

## Consultancy Policy

### Document Control

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This policy will be reviewed periodically to ensure compliance with changes in employment law and equality and diversity legislation. In the event that this policy or procedure is not so compliant, the relevant legislation shall prevail.

**Changes to this policy will be subject to consultation with the University's recognised Trade Unions before implementation**



## 1.0 Principles

- 1.1 This policy provides guidance on the procedures and conditions under which staff at Brunel University London can engage in the provision of Consultancy work for external clients.
- 1.2 Brunel values the important contribution that Consultancy makes to the University's reputation for delivering economic and social impact locally, nationally and internationally. Consultancy is also recognised as playing an important role in developing existing and new external links, contributing to ensuring University research and teaching is informed by 'real world problems', delivering impact and contributing to staff personal and professional development.
- 1.3 The policy has been developed to ensure there is better transparency of Consultancy (University or Private) and to raise awareness of the processes and procedures for engaging in Consultancy in order to increase opportunities for staff to undertake Consultancy and to minimise risk to the University and staff engaged in Consultancy.

## 2.0 Scope

- 2.1 This policy applies to all University staff including academic staff, senior management, professional staff, research staff, technical and clerical staff of the University, who will be referred to as Staff from this point onwards. In situations where the Staff member wanting to do Consultancy is fully funded by external sources then reference should be made to the terms and conditions of the funding award in case restrictions apply that prevent or limit the Staff member from engaging in externally funded Consultancy. In such cases advice should be sought from the Head of Department, HR or the Research Support and Development Office (RSDO). All University Consultancy work must be managed by a member of University Staff. Students from time to time may be funded to support University Consultancy and must be engaged via the University Job Shop; in such cases, this should be subject to the terms of any studentship funding, right to work or visa regulations (advice should be sought from the Job Shop in the first instance).
- 2.2 In circumstances where Brunel Visiting, Honorary or Emeritus academics wish to carry out Consultancy through the University, then reference should be made to the terms of appointment offered by the University to determine whether they can carry out the Consultancy and whether they are covered by the University's professional indemnity insurance. RSDO should be consulted for advice in the first instance.
- 2.3 For the purposes of this Policy, Consultancy is defined as the provision of expert advice by University Staff in their area of expertise, generally using existing knowledge to meet the specific requirements of a client in the private, public or third sector. Unlike research, it does not have as its primary purpose the generation of new knowledge, outputs may be partly or wholly owned by the client and the University would not normally have freedom of publication of the results of Consultancy. The policy provides as far as is possible clarity on guidelines and procedures for Private Consultancy in order to mitigate risk to the University and to remove any ambiguity. Staff considering Consultancy activity should engage with RSDO as soon as possible.
- 2.4 Areas and activities that are excluded from the definition of Consultancy and fall outside the scope of this policy include; royalties emerging from books and publications and any forms of media and arts performance; involvement in paid services such as peer review for funders, reviewing journal articles, book proposals or manuscripts, external examining

activities, editorial duties or media related engagements, lectures, conferences and presentations.

- 2.5 Provision of technical or analytical services for external organisations is not covered by this Policy and in such cases, whether it is a one-off opportunity or likely to be a long-term arrangement, advice should be sought from RSDO to set up relevant arrangements.
- 2.6 Provision of Continuing Professional Development (CPD) courses for external organisations is not covered by this Policy.

### 3.0 **Types of Consultancy**

- 3.1 Consultancy involves the provision of expert advice and work by Staff which is dependent on a high degree of intellectual input without the creation of new knowledge. Consultancy can be carried out through two main routes, classed as University Consultancy or Private Consultancy. It generally involves the provision of services to clients, from either public or private organisations or the third sector (voluntary, charitable and community organisations) or individuals.
- 3.2 **University Consultancy** is Consultancy provided by Staff to external clients which is aligned to their academic or professional expertise and where the contracting arrangements are between the University and the client. University Consultancy is covered by the University's professional indemnity insurance and is subject to the University policy for costing and pricing as outlined in Section 6, which also outlines how the fee income will be distributed. University Consultancy may be carried out in normal working hours. For the avoidance of doubt, in the event the Consultancy needs access to University resources or facilities then the price of the work must include agreed charges for their use for the work.
- 3.3 **Private consultancy** is Consultancy provided by academic Staff to external clients where the academic Staff member makes a direct arrangement with the client in a personal capacity. The arrangement and delivery of the Consultancy is set up and managed directly by the academic and the University is not a party to the contract with the client.
- 3.4 The University encourages Staff with the necessary expertise and track record to carry out University Consultancy rather than Private Consultancy. Consultancy work through the University has several benefits to the individual Staff members, their host Departments and the University. It ensures that the University and the individual Staff members' interests are fully protected and contributes to the University's research and knowledge exchange ambitions through generating income which is reported in annual returns to the Higher Education Statistics Agency (HESA) and drives the allocation of knowledge exchange income to the University via HEIF, measured through knowledge exchange metrics. In addition, Staff benefit from coverage under the University's professional indemnity insurance, support with quoting, invoicing and liaison with clients, support with negotiation of terms and conditions and access to media and marketing support.

### 4.0 **University Consultancy requirements**

- 4.1 Approval for Consultancy work must be secured through the University approval process as follows.
  - 4.1.1 All academic Staff are permitted to spend up to a maximum of the equivalent of 46 days a year (defined as an academic year) on University Consultancy, provided

that the relevant Head of Department has approved that the proposed University Consultancy can be delivered without adversely affecting the Staff member's normal duties and workload. Under exceptional circumstances, an individual may be allowed to carry out more than 46 days of University Consultancy at the discretion of the Head of Department subject to confirmation that appropriate arrangements are in place to cover normal workload and that these arrangements have been adequately funded from the Consultancy activity.

4.1.2 All Staff on contracts other than academic contracts are permitted to spend up to a maximum of 35 days a year (defined as an academic year) provided that their line manager and the Head of Department/Director has approved that the proposed University Consultancy can be delivered without adversely affecting the Staff member's normal duties and workload, and that there will be no negative impact on the service level provision of the area in which the Staff member works. For Staff members that are funded from external grants or awards, confirmation will also be required that undertaking the proposed Consultancy work will not breach or conflict with the terms of the funding. Under exceptional circumstances, an individual may be allowed to carry out more than 35 days of University Consultancy at the discretion of their line manager and Head of Department/Director subject to confirmation that appropriate arrangements are in place to cover normal workload and that these arrangements have been adequately funded from the Consultancy activity.

4.2 Following approval as outlined in 4.1. above, all proposals for University Consultancy and all University Consultancy contracts must be signed off by Director of RSDO (or designated deputy).

## **5.0 Private Consultancy requirements**

5.1 In accordance with 3.3 above, academic Staff may choose to undertake Private Consultancy, provided that it is in line with their terms and conditions of employment and it is with the agreement of their Head of Department. A Private Consultancy Declaration Form must be completed by all academic Staff wishing to do work as Private Consultancy (Appendix 1). This is to prevent any conflicts of interest and to ensure that the University is not associated with or made liable for the work or its outcomes and in order to make clear that the academic Staff member is doing this work in a personal capacity. It clarifies that the academic Staff member is responsible for negotiating the contract and its terms and conditions with the client and it confirms the academic Staff member carrying out the work is responsible for having in place appropriate indemnity cover. This declaration also confirms the work has not used the University name and e-mail address, brand and letter headed paper and University appointment titles such as Professor, Dean, Vice Provost etc. It also confirms that in order to deliver the work, it has not used any University facilities such as technical facilities and equipment, IT infrastructure including hardware and software as well as any University intellectual property. If access to University facilities is essential for the academic Staff member to carry out the Private Consultancy, then they must negotiate access to this with their Head of Department on commercial rates and terms and conditions. Heads of Department will be required to collect and maintain all approved Private Consultancy Declaration Forms and provide copies on an annual basis to the Director of RSDO, for inclusion in an annual Consultancy report to the Business and Innovation Board.

5.2 Academic Staff members carrying out Private Consultancy will also be responsible for meeting HMRC requirements in terms of VAT, national insurance and declaring the income

via their tax returns. Income generated via this route will not count towards the academic Staff member's income target or promotion criteria.

- 5.3 Academic Staff members must not sign an external Private Consultancy agreement until the proposed Consultancy has been disclosed and documented internally.
- 5.4 Failure to comply with this policy may lead to disciplinary action and will be subject to the University's normal disciplinary processes.

## 6.0 **Costing, pricing, contracting and incentivisation**

- 6.1 University Consultancy will normally be priced on the basis of day or hourly rates for each Staff member undertaking Consultancy work. Prices should be set at market rates, where known, or as a minimum, a rate calculated on the basis of the current University fEC rate for the Staff member(s). All other relevant direct costs such as consumables, travel and subsistence, sub-contracts/third party costs and use of equipment and facilities must be included in the price offered to the client. Advice on the costing of specific projects will be provided by RSDO. There is some degree of flexibility on the pricing approach where there is a clear justification to diverge from this recommendation, for example when doing work for a not-for-profit organisation for the public good or if the work provides an opportunity to develop a new, long-term relationship with the client. In such cases the price and the income distribution will be agreed through discussions between the Head of Department and RSDO. Any decision not to charge the full cost must also ensure this does not impact adversely on the University's charitable status that requires that its assets are used only in the furtherance of its charitable activities and that public funds are not subsidising commercial activities.
- 6.2 University Consultancy is subject to Value Added Tax (VAT), which should be included at the current rate. The University will be able to reclaim VAT on any relevant expenditure incurred solely during the course of the work, provided that invoices certifying such expenditure are retained.
- 6.3 Staff members undertaking University Consultancy will be entitled to receive the relevant Consultancy fees generated as a personal payment via the payroll. In the case of **academic Staff only**, they may elect instead to allocate the fees into an individual reserve fund (IRF) account to support future research and teaching activities. Where the Staff member elects to receive the fees via payroll, the amount payable will be the sum after deduction of employer's and employee's National Insurance and tax. If the academic Staff member elects to waive payment via payroll in favour of payment into an IRF account, then an election to do this must be made in writing. Payment to staff for University Consultancy will be made upon satisfactory completion of the work and receipt of fees due from the client.
- 6.4 In respect of University Consultancy, the fees for the work undertaken by any Staff member, will be distributed 80% to the Staff member, 10% to the host Department and 10% to be retained by the University to cover administration costs and other University costs such as indemnity cover. This distribution will apply after all direct costs have been taken into account. In the event that the client withholds payment for any reason or where a deficit has arisen, the University reserves the right not to make payments to the Staff member(s).
- 6.5 Where more than one Staff member is involved in the delivery of a Consultancy project, the allocation of fees will be based on the respective hours or days committed by each Staff member in the quotation produced by RSDO and sent to the client. If the time commitments change over the course of the project, the Staff members must communicate to RSDO the

revised actual commitments before the fees are allocated. Assuming all Staff members are in agreement, the allocation of fees will be based on the actual time commitments of each Staff member, within the total budget available. If the Staff members do not agree about a proposed revised allocation of fees, then RSDO will seek to reach agreement, failing which it will refer the matter as set out in section 8.4 below.

- 6.6 The use of University Consultancy surplus funds placed in an IRF account by academic Staff members is subject to the Guidance for Individual Reserve Fund Accounts: <https://students.brunel.ac.uk/documents/Policies/individual-reserve-fund-accounts-guidance-updated.pdf>
- 6.7 All University Consultancy will be agreed under the University's standards terms and conditions. However, the University recognises that under some circumstances the terms and conditions may need to be altered and RSDO will review and negotiate any amendments to the standard terms and conditions. Where the Consultancy has not been approved via the normal process, the University may not accept any liability for the work and hence the work will not be covered by the University's insurance policy.
- 6.8 There may be circumstances where the University will not authorise the Consultancy. This will normally arise where it is felt the work could expose the University to risk or damage its reputation. Additionally, certain Consultancy activities, for example work in the USA or Canada, may require additional scrutiny by RSDO and Finance, in particular to ensure it meets the University insurance policy.

## 7.0 Intellectual Property

- 7.1 University Consultancy work will be undertaken in line with the University Consultancy pricing policy. In such cases ownership of any work arising from the activity will rest with the client (e.g. copyright in reports, data, materials etc). If the work requires access to University Intellectual Property or a licence for its use, then appropriate discussions must take place with RSDO and relevant terms negotiated in any contract agreed with the client.

## 8.0 Administration, roles and responsibilities

### 8.1 RSDO roles:

- 8.1.1 Responsible for managing the Consultancy process and ensuring that the work can be designated as Consultancy activity.
- 8.1.2 Support and guide Staff in setting up and running the Consultancy including advice on costing and pricing and where necessary carry out the necessary due diligence.
- 8.1.3 Negotiate the terms and conditions of the work including the payments terms.
- 8.1.4 Work with finance to issue invoices to claim Consultancy fees, make prompt payments to Staff members via the payroll or IRF accounts (for academic Staff members only) and take necessary steps to minimise bad debt. (For the avoidance of doubt, it should be noted that appropriate terms may in some cases require payment in advance or staged payments).

- 8.1.5 Ensure that the contract is managed to protect the interests of the University and the Staff members and ensure the Staff members have adequate indemnity cover under the University policy.

## 8.2 Staff member roles:

- 8.2.1 In respect of University Consultancy, discuss the proposed Consultancy with their Head of Department or Director before approaching RSDO to initiate the Consultancy work and ensure the project complies with the University Consultancy policy as managed by RSDO on behalf of the University.
- 8.2.2 Responsible for ensuring that a risk assessment is carried out which is commensurate with the nature of Consultancy. Where the work has ethical implications, they will ensure that relevant ethical approval has been secured before the work commences.
- 8.2.3 For academic Staff members, in the case of Private Consultancy, complete the Private Consultancy Declaration Form and seek approval from Head of Department prior to the work commencing (hard copy).
- 8.2.4 Ensure that all Consultancy work is undertaken in accordance with the University Conflict and Declaration of Interest Policy: <https://students.brunel.ac.uk/documents/Policies/conflict-and-declaration-of-interest-policy-november-2020.pdf>

## 8.3 Approver roles:

- 8.3.1 In relation to University Consultancy, consider, approve or reject requests to undertake University Consultancy by members of their Department, Directorate or operational area (providing substantive reasons for rejection), ensure that the work does not impact adversely on Staff members' ability to carry out their normal contracted duties. Ensure that the work is delivered in a timely fashion and the deliverables produced by the Staff members for the client are of expected standards.
- 8.3.2 In relation to Private Consultancy, consider, approve or reject requests to undertake Private Consultancy by academic members of their Department (providing substantive reasons for rejection), ensure that a Private Consultancy Declaration Form has been signed and records kept, and provide copies of all approved Declarations annually to Director, RSDO. Ensure that any conflicts of interest are identified, resolved or appropriately managed.

- 8.4 In the event of a disagreement or dispute as to the interpretation or application of this Policy, it should be referred in the first instance to the Director, RSDO. If no acceptable resolution can be achieved, the matter may be referred to the Provost and the Chief Operating Officer for a final decision.

## 9.0 Conflicts of interest

- 9.1 Staff involved in carrying out University Consultancy activities will be required to declare any conflict of interest to RSDO prior to a formal University quotation being issued to ensure that the work delivered does not compromise the University's integrity. The following



examples are not intended to be exhaustive but provide an indication of the kinds of situations that may give rise to a conflict of interest and which need to be appropriately managed.

- 9.2 Situations in which conflicts of interest can arise include when a Staff member (or other family members or friends) has other interests in any capacity with the client such as holding a paid position or having a financial interest in the organisation for which the University Consultancy is being undertaken. For more detailed guidance staff should refer to the University Conflict and Declaration of Interest Policy.

## APPENDIX 1

### Private Consultancy Declaration Form

Section 1 – Consultant information			
Staff member's name		Job Title	
College/ Directorate			

Section 2 – Brief information on the proposed Private Consultancy work					
Start date		End date		Total value	
Brief project outline					

Section 3 – Facility access	
Does the work require access to University Facilities? Yes or No	
If you answered 'Yes' outline the resources required	
Total value of the resources required	

Section 4 – Intellectual Property	
Does the work require access to University background IP? Yes or No	
If you answered 'Yes' please outline the agreement reached with the University	

Section 5 – Time commitment	
Number Private Consultancy days to be committed in current project	
Total Private Consultancy days spent this academic year	

Deceleration			
I confirm that:			
<ul style="list-style-type: none"><li>• this Private Consultancy is a private arrangement between me and the client and I will ensure the University is not implicated in the delivery of the work.</li><li>• I will not use any University facilities, space, resources, IT infrastructure, university address, logo, crest or my title in delivery of the work, other than as set out above which are included in the price to the client and are the subject of a written agreement with the University.</li><li>• the work does not require access to University owned background IP or, where it does, that access has been arranged through a licence agreement or other relevant agreement.</li><li>• I have the necessary professional indemnity insurance in place.</li><li>• I have made the client aware that this is Private Consultancy with me and not the University.</li><li>• I will be responsible for all aspects of the setting up, running, managing and delivery of the work as well as meeting all necessary HMRC tax requirements.</li></ul>			
Signed:		Date:	
Head of Department approval			
Signed:		Date:	