

Including Researchers Employed by a College/College Teaching Officers (CRs) on External Research Funding Applications through the University of Cambridge

What is the issue? University of Cambridge consists of both Colleges and the central University (departments etc). The 31 Colleges are separate legal entities to the central University, and cannot generally hold grants from a funder perspective (some rare exceptions, e.g. British Academy small grants). Therefore the University is the grant-holding body for the University of Cambridge (UCAM). When College personnel want to hold a research grant, they have to apply via the University. Researchers employed by a College (CRs)¹ are not University employees, however they are able to hold the position of Principle Investigator (PI) or Co-PI (Co-Investigator) on research grants. This assumes that the Sponsor allows them to be PIs, that the College (Senior Tutor and Bursar) is willing to support their participation in the research project and that the Head of Department of the host University department has formally agreed to host the PI and associated research grant under the University's research governance rules and regulations.

So how do we manage this at the University of Cambridge? Currently, there are three structures in practice

Please note: Non-University employees such as CRs are not allowed to manage University staff. Following HR advice, visitor agreement/College Fellow's Letters are not appropriate in these scenarios due to insufficient risk management. As PI/Co-I have project and staff management duties, they need to become either employees of the University or seconded into the University based on an HR agreement between the Faculty and the College.

to manage the inclusion of college personnel on research grants, which should form the basis of Faculty - College discussions. The Faculty represents the University and bears the risks and liabilities for its research grants approved by UCAM and therefore holds ultimate decision-power together with the Research Office. The Cambridge Research Office (CRO) can advise on the options and the mechanics, but Research Grant Administrators (RGAs) and Faculty/Department Administrators should lead on discussions on behalf of their Faculty/department.

Considerations (in no particular order):

- Line management duties and reporting structure
- Cost recovery and VAT implications through transfer of funding
- University obligations to the funder such as Funder terms and conditions on use of funding
- Contractual arrangements with non-Cambridge entities
- REF eligibility of funding
- Relationship with CR and College
- Immigration status of the individual (if applicable)²

Scenarios

The following scenarios are the most typical that present themselves for the inclusion of CRs on external research funding.

- 1) CR applies for small/simple award with no staff management duties (e.g. BA small grant up to £10k) and no additional research contract is required (e.g. no external collaborators and no need for data

¹ Common titles for College researchers include College Teaching Officers, Junior Research Fellows (JRFs), Research Fellows (RFs – in some Colleges this will include Senior Research Fellows or SRFs), College Librarians.

² Immigration law is inherently complex and fast changing. Should the respective CR be working in the UK under visa restrictions please consult with the University's immigration and compliance team complianceteam@admin.cam.ac.uk. For advice as of September 2020 please see Annex.

transfer agreements (DTA), material transfer agreement (MTA) confidentiality disclosure agreement (CDA) or similar research contract [SIMPLE GRANT] => see Route I or II below, exceptionally Route III

- 2) CR is only % of time on grant or has staff management duties, or the project requires a research contract (collaboration agreement, DTA, MTA, CDA) [COMPLEX GRANT] => see Route III (preferred option) or Route IV
- 3) Current college employee wants to be included on research grant for when they are no longer in College employment (e.g. JRF after end of their Fellowship) => Route V

These scenarios will present themselves with regard to different types of funding schemes:

Type of funding scheme	Definition	Treatment options of University-College contractual link	Further comments
Small grants with low complexity (Scenario 1)	Only directly incurred (not directly allocated) staff costs, small funding amount, no staff management, no third party entities, no research contract (MTA, DTA, etc.) required	<ul style="list-style-type: none"> - UTO as PI together with College staff as Co-I (or vice-versa) - Secondment agreement - Direct College-funder relationship - Sub-award from University to College <p>=> see Route I or II below, exceptionally Route III</p>	Note implications and details further below
Fellowship (Scenario 2 or 3)	Funding for staff salary (e.g. British Academy mid-career fellowship) Or Funding for teaching replacement costs (e.g. Leverhulme Trust Research Fellowship)	<ul style="list-style-type: none"> - Employment (e.g. for B.A.) - Secondment agreement (e.g. for Leverhulme) - Direct College-funder relationship <p>=> see Route III or Route IV</p>	
Complex grants (irrespective of size) (Scenario 2 or 3)	CR is only % of time on grant or has staff management duties, or the project requires a research contract (collaboration agreement, DTA, MTA, CDA)	<ul style="list-style-type: none"> - Employment - Secondment agreement - UTO as PI together with College staff as Co-I (or vice-versa) <p>=> see Route III (preferred option) or Route IV</p>	

Routes for contractual arrangements

The following routes should be pursued to address the scenarios and funding schemes outlined above.

