



Please note: the policy below comes into effect on 1 August 2024 and will apply to all new activities from that date. There will be a transition period under which the arrangements for distribution of income set out in the previous version of the policy (available [here](#)) will apply until January 2025 for the following:

- Any ongoing activity, i.e. where the contract was signed prior to 1 August 2024.
- Any activity which is part of an ongoing relationship (e.g. extensions or follow on contract to a piece of work).
- Activities which have been entered in Worktribe before 1 August 2024, where the contract is signed prior to 1 January 2025.

## ^ 1. Purpose

1.1. This document defines the policy for the provision of consultancy, analytical services and CPD (Expert Services) for outside bodies, undertaken in the name of Durham University.

Durham University recognises that University consultancy and services are an important activity facilitating the transfer of knowledge to business and the wider community. It brings several financial and non-financial benefits to both individuals and the University.

This policy has been developed to encourage and incentivise staff to undertake consultancy and bespoke CPD activities in support of knowledge exchange and external collaboration. Undertaking projects with all organisations is encouraged including those from the private, public and third (voluntary, charity, social enterprise) sectors. These activities have career and reputational benefits for the

staff member as well as support the delivery of the University's strategic objectives.

Specific benefits for individual staff members include:

- Opportunities to develop their skills and to broaden work experience.
- Opportunities for industrial collaboration and to build new relationships.
- Generating personal income.
- Activity will enhance the reputation of the individual in both academia and beyond.
- Can generate societal relevance and impact from their research which can be recognised within the progression and promotion processes.

Specific benefits for the University include:

- Generation of funding (from surplus) for strategic use to support activities within departments.
- Increased knowledge exchange/transfer activity
  - which could be used in HEBCI return to secure increased HEIF funding;
    - to demonstrate impact which could be used in REF impact case studies.
- Additional external relationships, which can provide the opportunity to initiate broader relationships leading to research collaborations and business partnerships.
- Improved profile of the University with businesses and other communities to meet University strategic objective '*Increase the number, depth and effectiveness of partnerships across commercial, government and voluntary sectors, nationally and internationally*'; increase HEIF generating income and KEF performances.

The University is, therefore committed to helping staff foster and make the most of consultancy opportunities whilst:

- Maintaining the University's excellence in research and teaching & learning.
- Ensuring that work is managed to mitigate the financial and reputational risks to the University that could arise from poorly managed consultancy.
- Ensuring that issues such as intellectual property and institutional liability are managed effectively.

This Policy applies to academic and non-academic staff. The term Department includes academic and professional service Departments and University Research Institutes.

## 1.2. Relationship to other policies

All activities in the scope of this policy are governed by the '[Work with Outside Bodies Policy](#)' and the '[Conflict of Interest Policy](#)', which must be read in conjunction with this policy.

## 2. Scope

### 2.1. Categories of work in the scope of this policy

This policy applies to the following categories of work:

#### 2.1.1. Consultancy

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 institution to the client. It does not involve the prime purpose of generating of entirely new knowledge (such work should be classified as research). It is provided to external clients that can include public, private and charitable sector organisations.

Examples of activities which would be classed as consultancy:

- Offering expert analysis and opinion/advice on a social science, scientific or medical question
- Expert analysis of corporate literature
- Stakeholder engagement (via interview or surveys) and analysis of findings
- Carrying out testing or analysis on behalf of an organisation for a new/existing product or service
- Advisory services on technical issues

Sections 3-6 of this policy apply to consultancy activities contracted via the University (University Consultancy). Consultancy undertaken privately by members of staff (Private Consultancy) is covered in section 7.

#### 2.1.2. Analytical Services

Analytical services are defined when use of the University's technical or academic facilities by an external party for work where a sample is provided to the University for analysis using university equipment and the results are supplied to the external party.

Where activities involve significant experimental design or interpretation of results by the member of staff undertaking the work then it should be classed as

consultancy.

Use of facilities by external parties is covered in the [Research Equipment Sharing Policy](#).

### 2.1.3 Continuing Professional Development (CPD)

CPD is defined in this policy as the provision of courses that are aimed at businesses and the community. It typically involves training programmes for learners already in work who are undertaking the course for purposes of professional development/up-skilling/workforce development.

