Approval Date: 25 March 2024
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# Consultancy

## Guideline

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| Approver and Sponsor | Senior Deputy Vice-Chancellor |
| Owner | Heads of Schools |
| Secretary | Corporate Secretary |
| Policy | UP21/9 Consultancy |

## 1 Purpose

1.1 This Guideline —
(a) provides additional information about approving University Consultancy;
(b) provides guidance for pricing and planning University Consultancy;
(c) provides information about the support provided by UWA Consult; and
(d) provides options for consideration for the distribution of revenue from University Consultancy.

## 2 Definitions

| Term | Definition |
|---|---|
| Approver | (a) For Academic Employees, the Approver is the relevant Head of School, Centre Director or equivalent.<br>(b) For a Head of School or Centre Director or equivalent, the Approver is the relevant Executive member of their business unit.<br>(c) For Professional and General Employees, the Approver is the relevant Associate Director of their business unit.<br>(d) For an Associate Director, the Approver is the relevant Director of their business unit.<br>(e) For a Director, the Approver is the relevant Executive member of their business unit.<br>(f) For a member of the University Executive, the Approver is the Vice-Chancellor.<br>(g) For Honorary, Adjunct and Emeritus Professors, the Approver is the relevant Head of School or equivalent. |
| Policy | An approved document registered on the UWA Policy Library that expresses requirements for behaviour and practice. |
| Procedure | An approved document that enables compliance with the implementation of Policy principles by providing step-by-step instructions on how to action specific parts of a Policy. |
| University Community | All individuals who engage in University activity and/or use University property. |

## 3 Encouraging Consultancy Work

3.1 The University encourages Employees to participate in University Consultancy Work as defined in the Consultancy Policy (the Policy), where that work brings opportunities and benefits to the University and the University Community.

3.2 While University Consultancy is encouraged, the Policy is necessary for the protection of the University's interests, particularly around the following control areas —

(a) employment priorities;
(b) ethical behaviour;
(c) competitive neutrality;
(d) accountability; and
(e) legal and financial arrangements.

## 4 Points for Consideration During Application

4.1 Clarify whether the project is Consulting Work or a Research Project.

(a) Generally, projects that are based on the application of existing knowledge fall in to the category of 'consulting' and projects for which the outcome is unknown, are creating new knowledge and have outputs suitable for peer reviewed publication are classified as 'research'.
(b) The Office of Research can assist you with the definition but your input and understanding of the scope is required.
(c) Schools with a strong research focus could perform University Consultancies to build a collective pool of discretionary income which can help grow new research areas and may request a proportion of any profits be returned to the School for this purpose.
(d) Schools which play an active role in developing and negotiating consulting opportunities should also be entitled to a share in the profits and can elect to have their own instructions for determining how profits are shared. Others may consider this on a case-by-case basis.

4.2 University Consultancy and Work Commitments, Career Development

(a) University Consultants seeking to perform a University Consultancy should work with their Manager to identify how this might be structured into existing or future workload or work commitments.
(b) Core roles and commitments that deliver against UWA's mission should be considered and prioritised in the context of the opportunity. The value of the work to the University, School and Employee should also be considered.
(c) University Consultants might need to use some of their own time, as a well as a percentage of their University Time, to perform a University Consultancy. This approval is required as part of the Approval of any University Consultancy project.
(d) University Consultants should consider the value the University Consultancy contributes to UWA and consider this in their planning and staff appraisals process.
(e) University Consultants should consider if their area of expertise and knowledge could uniquely position them with industry to undertake projects to fill skills gaps for which industry may pay a premium price.
(f) Consulting projects may be good opportunities (among other things) to trial working with a new partner who may be interested in larger research projects.

## 5 Applications

5.1 To be compliant with the Policy, a University Consultancy Application Form is required to be submitted to the University Consultants' relevant Approver.

5.2 For avoidance of doubt, a University Consultant cannot commence a University Consultancy until they receive written approval of their application from the relevant Approver.

5.3 It is the responsibility of the applicant to ensure any additional registration, qualification, restrictions or any other pre-requisite from any external regulatory body are considered, met and included in the application form for approval.

