

Consultancy policy 2012

University of Southampton

Contents

FOREWORD	3
OPERATIONAL ASPECTS OF THE CONSULTANCY POLICY	4
SECTION 1 - DEFINITIONS	4
1.1 NAMING CONVENTIONS	4
1.2 WHAT IS CONSULTING? ... AND WHAT IS NOT?	4
1.3 ELIGIBILITY FOR STAFF AND THE 30-DAY RULE	5
1.3.1 THE 30-DAY RULE	5
1.3.2 ELIGIBILITY	5
1.4 ELIGIBILITY– ADDITIONAL STAFF CATEGORIES	5
SECTION 2 – APPROVAL TO CONSULT, RECORD KEEPING, AND RESPONSIBILITIES	7
2.1 APPROVAL TO CONSULT	7
2.3 ADDITIONAL NOTES ON EMPLOYMENT AND “WORKING HOURS”	7
2.4 RECORD KEEPING	8
2.5 RESPONSIBILITIES	8
2.5.1 INDIVIDUALS	8
2.5.2 DEANS	8
SECTION 3 – USE OF IPR, TRANSPARENCY AND CONFLICTS OF INTEREST	9
3.1 CONFIDENTIALITY AND IPR	9
3.1.1 OBLIGATIONS ARISING FROM OTHER PROJECTS OR ENGAGEMENTS	9
3.1.2 OBLIGATIONS ARISING UNDER THE CONSULTANCY WORK TO BE UNDERTAKEN	9
3.2 CONFLICTS OF INTEREST, AND AVOIDING CORRUPTION	9
SECTION 4 – MODES OF CONSULTANCY AND REWARDS	10
4.1 TYPES OF CONSULTING	10
4.1.1 UNIVERSITY-BASED CONSULTING	10
4.1.2 ENTERPRISE/TRADING UNITS AND ERE-ENTERPRISE STAFF	11
4.1.3 SERVICE COMPANY-BASED CONSULTING	12
4.1.4 PRIVATE CONSULTING	13
4.2 PROCEEDS FROM CONSULTING	15
4.2.1 SERVICES RENDERED ACCOUNT	15
4.2.2 INDIVIDUAL DEVELOPMENT/ ENTERPRISE ACCOUNT (“IDEA” ACCOUNT)	15
APPENDIX I - POLICY SUMMARY	18

Foreword

The University is an enterprising organisation and seeks to release the talents of our staff and students for the benefit of the economy and society as a whole.

Commitment to knowledge and technology transfer:

The University is committed to support external engagements that facilitate knowledge and technology transfer contributing to economic and social impact. This external engagement takes many forms but in defined circumstances may be considered as “consulting” activity

Consulting income

Such consulting activity will usually deliver additional income to the university and/or financial benefit to an individual. Individual benefit will normally be in the form of additional income, or access to earmarked resources through a “services rendered account” or IDEA account.

Circumstances under which consulting activity may be permitted

The University permits up to 30 days of consulting activity per year for eligible staff under certain conditions.

Time allocated for consulting activity is not a right, and requires written permission from a designated senior member of staff (usually a Dean, or person granted delegated powers by the Dean).

A record must be kept by the staff member of any days of consulting activity as defined in this policy.

In considering whether or not permission will be given for consulting activity the relevant senior member of staff will take into account such factors as the compatibility of the activity with the responsibilities and commitments of the staff member, potential conflicts of interest, and the use of university resources. The activity may (with permission) be undertaken as an individual, in which case there is no link to the University. Alternatively, the activity can be contractually provided by the University, in which case the member of staff will receive appropriate recognition and reward. In either case, the approved consultancy activity will count against the 30 days of allowed activity.

The Operational Aspects supporting this policy are subsidiary to the Financial Regulations of the University and should be read in conjunction with those Regulations.

Operational Aspects of the Consultancy Policy

The University Consultancy Policy is subsidiary to the Financial Regulations of the University and must be read in combination with these Regulations.

The Operational Aspects of the policy are intended to relate the policy to likely 'real life' examples of consultancy work by staff.

Section 1 - Definitions

1.1 Naming conventions

For ease and simplicity the following naming conventions shall be used in this policy document:

Dean/ Nominated Deputy – The Dean may nominate a deputy (in general the Associate Dean, Enterprise) to whom authority is delegated and throughout the document “Dean” means either the Dean or their nominated deputy interchangeably. The Dean, however, retains overall authority and accountability for ensuring the Faculty and its Staff follow this policy.