## 2.2. Work for the Wider Academy

This policy does not apply to activities classed as Work for the Wider Academy in Appendix One of the 'Work with Outside Bodies Policy', paid or unpaid, which are in furtherance of scholarship or general dissemination of knowledge, such as:

- Royalties from the publication of books.
- Proceeds from articles published in journals.
- Refereeing of articles in learned journals.
- Fees for editorial duties.
- Reviewing book proposals or manuscripts for publishers or advising on publication.
- Peer reviewing research proposals for Research Councils and other research sponsors.
- External examining.
- External ad hoc lectures.
- Conference presentations.
- Occasional contributions to press, TV and other media.
- Service on public sector organisations, government agencies and charitable body committees.
- Works of creative practice in the arts (e.g. sculpture, paintings, music) which are separately commissioned by third parties.

This policy will still apply for cases related to the wider academy which are not mentioned above:

- a) where the activity entails more than 10 days per year or pro-rata for part time staff, or
- b) where the individual requests that the University undertakes the contracting and / or processes any payment (a fee may apply).

In these cases, the activity must be referred to the Head of Department and may be treated as consultancy (advice may be sought from Research & Innovation

## 3. Eligibility

### 3.1. General eligibility

Eligibility to lead a project is defined by the '[Project Lead / Principal Investigator Eligibility Policy](#)'.

Staff funded through external grants may be subject to terms and conditions constraining their ability to undertake other work. In cases where affected staff wish to undertake further work the University will try to negotiate this with the funder on a case-by-case basis.

The Head of Department may, in exceptional circumstances, refuse or delay a request to accept a consultancy opportunity. Example cases might include where undertaking the work may disrupt the orderly delivery of departmental business e.g. where it would impair the ability of staff to undertake teaching or examining duties, or where such work may conflict with existing commercial relationships.

### 3.2. Eligibility to receive a personal payment

Eligible staff may undertake up to 24 days of consultancy work per annum for which they may receive a personal payment. Any additional allowance is by exception and requires formal agreement from the Head of Department. To avoid possible conflicts of interest, staff are also required to notify their Head of Department or Faculty Manager in advance where total earnings through consultancy and other externally remunerated work in any year are likely to exceed 20% of annual (gross) salary.

Personal payments will be monitored by the department and RIS jointly.

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## 4. Costing and Pricing

4.1 Costing and pricing must be undertaken in line with the '[Pricing of Externally Funded Projects Policy](#)'. Pricing must take into account market rate, and it is

normally expected that cost recovery will be above FEC (Full Economic Cost). The day rate costs used include staff salary and indirect costs to support the work.

4.2 If the Consultancy project involves the use of equipment/facilities, these must be charged at the full economic costing rate. Any markup added to facility costs will be transferred directly to the facility. This will support the sustainability of facilities.

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## 5. Cost Recovery and Distribution of Income ^

5.1 All activities must recognise all of the costs incurred by the project, including staff time. These include the costs of staff employed directly / subcontracted by the project, consumables, taxes, fees, travel, subsistence, direct and indirect costs arising from the use of University facilities and equipment, and staff time. Note that costs include the time of those carrying out the activity. Overheads will be charged at the prevailing rate.

Delivery costs other than the consultants' time will always be considered spent prior to project surplus calculation and distribution of the resulting surplus income at the end of the contract. See table in section 5.2 about when personal or departmental payments can be applied.

### 5.2 Distribution of income

Once required costs have been recovered at the end of the contract, surplus income may be distributed in one or more of the following ways:

- a) Personal payment to consultant(s) for eligible activities (normally up to 24 days per annum, unless an exception has been agreed):
  - Payment may be made via payroll. Payment will be subject to tax and national insurance deductions.
  - Payment may be made to personal s-accounts.
    - b) Income to support Departmental activities (through payment to departmental accounts).
    - c) Income to support Major Research Facility

Where a staff member nominates their personal s-account or other University account to receive all, or a proportion of, their share of fee income, this requires a waiver for HMRC tax purposes. Any such formal waiver must be entered into before Durham issues the contract to the client, and before the work is undertaken.

The following table sets out the recommended options for payments to staff.  
Note that

a) Surplus means amount remaining after all direct and indirect costs have been recovered, including consultant's time, as set out in 5.1

b) Staff should agree the route for income distribution with the Head of Department (or Deputy Executive Dean for scenario 2) in advance of undertaking the work. The proportion of surplus paid to staff may be varied at the discretion of the HoD or DED. This should not unfairly prejudice the right of staff to receive a personal payment for eligible activities.

Scenario	Cost of consultants' time	Surplus
<p>1.The activity is part of normal duties or is recognised in workload, e.g.</p> <ul style="list-style-type: none"> <li>• The individual has been given time to undertake the activity, or in recognition of undertaking it, e.g. activity recognised in workload for academic members of staff.</li> <li>• Consultancy work undertaken by staff of University Consultancy Units e.g. Archaeological Services, departmental consultancy units.</li> <li>• Analytical services undertaken by staff whose role includes support of the facility providing the service.</li> <li>• CPD activities that are part of the normal work of the individual involved.</li> </ul> <p>(Where the activity is not fully recognised in workload, payment</p>	<p>To department/unit</p>	<p>Normally, surplus will be paid to the department / unit. Surplus may be divided in line with the guidance below where exceptions apply, e.g. where</p> <ul style="list-style-type: none"> <li>• the activity is not part of normal duties, and time given recognises only the time spent on the activity, i.e. it does include additional time in recognition of contribution to income;</li> <li>• an activity which is part of the core role has to be undertaken outside normal working hours.</li> </ul>

for the remainder should follow the guidance below).	
2. Consultancy undertaken using a Departmental or Faculty Research Facility by staff whose role is to support the Facility. Personal payment is subject to a split in income being agreed with the Faculty.	<p>Payment based on surplus plus cost of consultant's time. Where facilities costs include a mark-up over the full economic cost of the facility, this model redistributes the surplus between the facility and individual.</p> <p>50% to consultant</p> <p>40% to Facility or Department</p> <p>10% to the University to support growth in expert services.</p> <p>Where a split is not agreed, the whole sum will be paid to the Facility.</p>
3. The activity does not fit the criteria for options 1-2.	<p>Payment based on surplus plus cost of consultant's time.</p> <p>70% to consultant.</p> <p>20% to Department</p> <p>10% to the University to support growth in expert services.</p>

Exceptions to this Policy are at the discretion of the Head of Department (or Deputy Executive Dean for scenario 2).

## 6. Approval ^

6.1 All proposals for consultancy & expert services must be approved in line with the arrangements set out in the 'Work with Outside Bodies Policy'.

6.2 Prior to commencement of work:

- Approval must be given by the relevant Head of Department (or Deputy Executive Dean for scenario 2). Escalated sign off may be required, e.g. on the basis of financial contribution or value (see the 'Pricing for Externally Funded Projects Policy'), or risk (see the 'Work with Outside Bodies Policy').
  - Approval must be given by RIS or their delegated nominees.
  - A written contract must be in place.
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## 7. Private Staff Consultancy

7.1 In the context of this policy, private consultancy means the provision of expert advice and services for a fee to external clients by University employees in areas of activity related to their University appointment and academic expertise, but which does not involve the University as a contracting partner. When undertaking private consultancy, staff must not use University branding or resources (including University email) and must be clear that the activity is not associated with the University.

### 7.2 University vs Private Consultancy

Consultancy activities contracted via the University will be supported with accurate costing, pricing, contractual negotiation and insurance. The University will manage the risk of the project and will be responsible for invoicing the client for the agreed fee as well as collecting payment. Staff contracting consultancy via the University will also benefit from being able to make use of University facilities and the possibility of undertaking consultancy within their normal working hours, as well as associating the University with the consultancy work.

While staff are encouraged to contract any relevant consultancy via the University, the University expects that projects involving any of the following always to be contracted through the University consultancy route:

- staff working during university normal working hours;
- the use of any University IT, technical or physical resources;
- the use or transfer of any proprietary intellectual property (with a commercial value or which is central to the core business) of the University;
- the proposed consultancy overlaps with existing University work or relationships.

For further guidance on expectations relating to University vs private consultancy see Appendix A.