Route (I) Sub-awarding from UCAM to College (ad scenario 1)

Where the funder is not willing to deal directly with the College, the application needs to be approved and submitted by the University (Faculty and Research Office – See Annex below for pre-award steps).

At award stage, the project could be sub-awarded to the college (CRO will use a standard sub-award contract; CRO set up budget on grants module for Faculty; College invoices the Faculty). Where University infrastructure is used, the Chest-share of the overhead could be retained as well as possibly the Faculty share in order to ensure that administrative support, library and other infrastructure costs are covered. Where the CR works from the College only, the estates of the grant could be transferred to the College.

In addition to the sub-award, a College Fellow's Letter³ must be issued.

Implications:

- Where additional external entities are involved in the project and those entities do not need to interact with UCAM directly then the College sets up its own sub-awards and flows down the T&C of the funder and between UCAM and College. Under other conditions, UCAM will set up a contract with external entities following Route III.
- VAT charges will apply as the College is providing a service to the University. The default sub-award will state clearly that the amount transferred is inclusive of all applicable tax and that College covers the VAT charges. If the College were not willing to do so then the Faculty would have to cover the charges or decide not to accept the award. (See Annex on VAT position)
- Project would be REF-able as budget held on grants module and CRs are REF eligible (as per REF 2021 rules).

Route (II) College – Funder contract (ad scenario 1)

This is very exceptional. Some funders may be willing to deal directly with the College (e.g. British Academy small grants). No University involvement would be provided at application, post-award and audit stages.

Implications:

- Project would not be REF-able as not held on the grants module.

Route (III) UCAM - HR Employment Route (preferred route ad scenario 2 [Complex grant], exceptionally ad scenario 1)

Note: Non-University employees are not allowed to manage University staff. Following HR advice, visitor agreement/College Fellow's Letters are not appropriate in these scenarios due to insufficient risk management. As PI/Co-I have project and staff management duties, they need to become either employees of the University or seconded into the University based on an HR agreement between the Faculty and the College.

³ See Office of Intercollegiate Services. www.ois.cam.ac.uk

The research funding application would need to be routed through the University via the Faculty (see Annex regarding pre-award steps to be considered as well as an example of arguing successfully with a funder that a CR should be treated as University employee.)

- If the CR is working on a full-time college contract, the College reduces the employment contract for the %time commitment on the grant and the Faculty offers an employment contract for that %time on grant. CR gets paid for their time directly from the grant by the Faculty (remainder of the salary covered by College as usual). The College makes a saving on staff salary costs and can use these for teaching replacement if required). Even though some College researchers might not prefer double employment there may be no other option. Early discussions with HR should be sought.
- All direct research expenses must be covered by the grant or end up as shortfall to the Faculty. All overheads remain with the Faculty and the Chest as University infrastructure is used to support the project.
- Research collaboration agreements need to be handled through the Research Office (e.g. those involving third party legal agreements). Where a collaboration agreement is required with an external organisation (e.g. NGOs/industry/other university), the Research Office is responsible for negotiating and signing agreements.
- The CR's salary would be costed like University employees with similar duties which may be more beneficial to the individual than their CR salary.

Implications:

- ⇒ This solution is financially more beneficial and certain as there is no transfer of funds and therefore no VAT payments due to HMRC.
- ⇒ Clear employment and line management structure within the University. All standard policies apply, e.g. redundancy process and payment at end of contract if CR involvement is longer than two years.
- ⇒ College could make commitment to CR to revert to full contract past end of grant or could grant the CR leave of absence for the duration of the project.

Route (IV) UCAM - HR Secondment Route (less preferred route ad scenario 2 [Complex grant], scenario 1 for small grants with low complexity)

Note: A secondment agreement may be appropriate for situations where salary is included but also for situations where the Department needs to assure the funder of appropriate oversight of grant management by the PI based on a contractual arrangement between the University and the College researcher.