Dean’s approval – meaning approval by the appropriate Dean of Faculty or his/her nominated deputy (in general, the Associate Dean, Enterprise) to whom authority has been delegated.

Consultant – used to describe the eligible member of staff who seeks to consult; whatever staff category they may be. A Consultant may be a full- or part-time member of staff.

ERE-Academic – a staff member who falls within the ERE-Academic job family

ERE-Research and Teaching – a staff member who falls within the ERE- Research and Teaching job family

ERE-Enterprise – a staff member who falls within the ERE- Enterprise job family

30-day rule – short hand for the University policy which allows eligible ERE staff to consult for up to 30 days each year as part of their employment

Consulting Type – this generic term covers the different types of consulting options, principally to distinguish between University-based and Private.

1.2 What is consulting? ... and what is not?

Consulting is defined as part of knowledge transfer, and arises where knowledge and expertise can be deployed successfully outside the University environment for financial and non-financial benefit. This may include a range of consulting activities including the delivery of CPD outside a Faculty’s core teaching remit.

In general, consulting does not include:

- The creation of knowledge (i.e. research) – activities operated under the heading of consultancy cannot normally qualify for REF or similar Government assessments of research, although it may link to and play a key role in supporting REF work or demonstrating the impact of the University’s work.
- The dissemination of primary knowledge (i.e. education) – i.e. a Faculty’s core teaching or teaching related activities.

1.3 Eligibility for Staff and the 30-day rule

1.3.1 The 30-day rule

Policy permits eligible academic staff to offer their services on a consultancy basis for up to a maximum of 30 days in total through permitted routes in any 12 month period. Nominally 30 days may be interpreted as “30 working days or parts thereof” and does not include consulting done as part of core Faculty activity. However, it is recognised that working within the University environment sometimes may involve weekend or unusual patterns of work. Thus refinement or interpretation of the 30-day rule shall lay with the appropriate Dean whose decision is final.

1.3.2 Eligibility

Staff in the following categories are eligible to consult under the 30-day rule:

- Academic staff in the Education, Research and Enterprise (ERE) job family.
- Research and teaching staff in the Education, Research and Enterprise (ERE) job family.

Staff in this category must ensure that:

- the work does not remove core funding which otherwise would be received by the Faculty;
- that the consultancy work does not create a conflict of interest with the member of staff’s role with the University;
- that the work is marginal rather than core to the research programme of the Faculty; and
- any funding body financing the post of the person wishing to consult does not object to their doing so.

It is recognised that it may be the case that, due to their specialist knowledge, the individual staff member may be the best informed member of the University to advise on the balance between marginal versus core work and so there is a duty on the staff member to take personal responsibility for ensuring that all consulting does not remove core funding.

1.4 Eligibility– Additional Staff Categories

The following categories of staff are also eligible to consult and details are as follows:

- Professional Services Staff in the MSA or other job families can apply for permission to engage in individual consulting for an outside client. Thus Staff outside the ERE family at level 4 or above in Professional Services may, with advance permission, use up to 15 days of their paid annual leave for external private consultancy, or service company based consulting.

Also, for staff in this category, external paid work which individuals might engage in outside of normal hours and which has no relationship to or relevance for the University can be conducted privately with consent in advance. This would include staff on fractional contracts wishing to offer consultancy on days they do not work.

- Staff outside the ERE family at level 4 or above line managed in a Faculty may, with advance permission of the relevant Dean use up to 15 days of their paid annual leave for external private consultancy, or Faculty/ Unit/ Service company based consulting.
- Staff outside the ERE family at level 3 or below can assist on a consulting assignment. They may do so provided the work is through one of the University-based consulting channels. The Dean or

Director of the relevant Professional Service may consent to remuneration for this work and the member of staff may be rewarded via payment for overtime, or through the staff achievement scheme; subject to the guidelines within the scheme. Again payment arrangements will be controlled locally and will be made through payroll, subject to approval from the University.

Providing assistance on private-based consulting is not generally permitted during their normal working hours at the University but may be carried out outside normal working hours with written permission of the Dean or Director of the relevant Professional Service.

- Other staff may be eligible subject to the terms of their contract and consent from the Dean of their Faculty or the Chief Operating Officer, Registrar, or Director of the relevant Professional Service.

For all staff consulting within this section, they should seek guidance about local guidelines and practice from the Dean of their Faculty or the Director of the relevant Professional Service but in all cases they should observe the principles laid out in this policy.