## 6 Approvals

6.1 The priority for all University Consultants is to fulfil their employment and contractual obligations to the University in such areas as teaching, research and service that further the mission of the University.

6.2 To comply with the Policy, a University Consultancy can only be approved in circumstances where —

(a) a University Consultant's performance is satisfactory;
(b) the University Consultancy can contribute to a University Consultant's performance; and
(c) there will be no undue impact on the workload of colleagues or on the University Consultant's contribution as a member of the University Community.

6.3 University Consultants engaged in a University Consultancy must continue to fully perform their employment duties as expressed in their contract of employment.

6.4 Where University Consultants have a contractual obligation associated with teaching and research or the servicing of such areas, fulfilling these obligations as agreed with their Manager and Approver is their primary duty and takes priority over any Consultancy Work as defined by the Policy.

6.5 Where approval has been granted, it is the role of the Approver to monitor the University Consultant's ongoing performance and to ensure that the University Consultancy does not adversely impact a University Consultant's employment duties and other members of the University Community.

6.6 The Approver, on behalf of the University, must withdraw the approval of further University Consultancy where there are concerns about a University Consultant's performance or about the impact that work may be having on the University.

6.7 With consideration to client expectations, applications for Consultancy Work should be approved or rejected within two working days.

6.8 If a University Consultant accepts a University Consultancy without written approval from the relevant Approver, this will be considered a breach of the Policy.

6.9 Approvers of applications for a University Consultancy must —
(a) ensure applications for University Consultancy comply with the requirements of the Consultancy Policy;
(b) facilitate any University and/or external audit process relating to the University Consultancy activity they approve.

## 7 Review

7.1 If an application for Consultancy Work is rejected, a University Consultant may seek a review of the decision.

7.2 The Reviewer will be the manager of the relevant Approver.

7.3 The review process requires —
(a) a copy of the application;
(b) a statement by the Employee applying for Consultancy Work as to why permission should be granted; and
(c) a statement from the Approver who rejected the application detailing reasons for not approving the request.

7.4 Where practicable, written notice of the result of a review of a decision to reject an application should be given within two working days.

## 8 Directorships, Partnerships and Principalships

8.1 Requests for permission to hold directorships, partnerships, principalships including those within public agencies, are to be considered by the Vice-Chancellor on the advice of the relevant —
(a) Head of School or the Senior Deputy Vice-Chancellor (for Academic Employees); or
(b) Associate Director, Director or the relevant Deputy Vice-Chancellor (for Professional and General Staff).

8.2 The time commitments associated with the directorships, partnerships or principalships should be stated within the application.

8.3 If an Employee is making a public statement on that entity's issues, they must only do so in their capacity as a director or officer of the entity and not as an employee of the University. The Employee must expressly write in any statement that it does not represent the views of UWA.

## 9 Pricing of Work

9.1 Pricing of consulting activity is considered to represent the true cost of the work (including facilities, consumables and a service support fee) plus a profit margin. These are considered in the UWA Consult Rate Card built into the UWA Consult Pricing Tool available on the UWA Intranet.

9.2 Where possible, to construct an accurate budget for internal use, the project should be broken down into a series of clearly identifiable activities and into sufficient detail to allocate time and resources against each activity. This budget should be shared with the Head of School, whereas the Employee can decide on the level of budget detail as appropriate to share with the external organisation.

9.3 Determine the cost of each resource in units where applicable, i.e. per hour, per kilometre etc.

9.4 When determining the cost of resources, secure quotes or estimates on the cost of each aspect of the project even when the resources are internal.

9.5 The total price of the project should cover all items associated with carrying out the project including —

(a) Consulting time for all staff involved (applying UWA Consult Pricing Tool to all, as appropriate);
(b) Extra Items —
  i. administration and technical costs;
  ii. charges for the use of equipment or space (market rates where applicable to apply);
  iii. travel and accommodation; and
  iv. consumables.

9.6 General supplies, consumables and items charged at cost are paid to the School/supplier that provides these items. Examples include venue hire fees, catering, course material production.

