



BUCKINGHAMSHIRE
NEW UNIVERSITY

EST. 1891



CONSULTANCY POLICY

Research and Enterprise

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This document has been designed to be accessible for readers. However, should you require the document in an alternative format please contact the Academic Quality Directorate.

Background

- 1 The Bucks New University's Consultancy Policy (Research and Enterprise) details the procedures and conditions under which consultancy undertaken by staff can be carried out.
- 2 Consultancy is an important element of the University's enterprise and knowledge exchange activities and is actively encouraged by the University. Consultancy has many benefits for both the individual and the University including: income generation, opportunities for external collaboration, personal and professional development, enhanced reputation of the University, and contribution to the University's knowledge transfer endeavours including economic and social impact criteria linked to the REF.
- 3 As consultancy carries with it an element of risk to the individual, the University and its reputation, therefore the University is keen to encourage and support its staff to engage in consultancy in a regulated manner. The RED Office are available to support and advise staff looking to engage in Consultancy
- 4 The University will provide Professional Indemnity Insurance cover to a member of staff undertaking Consultancy, provided that prior approval for the work has been granted by the University and that the agreement or contract to undertake the work is between the University and the external body. Employees are also covered by Professional Indemnity Insurance for undertaking public duties for which formal approval has been obtained. The University will not be liable for negligence, malpractice or lack of exercise of due care in any case in which work for external bodies is undertaken without prior approval.
- 5 The objective of this policy is to define private and university consultancy, explain the processes by which these are internally approved and minimise potential risks

Purpose Statement

- 6 The University encourages members of staff, where appropriate, to undertake high quality work on behalf of public, industrial, commercial, scientific, educational, cultural and international organisations. Such work should be of mutual benefit, demonstrating our wider economic, social and cultural contribution and enhance our research, enterprise, learning and teaching activities. The University considers it highly desirable that its staff should undertake work under the guidance of the University. Nevertheless, in accordance with staff contractual provisions, University Staff (as defined below) may undertake outside work in a private capacity provided that such work complies with this Policy and Guidelines. Staff on fractional appointments are free to work on a private basis when not employed by the University.

Applicability and Scope

- 7 This policy applies to all academic staff, academic related staff, research staff and academic support staff (henceforth to be referred to as 'Staff').
- 8 The policy covers both University and Private Consultancy (see Glossary for definition). There are restrictions on who can undertake University Consultancy. For further information see the Consultancy Frequently asked questions.

- 9 The RED Office should be contacted with any queries relating to scope of this policy.
- 10 External scholarly work that closely links to the academic role, even those which involve payment of a small fee, is not covered by this policy. Examples include, but are not limited to, participation in external assessment procedures (e.g. QAA, REF, Funder selection), work on editorial boards, reviewing scholarly outputs, external examination for another HEI and legal expert witness.

Responsibilities

- 11 **University Executive Team** is responsible for ensuring that the implementation and operation of the University Consultancy Policy is in line with the Impact2022 Strategy.
- 12 **University Management Group** should have an overseen of External Consultancy partnerships (for example other educational institutions or external organisations). Such partnerships must be drawn up in co-operation with Director of Research and Enterprise.
- 13 **Heads of Schools** have authority for the prioritising and objective setting of Consultancy activity within their areas of operational responsibility. HoS should consider Consultancy activity as part of their research strategies
- 14 **Director of Research and Enterprise** should use Consultancy activity to maximise research impact. Consultancy contracts require formal approval from the Line Manager and in cases where research facilities are to be used, approval from the Research Director. Heads of School and Research Director should be aware of the time spent by members of staff on Consultancy work. Any member of staff undertaking Consultancy activity must first have the approval of their direct Line Manager. In the absence of a Head of School (for example, for reasons of leave or illness), approval can be sought from the Research Director.
- 15 **Academics** It is the responsibility of each member of staff to familiarise themselves with the Consultancy Policy and Procedures and ensure they comply with its processes and procedures.