Section 2 – Approval to Consult, Record Keeping, and Responsibilities

2.1 Approval to consult

In all cases the approval to consult as an individual is subject to the consent and guidance of the appropriate Dean or Director of the relevant Professional Service. In practice the Deans may choose to delegate authority to a suitable member of staff e.g. Associate Dean, Enterprise, in some way, but the Dean retains overall authority and accountability. Written permission must be obtained and recorded before work is undertaken, as per the Financial Regulations.

Directors of Professional Service wishing to consult should seek consent from the Chief Operating Officer or Registrar, as appropriate, who in their own cases should seek consent from University Provost. Deans wishing to consult should also seek consent from the Provost. Pro-Vice Chancellors and the Provost should seek permission from Vice Chancellor who in his/her own case should seek permission from the Chair of Council.

Faculties will publish a local Faculty Statement giving guidelines which are in line with the University policy to help communicate their approval process and local administrative practice. This will include arrangements covering delegated approval, consulting mechanisms available within Faculties, local administration and contact with professional service staff, and other relevant topics. Any local guidelines will be developed in consultation with appropriate Professional Services particularly Finance and RIS.

2.3 Additional notes on employment and “working hours”

Normally and under current employment arrangements staff at level 4 and above have no fixed hours and they work the hours necessary to do the job. This means they may not take on any other form of employment without consent. However, consent may be given under the terms of this consultancy policy by the Dean, Chief Operating Officer, Registrar, or Director of the relevant Professional Service. In addition, consent may be given to obtain other employment but is likely to require staff to become part time on a fractional contract.

Staff at Level 3 and below and under current employment arrangements have fixed hours and thus may have other employment outside of those fixed hours. This would be subject to not exceeding an average of 48 hours per week across all employments in line with working time legislation.

Staff who work on a fractional contract may undertake consultancy work on days they do not work but should adhere to the University’s policies on Conflict of Interest, comply with confidentiality obligations (see Section 3) and should obtain the written approval of their Dean or Director of the relevant Professional Service in accordance with Section 1 above.

It is important to note that once given, permission is not necessarily ongoing and may be withdrawn if circumstances are judged to warrant this action. In such a case reasonable notice of the intention to withdraw permission will be given and any dispute about granting or revoking permission will be referred initially to the Dean or Director of the relevant Professional Service or dealt with under the grievance procedures (as applicable). In addition, if external consultancies or other paid work are accepted without consent of the relevant Dean, Chief Operating Officer, Registrar, or Director of the relevant Professional Service, the member of staff may be in breach of contract and subject to disciplinary procedures

2.4 Record Keeping

The Dean, Chief Operating Officer or Registrar shall maintain records of consultancy approvals to enable (as appropriate)

- The recording of work towards the '30 day rule'
- The reconciliation of holiday entitlement and consultancy time for MSA staff
- The resolution of any issues of conflicts of interest.

The records should be available for inspection by appropriate members of HR or the Faculty Finance Managers, and their completion will form part of the Annual Assurance Statement to the Vice-Chancellor.

Employees undertaking consultancy work must themselves register their interests on MyView and must update their entries at least once a year (see responsibilities below)

2.5 Responsibilities

2.5.1 Individuals

Individuals are responsible for following the University Regulations, the University Consultancy policy and their local Faculty guidelines. Written permission must be obtained and recorded before work is undertaken, as per the Financial Regulations. In all cases, individuals must act in accordance with the following relevant University of Southampton Regulations, Policies, and Guidelines:

- University Financial Regulations,
- University Consultancy policy [this document],
- their local Faculty Statement (if applicable),
- Conflict of Interest policy,
- Anti-Corruption Fraud and Bribery policy,
- Intellectual Property Regulations.

Individuals involved in all forms of consulting must regularly update their outside interests (which must be done once a year in any case), including any consultancy arrangements, on the register accessed via MyView and any register required under the University's Standing Orders from Council.

2.5.2 Deans

Deans, on behalf of their Faculty, are responsible for:

- If appropriate, nominating a deputy to act on their behalf as per the policy definitions.
- Ensuring that Individuals are aware of and fulfil the obligations in the section on Individuals.
- Ensuring that a local Faculty Statement for consulting policy is published.
- Ensuring that individuals seek written permission and that this is recorded before work is undertaken, as per section 18 of the Financial Regulations.
- Ensuring that annual reporting for work undertaken under this policy is provided to the University as required.
- Ensuring obligations of confidentiality and IP rights management are understood and complied with, and putting in place specific IP agreements where necessary (RIS should be consulted over any IP issues).
- Ensuring appropriate records are kept and available for inspection.
- Ensuring the Faculty reports all consultancy activity on an annual basis to the University Insurance Manager so that necessary declaration can be made to the University's insurer.

