

POLICY FOR CONSULTANCY & OTHER EXTERNAL PROFESSIONAL WORK

1. Background

This policy forms part of the University's Financial Regulations. It is a condition of employment that University employees comply with the Financial Regulations. Failure to do so is likely to (or) will result in disciplinary action.

2. Benefits of Consultancy

Consultancy is one strand of engagement with business. By its nature it tends to be short term and focused. However, it can often lead to wider and deeper engagement in the form of research contracts and strategic partnerships. It also has the benefit of broadening the individual's level of commercial awareness.

The priorities for consultancy are to stimulate and encourage the following:

- Increased company engagement
- Increased research income
- Increased levels of research capacity, primarily more PhD students and related activity.

3. Definition of Consultancy

Consultancy is the provision of advice or assistance with problem solving. It does not involve the generation of new knowledge or original investigation or research.

4. University Consultancy

University consultancy is defined as the provision of services for third parties which are not credit-bearing teaching or research which involve at least one of the following:

- a) Use of the University's, Faculty's, School's or other University Unit's name and/or logo
- b) Use of any University facilities or staff (including the time of the member of staff undertaking the consultancy)
- c) Undertaken from University premises (including correspondence or contact through the University e.g. email, telephone)
- d) Any consultancy which the member of staff wishes to undertake as a University consultancy in order to be covered under the University's insurance policies.

Expert witness work is covered under this policy.

As a guideline, up to 25 days per annum may be spent on University consultancy activities. However, this may be increased by agreement with the individual's Head of Unit.

All University consultancy contracts must be negotiated and dealt with through the Faculty Enterprise Teams. At a minimum, it is expected that FEC (Full Economic Costs) will be recovered.

5. Private Consultancy

Private or personal consultancy is defined as 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 privately. For the avoidance of doubt, private consultancy may only be undertaken outside normal and contracted working hours.

A member of staff seeking consent to undertake private consultancy must provide full information to his/her Head of Unit in advance of agreeing to the activity. This information must include:

- a) The amount of time to be committed to the activity (including relevant dates)
- b) An accurate description of the nature of the activity
- c) Client details
- d) Confirmation that the activity does not conflict with the undertaking of any University duties
- e) Confirmation that the member of staff has Professional Indemnity Insurance in place for the activity. 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 should be undertaken as University consultancy.

When corresponding with clients on personal consultancy, staff must not use University business cards, logo, notepaper, letter headed paper, address, email using university user or domain name, or in any way imply that the consultancy is “official University business”. When conducting private consultancy, staff may not use any University facilities e.g. equipment, IT equipment including PCs, telephone, space, University name, expertise or Intellectual Property. In addition, staff may not use University property for meetings as this may be legally interpreted as an association with the University and the University’s tacit approval of the consultancy services.

The following disclaimer must be included by the member of staff in all contracts with clients.

‘With reference to my work on the project for you I am required by my employer, Newcastle University, to advise you that I shall be acting in an entirely personal capacity and not for or on behalf of the University; and the University exercises no control or supervision over the actual performance or quality of the work. Consequently the University cannot accept responsibility for the work I do or for the advice which I give in connection with the assignment and accepts no liability for any acts or defaults on my part, whether negligent or otherwise. In the event of any conflict between the provisions of this letter and the terms of any other contract between your company and myself, this letter will take precedence. Please acknowledge receipt of this letter, by signing and returning a copy of the same. I am unable to carry out any work on the above project until I receive a copy of this letter duly signed from you.’

A copy of the signed contract/proposal containing this paragraph must be sent to the Head of the respective Faculty Enterprise Team to be filed for future reference.

In accordance with the University’s *Declarations of Interest and Conflicts of Interest Policy*, all private consultancy must be declared in MyImpact in the individual’s Declaration of External Interest.

6. Approval for Consultancy Activity

Approval by an individual's Head of Academic Unit or Service Unit must be given for ALL consultancy work prior to carrying out the work. In certain cases, where it is anticipated that there will be a series of consultancy engagements with a particular company over a period of time, generic approval may be given rather than having to seek approval for each specific instance.

7. Summary of Principles

	University Consultancy	Private Consultancy
Head of Unit permission required	Yes	Yes
Declaration of interests required	Yes	Yes
Indemnity insurance	University policy	Personal cover required
Use of University name, equipment, facilities	Yes	No
Permitted working days	Guideline of up to 25 but more by agreement with Head of Unit	None
Contract support	Full	None

8. Revenue Distribution

It should be noted that because of the different financial model to which FMS operates, this policy proposes a different revenue distribution for that Faculty.

Private Consultancy

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.

University Consultancy

In order to incentivise staff to engage in University consultancy, the income from such consultancy will be treated as indicated in table 2 below.

Should an individual wish to receive a personal payment from the University consultancy income then it should be noted that any such payment will be subject to tax and national insurance deductions.

