

CONSULTANCY AND SERVICES FOR OUTSIDE BODIES POLICY

1.0 PURPOSE

This document defines the policy for the provision of consultancy and services for outside bodies (services) undertaken in the name of Durham University.

Durham University recognises that consultancy and services are an important activity facilitating the transfer of knowledge to business and the wider community. It brings a number of financial and non-financial benefits to both individuals and the University.

Specific benefits for individual staff members include:

- Opportunities to develop their skills and to broaden work experience.
- Opportunities for industrial collaboration and to build new relationships.
- Generating personal income and/or funding for research within departments.

Specific benefits for the University include:

- Increased knowledge transfer activity.
- Additional external relationships, including the opportunity to initiate broader relationships leading to research collaborations and business partnerships.
- Improved profile of the University with businesses and other communities.

The University is, therefore committed to helping staff foster and make the most of consultancy opportunities whilst:

- Maintaining the University's excellence in research and teaching & learning.
- Ensuring that work is managed to mitigate the financial and reputational risks to the University that could arise as a result of poorly managed consultancy.
- Ensuring that issues such as intellectual property and institutional liability are managed effectively.

1.1. Relationship to other policies

All activities in the scope of this policy are governed by the 'Work with Outside Bodies Policy', which must be read in conjunction with this policy.

2.0 SCOPE

2.1. Categories of work in the scope of this policy

This policy applies to the following categories of work:

2.1.1. Consultancy

Consultancy is defined as the provision of expert advice and work, which while it may involve a high degree of analysis, measurement or testing, is crucially dependent on a high degree of intellectual input from the institution to the client. It does not, however involve the generation of new knowledge (such work should be classified as research). It is provided to external clients that can include public, private and charitable sector organisations.

2.1.1.1. University Consultancy

University consultancy involves the University entering into contract with an external client to provide the consulting services of member(s) of staff. This includes:

1. Individual consultancy work undertaken in the University's name by members of staff relating to their University appointment (or which references their appointment) and for which they may be eligible to receive a personal payment (see 3.2);

2. Consultancy work undertaken by consultancy units in or related to academic departments e.g. Archaeology; Maths and Statistics; CEM.
3. Consultancy work undertaken by Departments on larger scale projects. Examples include an academic or group of academics responding on behalf of the University to an external tender.

2.1.1.2. Private Consultancy

This is the provision of expert advice and services for a fee to external clients by University employees in areas of activity related to their University appointment and academic expertise but undertaken without involvement of (or reference to) the University. See 7.0 for details.

2.1.2. Services for Outside Bodies

Services for Outside Bodies (Services) are defined as use by an external party of the University's physical academic resources and/or provision of training programmes (mainly for business). Where activities involve significant design or results interpretation by the member of staff undertaking the work then it should be classed as consultancy.

Subcategories of Services include:

1. Facilities & Equipment related services: Use by an external party of the University's scientific / technical or academic facilities.
2. Analytical Services: Work where a sample is provided to the University for analysis by equipment and the results are supplied.
3. Courses for businesses and the community: Training programmes for learners already in work who are undertaking the course for purposes of professional development/up-skilling/workforce development.

2.2. Work for the Wider Academy

This policy does not generally apply to activities classed as Work for the Wider Academy in Appendix One of the 'Work with Outside Bodies Policy', unless the exceptions in 2.2.1 apply.

2.2.1. Exceptions

Exceptions apply when significant individual time, University resource or University contracts are required. Guidance should be sought:

- a) Where the activity entails more than 10 days per year and is undertaken during contracted hours, or
- b) Where the individual requests that the University undertakes the contracting and / or processes any payment (a fee may apply).

In these cases the activity must be referred to the Head of Department and may be treated as consultancy (advice may be sought from Research & Innovation Services (RIS)).

3.0 ELIGIBILITY

3.1. General eligibility

Eligibility to lead a project is defined by the 'Project Lead / Principal Investigator Eligibility Policy'.

Staff funded through external grants may be subject to terms and conditions constraining their ability to undertake other work. In cases where affected staff wish to undertake further work the University will try to negotiate this with the funder.

3.2. Eligibility to receive a personal payment

Subject to Head of Department approval, eligible staff may undertake up to 24 days of

consultancy work per annum for which they may receive a personal payment. Any additional allowance is by exception and requires formal agreement from the Head of Department.

4.0 COSTING AND PRICING

Costing and pricing must be undertaken in line with the 'Pricing of Externally Funded Projects Policy'. Pricing must take into account market rates and it is normally expected that cost recovery will be above FEC (Full Economic Cost).

4.1. Directly Incurred Cost recovery

The University must be fully reimbursed for any costs incurred directly by the project. These include: costs of staff employed directly / subcontracted by the project, consumables, taxes, fees, travel, subsistence and direct costs arising from the use of University facilities and equipment.