Definitions

- 16 **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 organisation to the client (commercial or non-commercial) without the creation of new knowledge.
- 17 **Private Consultancy** is a direct arrangement between the individual acting in a personal capacity and a third party which is set-up and managed directly by the individual as permitted by their terms and conditions of employment.
- 18 **University Consultancy** is an arrangement between the University and a third party which may involve a member of staff/research student and use of University facilities and other resources in the provision of the consultancy services.
- 19 **Knowledge Exchange Framework (KEF)** The Knowledge Exchange Framework (KEF) is intended to increase efficiency and effectiveness in use of public funding for

knowledge exchange (KE), to further a culture of continuous improvement in universities by providing a package of support to keep English university knowledge exchange operating at a world class standard. It aims to address the full range of KE activities.

- 20 **Research Excellence Framework (REF)** The Research Excellence Framework (REF) is the system used to assess the quality of research in UK universities. Taking place roughly every six years, the results are used to provide information about the quality of a university's research for internal and external benchmarking and the allocation of research funding.
- 21 **Services Rendered** Services Rendered generally involves the provision of services to, or access to University facilities by, an external organisation, in exchange for a fee. Crucially, services rendered do not involve a high degree of intellectual input from University staff, no new knowledge should be created and the client would ordinarily expect to own any results arising from the services provided.
- 22 **Business First** BBF is a business-led, business-focused community for new, established and growing businesses across Buckinghamshire.

Benefits to the University

- 23 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.

- 24 The benefits that the University expects to accrue from successful consultancies include:

- Development of useful business and academic contacts;
- Extension of the knowledge base, thereby informing the learning and teaching of academic and research staff and providing them with the opportunity to test out and demonstrate the impact of their academic expertise on markets, sponsors or external organisations;
- Increased external stimulus for enriching intellectual activity;
- Greater knowledge of the relationships which exist with companies seeking specialist services;
- Development of possible opportunities for future partnerships (e.g. research projects, studentships, Knowledge Transfer Partnerships, commercialisation and licensing of Intellectual Property Rights, spin- out companies, high quality Continuing Professional Development);

- Activities that may form the basis of impact case studies for the REF;
- Development of marketing opportunities;
- Financial benefits to the individual and/or University, in the form of additional income and diversification of income sources and from HEIF through returns in the HE-BCI survey;
- Enhanced justification for external funding through the enhanced reporting of consultancy activity; and
- Contribution to staff development.

Benefits to Staff

25 The benefits that members of staff expect to accrue from successful consultancies include:

- increased recognition of the consultancy work of members of staff through the annual appraisal process and through the standard academic CV;
- support BAF return;
- strengthened contractual arrangements through use of the University approval process;
- the provision of indemnity insurance to staff through the University's insurance cover;
- The ability for staff (i) to receive a personal payment through the University payroll on the basis of income generated through consultancy and taxed at source; or (ii) to make use of the income generated from the provision of their services to support their research activities through the transfer of funds to a discretionary balance account, rather have the payment be subject to tax and national insurance deductions.

University Consultancy

This includes contract numbers and income associated with consultancy, that is advice and work crucially dependent on a high degree of intellectual input from the HE provider to the client (commercial or non-commercial) without the creation of new knowledge. Consultancy may be carried out either by academic staff or by members of staff who are not on academic contracts, such as senior university managers or administrative/support staff.

Consultancy contracts are further analysed by SMEs, other (non-SME) commercial businesses and non-commercial organisations, as defined under Contract research. (<https://www.hesa.ac.uk/support/definitions/hebci>)

- 26 University Consultancy is an arrangement between the University and a third party which may involve a member of staff, research student or University facilities and other resources in the provision of the consultancy services.
- 27 Staff must discuss the proposed consultancy with the Head of School (or delegate) before the consultancy work is initiated and time allocation approved as per local workload approval mechanisms.
- 28 Cases shall be prepared and approved through the University's Project Management System (PMS) with the exception of some external work contracted through the UET or wholly-owned subsidiaries (e.g. BEST).
- 29 The University's name, facilities (offices, laboratories, equipment, meeting rooms etc.) and IT infrastructure (e-mail and internet access) may be used for University Consultancy.
- 30 Staff members participating in the work will be covered by the University's professional indemnity insurance.
- 31 Business development and other support services (e.g. costing and pricing, contracts) will be provided by the University (either within the relevant Unit or centrally from RED and other appropriate units). The expectation is that University Consultancy contracts will as a minimum be priced to cover the Full Economic Cost (FEC) and will normally include a commercial premium in addition. Pricing guidance is available online² or can be provided by your Unit Accountant or School Business Engagement Champion. Any decision to price the consultancy less than FEC must be approved by the Head of School (or delegate) in line with the University pricing matrix³,
- 32 Consultancy income will be paid by the contractor directly to the University and transferred to the School (or equivalent unit) that generated the income.
- 33 To ensure University IP is protected and risks are managed, a consultancy agreement must be in place before work can commence.