Section 3 – Use of IPR, Transparency and Conflicts of Interest

3.1 Confidentiality and IPR

3.1.1 Obligations arising from other projects or engagements

A significant proportion of the research and knowledge generation activities staff and students undertake for the University is done collaboratively with and/or is funded by an external organisation. This will normally mean there are obligations in respect of any Intellectual Property generated and third party confidential information exchanged in such projects which may restrict our freedom to carry out consultancy work. In accordance with the Intellectual Property Regulations (Section 4 of the University Calendar) each staff member is responsible for familiarising themselves with the terms of any agreement relating to projects they are involved in and should respect the confidentiality of information belonging to third parties.

This means staff seeking to undertake consultancy should be careful to consider existing obligations to third parties (including those obligations entered into by their colleagues or other members of the University) and not do anything which might put the University in breach of its obligations to them. In particular staff should be careful not to use confidential information of a third party without their written consent and not use any Intellectual Property unless they are confident there are no constraints on the University's use of the same. Neither should staff use Intellectual Property where the funder has imposed an expectation that the results and any Intellectual Property will be commercialised or exploited, save in accordance with an agreed strategy to maximise the impact of such results or Intellectual Property.

Where staff are unsure as to the existence or otherwise of obligations previously entered into or the extent of any obligations they should seek guidance from Research and Innovation Services.

3.1.2 Obligations arising under the consultancy work to be undertaken

Staff engaging in consultancy activity through any of the University based mechanisms must familiarise themselves with the obligations contained in any agreement entered into and do their best to prevent the University from falling in breach of such agreement particularly in relation to intellectual property and confidentiality.

3.2 Conflicts of Interest, and Avoiding Corruption

All staff in either University-based or private consultancy must maintain high standards of conduct and ensure that any work is carried out in accordance with good practice and complying with any ethical guidelines drawn up by Faculties or relevant professional bodies.

All staff involved in either University-based or private consultancy must be very careful to ensure that such work does not give rise to a conflict of interest with obligations owed to the University. Staff should familiarise themselves with the relevant parts of the University Financial Regulations, so that there is transparency in the involvement of staff with outside organisations when the University is dealing with these organisations.

All staff must operate with the utmost integrity and openness. Particular care must be taken to ensure that business arrangements do not conflict with the Bribery Act 2010, which came into force on 1 July 2011. An example of such an arrangement would be seeking a consultancy arrangement in return for offering some form of benefit to a third party, e.g. the placing of a University contract with that third party in breach of the University's Procurement Regulations.

Section 4 – Modes of Consultancy and Rewards

4.1 Types of consulting

Clarity on this is important for consequences related to commercial, legal and risk management. There are four main mechanisms for consulting. The mechanisms of consulting available to staff depend on their employment and are summarised in Appendix I.

4.1.1 University-based Consulting

Contracts and risk management

Here the contract is between the client and the University and contractual arrangements (e.g. design and specification of work to be done, intellectual property, deliverables etc.) would normally be managed and supported by Research and Innovation Services or the Faculty. Other commercial rules which apply are:

- University facilities and resources may be used, and must be charged in line with guidance from the Dean or Faculty Finance Manager (FFM).
- Business may be conducted from University premises and use the University postal and email address.
- The university logo may be used (e.g. on letterheads, presentations, reports etc.).
- Consulting activity is covered by University insurance.
- Taxation/national insurance matters are catered for by the University.
- University IPR may be used where not in conflict with rights of third parties or any commercialisation plan.

Pricing and costing principles for University based consulting

Detailed aspects are covered within University's Financial Regulations and the local Faculty guidelines. In addition Faculty Finance Managers (FFMs) or a nominated deputy will provide a source of guidance to potential consultants. However, the following principles and guidance shall apply for all consulting paid through the University and Individuals must ensure that the fundamentals of price, costs and disbursements are clarified BEFORE any contract is finalised.

Price – this is the price the client will pay for the consultancy job. To avoid confusion or dispute later, care must be exercised to ensure clarity as to the inclusion or exclusion of items such as travel and subsistence as well as any special charges for materials or use of facilities. The price the client pays is NOT the same as the internally generated cost(s) and the price should recognise the value of the work and market conditions (i.e. should normally include some element of profit margin). It is likely that VAT will also be charged to the client.

