	Georgina Bailes	Next review date:	March 2026
Business Owner:	Richard Elliott	Publication External Y/N	Y

1.Introduction

1.1 The University has established a number of subsidiary companies and joint ventures in accordance with [Article of Government](#) 3.1.12, which exist to hold and manage specific activities and resources, where it is beneficial to separate these legally from the University. In this context, the University still retains control as the holding company of the subsidiary company. Collectively, the University and its subsidiary companies and joint ventures are known as the Group.

The University's existing subsidiary companies are listed on the [University's webpages](#).

Unless noted otherwise, the term 'subsidiary company' hereafter includes joint ventures.

2. Legislative, Regulatory, and Strategic context

The University is required to comply with the Companies Act 2006 when establishing subsidiaries including the reporting of accounts and appointment of company Directors.

3.1 Strategic Context

The effective management of subsidiary companies supports the Strategic Outcomes of the University Strategy 2018-24 in the following ways:

3.Policy Detail

Strategic Outcome	Supported by
Strong global reputation and market position, with diversified revenue streams	A subsidiary company may be used as the vehicle for a specific activity or initiative, such as a business operation, a new campus or a segment of the University's workforce.
World class research driving excellence in all of the University's activities	The majority of the University's research will be considered charitable and therefore can be undertaken in the name of the

	University. However, some research may not be, and will therefore be most appropriately placed in a subsidiary company structure.
Transformed student and stakeholder outcomes.	The transfer or inception of activities to a subsidiary company operation could improve external stakeholder satisfaction; support the University in dealing more effectively and flexibly with external bodies and partners with whom it wishes to contract, through a recognised structure.
Organisational sustainability, efficiency and effectiveness.	Subsidiary companies can be a more efficient way of managing specific resources and assets, separating these from other activities for commercial or charitable purposes. Other efficiencies include greater flexibility and the ability to employ staff on different terms and conditions.

3.2 Rationale for establishing subsidiary companies

3.2.1 There are a number of benefits to establishing a subsidiary company, either as a company limited by guarantee as permitted by Article of Government 3.1.9, or one with or without a share capital. These include:

- ensuring the activities are ring-fenced for commercial reasons, as well as those linked to the charitable status of the University. Due to strict tax and charity regulations, the separating out of specific activities which would largely be considered non-charitable in nature into a subsidiary company is a means of ensuring that complications from a tax and charitable perspective do not occur. An advantage of using subsidiary companies, therefore, is that they are not subject to restrictions on their trading activities that charities are, even those which are exempt. A subsidiary company can also take advantage of the tax relief available for charitable donations, and can use the Gift Aid Scheme to give all or part of any profits in a tax efficient manner;
- the subsidiary company has a distinct legal personality from the University, and whilst owned by the University either wholly or partly, can contract with other bodies or organisations and can employ staff, including on differentiated Terms and Conditions;
- subsidiary and the University maintain legally segregated assets and liabilities;
- recognition of the 'company' structure by external bodies with which the University would wish to interact; and
- compliance with regulatory regimes outside of the UK.

3.2.2 The University may also set up a joint venture company in partnership with an external party. Joint Venture Companies may be established for a variety of reasons. In most cases, the University would have a shareholding of between 20% and 80%, since shareholdings below 20% would typically not be considered to have significant influence; such shareholdings would typically (although not always, since other aspects such as the Memorandum and Articles of Association and/or a shareholders' agreement governing the joint venture partnership could result in significant influence) be treated as a simple investment.

3.2.3 A [separate Policy](#) governs the setting up and management of spin-out companies, given the significant differences in structure, purpose and shareholding arrangements for these. The University will generally have a minority initial shareholding which will then be further diluted by additional investment if the spin-out is a success; one or more members of UE may be initial Directors. The spin-out process is over seen by Spin-out and Equity Committee, a committee of UE but including a member of Employment and Finance Committee, which is the overall approving body for spin-out activity.

3.3 Establishment, Management and Governance

3.3.1 Proposals for establishing a subsidiary company should originate from and be sponsored by a member of the University Executive or by the relevant Faculty PVC for proposals related to specific Faculty activity. All proposals to establish subsidiary companies must be submitted to Employment and Finance Committee which has delegated authority from Board of Governors to approve the establishment or dissolution of subsidiaries. Detailed procedures for the establishment, management and governance, and change of status or dissolution of subsidiary companies and joint ventures are set out in the associated Subsidiary Companies Procedures.

3.3.2 All subsidiaries and joint ventures will require a Board of Directors to be appointed. Directors with sufficient seniority e.g. a member of University Executive or a senior manager with relevant experience and expertise to operate the company should be appointed. Occasionally an Independent Governor may be appointed as Director, if this would be beneficial to the management of the subsidiary.

3.3.3 The general duties of directors under the [Companies Act 2006 part 10](#) are similar to but distinct from their responsibilities as Governors or members of University Executive, and are as follows:

- a duty to act within their powers in accordance with the company's constitution and only exercise powers for the purposes for which this are conferred
- a duty to promote the success of the company
- a duty to exercise independent judgement
- a duty to exercise reasonable care, skill and diligence
- a duty to avoid conflicts of interest (this applies after ceasing to be a director)
- a duty not to accept benefits from third parties (this applies after ceasing to be a director)
- a duty to declare any interest in a proposed transaction or arrangement

3.3.4 Directors of University subsidiaries have an underlying duty to act in the best interests of the Company and the University as the shareholder. Subsidiaries are established by the University for specific purposes so any conflict between these duties is unlikely. If a potential conflict does arise or is anticipated, the Chair of the Subsidiary's Board of Directors should consult with Head of Governance and the VC.

3.3.5 The Head of Governance and Head of Legal will provide the full text of the statutory duties to all existing and new directors, and supplement this with induction or refresher training to directors of University subsidiary companies as required. Training and guidance will also include more recent legislation including the responsibilities of directors in relation to the Bribery Act 2010.

3.3.6 All Directors, employees, students and third parties who are in a formal relationship with a subsidiary company will be expected to adhere to Northumbria University Policies and Procedures where there are no specific policies related to a subsidiary company.

3.3.7 Subsidiary Companies that have not traded with the last 3 months can be dissolved with the approval of Employment and Finance Committee. For full details of the criteria and procedure for dissolution refer to the Subsidiary Companies Procedures section 2.6.

4. Escalation Routes Where Breach in Policy Occurs

Breaches of the Subsidiary Company and Joint Venture Policy may be treated as a disciplinary matter and a breach of the Code of Conduct, particularly where the breach has exposed the University or its staff to actual or potential risk, damage or loss.

5. Key Roles and Responsibilities

Role	Responsibility
Head of Governance	Provide full text of statutory duties to all existing and new directors. Provide supplementary or refresher training to all directors. Conduct required due diligence for establishing a Subsidiary Company as detailed in the Subsidiary Companies Procedure. Ensure all electronic filing is carried out on time with Companies House.
Chief Financial Officer	Consult as needed during the required due diligence for establishing a Subsidiary Company as detailed in the Procedure.
Chief People Officer	Consult as needed during the required due diligence for establishing a Subsidiary Company as detailed in the Procedure.
Head of Legal	Consult as needed during the required due diligence or establishing a Subsidiary Company as detailed in the Procedure. Make arrangements to file initial registration documents for registering new Subsidiary Companies with Companies House. Confirm registration of new Subsidiary Companies.
Chief Marketing Officer	Consult as needed regarding branding.
Faculty PVC	Sponsor applicable proposals and business cases for establishing a Subsidiary Company if required.
Assistant Director Financial Control	Organize external audits and monitor finances of each Subsidiary Company as detailed in the Procedure.

6. Definitions

Under the Companies Act 2006, a company is a subsidiary of a 'parent' or 'holding company' if the parent:

- holds a majority of the voting rights in it;
- is a member of it and has the right to appoint or remove a majority of its board of directors;
- is a member of it and controls alone, a majority of voting rights in it.

A company is a 'wholly-owned' subsidiary of another company if it has no members except those from the parent company, or persons acting solely on behalf of that company.

Annual General Meeting: A general meeting of the members which, following the year of the company's incorporation, must be held within six months of the financial year end. Only

public companies and private limited companies are required to hold AGMs. Subsidiary companies which are wholly-owned may hold one should they wish to do so.

Annual Return: A document in prescribed form which every registered company is required to file with the Register of Companies on an annual basis, containing basic information about the company accurate as of the return date, which is normally the anniversary of the incorporation of the company.

Companies House: The body in England and Wales, Scotland and Northern Ireland which registers and records companies.

Company Secretary: The individual appointed who advises the Board, preparing documentation for general meetings, and undertaking the registration and return process with Companies House.

Director: Any person occupying the position of a director of a company, by whatever name they are called.

Dissolution: The process by which a company is dissolved following specific conditions laid by the Registrar of Companies.

General Meeting: A meeting of members of the Company. In the case of a wholly owned subsidiary company, the Directors constitute the Members.

Holding Company: A company having one or more subsidiary companies, i.e., holding a majority of voting rights or the right to appoint or remove a majority of directors in or more other companies.

Incorporation: the process by which a legal entity, separate from its owners and managers is formed.

Issue Shared Capital: The combined financial value of the shares issued and held by the Company.

Model Articles: The default Articles which form part or all of the Articles of a registered company.

Registrar of Companies: The registrar of companies for England and Wales, Scotland and Northern Ireland, to whom documents are sent to form a company and to whom other returns are submitted.

Winding Up: The liquidation of a company

7. Related Policies, Procedures and Other Resources

- Establishment, Management and Dissolution of Subsidiary Companies Procedure
- Policy for Managing Intellectual Property
- Spin-out Companies Policy (tbc)
- [Declaration of Conflicts of Interest](#)
- [Gifts and Hospitality](#)
- [Code of Conduct](#) (internal access only)

8. Version

Version No.	Reviewer	Date	Changes
2.0	Dr Adam Dawkins	28 th October 2013	
2.1	Richard Elliott	31 March 2023	Policy format change and creation of associated procedure, links added, minor updates to wording.

Establishment, Management and Dissolution of Subsidiary Companies and Joint Ventures Procedure

Ref: GS0015

This procedure sits under the Subsidiary Company and Joint Venture Policy

Brief Description & Purpose:	This procedure sets out the steps to be taken and detailed responsibility for the formation, governance and dissolution of University subsidiaries and joint ventures.		
Applicable to (list cohorts):	Staff: All staff	Students: Not applicable	Third Parties: Not applicable
Effective From:		Last reviewed date:	31 March 2023
Executive Owner:	Georgina Bailes	Next review date:	March 2026
Business Owner:	Richard Elliott	Publication External Y/N	Y
Contact for queries:	Richard Elliott		

1. Introduction

1.1 The University has established a number of subsidiary companies and joint ventures in accordance with Article of Government 3.1.12, which exist to hold and manage specific activities and resources, where it is beneficial to separate these legally from the University. This activity is governed by the Subsidiary Company and Joint Venture Policy, the implementation of which is subject to the procedures set out below.

References in these procedures to subsidiary companies also apply to joint ventures unless specifically stated otherwise.

2. Internal process for establishing a subsidiary company

2.1 Initial Proposal

2.1.1 The initial case for establishing a subsidiary company should originate from and be sponsored by a member of the University Executive in consultation with the VC and the Chief Financial Officer. Where the proposal relates to a specific Faculty activity, the proposal should be sponsored by the relevant Faculty PVC.

2.1.2 However, it is important to note that where a proposal to establish a subsidiary company is an outcome of a strategic project or initiative (e.g., the creation of a satellite or branch campus), the company component is likely to be part of a wider business plan, which must be considered through the usual reporting and approval routes. This will entail consideration through the University's project governance arrangements, endorsement by the University Executive and onwards to Employment and Finance Committee for approval.

2.1.3 Whether as part of, or separate to, any wider business plan, the Head of Governance should be consulted with in the first instance on the outline proposal. The Head of Governance will liaise with the Head of Legal, Chief People Officer where staffing implications are expected and Chief Financial Officer to ensure appropriate due diligence, and financial and resourcing scrutiny is undertaken. Specifically, this will involve an assessment of the necessity and viability of establishing the subsidiary company for the purpose intended, including:

- whether the establishment of a subsidiary company is the most appropriate vehicle and structure for the activity in question;
- whether the activity could be delivered through an existing part of the University's organisational structures;

- financial, staffing, governance and legal implications of the proposal, including taxation and employment contracts.

2.1.4 The Head of Legal shall be responsible for engaging any external legal advice required to support the establishment of the subsidiary company.

2.1.5 Other key colleagues will be consulted as appropriate, including colleagues in Business Development, and the Chief Marketing Officer in relation to matters of branding of the company, recognising that the name under which any subsidiary operates or trades will be subject to company law.

2.1.6 Key matters to be determined at the point of approval and pending further advice from those listed in above, include:

- the directors and shareholders;
- share capital;
- appropriate audit arrangements (see 2.5.5 below)
- specific provisions to be included in the Articles of Association.

2.2 University Executive and Employment and Finance Committee

2.2.1 Following satisfactory completion of the discussions identified in 2.1.3 above, the University Executive will consider the proposal. To be considered by Employment and Finance Committee the proposal will require a full business plan which addresses any feedback received from University Executive and endorsement from the University Executive for the approval of the establishment of the subsidiary company along with the appropriate assurances.

2.2.2 The Employment and Finance Committee has delegated authority from the Board of Governors to approve the establishment and dissolution of subsidiary companies. Any feedback or requests for further information or assurances from the Employment and Finance Committee must be acted upon prior to commencing the formal registration process for incorporation of a subsidiary company of the University.

2.2.3 The registration process for incorporation of a subsidiary company of the University outlined below will be not undertaken until approval of the Employment and Finance Committee has been granted.

2.3 Registration with Companies House or International Equivalent

2.3.1 The Head of Governance in consultation with the Head of Legal shall be responsible for making arrangements for the registration of the subsidiary company as required by Companies House (or international equivalent), namely the filing of the initial registration documents: the key information about the company, such as its intended company status, share capital and shareholder/director details, and the Memorandum and Articles of Association, whether the Model or adapted versions reflecting the specific requirements of the University and company.

2.3.2 A subsidiary company does not exist and cannot operate as a company before its certificate of incorporation is issued by the Registrar of Companies (or international equivalent). Confirmation of registration will be returned to the Head of Governance who will confirm the Directors and other relevant parties that the company can commence operation.

2.4 Subsidiary Company Governance

2.4.1 A suitable Board of Directors will need to be appointed and details are required to be submitted to Companies House (or international equivalent) as part of the registration process. Directors should be suitably qualified/ experienced and of sufficient seniority for this role. Generally, Directors will be members of University Executive with responsibilities related to the purpose of the subsidiary and will be nominated by the VC. Consideration will also be given to appointing other senior managers who are not members of University Executive but have subject matter expertise relating to the activities of the subsidiary. The Chair of the Board of Directors in question in consultation with the relevant University Executive member and subject to the approval of the Board of Directors can make such an appointment. Occasionally an Independent Governor may be appointed as Director if this would be beneficial to the management of the subsidiary. Such an appointment will require the approval of Employment and Finance Committee.

2.4.1 The duties of directors under the Companies Act 2006 are set out in the Subsidiary Company and Joint Venture Policy. The Head of Governance and Head of Legal will provide induction and ongoing training to directors on their duties and responsibilities, as required.

2.4.2 An Annual General Meeting (AGM) of the directors may be called, but this is not compulsory. The purpose of the AGM is principally to discuss and adopt the audited annual accounts and should be called within six months of completion of the audit under company law, should a decision to convene an AGM be made. Other topics which may be covered at a general meeting or annual meeting include confirming and agreeing changes to shareholdings, directorships, and the winding up or dissolution of the company.

2.4.3 The Board of Directors should meet a minimum of two times per year, one of which is to discuss and adopt the audited annual accounts as above; additional meetings may be convened as required to discharge the business of the subsidiary

2.4.4 In line with company legislation, a Company Secretary need not be appointed to the company, although aspects of this role will be undertaken as described below.

2.5 Financial management, monitoring and filing information with Companies House

2.5.1 As noted above (2.1.6), share capital will need to be determined prior to registration of the subsidiary company. Shares may be issued as ordinary shares or with preferred, deferred, or other special rights as regards dividends, voting and return of capital. Shares with limited voting rights or no voting rights are possible. In the case of subsidiary companies of the University, share capital structures should align to the company purpose.

2.5.2 Under UK company law, the subsidiary must have at least one shareholder, and a minimum authorised share capital of 1 share at £1.

2.5.3 The Board of Directors will set an annual budget for the subsidiary and will monitor financial and operational performance against it, commissioning information as required to support this responsibility. For 100% owned subsidiaries, financial information will be provided by the University's Finance Service. Financial performance will be reported to University Executive, Employment and Finance Committee and Board of Governors via the subsidiary's annual accounts, except where variations from the budget or planned performance are sufficiently material in the opinion of the Board of Directors to require in-year reporting to

University Executive initially so that any necessary interventions can be commissioned and any requirement for further exception reporting to Employment and Finance Committee and Board of Governors can be considered.

2.5.4 Employment and Finance Committee should receive an annual report for all subsidiary companies of the University as part of the annual report and accounts.

2.5.5 Audit requirements for the subsidiary will be determined as part of the establishment process (see 2.1.6 above) where Auditing Standards require. A separate audit of the subsidiary may not be required if its transactions are tested as part of the audit of the University's accounts; if this is the conclusion it should be endorsed by Audit Committee and approved by Employment and Finance Committee. A subsidiary operating commercially outside or partially outside the University Group is likely to require specific audit regardless of overall materiality. Arrangements for any external audit of the subsidiary company will be coordinated by the Assistant Director Financial Control, as part of the audit of the University as a parent undertaking, whether these are consolidated in the annual accounts of the University or reported on separately. If the Board of Directors of the Subsidiary or the University's Chief Financial Officer conclude that a change to the audit approach for a subsidiary is required, this will be submitted to Audit Committee for endorsement and Employment and Finance Committee for approval.

2.5.6 The filing of information to Companies House on the University's subsidiary companies holds statutory significance, on the basis that it is a criminal offence to file late, misleading, or false information relating to the University's subsidiary companies. In addition to the incorporation documents submitted to Companies House prior to registration of the company, the other returns submitted (if required in most cases) include:

- the annual return
- change of accounting reference date
- appointment of directors or company/corporate secretary
- change of particulars of directors or company/corporate secretary
- termination of directors or company/corporate secretary
- dissolution or winding up documentation and the return of an allotment of shares, where appropriate.

2.5.7 Filing of electronic and or other information on the University's subsidiary companies will be completed by Governance Services

2.6. Dissolution of a subsidiary company and re-registration of the status of a subsidiary company

2.6.1 There may be circumstances in which the continued operation of the subsidiary company is no longer required and the University does not wish to retain it as a dormant entity. Companies can make a request to be dissolved or closed, provided that they have not traded within the last 3 months; the name of the company has not changed; and not subject to legal proceedings; has not made a disposal for value of property or rights.

2.6.2 Following consultation with the VC, Chief Financial Officer and Head of Governance, the Directors of the subsidiary company will need to make a resolution to wind up the subsidiary company, and will require:

- the endorsement of University Executive
- the approval of Employment and Finance Committee.

2.6.3 Any assets, financial resources and shareholdings of the subsidiary company will be transferred to the University as the parent body, provided that all creditors of the company had been paid.

2.6.4 Should the company status of a subsidiary company seek to be amended (e.g., the subsidiary merges with a pre-existing or newly-registered subsidiary company), or a decision is made to adopt a new company status, then this will require a resolution of the Directors of the relevant company/companies, and:

- the endorsement of University Executive
- the approval of Employment and Finance Committee.

2.6.5 The relevant closure and dissolution of the company, and re-registration with Companies House will need to take place in line with the procedure in Section 2.5.

3. Key Contacts

Service/Team	Responsibility
Governance Services	Advice on subsidiary companies policy and procedure and governance of established companies.
Financial Business Partners	Consult as needed during the required due diligence for establishing a Subsidiary Company and for assistance with monitoring accounts as detailed in the Procedure
Legal Services	Consult as needed during the required due diligence for establishing a Subsidiary Company as detailed in the Procedure.

4, Related Policies, Procedures and Other Resources

- **Subsidiary Companies and Joint Ventures Policy**
- Policy for Managing Intellectual Property
- Spin-out Companies Policy (tbc)
- [Declaration of Conflicts of Interest](#)
- [Gifts and Hospitality](#)
- [Code of Conduct](#) (internal access only)