Private Consultancy

- 34 Private Consultancy is a direct arrangement between the individual acting in a personal capacity and a third party.
- 35 Staff may undertake private consultancy as permitted under their Terms and Conditions of service. Members of staff must notify their Head of School (or delegate) or other individual as per their relevant Terms and Conditions of Service of the private consultancy in order to gain approval and ensure that (i) potential conflicts of interest are identified and addressed as necessary and (ii) time commitments to Extra-Curricular Work can be acknowledged.
- 36 The relevant Terms and Conditions of Service set out circumstances in which prior approval rather than notification is required.
- 37 A Private Consultancy Declaration Form (Appendix 1) should be completed and sent to Head of School (or delegate) for approval prior to commencing the consultancy.

Approval is valid for one academic year. Records of private consultancy will be kept by the RED.

- 38 To avoid Private Consultancy being construed by the client as the consultant acting on behalf of the University, the University name, reputation or brand should not be associated any aspect of the consultancy.
- 39 University facilities (e.g. space, equipment, consumables and support services) and IT infrastructure (e.g. University email accounts) cannot be used to support Private Consultancy. The activity should not be incorporated into unit workload planning, incentives or promotion plans.
- 40 The individual concerned is responsible for arranging their own professional indemnity insurance, invoicing, payments, tax obligations, VAT and national insurance requirements.
- 41 Full-time academics are only permitted to undertake Private Consultancy at the University where this consultancy work is based within a unit other than their own.
- 42 The University owns the Intellectual Property generated by members of staff at the University. Therefore private consultants cannot, as part of any agreement they sign with a client, give rights to any Buckinghamshire New University IP

Risks

- 43 The University recognises that there are also various risks (both corporate and personal) associated with academic and research staff undertaking consultancy and related activities. In considering approval for such activity the management of the following risks should be addressed:
 - Commercial risks - the loss of intellectual property rights and potential tax liabilities;
 - Potential use of resources and diversion of staff time from their main academic activities;
 - Quality - poor quality work having an adverse impact on the reputation of the member of staff and the University;
 - Legal - non-compliance with legislation and other potential liabilities arising from undertaking the consultancy work; and
 - Reputational - the University or employee being associated with organisations that could harm the reputation of the University or the individual.

Summary of procedures

Any Private Outside Work undertaken without permission may lead to disciplinary action.

44 Schedule for University Non-Research Services

Scope & Definition	Suggested Costing and Pricing Policy
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<p>Academic Consultancy Objective: Encourage as an alternative to private consultancy.</p>	<ul style="list-style-type: none"> • Work undertaken by a staff member, with the approval of their Head of School. • Fully covered by University insurance. • Staff able to use University phone, e-mail address, logo, stationery, etc. • Access to appropriate resources permitted with appropriate permission and budget provision. • May be defined as research impact as above. • Workload allowances normally take account of the time required for this work and changes are made accordingly. 	<ul style="list-style-type: none"> • Costed using full economic costing • Price agreed with RED • Income sharing as follows: <ul style="list-style-type: none"> • Indirect Costs to University • Balance of funds to the Department to be utilised within 18 months of receipt
<p>Private consultancy Objective: Reduce overall levels through encouraging the Academic Consultancy option.</p>	<ul style="list-style-type: none"> • Work undertaken by a staff member, with the approval of their Head of School, in a personal capacity. • Not covered by University insurance. • Waiver Request form required to be signed by the individual's client acknowledging the University's non involvement before approval is deemed granted. • No use should be made of University resources (incl. phone, e-mail address, logo, stationery, etc). • Work is undertaken outside of normal workload allocations and so no changes to usual patterns of work are required. 	<ul style="list-style-type: none"> • Not Applicable — fee set and retained by the individual.
<p>CPD activity Objective: Grow levels of knowledge exchange / CPD activity in line with University strategy.</p>	<ul style="list-style-type: none"> • Work undertaken by an individual or team within a department, research centre or centre for professional practice for an external organisation. • May involve specialised University equipment, facilities, research or other expertise. • Contracted by the University and covered under its insurance. 	<ul style="list-style-type: none"> • Costed using full economic costing • Price agreed with RED • Income sharing as follows: <ul style="list-style-type: none"> • Indirect Costs to University • Balance of funds to the Department to be utilised within 18 months of receipt