Costs – this is the calculation made for INTERNAL USE ONLY to determine what costs will be incurred. Whereas research costings are likely to be constrained or governed by funders' rules and conditions, consultancy is less likely to be so and market conditions are likely to be the dominant price factor. Thus these costs should be based upon a "true cost" principle and attribute only those costs to the calculation which represent a real or true demand upon University and staff resources, including the use of University space and equipment. Detailed costing practice shall be the responsibility of FFMs and the Dean/ nominated deputy under the overall guidance of University Financial management in line with these principles.

Disbursements – these describe the flow of money (revenue) received and would normally flow as follows:

Firstly it would be used to repay costs consumed (in line with the cost model above)

Secondly any revenue over and above that would be disbursed as per prior agreement; typically to the services rendered/ IDEA account and/ or to the benefit of the consultants (which would be paid via payroll). These are all described in detail below.

Ultimately, the decision on the financial/non-financial worth or viability of pursuing a consultancy assignment will lay with the Dean (or their nominated deputy) or the Director of the relevant Professional Service.

Remuneration

Faculty Financial practice is governed by the Dean assisted by the Faculty Finance Manager, and surplus income from Faculty-based consultancy activity would normally flow to the “services rendered account” or IDEA account, see Proceeds from Consulting (section 4.2 below). Under this policy the Dean may agree to disburse money to the benefit of Faculty staff activities (e.g. to help fund post graduate work, conferences, etc.).

Income may also be disbursed to staff who have contributed to the consultancy activity and this would normally be paid via payroll as one-off payments. The decision to make a reward over and above normal salary lies with the Dean. He/she can consent to a portion of the consultancy revenue being used to remunerate individuals in recognition of the work’s value to the Faculty. Use of the staff achievement scheme may also be considered subject to the guidelines within the scheme. Payments through the University payroll will be subject to appropriate national insurance (employee and employers) and income tax payments.

The Dean may also consent to other non-ERE staff who have assisted in the work receiving remuneration or an award in line with University policy.

It is essential that disbursements from consultancy work **MUST** be agreed prior to commencement of the consultancy project to avoid any misunderstandings later.

4.1.2 Enterprise/Trading Units and ERE-Enterprise Staff

Context

Formerly entitled “Unit-based consulting” this section covers staff in the ERE-Enterprise category and who work in a permanent role within an Enterprise/ Consultancy/ Trading Unit.

Unit management and operation

Decisions affecting Unit operation and management do not form part of this policy document and shall be a matter for the Dean. Thus, the decision to create, maintain or indeed cease the activity of an Enterprise Unit shall lie with the Dean. So too will the decision regarding its position within the Faculty organisational structure and management arrangements. Typically, such decisions will form part of the annual planning and budgeting round.

Financial, legal and contractual management shall be a matter for the Dean with relevant assistance from Professional Services including:

- Financial support from Faculty Finance Manager (or nominated staff in Finance team)
- Commercial and contractual support from Research and Innovation Services

Units may also engage end-to-end professional support staff who are part of the Unit and managed by the Unit.

Units may also choose to engage eligible staff from outside the Unit to collaborate on work provided they comply with the relevant policy.

Where consultancy is carried out through an Enterprise Unit, the University remains the legal entity that is entering into the consultancy arrangement with the client.

Eligibility for full time consultants (ERE-Enterprise staff)

For full time consulting staff, the consent to consult is implicit within their job role. The work of the Unit forms part of the staff's normal duties and ERE-Enterprise staff are not normally eligible to engage in private or independent consulting activities outside their own duties and responsibilities to the Unit.

Performance bonus or staff achievement scheme

The income generated from Unit-based Consulting activities normally flows to the operating balance of the unit. The Dean may choose to introduce and maintain some form of performance bonus or staff achievement scheme. Under this policy Consultants (ERE-Enterprise staff and end-to-end professional support staff managed by the Unit) in Enterprise/ Trading Units may receive ex-gratia bonuses on top of their normal salary through the staff achievement scheme. These bonuses are dependent on the trading surpluses of the Unit at the end of each financial year and are paid at the discretion of the Dean or their nominated deputy.

4.1.3 Service Company-based Consulting

Background

This approach or "channel" was introduced in 2006. It launched an alternative pathway through which ERE-Academic and ERE-Research and Teaching staff could consult. It involved the creation of a service company entitled University of Southampton Consulting Ltd (UoSC Ltd) which was a wholly-owned subsidiary of University Holdings Ltd. This provided an alternate legal/financial instrument to the Private and School-based consulting options. There was also a version of this set up in the former ECS School entitled ECS Partners Ltd. This operated under the same policy construct.