- Salary of CR to be confirmed by College Bursar and costed into the grant
- Where the funder does not allow salary to be charged the secondment agreement might show £0.
- CR stays on full-time contract at the College. A standard secondment contract is set up between the Faculty and College ([template available here](#) - include a role profile that covers all expected duties of the CR, including supervision duties of PhD students and other staff if applicable). The College continues to pay the CR's salary, the Faculty reimburses the salary and oncosts (NI, pension) to the College where applicable.
- All overheads remain with the Chest and the Faculty because University infrastructure is used in support of the project.
- Standard secondment agreement incurs VAT charges on the whole amount being transferred. (However, please note Annex VAT position, Q2.)
- Research collaboration agreements need to be handled through the Research Office (e.g. those involving third party legal agreements). Where a collaboration agreement is required with an

external organisation (e.g. NGOs/industry/other university), the Research Office is responsible for negotiating and signing the collaboration agreements.

Implications:

- ⇒ VAT position complicated with risk of additional 20% costs on all financial transfers from University to the College (See Annex)
- ⇒ Where VAT needs to be charged to the funder or between College and University, it will reduce the amount of available budget if there is a funding ceiling for the project. The risk rests with the Faculty and College so prior conversations are required about who carries this risk. See [VAT flowchart and sponsor cards](#).
- ⇒ There is a potential equality/fairness issue with this option – if the CR is working on a research grant as PI/CoI but being paid a CR salary, they could be in receipt of a much lower salary than other University employees doing the same work and being paid at a higher grade.
- ⇒ If the salary of the CR is increased for the secondment beyond current levels at the College, VAT charges are applicable (see VAT guidance in Annex). The Employment Route is therefore preferable.

Route (V) Non-University Employee (ad scenario 3)

Current college employee wants to be included on research grant for when they are no longer in College employment (e.g. JRF after end of their fellowship)

As with any other non-University employee, the application should be treated like a normal application for an applicant who is not currently on CHRIS. The salary costs should be applied to as directly incurred (DI). This would apply for example, if a Junior Research Fellow wanted to apply for funding to continue research through the University following from the end of their fellowship onwards.

Annex

Pre-award

What needs to be considered before submission?

- CR needs to discuss application plans with the respective host Faculty as well as their College (Bursar and Senior Tutor) as early as possible and seek their approval
- X5 required; consider appropriate [VAT position](#) for the Funder and between College and University
- Faculty/Department needs to approve funding application following standard University and Faculty/Department policies in order for application to be approved and submitted by Research Office
- For research grants and fellowships, the Faculty/Department would by default retain all overheads as the CR would be using University infrastructure and administrative support. (An exception may be where the CR works exclusively from the College and estate costs and parts of the Faculty overhead may be transferred. Please note that the Chest share of the overhead will always be retained by the University). Please note that VAT may be applicable where funds are being transferred from UCAM to the College.
- College (usually the Bursar) will need to confirm to the Department in writing:
 - that they agree to release him/her for the percentage time to be worked on the grant;
 - that his/her College employment contract extends up to or beyond the end date of the grant (and if it does not, the CR should confirm they are happy to only be employed on the grant only e.g. at 10%); and
 - they do not expect any overheads. As s/he will be University staff (with desk, access to all University administration, payroll etc), the assumption should be that the department will retain the department share of the overheads (Estates and Indirects) associated with the CR's time.
- Department to ascertain appropriate University grade and spine point for the CR in line with their duties on the project and proportionate to other University employees.
- Bursar email confirmation to be forward to ROO for our records.

Example of communication with funder about CR eligibility

Here is an example of making a successful case for the eligibility of a College employee to apply through the University as if they were a UCAM employee for the purposes of applying for a UKRI grant (example Oct 2020):

'I can confirm that XXX is currently employed at XXX College at the University of Cambridge. The University is a confederation of Schools, Faculties, Departments and Colleges. The Colleges are governed by their own statutes and regulations, but are integral to the make-up of the University of Cambridge, as stated in the links copied below:

<https://www.cam.ac.uk/about-the-university/how-the-university-and-colleges-work/structure>

<https://www.cam.ac.uk/about-the-university/how-the-university-and-colleges-work/the-universitys-mission-and-core-values>

<https://www.cam.ac.uk/about-the-university/how-the-university-and-colleges-work/people>

I hope this clarification is helpful, and explains the structure of the Collegiate University. I would be concerned if these queries result in the exclusion of a researcher with a non-traditional career path, who has been included on this grant application. This seems to go against the spirit of [insert reference to funder]

policy; e.g. UKRI policy and frameworks (<https://www.ukri.org/skills/policy-and-frameworks/>), and the written guidance that has been circulated by UKRI in relation to the Concordat to support the career development of researchers (<https://www.ukri.org/files/concordat-to-support-the-career-development-of-researchers-ukri-funder-action-plan/>]), especially commitments that are made about non-traditional career paths and equality friendly ways of working in relation to grant review and assessment.'