9.7 Requests for downward variations to the Consulting Rates may be approved by UWA Consult should they reflect market pricing, a continuation of historical pricing with a client, the nature of the client or if the project demonstrates long-term strategic value.

9.8 Scoping and costings need to be accurate; UWA Consult can provide advice as required.

9.9 Assess the certainty and confidence level behind the costing. The higher the degree of uncertainty, the higher the degree of risk underpinning the costing. Calculate what percentage of the cost structure is fixed and what percentage is variable. If an item is an estimate only, try and determine what the tolerance levels are e.g. what percentage could it vary by? Consider this in the pricing discussions with the client and be transparent about the approach to managing this in the contract.

9.10 Clearly identify those items of the scope of work you believe are an estimate and cannot be quoted on a fixed price basis. Do not quote a fixed price if there are significant variables. To do so will result in you and/or the University underwriting the financial risk on the consultancy.

9.11 If you have secured a signed contract with components accepted as estimates, this does not subsequently permit you to incur costs and consume time on an unlimited basis. Where the client is responsible financially, provide to the client warnings and projections of cost overruns as they become known.

9.12 Allow for contingency costs where appropriate, particularly for larger and fixed price contracts, for example, $50k plus. The aim is to provide for any cost oversight or omission that may occur; the larger the project, the higher the probability of this occurring. Do not disclose this in your pricing to the client.

9.13 Ensure compliance with the University's minimum charge out as specified in the UWA Consult Pricing Tool.

9.14 Use these rates to price the consultancy. They are minimums and higher rates can be charged.

There can be a difference in how you cost the project and how you price the project. You do not have to price your project at cost. If projects are priced at cost or below the UWA minimum rates, we may not meet government expectations that we meet 'competitive neutrality' (that is, we do not use public resources to compete unfairly with private sector service providers, see section 6.1 for more info). The UWA Consult Pricing Tool has been designed to balance the risk of meeting the minimum requirements of Competitive Neutrality. UWA Consult can provide advice to the employee before they seek approval for the consultancy for advice. Likewise, the Head of School can seek advice from UWA Consult with the final decision on price being made by the Head of School.

9.15 In consideration of the overhead of undertaking University Consultancy, including insurance protections and support services, you will be charged a Service Support Fee of 18% on all consulting contracts and is already considered in the charge out rates in the Rate Card. You should not represent this as an individual or additional line item of charges to the client. Do not provide to the client a complete dollar by dollar breakdown of the detail behind the project cost; it is commercial in confidence and does not have to be shown. The more you disclose the more grounds you provide for the client to raise an objection and seek to negotiate. Grouping costs towards major milestones, deliverables or activities is a good way to present costings against meaningful categories.

9.16 Requests for extras and variations must be costed separately and put in writing. They must be tied into a change in the scope of work, and must be agreed by the client. Do not implement any changes to the scope of work as a contract variation unless agreed to in writing by the client. Seek written confirmation.

9.17 The opportunity to engage in Consultancy Work is not given to Employees for the purpose of enabling them to supplement their incomes, and any fees charged should not be less than the normal professional fee charged in the commercial marketplace, otherwise the University will be in breach of Competitive Neutrality.

## 10 Appointment of Additional Staff

10.1 If the appointment of a casual or other staff member is required to fulfil the obligations of the contract, People and Culture are to be consulted.

10.2 Employees are responsible for accurate costing and scoping of projects, however, UWA Consult is able to provide advice as required.

10.3 The UWA Consult Pricing Tool can help identify market-relevant charge-out rates for these roles.

## 11 Partnering with Colleagues at Other Institutions

11.1 Where collaboration between UWA and another institution is required and UWA is the lead partner, University Consultancies should still be established through UWA Consult, with a separate agreement between UWA and that institution to undertake the work.

11.2 Employees should use the appropriate UWA Consult rates for all consultants as a minimum. The partnering institution should invoice UWA for the payment agreed.

## 12 Use of University Resources

12.1 University Consultants are advised to familiarise themselves with the Library Rules to ensure that they comply with the licenses and contractual agreements associated with using electronic resources for consulting work.