Policy change and simplification

As part of the University's transition, UoSC Ltd will cease to be available as a channel for University-based consulting. However, this type of consulting and legal/financial option will remain as an option where Faculties themselves may create subsidiary service companies for specific enterprise projects. It may be deployed subject to the consent of the University Executive Group (UEG) who will consult via the PVC Research and Enterprise and the Research and Enterprise Advisory Group (a group which includes senior academic and professional services staff). The governance and operating principles will similarly fall under the same governance. It is expected the initial decision to either set up a consultancy arrangement or cease arrangements under this policy would come from Deans.

In addition any service company set up within a Faculty for consulting purposes must *normally* be fully University owned, must comply with all Companies Act and other statutory requirements and meet any standards for governance and administration that are set by UEG.

Consent and eligibility for consulting staff

Where a wholly-owned subsidiary service company has been set up in a Faculty, the policy governing eligibility to consult shall be the same as those for Faculty-based consulting which in summary are:

- Consent from Dean is required.
- 30-day rule applies (or equivalent rules for non-ERE staff).

- University facilities and resources may be used, but will be paid for by the company.
- Professional indemnity is provided, although it is important that activity is fully explained to the Insurance Manager so that necessary declaration can be made to the University's insurer.

Financial and remuneration

The financial practice under which the service company works and how they are applied to individual consultancy assignments and staff shall be a matter for the Board of the service company. Beneficiaries can include the academic consultants, other staff involved in the consulting activity, or the money can flow to Faculty/ Group/ individual services rendered/ IDEA accounts. Payment to individuals must be made through payroll and comply with terms of operation of the service company based consulting as agreed by the University. Local arrangements will be made for payment of staff who carry out work for the service company, or who are employed by the service company, to ensure full compliance with employment and taxation law.

This section must be read in combination with section 34 "University Companies" of the Financial Regulations of the University.

4.1.4 Private Consulting

Eligibility note

The option to consult privately within working hours under the 30-day rule is available only to staff in the ERE-Academic job family (unless otherwise specifically agreed by individual contract terms). Other eligible staff may undertake private consultancy outside working hours under the 15 day rule, as detailed above. Here, as the agreement will lie between the client and the private individual academic, important restrictions apply. University facilities and resources may not be used.

Contractual arrangements/risk management (from University perspective)

In Private Consulting the contract is between the client and the individual academic consultant and how such agreements are made (e.g. price, specification of the contract, deliverables etc.) are a matter for them.

To safeguard the University against risk or potential liability:

- Private consulting may not be conducted from or using the University premises, postal or email address or using University telephones (including University provided mobile telephones).
- The University logo may not be used on letterheads, presentations, reports, etc.
- The member of staff must demonstrably ensure that clients are clearly informed that consulting arrangements are private and the University is not involved nor liable.
- University facilities and resources may not be used (see below).
- Private Consulting must not give rise to a conflict of interest
- Individuals undertaking private consulting must adhere to good practice and the University policies on Conflicts of Interest, and Anti- Corruption, Fraud and Bribery (see "Responsibilities" section in this policy) and
- Individuals undertaking private consulting should not use University IP or third party IP generated from a contract with the University, disclose confidential information of the University, or cause the University to be in breach of its confidentiality obligations to a third party.

Examples and Guidance on what is not permitted:

- Consuming University material, resources, services or facilities
- Using equipment or devices belonging to the client on University equipment
- Using any University facilities, resources or equipment in a way which conflicts or impinges upon their use for core/bona fide University business, or in any other manner which might give rise to a conflict of interest
- Using university owned computer equipment to connect directly with client equipment or systems other than in accordance with ordinary/normal usage of the web
- Consultancy that is in breach of University policies such as Conflict of Interest and Electronic Communications/ similar systems.
- Other usage that the Dean may decide is inappropriate

However, the Dean may decide to allow minor and incidental use of university computer or other office facilities. If any doubts or concerns in this matter arise the default position must be applied, i.e. the use of any university resources or facilities is not permitted. In the event of questions or disagreement, the University Policy on “Conflict of Interest” shall provide the primary source of guidance on this matter. In line with that policy it is intended that common sense should prevail under the overall guidance of the Deans. The policy clause “University facilities and resources may not be used” is included to ensure that the university is not placed in a position of risk and liability nor that University resources or facilities are used to the detriment of the University.