<p>After deduction of <i>non-salary</i> direct costs:</p> <p>Either: 85% to individual's personal research account^a 15% to the Academic Unit</p> <p>Or if personal payment: 50% to individual 50% to the Academic Unit</p>	<p>After deduction of <i>non-salary</i> direct costs:</p> <p>Either: 85% to individual's personal research account 15% to the Academic Unit</p> <p>Or if personal payment: 50% to individual 50% to the Academic Unit</p>	<p>After deduction of <i>salary</i>¹ and <i>non-salary</i> direct costs:</p> <p>Either: 85% to individual's personal research account and Institute² 15% to the Faculty</p> <p>Or if personal payment³: 50% to individual 50% to the Faculty/Institute</p> <p>¹ for a trial period of one year, starting from 13/01/16, salary costs will not be deducted where the consultancy is performed at weekends or bank holidays</p> <p>² the default is that this is split 50:50</p> <p>³ personal payments in FMS require approval by Head of Institute</p>
<p><i>All personal payments will be subject to tax and national insurance deductions</i></p>		

Table 2 – Distribution of Consultancy Revenue

9. Remuneration for Academic Professional Services

The following activities are included in the definition of academic professional services:

- a) Royalties from the publication of books
- b) Proceeds from articles published in learned journals
- c) Refereeing of articles in learned journals
- d) Acting as a member of a Journal Editorial Board or related editing consistent with normal academic practice
- e) Reviewing book proposals or manuscripts for publishers and advising on publication
- f) Peer reviewing research proposals for research sponsors
- g) External examining

^a 'Personal Research Accounts' are also known as 'Research & Teaching Support Funds'.

- h) External *ad hoc* lectures and conference presentations
- i) External Reviewing and Audit Assessment

Major commercial editing contracts and related academic services are not considered as academic professional services and are dealt with under Consultancy.

Staff may retain all revenues from academic professional services personally through direct arrangements with the third party. Where staff wish such payments to be made through the University they will be treated in line with consultancy income.

Staff are required to keep their Head of Academic Unit informed where the volume of academic professional services activity undertaken overall impacts on their agreed workload model.

Works of creative practice in the arts (e.g. sculpture, paintings, music) which are separately commissioned by third parties are a form of academic professional service but the arrangements for these will be dealt with on a case by case basis and should be discussed and agreed separately with the Head of Academic Unit. Where consent is given the remuneration for the activity is entirely a personal matter for the member of staff.

The Member of Staff is entirely responsible for the declaration of any income to HM Revenue and Customs (HMRC) using a personal annual return and taxable income declaration.

For the avoidance of doubt consent to undertake academic professional services is at the discretion of the Head of Unit.

10. Additional Clinical Practice

Additional clinical practice is defined as “*non-NHS clinical work which generates a payment to the clinician*”.

Clinical academic staff employed by Newcastle University are permitted to undertake additional clinical practice providing all of the following is the case:

- a) The employee has, and maintains Medical Defence Union cover which includes indemnity in respect of the activity
- b) Such activities are undertaken in appropriately licensed and equipped premises where the equipment and facilities are in good working order
- c) When corresponding with clients on additional clinical practice, employees must not use University business cards, logo, notepaper, letter headed paper, address, email using university user or domain name, or in any way imply that the activity is “official University business”
- d) The client acknowledges that the activity is additional clinical practice
- e) That the activity is documented and agreed under the Job Plan Review and Follett papers; where the activity is other than occasional it must be incorporated into the Schedule of Programme Work which may result in an amendment to Programmed Activities (PAs)
- f) That in advance of the work the Dean of Clinical Medicine has been notified through the Manager of the Clinical Deanery with a note of the organisation and premises where the activity will be undertaken and its frequency
- g) Such work is scheduled appropriately and does not conflict with University or agreed NHS duties

11. Related Policies

This policy supersedes and replaces the following policies

- Policy on University Consultancy, dated 26 March 2012

- Policy on Personal Consultancy, dated 26 March 2012
- Policy on Remuneration for Academic Professional Services – last updated 26 March 2012
- Policy on Additional Clinical Practice - last updated 26 March 2012

12. Document Version and Future Revisions

Version 6 – 17 March 2016.

This version reflects the discussions at meetings of the Enterprise Sub-Committee and also incorporates feedback from discussions within the three Faculties. It includes minor edits following discussion at Executive Board on 15th March 2016.

For the sake of convenience, sections 8 and 9 have been incorporated into this policy. Previously these were separate policies. They have been included unaltered apart from one minor addition in section 9 (bullet point d).

It is recommended that the approach described in this paper be reviewed after two years of implementation.

13. Approval

Approved by University Research Committee: 22 January 2016

Approved by Executive Board: 15 March 2016

Approved by Council: 11 April 2016

Approved by Senate: 3 May 2016

Dr James Callaghan
Director of Research & Enterprise Services

17 February 2016