12.2 University Consultants should ensure that any software products used for consulting work comply with the licensing agreements.

## 13 UWA Consult

13.1 UWA Consult has simplified the way staff can participate in consulting and is encouraging this activity by making it easier to find information about the process and assisting to make it more financially rewarding to perform a University Consultancy.

13.2 UWA Consult can provide —

(a) commercial guidance and assistance with understanding and translating policy and process at UWA;
(b) establishing large scale consulting projects, bespoke short courses and other course commercial projects;
(c) support for tenders and large scale consulting projects subject to requirements;
(d) ongoing relationship management; and
(e) support in the difficult conversations about fees, pricing and timing to allow Employees to maintain positive and outcomes-driven relationships if required.

13.3 Consultants are generally covered by UWA insurance, including professional indemnity insurance which is included in the 18% Service Support Fee. UWA policies change from time to time and coverage is subject to the terms of these policies.

13.4 Additional resources and materials are available at the UWA Consult intranet page.

13.5 University Consultants are encouraged to use the UWA Consulting Agreement Template when preparing agreements. UWA Consult can assist with agreement preparation and may seek assistance from the UWA Risk and Legal teams on the Employees behalf if any changes are required to the UWA Consulting Agreement Template terms and conditions, or if the client must use their own consulting agreement.

13.6 UWA Consult is available to all University Consultants who would like to grow their external engagements in this way. Consulting offers an opportunity to build a professional profile with industry and help grow income to support research and innovation. Consulting could be an opportunity to generate large-scale collaborative research projects and a contributor to revenue growth.

## 14 Reporting and Recordkeeping

14.1 At the end of each calendar year, University Consultants that have conducted or are still conducting University Consultancies that year, will be provided an annual report by UWA Consult to review and approve, which will be provided to their Approver and used for reporting purposes. These reports must be clear and accurate.

14.2 Completed reports are to cover the twelve-month period 1 January to 31 December.

14.3 UWA Consult will file reports on TRIM.

## 15 Private Consultancy

15.1 A University Consultant engaged in a Private Consultancy is not covered by the University's insurance policies and is responsible for obtaining their own professional indemnity, workers compensation, and public liability insurance.

15.2 It is the responsibility of University Employees performing Private Consultancies to ensure that they —

(a) are adequately covered by appropriate workers' compensation or personal accident insurance;
(b) indemnify themselves through taking out public liability and professional indemnity insurance; and
(c) if using UWA facilities to undertake Private Consultancy, obtain appropriate public liability insurance coverage before seeking approval.

15.3 University Employees undertaking Private Consultancy should also ensure that the insurance coverage is adequate if the consultancy service is to be provided outside Australia.

15.4 University Employees performing Private Consultancies should be particularly aware of the possibility of defamation and slander actions.

## 16 Invoicing and Payment

16.1 University Consultants should provide a copy of the signed Consulting Agreement to the relevant Finance and People and Culture teams at the commencement of the University Consultancy.

16.2 The Finance and People and Culture teams will raise the invoice at the completion of the project or in accordance with the terms agreed in the Consulting Agreement.

16.3 A copy of the signed Consulting Agreement should also be sent to UWA Consult.

16.4 In accordance with the Delegation of Financial Authority, the relevant Manager, Finance and People and Culture teams has final approval for raising of an invoice in relation to a University Consultancy.

16.5 The Finance team is required to apply the 18% Service Support Fee to the assigned UWA Consult PG.

## 17 Revenue Distribution

17.1 Recovery to Schools

(a) University Consultancies are expected to make a net profit.

(b) An Approver has discretion to approve a University Consultancy even if it will not make a net profit if it otherwise complies with the Policy and this Guideline.

(c) How the profit from a University Consultancy will be used must be agreed upfront between Approver and University Consultants as part of the University Consultancy Application Form.

(d) Schools may seek to recover the cost of salary and associated costs depending on how the work fits into the Employee's workload.

17.2 Revenue Allocated to Employees

(a) Employees may be allocated some proportion of the profit from a University Consultancy as Discretionary Income.