Financial

As private consulting is conducted independently of the University there is no financial policy or practice to apply (outside of risk containment). It is assumed the client will pay the consultant directly and thus all revenue matters (e.g. tax) are solely a matter for the consultant and not the University.

Insurance and professional indemnity

Private Consulting activity is not covered by University insurance. Risk and personal professional indemnity cover is a matter for the individual consultant.

Staff undertaking private consulting must understand that neither the University nor its insurers will accept responsibility for the actions of or risks to staff when acting in a private consultancy, even in the cases when the University has given permission for outside paid work to be undertaken. It is important that staff undertaking private consultancy or similar work are aware of this fact to enable them to take appropriate professional advice to protect themselves, either by clauses in private consultancy contracts or by professional liability insurance. The University will not offer any advice to individuals about the terms of private consultancy contracts and the possible need for personal insurance cover related to such contracts. Staff of the various Professional services will not be available for consultation and therefore staff undertaking private consultancy work should take independent professional advice on how to protect themselves.

“Sub-contracting”

Members of staff, who, under this policy may consult privately, may decide to consult directly for a client or work via a main contractor/consultant as a sub-contractor. In the latter case, and where the main contractor is entirely independent of the University it remains a matter entirely for the consultant (subject to the normal policy and consents applicable to private consulting).

Where the main contractor is an individual, department or unit operating via a faculty or unit-based consulting channels:

- the contractual arrangement between the end-client and the main contractor (The University) will be deemed to be University-based consulting;
- Research and Innovation Services must be involved in the negotiation of the subcontract and the staff member concerned must fully disclose the relationship; and
- the staff member concerned cannot be involved delivering some services as University staff under the Main Contract as well as privately via a subcontract.

This form of sub-contracting is not permitted where the main contract is operated via the Service Company-based channel.

4.2 Proceeds from Consulting

Along with the proceeds from consultancy (after costs) flowing to Services Rendered accounts and/ or to University payroll, the 2012 policy introduces the “Individual Development/ Enterprise Account (IDEA)” account

4.2.1 Services Rendered Account

Eligible Staff may hold a “Services Rendered account” to accumulate the proceeds of consulting activities done through any mechanism above (except “Private consulting”, where the money does not come through the University). Funds from these may be spent in a variety of ways, including payroll payments and are subject to section 18 of the Financial Regulations of the University and must be read in combination with these Regulations.

4.2.2 Individual Development/ Enterprise Account (“IDEA” account)

Introduction

Eligible staff may wish to develop consulting opportunities into longer term activities which may incubate future enterprise/ trading units or external businesses. The University encourages and helps incubate such opportunities. This policy update introduces a commitment to support new opportunities with a staged pathway and clarifies the conditions under which support may be given. In order to cater for the wide variations in possible opportunities the policy is necessarily flexible, leaving many details to be agreed on a case by case basis. If some level of consultancy has already taken place and (or by other means) the opportunity is seen as sufficiently viable, it may be considered as a candidate for further development.

Individual Development/ Enterprise Account (IDEA)

Eligible staff members can request the creation of an Individual Development/ Enterprise Account by consent of the Dean or nominated deputy, or the Director of the relevant Professional Service. The purpose of this account is to enable net proceeds from individual University-based consultancy jobs to be retained (or from the work of a group of individuals). It is intended an IDEA should be easy to request and set up and help foster entrepreneurship within the academic community. The IDEA will be ring-fenced and its purpose will be to provide funds that can be applied towards supporting future business growth and cover activities such as:

- Marketing or business development costs
- Market research and business planning support
- Paying for dedicated business administration support
- Incorporating a company
- Early stage business costs (e.g. space on University premises, access to facilities, buy-out of staff time, consumables)
- Initial membership fees at “SETSquared” or similar organisations (see below)

At any point, with the Dean or nominated deputy's approval, the funds in the IDEA Account can be paid to a services rendered account [or payroll] subject to the agreement of the account holder(s) and the Financial Regulations of the University (see section 18).

Finance will put in place a mechanism to ring-fence funds in the IDEA account such that funds are not included in the out-turn of the Faculty - this is most likely to be by transferring the account to the Central area of the University where it can accumulate.

Use of Funds – Fundamental Principle

It is a fundamental principle that use of, investment of and/or transfer of any funds contained in an IDEA account must be a legitimate use/investment/transfer as the University must operate in accordance with its governing Charter, Statute and Ordinances, its duties as a charity and its funding arrangements with HEFCE. Furthermore, any transfer must not amount to any form of tax avoidance scheme.