4.2. Administration fee for consultancy involving a personal payment

Where consultancy is undertaken involving a personal payment, an administration fee will be applied of 10% of the remaining income once directly incurred costs have been recovered.

5.0 APPROVAL

All proposals for consultancy or services must be approved in line with the arrangements set out in the 'Work with Outside Bodies Policy'.

Prior to commencement of work:

- Approval must be given by the relevant Head of Department. Escalated sign off may be required, e.g. on the basis of financial contribution or value (see the 'Pricing for Externally Funded Projects Policy'), or risk (see the 'Work with Outside Bodies Policy').
- Approval must be given by RIS or their delegated nominees.
- A written contract must be in place.

6.0 DISTRIBUTION OF INCOME

6.1. Consultancy

Income (after deductions) may be distributed in one or a combination of the following three ways:

- a) Personal payment via payroll. This will be subject to tax and national insurance deductions. (For eligible staff, up to 24 days per annum.)
- b) Income to support the academic activities of those undertaking the work.
- c) Income to support departmental activities.

Staff may nominate their preferred routes for income distribution / payment. This is subject to the approval of the Head of Department but should not unfairly prejudice the right of staff to receive a personal payment.

6.2. Services for Outside Bodies

The remaining income (after deductions) may be distributed in two ways:

- a) Income to support the academic activities of those undertaking the work.
- b) Income transfer to support departmental activities.

Staff may nominate their preferred routes for income distribution / payment. This is subject to the approval of the Head of Department. There is no personal payment route when Services are undertaken.

6.3. Activities eligible for a personal payment

The table below is a guide to which of the sub activities covered under this policy will normally be considered for a personal payment. The table is advisory only. Exceptions are at the discretion of the Head of Department and RIS.

Activity	Eligible for Personal Payment	Not normally eligible for personal payment
Consultancy (e.g. expert advice and opinion; expert witness; policy review; analysis that include interpretation of results) except where it falls into one of the categories below.	✓	
Consultancy work involving substantial use of University resources (other than Project Lead / PI time) or specialist facilities.		✓
Consultancy work undertaken by or on behalf of University Consultancy Units e.g. Archaeological Services, Maths & Statistics, CEM and / or the departmental analytical units or labs.		✓
Services for Outside Bodies (analytical Services; facilities and equipment use; CPD courses)		✓

7.0 PRIVATE STAFF CONSULTANCY

7.1. University vs Private Consultancy

Consultancy is considered to be private when it does not involve the University as a contracting partner. The University expects that projects involving any of the following to be contracted through the University consultancy route:

- staff (working during contract hours) or
- University technical or physical resources or
- the use or transfer of any proprietary intellectual property (with a commercial value or which is central to the core business) of the University.

Due to the benefits to both individual staff and the University, the University promotes the exploitation of consultancy opportunities through the University rather than the private route. Benefits to staff include:

- Advice and guidance including assistance with costing and pricing.
- A written contract to protect the financial and academic interests of the University and the staff member.
- Preparation and issuing of invoices and credit control.
- Provision of professional indemnity cover.
- Arrangement of payment of consultancy fees.
- Tax and National Insurance payments are routed through University payroll

7.2. Requirements for Private Consultancy

Private consultancy may only be undertaken outside contracted working hours and must not utilise university resources.

Should a member of staff wish to undertake private consultancy; in order to mitigate the liability on the University, the member of staff must:

- Obtain permission to undertake the work from the Head of Department.
- Sign, and obtain the client's signature on, a disclaimer of liability letter informing the client that there is no contractual relationship with the University of Durham and no liability on the University for the work being undertaken.
- Explicitly notify any team members or subcontractors that this is not a Durham University activity.
- Undertake all of the administration themselves, including the provision of indemnity insurance.¹ It is the responsibility of the individual to ensure that the insurance is sufficient to address the liabilities inherent in the private consultancy being undertaken. In the absence of Professional Indemnity Insurance, the activity must be undertaken as University consultancy.

7.3. Income

When an individual undertakes private consultancy, all revenues accrue to the individual who must declare the income on all relevant tax returns to HM Revenue and Customs (HMRC). The individual is also liable for any tax and national insurance payments that may be due.

8.0 COMPLIANCE

Compliance with this policy is mandated by the University's standard terms and conditions of employment. Failure to comply may be regarded as a disciplinary matter and subject to the University's disciplinary procedures.

RELATED DOCUMENTS

- Pricing for Externally Funded Projects Policy
- Principal Investigator / Project Lead Eligibility Policy
- Work with Outside Bodies Policy

DOCUMENT ADMINISTRATION

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¹ The member of staff must demonstrate to the University's satisfaction that they have the necessary indemnity insurance to cover the work. No indication should be given that the outside work is undertaken in anything but a private capacity. University resources e.g. University branded paper and University general IT equipment must not be used, neither must University specialist equipment be used