(b) Discretionary Income can only be used for an activity that contributes to the UWA mission, for example, conference travel, research support or to develop new research or teaching opportunities to support the work and reputation of individual Schools or the University as a whole.

(c) To be granted Discretionary Income from a University Consultancy, it must be agreed and supported by the Approver as part of the University Consultancy Application.

(d) For avoidance of doubt, despite any agreement to the contrary, at all times the money remains the property of the University and the University retains full discretion as to how the money will be used.

(e) Any money deemed Discretionary Income will not be paid to an Employee if their employment ends with the University.

17.3 Can income be taken as personal income?

(a) Employees may be allocated some proportion of the profit from a University Consultancy as Personal Income.

(b) Personal Income is paid through the University payroll as is taxed in accordance with the University's obligations. The University cannot provide Employees with tax advice regarding this additional income and it remains the responsibility of the Employee to seek their own independent advice.

(c) Personal income will be considered Ordinary Times Earnings for Superannuation Guarantee purposes, and superannuation guarantee will be payable on income paid.

(d) Any Personal Income earnt through a University Consultancy will be paid to the Employee upon receipt of funds from the consultancy.

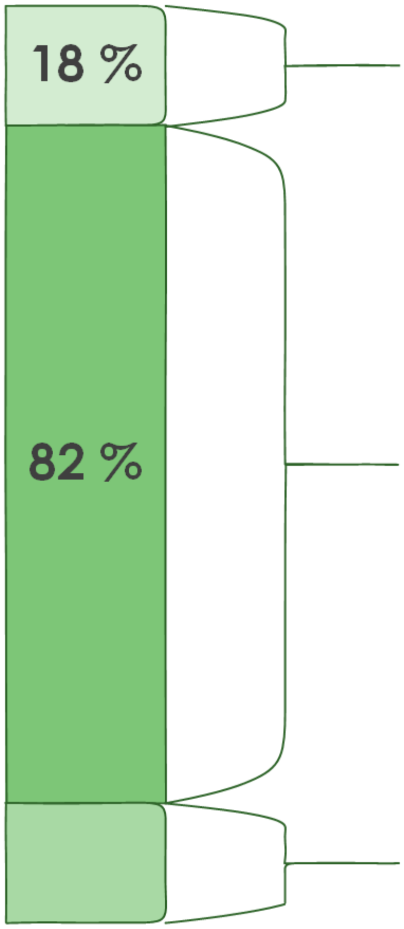
(e) To be granted Personal Income from a University Consultancy, it must be agreed approved by the Approver as part of the University Consultancy Application. Superannuation and other payroll on-costs must be taken into consideration when granting approval.

(f) Schools, Business Units and Centres or equivalent may determine Personal Income thresholds tied to University Consultancies, and are encouraged to factor in the recovery of salary costs as well as employee performance in their decision.

(g) For avoidance of doubt, despite any agreement to the contrary, at all times the money remains the property of the University and the University retains full discretion as to how the money will be used.

(h) Any money deemed Personal Income from a University Consultancy will not be paid to an Employee if their employment ends with the University.

17.4 The consultancy revenue splits are shown below:




**UWA Consult Service Support Fee**

**Revenue Available for Distribution**

- Share of consulting fee revenue to be agreed between Heads of School and consulting lead, as part of the University Consultation Application.
- The School may seek cost recovery of salary and associated costs, and may request a contribution to a collective School discretional fund.
- A proportion may be allocated to a Employee's PG as Discretionary Income and can be used for discretionary expenditure on activity that contributes to the UWA mission.
- A proportion may be taken as Personal Income. Thresholds are recommended for Personal Income distribution. Schools should factor in the recovery of salary costs and performance in their decision. Academics are expected to seek independent tax advice before doing this.
- Specialised Infrastructure, staffing (in additional to the consulting lead) and other costs that have been charged at market rates are paid to the area that bears the costs.

**Cost Recovery**

Supplies, consumables and items charged at cost are paid to the area that bears the cost of these items.

# Legislative Context

| Relevant Legislation or Regulations |
| --- |
| *University of Western Australia Act 1911* (WA) |
| *University of Western Australia Statute (2020)* |

# End