Research Contracts

If the project has external collaborators, the Research Office will determine whether contracts with these entities are required. The Research Office will negotiate and sign such agreements.

To help us deal with your contracts and to reduce our questions to you, please follow the guidelines below.

For Confidentiality Disclosure Agreements (CDAs), Material Transfer Agreements (MTAs) and Data Transfer Agreements (DTAs):

Submit the request on-line and complete the [due diligence questionnaires](#).

For all other agreements contact AHSSContracts@admin.cam.ac.uk in the first instance with these details:

1. RG reference if the contract comes under an application, existing grant or an existing project.
2. PI's name
3. Funder's name(s)
4. Project Title
5. Project start and end dates
6. Key documents not already provided to ROO e.g. application, offer letter, contract
7. Any relevant information such as deadlines, other parties involved, etc.
8. X5 reference

Human Resource Considerations

Secondment

https://www.hr.admin.cam.ac.uk/files/college_secondment_agreement.pdf

Global mobility and overseas assignments

<https://www.hr.admin.cam.ac.uk/hr-services/global-mobility-and-overseas-assignments>

Immigration advice

(as of September 2020 – please check for updates with the HR immigration and compliance team complianceteam@admin.cam.ac.uk with regard to individual who are employed while on a visa in the UK)

Background

In terms of immigration restrictions, almost all of the visa types we see at the University (e.g. Global Talent/Tier 1, dependant and spousal visas) offer no restrictions on employment. Issues will only arise where the individual holds a **Tier 2 visa** (to be rebranded '**Skilled Worker visa**' from 1 January 2021). The vast majority of researchers at the University are engaged via a Tier 2 visa.

The University and each of its 31 constituent Colleges are separate employers, meaning that each College must hold its own Tier 2 sponsor licence in order to sponsor staff via the Tier 2 visa route. It is not possible to amalgamate the licences into one single licence covering all 32 separate bodies.

The fundamental principle of sponsorship is that the sponsored individual works principally for the sponsor/employer. As taken from the Tier 2 sponsor guidance:

“You cannot sponsor a migrant if you will then supply them as labour, to another organisation, regardless of any genuine contractual arrangement between the parties involved.”

In addition:

“They [the Tier 2 visa holder] must not be contracted to undertake an ongoing routine role or to provide an ongoing routine service for the third party regardless of the length of any genuine contract between you and another organisation.”

These principles are there to ensure that the sponsorship system is not abused i.e. sponsoring an individual to do a certain job for a certain employer, but after arrival in the UK the individual goes and does something completely different.

However, it is possible for an individual holding a Tier 2 visa to work for two different employers at the same time, and there are two distinct sets of Rules which govern how a Tier 2 visa holder can do so. It is relevant to detail both of these now and then explore how these would fit into the two proposed scenarios.

“Supplementary employment”

These Rules allow a Tier 2 visa holder to work for another employer provided all of the following are met:

- The individual remains sponsored by their existing employer and be paid min. £30,000; and
- The role they will undertake is in the same profession as their ‘main’ job; and
- The role will be for no more than 20 hours per week; and
- Be undertaken outside of their normal working hours for their main employer.

The other employer does not have to be a sponsor and there are no minimum salary requirements to meet for this second role.

“Secondary employment”

Where supplementary employment is not possible, the only other option is ‘secondary employment’. This provides the individual with two visas and two sponsors running concurrently. However, to gain the second visa the individual would have to pay all associated fees, and their second role would have to meet all sponsorship requirements (i.e. the new employer/sponsor would have to meet the RLMT, meet minimum salary requirements etc.).

Option 1: Employment route

This scenario has been considered within the context of the above framework.

For “supplementary employment”, this scenario would result in the individual remaining sponsored by the College for a % of time on their Tier 2 visa whilst undertaking supplementary employment at the University for the other % of time.