Qualifying Review

It is in the interests of the University to promote entrepreneurship and support socio-economic impact. The qualifying review enables a business activity to transition to a more substantial supported business growth stage. This may involve increased levels of support from the University and assist the fledgling business to grow towards independence. Once income to the IDEA account has reached a threshold (nominally £50k) the account holder(s) can request a qualifying review to enable the account holder(s) to use funds in the IDEA account to:

- Incorporate a company, which would have the status of a University of Southampton Spin-out
- Fund early stage business costs (after incorporation)

The review will judge how viable future growth might be and determine what mechanisms might be appropriate to further support the business. To prevent future difficulties, the following aspects would need to be agreed:

- Clarity of share ownership of the business
- What administrative and related support may be provided by the University (typically from Professional Services or an existing Enterprise/ Trading Unit)
- The nature of the opportunity and clarity on ownership of intellectual property (including copyright) and whether a license of University IP is sought.
- A business plan including the volume and nature of activity, anticipated money-flows,
- The use of University facilities and resources, and the containment of any risks and contractual arrangements covering the same
- A target date for a milestone progress review
- Annual reporting to the University to enable its inclusion in returns to HESA (or equivalent)

The policy does not specify what future business model may be appropriate and a variety of business models may be considered including a private start-up, a non-for-profit company or a charity.

Decision Criteria, Authority, and Governance

The review should be conducted between the Eligible Staff account holder(s), representatives of the Faculty Finance team and Professional Services (FFM, RIS), and the Dean (or nominated deputy) and will require at least an outline business plan. The emphasis here will be on clarity, transparency and protecting the interests of the University. To qualify there will need to be agreement that there is some reasonable chance the opportunity will be viable and sustainable as a business, albeit some level of risk and experimentation will need to be recognised with the start-up of a new organisation.

The authority to approve or “qualify” an opportunity and enable a new company to be incorporated shall lie with the PVC Research and Enterprise. At his/her discretion he/she may choose to delegate the decision to a suitable sub-set of the Research and Enterprise Advisory Group (REAG) including the relevant Dean/ Associate Dean from the Faculty where the IDEA arose with appropriate commercial guidance from RIS. Any such process must respect relevant requirements for confidentiality and should be completed within six weeks from the request to trigger the review.

Supported business growth stage

One of the options arising from the qualifying review may be to enter the pathway encompassed by “The innovation system built around SETSquared”. This is well established and has assisted in the successful development of a number of University spin-outs as well as hi-tech start-ups from the local economy. Here a range of guidance and support can be provided and may include:

- Honing business plans
- Developing management teams
- Securing funding
- Joining of the SETSquared network (or similar) which includes Investors, entrepreneurs and professional business advisers
- Incubation space at the University of Southampton Science Park (Chilworth)

Representatives from Research and Innovation Services will advise. This is not a mandatory pathway for the new company and each case should be considered on its merits.

APPENDIX I - Policy summary

Policy summary ERE-Academic, ERE-Research & Teaching, and ERE-Enterprise	University-based	Private
Consent:		
Is prior consent is required to all proposed consulting activities	Yes	Yes
30-day rule applies	Yes	Yes
Eligibility and type of consulting		
ERE family - academic staff	Yes	Yes
ERE family - research and teaching staff	Yes	No
ERE family - enterprise staff	Yes – but only as part of normal job role	No*
Contracts and risk management:		
The contract is between the client and the ...	University	Individual consultant
The contractual arrangements are managed by ...	University	Individual consultant
University facilities and resources may be used	Yes	No
Business may be conducted from University premises including use of University postal or email address	Yes	No
The University logo may be used (e.g. on letterheads, presentations, reports etc.)	Yes	No
Consulting activity is covered by University insurance	Yes	No
Financial		
Taxation/national insurance matters are catered for by ...	University	Individual consultant
Revenue flows to ...	University	Individual consultant

Staff categories and permitted methods of staff remuneration for University-based consulting:

Staff categories	Payment into monthly salary	Paid into pension pot	Staff achievement scheme*	Unit staff achievement scheme (annually)*	Overtime*
ERE-academic	✓	✓	✓	✓	
ERE-Research and Teaching	✓	✓	✓	✓	
ERE-Enterprise	✓	✓	✓	✓	✓
Non-ERE staff at level 4 and above				✓	✓
Non-ERE staff at level 3 and below				✓	✓

*Subject to the guidelines and any relevant individual contract