	<ul style="list-style-type: none"> • Treated as part of the individual's academic activities or responsibilities, and so built into workload patterns where possible. 	
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45 Detail procedure for consultancy

	University consultancy	Private Consultancy
Permission required (Head of School or equivalent)	Yes	Yes*
Indemnity Insurance	University policy	Personal cover required
Use of University name or facilities	Yes	No
Permitted working days	Subject to employment contract and in agreement with Head of School / Director	None
Admin support (contracts, invoicing etc.)	Yes	No
Managed on PMS	Yes	No

*Private Consultancy Declaration Form required

Conflict of Interest

46 Conflicts of interest may arise where (i) an individual providing consultancy has interests which might affect or be seen to affect the objectivity or professional judgement of the consultant or (i i) where the proposed Private Consultancy is in direct conflict with the interests of the University.

47 All members of staff are expected to disclose potential conflicts of interest so that they can be adequately evaluated and managed.

48 The term conflict of interest includes conflicts of duty, commitment, rights, obligations, time and interest whether as an individual or as a representative of the University be it inside or outside the University. Examples might include:

- Staff possess a significant financial interest in the activity that involves their responsibilities as a University employee.

- Professional or personal links to an organisation which is in competition with the client or the University.
- An existing collaborative research project with the client in a similar area.
- A personal involvement in any company which has a contractual relationship with the University or is in the process of negotiating a contract
- Consultancy with a third party in which a member of staff (or family member) has a significant financial interest including equity and revenue shares.
- Serving in an advisory or executive position in an organisation where the
- University has direct research links.

Examples of consultancy

- 49 Expert witness work
- 50 Routine analysis, testing and validation work
- 51 Expert advice and opinion
- 52 Feasibility and scoping studies
- 53 Professional practice work, such as accounting, architecture, or social work
- 54 Market research and technology audits
- 55 Aligning products and technology with business and marketing strategies
- 56 Advising on protocols for clinical trials
- 57 Reviewing policies and procedures

Further clarification

- 58 If you have any queries around the content provided within this document and how to interpret it, please contact RED
- 59 If you have any comments about this policy document and how it might be improved, please submit these to RED.

Appendix 1 – Private Consultancy Declaration Form

Name of Member of	[Type text]	Date:	[Type text]
Job Title:	[Type text]	Employee:	[Type text]
Department / School:	[Type text]	Unit:	[Type text]
Name and address of:	[Type text]	Number Days of planned activity:	
Number days private consultancy undertaken in current financial year:	[Type text]		
Total Number days of all Extra Curricular Work in the	[Type text]		
Start Date and End Date of Consultancy:	[Type text]		

Summary details of proposed consultancy:

(Specific details of private consultancies are not required, but sufficient information must be provided to assess any potential conflict of interest. It is also important to be able to inform the client that your employer is aware of the proposed consultancy and has not raised any issues of objection)

Declaration

I the undersigned understand that the proposed Private Consultancy is a private arrangement between me and my client and implies no involvement and liability by The Bucks New University. I understand that I may not use the University's name, IT infrastructure, facilities, address, logo, reputation or brand as part of the consultancy. This work will not impact normal day to day work duties. The client understands that work is being done outside of University commitments, is not covered by the University's professional indemnity insurance and that the University has no liability for this work. I understand that I am responsible for the negotiation and execution of contractual terms, invoicing, payments, tax obligations, VAT and national insurance requirements as applicable with my client.