Due to the benefits to both individual staff and the University, the University promotes the exploitation of consultancy opportunities through the University rather than the private route. Benefits to staff include:

- Advice and guidance including assistance with costing and pricing.
- A written contract to protect the financial and academic interests of the University and the staff member.
- Preparation and issuing of invoices and credit control.
- Provision of professional indemnity cover.
- Arrangement of payment of consultancy fees.
- Tax and National Insurance payments are routed through University payroll

When undertaking private consultancy you as an individual are responsible for all of the above processes and should seek advice from HMRC on additional income to your University salary.

### 7.3 Requirements for Private Consultancy

Private consultancy may only be undertaken in line with the guidance in 7.1 and Appendix A. Members of staff are expected to disclose secondary employment<sup>[1]</sup> and it is recommended that staff identify an appropriate limit on the amount of private consultancy to be undertaken, in discussion with their line manager. This is to ensure that your work for the University takes priority. Managers and those wishing to undertake private consultancy must consider a balance between overall working hours, wellbeing and workload when seeking permission from their department to take part in private consultancy and such arrangements must be kept under review. An indicative cap for a full-time member of staff is 20 hours per academic year.

Should a member of staff wish to undertake private consultancy, in order to mitigate the liability on the University the member of staff must:

- Obtain permission to undertake the work from the Head of Department.
- Sign, and obtain the client's signature on, a disclaimer of liability letter informing the client that there is no contractual relationship with the University of Durham and no liability on the University for the work being undertaken.
- Explicitly notify any team members or subcontractors that this is not a Durham University activity.
- Undertake all of the administration themselves, including the provision of indemnity insurance.<sup>[2]</sup> It is the responsibility of the individual to ensure that the insurance is sufficient to address the liabilities inherent in the private consultancy being undertaken. In the absence of Professional Indemnity Insurance, the activity must be undertaken as University consultancy.

## 7.4 Income

When an individual undertakes private consultancy, all revenues accrue to the individual who must declare the income on all relevant tax returns to HM Revenue and Customs (HMRC). The individual is also liable for any tax and national insurance payments that may be due.

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[1] Terms and Conditions of Employment, Grades 1-9, see point 10 / Terms and Conditions of Employment, Grade 10, see point 8

[2] The member of staff must demonstrate to the University's satisfaction that they have the necessary indemnity insurance to cover the work. No indication should be given that the outside work is undertaken in anything but a private capacity. University resources e.g. University branded paper and University general IT equipment must not be used, neither must University specialist equipment be used.

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## 8. Compliance



8.1 Compliance with this policy is mandated by the University's standard terms and conditions of employment. Failure to comply may be regarded as a disciplinary matter and subject to the University's disciplinary procedures.

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## ^ 9. Related Documents

- [Pricing for Externally Funded Projects Policy](#)
- [Principal Investigator / Project Lead Eligibility Policy](#)
- [Work with Outside Bodies Policy](#)
- [Conflict of Interest Policy](#)

## ^ 10. Version Control

Approval date: 30 April 2024

Approved by: Senate

Review date: August 2025

Contact for further information: [research.policy@durham.ac.uk](mailto:research.policy@durham.ac.uk)

## ^ Appendix A: Additional Guidance on Private Consultancy

Private consultancy is defined as the provision of expert advice and services for a fee to external clients by University employees in areas of activity related to their University appointment and academic expertise but undertaken without involvement of (or reference to) the University.

Whilst it is appreciated that it is likely that any private consultancy will be related to existing competencies, the University will not ordinarily allow consultancy to be undertaken as private consultancy where any of the following apply:

- a) The University has a pre-existing relationship with the client where within the last three years it has delivered services which are the same or close to those being proposed.
- b) The proposed private consultancy is being run alongside a related University contract or body of work with that client e.g. where an analytical service is being run as University consultancy and there is a proposal to run analysis of the data as a separate private project.
- c) Where the proposed consultancy is part of the core role of the individual or their host units or where the University already has an objective to undertake similar work e.g. we would not permit private archaeological services consultancy by anyone in the institution as there is a unit explicitly set up to undertake this work.
- d) Where University resources e.g. facilities, background IP, etc. are required for its delivery

Exceptions to this will normally only be given where the University explicitly does not wish to undertake the work.



## Properties

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