

# Private Outside Work and University Consultancy Policy

## Section 1 - Purpose

(1) The purpose of this Policy is to provide a framework for managing work for external parties (including University Consultancy and Private Outside Work) undertaken by academic and professional Staff of Macquarie University (the University).

### Scope

#### Categories of staff

(2) This Policy applies to academic and professional staff of the University on the following basis:

- a. full-time Staff, including during approved periods of leave; and
- b. part-time Staff (casual or fractional) where work for an external party affects their ability to fulfil the duties of their employment at the University, or where such work is associated with the University.

#### Types of work

(3) This Policy applies when staff undertake work for external parties (including University Consultancy and Private Outside Work as defined above). Examples include but are not limited to:

- a. consultancies;
- b. acting as an expert witness in a court case, the provision of such professional opinions being voluntary rather than a legal requirement;
- c. conduct of clinical trials;
- d. conduct of workshops and short courses, which are not part of normal University teaching and research activities; and
- e. contract services.

#### Exclusions

(4) The following types of work are excluded from the requirements of this Policy:

<b>Non-professional work or a 'second job'</b>	<p>A 'second job' that is unrelated to the Staff member's academic or professional area of expertise, University duties or association with the University is exempt from the requirements of this Policy. Examples include providing services or selling products unrelated to the University, e.g. teaching a yoga class as a second job. The University does not indemnify Staff, external persons or entities, or third parties in relation to such work.</p> <p>While not requiring approval for this type of work, the University expects Staff to inform their manager/supervisor of such commitments which may affect their contract of employment with the University. Such work must not impact on the performance of University duties or involve the use of University resources, infrastructure, or facilities.</p>
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<b>Work which is part of normal academic duties</b>	Activities which are normally associated with the academic or scholarly work and standing of an academic Staff member and which may attract a fee are not covered by this policy. These activities may include: 1. refereeing books or preparing journal articles; 2. examining theses and/or grants for other institutions; or 3. occasional broadcasts, lectures or similar appearances.
<b>Clinical work</b>	Clinical services provided as part of a Staff member's clinical academic appointment, or provided by members of Staff in University-operated clinics, which constitutes all or part of their normal University duties, are not covered by the requirements of this policy.
<b>Cross-entity work</b>	Work for one of the University's controlled entities is not covered by the policy. Staff are required to seek approval from the relevant Head of Department or Head of Office to undertake such work and ensure that it does not conflict with their University duties.
<b>Sponsored research or contract research</b>	Sponsored research through a major project funding, for example by the <a href="#">Australian Research Council (ARC)</a> and the National Health and Medical Research Council ( <a href="#">NHMRC</a> ), is out of scope of this Policy. Contract research, including where a request is made by industry or a community or government agency which might generate new knowledge and peer-reviewed publications is also not covered by this Policy.
<b>Community service or volunteer work</b>	Refer to the <a href="#">Staff Volunteering Leave Procedure</a> for more information on undertaking community service or volunteer work.

## Section 2 - Policy

(5) The University values external engagement and recognises the benefits consultancy and other outside work can bring. It recognises that such work can help enhance and disperse knowledge and professional expertise of our Staff and establish beneficial relationships between the University and the community.

(6) The University values outside work that contributes to:

- improving the quality of teaching and research at the University;
- the professional expertise and development of its Staff;
- building external relationships and professional networks that help the University realise its strategic goals;
- encouraging creative behaviour;
- community and industry engagement; and
- creating impact for the University.

(7) This Policy supports such activity and provides mechanisms for managing any risks or potential impact on the University.

## Part A - Eligibility

(8) University Staff can undertake work for an external party provided that:

- there is no express prohibition of such activity in their contract of employment;
- they obtain approval in accordance with the requirements of this Policy;
- they comply with the requirements of this and other applicable University policies and procedures;
- such work does not compromise the reputation of the University or give rise to a conflict of interest which cannot be managed or resolved; and
- the activity will not adversely affect the performance of the staff member's normal responsibilities.

## Part B - University Consultancy

(9) University Consultancy is work for an external party managed commercially by the University. Any services provided by a Staff member are part of an agreement between the University and a third party, whether the Staff member is part of that agreement or not.

(10) University Consultancy is preferred by the University over Private Outside Work because it ensures that there are appropriate contractual arrangements in place to deal with the interests of Staff and the University and manage risk; it provides Staff with professional indemnity insurance; and it allows the University to recognise the income and activity in pursuit of its overall goals.

(11) The Deputy Vice-Chancellor (Research) Portfolio will assist in the design, budgeting and contracting of University Consultancy projects.

### Categories of University Consultancy

(12) There are two categories of University Consultancy:

- a. Within workload – is work performed within a Staff member's workload allocation that does not attract any additional remuneration. The relevant Head of Department / Head of Office may need to be consulted regarding any necessary adjustment to the Staff member's workload; and
- b. Above workload – is work performed above a Staff member's individual workload allocation that attracts additional remuneration as set by the University, in accordance with this Policy.

### Approval

(13) Undertaking University Consultancy must be approved prior to commencement of work by the Staff member as follows:

Applicant	Approval authority
All Academic Staff (within workload)	Head of Department
All Academic Staff (above workload)	Executive Dean
Professional Staff HEW 1-10	Executive Dean or Head of Office (as appropriate)
Professional Staff above HEW 10	Relevant member of the Executive Group
Members of the Executive Group	Vice-Chancellor
Vice-Chancellor	Chancellor

(14) The Head of Department / Head of Office must inform the relevant Executive Group member of any approved projects and the staff member/s involved.

(15) Approval must be escalated from the Head of Department / Head of Office to the relevant Executive Group member in circumstances where:

- a. the value of the contract is more than the Head of Department's or Head of Office's financial delegation as set out in the [Delegations of Authority Register](#);
- b. the project requires the use of University facilities beyond those of the Department / Office;
- c. there are significant financial or other risks associated with the work;
- d. performance of the staff member does not justify approval; and/or
- e. the Head of Department / Head of Office is the applicant.

(16) All University Consultancy contracts must be approved by and managed through the Deputy Vice-Chancellor (Research) Portfolio.

## **Liability and insurance**

(17) Staff undertaking a University Consultancy will normally be covered by professional and public liability insurances maintained by the University.

## **Financial arrangements**

(18) The following financial arrangements apply to a University Consultancy:

Management of funds	Funds for a University Consultancy will be managed by the University via relevant University accounts. All financial billing and invoicing will be managed by the University in accordance with the University's financial processes and procedures.
Indirect cost recovery	There will be indirect cost recovery on all University Consultancy in accordance with the <a href="#">Research Indirect Costs Policy</a> .
Payment to Staff	If the University Consultancy is performed within workload, there will be no additional remuneration for the Staff member. If the University Consultancy is performed above workload, the Staff member will receive additional remuneration, as set by the University, through the University payroll.
Surplus funds	Subject to the approval, following completion of the project and deliverables being met, any surplus funds may be distributed to a relevant University account as per the <a href="#">Project and Operations Ledger Account Policy</a> and <a href="#">Project and Operations Ledger Account Procedure</a> .

## **Involvement of Professional Staff and students**

(19) Any paid or unpaid involvement of professional Staff or students in a University Consultancy must be approved by the relevant authority (refer to the Approval section of this Policy) and must comply with the following conditions:

- a. must not be inconsistent with the employment contract of the professional Staff member;
- b. requires approval of their manager/supervisor; and
- c. unless approved otherwise by the Executive Dean / Head of Office, where the work is to be conducted during normal working hours, the Faculty / Office must be reimbursed for the time worked.

(20) Any involvement of students in a University Consultancy (whether this involvement is paid or unpaid), must be approved by the relevant authority (refer to the Approval section of this Policy) and comply with the following conditions:

- a. must be voluntary;
- b. must not adversely affect or prejudice the study program of the student(s); and
- c. must not exceed the time allowed under relevant conditions of their study.

(21) Staff must ensure that any actual, potential or perceived conflict of interest arising from the involvement of professional Staff or students is managed in accordance with the University's [Staff Code of Conduct](#) and [Conflict of Interest Policy](#).

## **Part C - Private Outside Work**

(22) As per Part B, University Consultancy is the form strongly preferred by the University over Private Outside Work. However, there may be exceptional circumstances where a Staff member may undertake Private Outside Work with the approval of the Executive Dean or Head of Office.

(23) Examples of Private Outside Work include but are not limited to:

- a. private medical practice;
- b. legal advice to private clients, but only if the advice is being provided indirectly through a legal firm by helping to draft opinions, give seminars, write articles, etc;
- c. performing activities that the University is unable or unwilling to perform, or otherwise has approved the conduct of; and
- d. involvement in a business, company or other entity where the University has not nominated the Staff member to the position or role in the business, company or other entity.

(24) When undertaking approved Private Outside Work, Staff must:

- a. ensure that the Private Outside Work does not impact on the performance of their normal University duties;
- b. ensure that all other parties and interested persons understand and acknowledge that the University does not provide and is not responsible for any implied or expressed warranty or guarantee in respect of the work; and
- c. seek their own advice on their personal legal obligations relating to the performance of Private Outside Work. These include taxation obligations and professional obligations such as registration requirements, personal indemnity insurance and compliance with professional standards.

## **Approval**

(25) In accordance with the [Enterprise Agreements](#), an Academic Staff member whose appointment is at a time fraction of 0.8 or above must obtain approval prior to engaging in any Private Outside Work. A Professional Staff member must obtain approval prior to engaging in Private Outside Work during work time.

(26) The approval authority for Private Outside Work is outlined below:

<b>Applicant</b>	<b>Approval authority</b>
All Academic Staff	Executive Dean
Professional Staff HEW 1-10	Executive Dean or Head of Office (as appropriate)
Professional Staff above HEW 10	Relevant member of the Executive Group
Members of the Executive Group	Vice-Chancellor
Vice-Chancellor	Chancellor

(27) Applications for approval to undertake Private Outside Work must be made using the [Private Outside Work Application Form](#).

(28) Approval of Private Outside Work will be for a specified period of time and may be subject to review.

(29) The approval authority will take into account alignment with the University's strategic goals and direction and satisfactory performance of University duties by the Staff member.

## **Financial arrangements**

(30) Staff undertaking Private Outside Work are responsible for their own financial arrangements, including contracting with the relevant third party, invoicing and collections, as well as all personal tax obligations.

(31) Staff undertaking Private Outside Work may not use the University's financial systems and facilities, including University accounts, or University Staff to invoice, pursue debtors or in any way manage the funds associated with Private Outside Work.

## **Liability and insurance**

(32) Staff who undertake Private Outside Work are responsible for their own legal liability, professional indemnity and worker's compensation as appropriate in respect of that work.

## **Use of University resources**

(33) The use of University resources in the conduct of Private Outside Work will normally be permitted only where access to such resources is available to the general public (e.g. venue bookings), unless approved otherwise by the relevant Executive Dean or Executive Director, Property.

## **Involvement of professional Staff and students**

(34) The involvement of students or other professional Staff in Private Outside Work (whether undertaken by academic or professional Staff) is not permitted.

# **Part D - Staff Responsibilities**

(35) Failure to comply with this Policy, the University's [Staff Code of Conduct](#) and/or the relevant University Staff enterprise agreement may be treated as misconduct/serious misconduct and result in disciplinary action.

## **Conflict of interest**

(36) Staff who engage in work for external parties (whether it is University Consultancy or Private Outside Work) must ensure that any actual, potential or perceived conflict of interest arising from that work is identified, disclosed and managed in accordance with the University's [Conflict of Interest Policy](#) and the relevant University Staff enterprise agreement.

## **Confidential information and intellectual property**

(37) Any potential disclosure of University confidential information or know-how and any other intellectual property matters must be considered and dealt with in accordance with the University's [Intellectual Property Policy](#).

(38) Any intellectual property issue that arises or is likely to arise in relation to work for an external party must be clarified in writing with the University and the Staff member before undertaking the work or, if it arises subsequently, at the earliest time possible.

(39) Any deviation from the provisions of the [Intellectual Property Policy](#) must be negotiated with Macquarie Commercialisation.

# **Section 3 - Procedures**

(40) Nil.

# **Section 4 - Guidelines**

(41) Nil.

# **Section 5 - Definitions**

(42) The following definitions apply for the purpose of this Policy:

- a. Private Outside Work means any professional activity that a Staff member performs for any person or entity other than the University and its controlled entities, which relates to their area of expertise or their duties at Macquarie University, and which generates financial or in-kind benefits for individuals. Private Outside Work is undertaken in a Staff member's private capacity, including an arrangement between the Staff member and an external person or entity, or third party, to which the University is not directly or indirectly a party.
- b. Staff means all persons employed by Macquarie University, including continuing, fixed-term and casual Staff members.
- c. University Consultancy means professional activity that a Staff member performs on behalf of the University for any person or entity other than the University and its controlled entities, which relates to their area of expertise or their duties at Macquarie University, and which generates financial or in-kind benefits. University Consultancy is managed commercially by the University. Any services provided by a Staff member are part of an agreement between the University and a third party, whether the Staff member is named in that agreement or not.

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	17th March 2022
<b>Review Date</b>	17th March 2025
<b>Approval Authority</b>	Vice-President, People and Services
<b>Approval Date</b>	7th March 2022
<b>Expiry Date</b>	Not Applicable
<b>Responsible Executive</b>	Eric Knight Deputy Vice-Chancellor (People and Operations)
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