In this context, reducing the hours of the College contract *would* cause an issue for their ongoing sponsorship. Where an individual’s hours are reduced, under current rules their salary must not then fall

below £30,000 or they can no longer be sponsored and would lose their Tier 2 visa. This minimum salary rate cannot be pro-rated; it is a ‘hard’ minimum.

The minimum rate also cannot be met or topped up by other sources of income/employment – it can only be met through the main employment/employer. Therefore, if the reduction in hours resulted in the salary from the College falling below £30,000, this scenario could not currently be realised by way of the “supplementary employment” Rules as it would result in the individual losing their visa.

Equally, “secondary employment” raises similar such issues. To be sponsored simultaneously by a College and the University, in order to undertake two jobs, would mean that the role at the University would first need to be advertised in line with the Resident Labour Market Test. Even if this was possible, for “secondary employment” to be viable the individual would have to be paid a minimum of £30,000 by each employer. This is unlikely to be viable in most cases.

A caveat to this is the new immigration system which will launch from 1 January 2021. Under the new system, the above framework will remain in place but the salary rules will be significantly reduced. In this context, (and as long as the initial College contract was not for more than 4 years), the minimum salary rate for a researcher holding a Skilled Worker visa will be **£20,480**.

Therefore, provided the %time at the College did not result in a salary reduction below this amount, this arrangement would be possible from 1 January 2021 by way of the ‘supplementary employment’ rules. The following would have to be in place:

- The individual is initially sponsored by the College to facilitate the issuance of the Skilled Worker visa;
- The %time on their contract did not reduce their salary below £20,480 at any time;
- They undertook “supplementary employment” at the University for no more than 20 hours per week. No minimum salary requirements on the University contract and no restriction on salary source.

There would be no sponsorship obligations on the University in this scenario, which is beneficial to ourselves.

Option 2: Secondment route

Secondments are not permitted for those holding a Tier 2 visa. The principle being that where you are sponsored for a role, then you should only be undertaking that role and not a different role for another employer (unless the role can meet the supplementary or secondary employment rules). Doing so would be a fundamental breach of the Immigration Rules. The secondment route is therefore not viable for Tier 2 visa holders.

Post-award

ROO will send any financial reporting due to the funder, but we will require input from both the College and Faculty. The College would need to provide an expenditure statement so we can report back to the funder. This would normally be staff breakdown and breakdown of other evidenced expenditure against awarded headings. Any other reports due will need to be submitted by the PI direct to the funder.

VAT position

Q1: What is the difference between the employment and the secondment route from a VAT perspective?

If CR becomes employee of the University and no funds are being transferred to the College then there are no VAT considerations.

For secondments, the default assumption should be that VAT is chargeable by the College to the University.

Q2: Is VAT always applicable under the secondment route?

If a CR is seconded for non-business research⁴ and has non-business research as part of their remunerated employment duties at the College, then please check the following two conditions in order to determine whether VAT is applicable:

Where a secondment takes place between two charities [e.g. the University and a College] and it meets the conditions below, no VAT will be due on the payment to the employer:

- the employee has been engaged only in the non-business activities of the lending charity/organisation and is being seconded to assist in the non-business activities of the borrowing charity/organisation; **and**
- the payment for the supply of the employee's services does not exceed the employee's normal remuneration

If either test is failed, the supply is subject to VAT at the standard rate. Similarly, if the individual is per employment contract only teaching at the college but will be researching at the University under the secondment agreement, then standard rate VAT will apply. (If the supply is one of teaching provided by one eligible body to another eligible body (e.g. University to/from college), this will be VAT exempt.)

(Source: This is taken from paragraph 5.17 of the VAT notice on charities which can be found here.

<https://www.gov.uk/guidance/how-vat-affects-charities-notice-7011#sect5>; University Tax Office 8/7/2020)

Implications:

- ⇒ College may need to charge VAT on secondments (contractual amount should be inclusive of all applicable tax) – Faculty to guard itself from having to cover out of reserves (either cover out of overhead or transfer of funds to cover all applicable tax per contract).
- ⇒ Employment route works better from a VAT perspective as no transfer of funds and clear VAT position
- ⇒ CR contracts to state research as part of their duties? (would be beneficial for Tax position on secondments)

⁴ **What is a non-business activity?**

- Publically funded research (not commercial activity); charity funded research (as long as non-business activity at the funder)
- Teaching (business activity but exempt) – no VAT due