Name [Type text]

Date [Type text]

Signature

Approval by Head of School / Director

Name [Type text]

Date [Type text]

Signature

Additional Notes: [Type text]

Please ensure that this form is returned to your School administrator and a copy sent to RED

Appendix 2 – Approval process Private Consultancy application form

Name of Member of	[Type text]	Date:	[Type text]
Job Title:	[Type text]	Employee:	[Type text]
Department / School:	[Type text]	Unit:	[Type text]
Name and address of:	[Type text]	Number Days of planned activity:	
Number days private consultancy undertaken in current financial year:		[Type text]	
Total Number days of all Extra Curricular Work in the		[Type text]	
Start Date and End Date of Consultancy:		[Type text]	

Nature of consultancy:

Proposed timetable for the consultancy:

Benefits of Consultancy to the University:

- Xxx
- Xxx
- xxx

The level of cost to be charged and distribution of monies:

Details of University facilities or resources to be used:

Monitoring arrangements:

Name [Type text]

Date [Type text]

Signature

Approval by Head of School / Director

Name [Type text]

Date [Type text]

Signature

Approval by Vice-Chancellor

Name [Type text]

Date [Type text]

Signature

Additional Notes: [Type text]

Please ensure that this form is returned to your School administrator and a copy sent to RED

Appendix 3 - Disclaimer of Liability for Private Consultancies

[To be sent in the form of a letter from the Academic to the Contact Person at the Company/Organisation with whom they are working and in two copies. NB University headed stationery must not be used for this letter. The Contact Person at the Company/Organisation is to counter sign one copy and it should be returned to the Academic's home address and then lodged when completed with RED. Please note that this Disclaimer is a legal document and needs to be completed correctly- in accordance with the instructions - otherwise it may be rejected and you will be asked to submit a new one.]

Consultant's name and full home address

[NB must not be a Buckinghamshire New University address]

Date

Contact Person's name

Name of Company/Organisation

Full address

Dear Contact Person Name

RE: Assignment/Project reference

With reference to my work on the above assignment I am required by the Buckinghamshire New University (the 'University') as my employer to advise you that I shall be acting in an entirely private capacity and not for or on behalf of the University. While the University permits its academic members of staff to undertake private consultancies subject to prior approval, which – once this Disclaimer has been signed - I will request from my Head of School and/or Director of Research and Enterprise [delete as appropriate]; as I have elected not to use the services of the University's technology transfer facility - then the University exercises no control or supervision over the actual performance of the work.

Consequently the University cannot accept responsibility for the work I do or for the advice or opinions which I give in connection with the above assignment and accepts no liability for any acts or defaults on my part, whether negligent or otherwise. Furthermore, the University disclaims any liability, direct or indirect, for any mistake, error or inaccuracy in the opinions and advice I offer or in any work I undertake or in any document which I may produce related to the assignment. I am not covered by the University's professional indemnity insurance and I am not permitted to use the name of the University for this project and no reference to it should be made in my work with you.

By signing and returning to me the enclosed copy of this letter you confirm that you acknowledge and agree to the above and that the Buckinghamshire New University shall not be liable for my work with you. Furthermore, you confirm that you are legally able to sign this letter on behalf of your organisation.

Yours sincerely

[Name of Academic]

Signed for and on behalf of [Insert full Name of Company/Organisation including legal title]:

[Contact Person's full name in bold] By: _____

Position: _____ Date: _____

[Please ensure that all wording in italics is removed – including the Notes below -before you submit this Disclaimer to the client for signature.]

Notes:

By working in a private capacity you agree that:

- You will not use the University name
- You will not use your Professorial title if you hold one
- You will arrange private professional indemnity insurance to cover this work (please note that the statute of limitation on a negligence claim is 6 years and therefore you will need to maintain the insurance for this period of time and not just for the time period of the work itself)
- You will set up a non-University email account for the purposes of external consultancy work
- You will not use any University-branded images, email, documents or paper in communications with the client
- You will ensure that the Full Economic Cost of using any University facilities or equipment is reimbursed to the University

If you are unsure of any of the University's regulations concerning undertaking Private Consultancy work or you would like to have the Disclaimer checked before you send it to the Contact Person then please contact: