

# University Procedure in relation to Work for Outside Bodies including Consultancies

## Procedure

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## Procedure

### Introduction

1. To support the strategic objectives of the University and to facilitate individual professional development, the University encourages staff to engage in professional activities with outside bodies related to their field of work. This document provides guidelines setting out how the arrangements for such work should be approached. In many cases, such activity will be approved on the basis that it represents University knowledge exchange activity and should therefore be treated as part of the individual's overall workload and managed through the University's systems. Where an individual is taking on an external work commitment which is unconnected to their University employment and does not interfere with their ability to fulfil their contract of employment, and where the activity does not create any conflict of interest or is otherwise considered incompatible with their University employment, then the matter will be treated as a personal business activity.
2. In preparing these guidance notes every effort has been made to provide a balanced document which is comprehensive in its coverage of definitions and mechanisms while remaining concise. It is hoped that the information will be enabling to those undertaking work for outside bodies. If advice of a more particular nature is required, guidance should be sought from the Head of Department or from the Dean or from Research and Knowledge Exchange Services (RKES).
3. The University of Strathclyde has always attached particular importance to working with external organisations. Court believes that a continuing and developing association with industry and commerce and the wider community is essential to the University's future. For most departments this association is an integral part of normal academic activity, of fundamental importance, and to the mutual benefit of the University and its industrial and commercial partners. Such collaborative work is a valuable element in professional development and can be a significant source of income from which both the University and the individual may benefit.
4. There are, of course, many types of work such as public service, external examining, refereeing journals, membership of professional or government committees, public lecturing and broadcasting which may take staff away from their normal duties. While such duties, which attract little or no remuneration, do not normally require formal University authorisation, staff members are required to keep their Head of Department informed of such duties. Work for external bodies which attracts additional payment to staff for personal and other business activities requires formal approval/notification.

## Definitions

5. Throughout these notes the expression "staff" refers to all staff categories, although it is recognised that in the main these provisions will be relevant to the Academic Professional staff categories (i.e. Academic, Teaching and Research).
6. "Formal approval" means obtaining proper authorisation within the University before the individual engages in an activity. "Notification" means submitting notification to the relevant Head of Department before the individual engages in an activity, applicable where it is envisaged that the activity will be managed as a personal business activity.
7. An "outside body" means a company or a government body or other entity or an individual, i.e. a legal entity other than the University. "Outside work" means work for an outside body.
8. Categories of "outside work" are defined as follows:
  - a) outside work regarded as part of normal academic duties includes externally-funded research grants or contracts, consultancy, expert witness contributions to legal proceedings, mid-career training or continuing education.
  - b) outside work requiring formal approval/notification includes any paid work unconnected to the University or University employment ("personal business activities").
  - c) outside work not normally requiring formal approval includes work that contributes to a staff member's professional academic life involving academic scholarship such as the authorship/editorship of books, articles and journals, technical or literary advice, reviewing, refereeing, external examining, membership of committees, councils or panels of professional and governmental organisations/agencies, and public lecturing and broadcasting connected with the member of staff's professional activity. Involvement in all such activities should, nevertheless, have the support of the Head of Department.
  - d) outside work involving voluntary public service requiring approval of the Head of Department, but possibly subject to statutory conditions governing time off for voluntary public duties, includes being a Justice of the Peace, a member of a local authority, a member of a statutory tribunal, a member of a regional or area health authority, a member of the managing or governing body of an educational institution maintained by a local authority, and a member of such other bodies as may be approved by the Principal. Further information on this type of work can be found within the University's Special Leave Policy.

## Externally Funded Research Grants and Contracts

9. The origination of a research project is an academic activity and should be the subject of discussion between the originator and their Head of Department who will authorise the project as required by Court. The project documentation, which should identify the originator, should also be discussed with RKES to ensure that the costings, pricings and the contract drafting are satisfactory. Court has said that all research grants and contracts must, on the delegated authority of Court, be signed by the Director of RKES on behalf of the University.
10. The funds arising from the contract will be used to cover project and project support costs according to direct and indirect cost recoveries.
11. Where circumstances may justify, the University can allow the payment of personal fees to academic staff involved in supervising research contracts, so long as the fee element is properly costed within the pFACT costing approved by the Head of Department for the research contract and the Full Economic Cost ("fEC") of the project is recovered. Heads of Department will exercise discretion in relation to payment of personal fees where the research contract recovers less than the fEC of the project. Any such personal fee element within a research contract will be paid to the member of staff through the University's payroll in the same way as set out in paragraph 23. Normally such personal fees will only be paid upon the successful completion of the research contract.
12. A member of staff engaged as a named investigator in a research contract may act as a consultant to the funding body concerned under a completely separate agreement between the funding body and the University. This would constitute a consultancy, and therefore be governed by paragraphs 13-27 of this Procedure.

## Consultancies

### General

13. The offer of a consultancy is recognition that the member of staff concerned is considered an expert in their field. It should add to the stature of the recipient and to the reputation of the University. The University categorises all work for outside bodies that requires University approval, excluding research (as set out in paragraph 9 above) and personal business activities (set out in paragraph 28 below), and including consultancy, services rendered, training etc, as consultancy that must be dealt with as set out below. Most consultancies will be treated as part of the individual's University workload and will be subject to the normal levies, as determined by each Faculty, applicable to such income.
14. In a consultancy, it is the University:
- a) which contracts with the outside body
  - b) which bears the cost of the necessary insurances, and
  - c) which, where appropriate, accepts the liability should anything go wrong for which the outside body can obtain legal redress.

### Consultancy

15. Consultancies fall into three broad categories:
- a) Use of facilities  
These projects are likely to be equipment based but may involve the time of technicians and supervisory staff. The work is often routine and as such can lend itself to the use of standard, pro-forma contract documents.
  - b) Provision of professional services  
These consultancies will involve staff and many projects will be of a relatively standard format involving design work, problem solving and the giving of advice. These more routine projects will lend themselves to the use of pro-forma contracts associated with a detailed specification of the work to be carried out. Expert witness contributions to legal proceedings would also come under this category and special provisions are applicable (see below).
  - c) One-off consultancy projects  
Such projects may vary widely. Some projects will be akin to applied research and indeed some projects will (for VAT and Inland Revenue purposes) be a mixture of applied research and consultancy. One-off projects are likely to require contracts or agreements to be specially negotiated with clients and RKES should be involved in the negotiation and finalisation of any such documentation (whether or not the proposed contract is drafted by the University or the client).
16. Staff have a legitimate interest in seeing their consultancy activities operating quickly and efficiently while the University has an interest in reducing risk for both itself and its staff, and in being accountable. There is a clear need for routine consultancy contracts (including those determined to be levy exempt under paragraph 25 below) having a value of less than £10,000 and in categories 15(a) and 15(b) above, to be processed quickly by departments with a minimum of bureaucracy. Each area of activity should have available to it suitable pro-forma contracts together with simple guidelines which will have been drawn up by RKES in conjunction with the group or department involved, and tailored to suit the particular line of business.

17. If a client will accept a pro-forma contract of this kind with a value of up to £10,000 then it is in order for the contract to be signed by the Head of Department and operated on his or her written authority. Where the consultant is the Head of Department the authority would be vested in the Dean. The authorised signatory is required to send a copy of the contract to RKES for incorporation into central records and statistics, and for quality assurance purposes.
18. If the client refuses the pro-forma contract then the member of staff concerned should refer the matter to RKES who will provide a fast-track service to deal quickly with any modification to the pro-forma contract, or to deal with any alternative contract offered by the client, or to handle the rather more difficult circumstances when the client offers a formal purchase order subject to the client's own standard terms and conditions of contract. Under these circumstances the Director of RKES will sign the contract on behalf of the University and will retain copies for the University's records.
19. Consultancy projects costing more than £10,000, or those which are of a one-off nature (see section 15(c) above), or which involve intellectual property issues, or are subject to a client's own contractual documents, or are linked to research work, should be referred to RKES who will use either a standard contract format or will negotiate and draft a special contract to suit. Again, the Director of RKES will sign the contract on behalf of the University and RKES will retain copies of all contractual documentation centrally and will incorporate the facts and figures into central statistics.
20. Expert witness work where an individual is invited, based on their skills and knowledge within his/her academic or professional field, to give evidence as part of formal legal proceedings, is subject to special provisions. It is recognised that expert witness work is a potentially valuable activity for staff to undertake. The University generally deems such work to be intrinsically linked to the individual's University employment and therefore the activity would usually be regarded as a consultancy. In order to best support individuals in performing this role, whilst also managing associated risks which may arise, the University has published a Code of Practice and an accompanying Guidance Document. In addition, the University has specific training available for staff who may undertake the role of expert witness. Accordingly, it is the University's policy that staff **MUST** undertake the training offered by the University **BEFORE** formally accepting or undertaking the role of expert witness.
21. In recognition of the specialist expertise or above workload activity involved in some consultancy it is possible for a personal fee to be paid to members of staff involved in the consultancy. Any such payments would be made through payroll.
22. While RKES will at all times seek to minimise bureaucracy and delay it has an important function to perform in connection with services rendered and consultancy contracts, similar to that involved with research grants and contracts, in that it is necessary:
  - a) to avoid the University providing indemnities, warranties and guarantees to clients (or to negotiate their limitation)
  - b) to ensure that all contractual work falls safely within the terms of the University's insurance policies
  - c) to make sure the University's intellectual property rights are not published before they are protected, or simply given away unintentionally
  - d) to be sure that in the event of litigation the University will have all relevant contractual documentation on file so that the University's ability to answer such litigation is not weakened by inadequate terms and conditions of contract, or a lack of documentation

- e) to achieve an appropriate balance between personal fees and recovering directly incurred costs related to the consultancy, not only to ensure the wellbeing of the department but also to ensure that the University as a consulting body is not seen to be unfairly undercutting the consultancy companies in the private sector. RKES would, through monitoring contractual documentation, be in a position to encourage staff to obtain appropriate commercial rates for their work and enable the University to be accountable for its business undertakings.
23. Generally consultancies will be allowed only when the following requirements are met:
- a) The Head of Department concerned has considered the fit or otherwise of the proposed consultancy with the University/Faculty/Department strategies for knowledge exchange and income generation, and is of the opinion that the work does not impair the individual's ability to discharge his or her obligations as a member of staff.
  - b) The consultant has furnished the Head of Department with full particulars of the work and the benefit which the Department and the consultant will derive from the consultancy, and the Head of Department has given his or her approval as required by University procedure.
  - c) There must be no conflict of interest with any other contract under discussion with, or entered into by, the University (or any other potentially competitive situation with the University) which either exists or is anticipated. The University separately publishes a Code of Practice on Conflicts of Interest.
  - d) The terms and conditions of the contract are appropriate. Where University support staff and other resources are to be used in a University consultancy, the cost to be charged against the consultancy must comply with the University guidelines current at that time and as approved by Court. RKES should be consulted in cases of doubt and in the other specified circumstances set out elsewhere in these Guidelines.
  - e) The University must discharge its obligations under the Health and Safety at Work Act in consultation as necessary with the outside body concerned.
  - f) University intellectual property rights are not infringed.
24. Where applicable, the consultant's proportion of net income will be paid through the payroll and taxed under PAYE. It is permissible for a consultant to assign the equivalent (or a proportion) of his or her share before tax into a reserve account for subsequent use by the consultant to finance normal teaching, research/scholarship and knowledge exchange purposes. However, the decision to forgo payment must be made at the time that formal approval to undertake the work is sought, otherwise the consultant's share of the net income will be deemed by the Inland Revenue to be remuneration and will incur a liability for the University in terms of PAYE.

### **Levy Exempt Consultancies**

25. A levy-exempt consultancy must be processed through the University in the same way as any other consultancy (including the simple procedure for consultancies of less than £10,000 set out in paragraph 16 above) but if the consultancy fits certain characteristics (see paragraph 26) then with the agreement of the Head of Department and Faculty it may be exempt from the Faculty levy and the whole or majority of the consultancy income can be paid directly to the staff member via payroll. Such a payment via payroll would be subject to all normal tax and National Insurance deductions (including employers National Insurance deductions).
26. With respect to a levy-exempt consultancy the staff members should complete the necessary approval mechanism and discuss with their Head of Department and Dean. In addition to the points listed in paragraph 23 above the Head of Department and the Dean should consider the following when determining whether a consultancy should be levy exempt:

- a) A levy-free consultancy approach would generally only be taken where the work involved will be conducted wholly over and above the individual's normal contractual workload, performed outside of normal working hours and with no/minimal implications for University resources.
  - b) Whether the proposed activity would be likely to interfere with the individual's ability to fulfil their contract of employment with the University.
  - c) Whether the proposed consultancy would contribute to the staff member's professional/academic development.
  - d) A levy exempt consultancy may not arise as a result of contracts generated by the department or other University activities.
  - e) Normal University costs, for example from use of University facilities must be reimbursed at a true and fair cost as agreed with the Head of Department.
  - f) Whether creation or transfer of University owned Intellectual Property Rights was envisaged in the proposed consultancy (under which circumstances levy exemption would not be approved).
27. For levy-exempt consultancies the usual RKES / Finance Office procedure must be followed with respect to contracts and finances.

## **Personal Business Activity**

28. Staff wishing to engage in any paid work unconnected to the University or University employment ("personal business activities") must supply their Head of Department with written details of the proposed activity together with the anticipated number of days per year which will be involved in the commitment. The following approaches apply:
- a) Prior notification only – where there could be no reasonable perception that the personal business activity could represent a conflict of interest or interfere with the individual's ability to fulfil their University contract, then the individual should provide their Head of Department with prior notification;
  - b) Prior approval – in any case where it could be reasonably perceived that the personal business activity could represent a conflict of interest or interfere with the individual's ability to fulfil their University contract, then the individual must secure the Head of Department's approval before proceeding.
29. The University will endeavour not to unreasonably withhold approval of such personal business activity, and will normally approve such activities where it is considered by the University that the activity (a) would not interfere with the individual's ability to fulfil their contract of employment with the University, and (b) did not create any conflict of interest or was otherwise incompatible with their University employment. The Head of Department (or Dean or Principal in the case of a Head of Department or Dean) shall confirm approval or otherwise in writing having made any necessary prior investigations.
30. The Head of Department is required by Court to keep a record of outside work falling within the scope of paragraph 28 and to provide it in an annual departmental return to RKES.

## **Status and Review**

31. This document represents a collective agreement (reached in May 2012) between the University and the Strathclyde University and Colleges Union, and thus forms part of the employment contract for academic professional and APS professional staff (effective from 1 October 2012). The normal grievance procedures apply should individuals wish to appeal decisions made under this policy.

32. This policy framework will be reviewed and updated from time to time, in consultation and negotiation with Strathclyde University and Colleges Union.