



Consultancy

Policy UP21/9

Approver	Vice-Chancellor
Sponsor	Senior Deputy Vice-Chancellor
Owner	Heads of Schools
Secretary	Corporate Secretary
Policy Type	Administrative
Policy Category	People and Culture

1 Purpose

- 1.1 The purpose of this Policy is to —
- (a) Standardise practice across the University in the way Consultancy Work is approved and managed;
 - (b) decrease Conflicts of Interest occurring from Consultancy Work;
 - (c) increase University Consultancies that support the University's strategic direction; and
 - (d) contribute to providing world-class education, research and community engagement for the advancement of the prosperity and welfare of our communities.
- 1.2 This Policy is to be read in conjunction with the following —
- (a) Consultancy Guideline.
 - (b) Expert Opinion Guideline.
 - (c) Conflicts of Interest Policy.

2 Definitions

Term	Definition
Academic Employee	Those Employees whose employment is governed by the UWA Academic Employees Enterprise Agreement 2023.
Conflicts of Interest	any conflict between — <ul style="list-style-type: none">(a) an individual's professional duties, the duties they owe as a Senate Member and/or Staff Member, and/or University Officer and/or some other body; and their interests in their private pursuits and/or personal relationships and include —(b) an actual Conflict of Interest, where an individual's current private interests directly conflict with that individual's current responsibilities to the University.(c) a perceived Conflict of Interest, where other people, acting reasonably, may have a perception that there is a conflict between an individual's current or potential private interests and that individual's current responsibilities to the University, regardless of whether that is in fact the case; or(d) a potential Conflict of Interest, where an individual's potential private interests may interfere with their duties and responsibilities to the University in the future.

Consultancy Approver	<ul style="list-style-type: none"> (a) For Academic Employees, the Approver is the relevant Head of School, Centre Director or equivalent. (b) For a Head of School or Centre Director or equivalent, the Approver is the relevant Executive member of their business unit. (c) For Professional and General Employees, the Approver is the relevant Associate Director of their business unit. (d) For an Associate Director, the Approver is the relevant Director of their business unit. (e) For a Director, the Approver is the relevant Executive member of their business unit. (f) For a member of the University Executive, the Approver is the Vice-Chancellor. (g) For Honorary, Adjunct and Emeritus Professors, the Approver is the relevant Head of School or equivalent.
Consultancy Work	<p>Any professional or academic services performed under a contract including, but is not limited to —</p> <ul style="list-style-type: none"> (a) charitable work; (b) community services; (c) company directorships; (d) contract consulting; (e) contract teaching; (f) membership of or participation in judicial or administrative bodies for which a fee is paid; (g) practice in a profession including medicine and dentistry; (h) professional expertise on an occasional basis that attracts a fee, including but not limited to — <ul style="list-style-type: none"> i. contributions to the press; or ii. expert opinion activities.
Employee	An individual employed by the University.
Honorary, Adjunct, Clinical (excluding Clinical Academic) or Emeritus/Emerita Appointments	An appointment held by an individual with the University that recognises an affiliation with the University and that does not receive any remuneration from the University.
Intellectual Property	<p>Without limitation, all rights in relation to any:</p> <ul style="list-style-type: none"> (a) circuit layout or eligible layout as defined by the Circuit Layouts Act, 1989 (Cth); (b) privileged information of any kind which, because of its characteristics, is capable of protection by contractual or equitable means, and includes information of a valuable commercial or technical character; (c) Copyright; (d) Design; (e) Inventions (including both products and processes) which may be patentable under the Patents Act, 1990 (Cth); (f) Patent; (g) Plant Variety; (h) Trade Mark; and/or (i) Rights of a related nature. (j) circuit layout or eligible layout as defined by the Circuit Layouts Act, 1989 (Cth); (k) privileged information of any kind which, because of its characteristics, is capable of protection by contractual or equitable means, and includes information of a valuable commercial or technical character;

	(l) Copyright; (m) Design; (n) Inventions (including both products and processes) which may be patentable under the Patents Act, 1990 (Cth); (o) Patent; (p) Plant Variety; (q) Trade Mark; and/or (r) Rights of a related nature.
Policy	An approved instrument registered on the UWA Policy Library that expresses principles to regulate 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.
Professional and General Employee	Those Employees whose employment is governed by the UWA Professional and General Employees Enterprise Agreement 2023.
Student	An individual enrolled at the University in one or more units towards a higher education award course or an enabling course, or undertaking units through University Extension other than on an audit only basis.
University	Is The University of Western Australia, and any and all subsidiary or associated entities.
University Community	All individuals who engage in University activity and/or use University property.
University Consultancy	Any Consultancy Work, where the contract for that work involves the University and external clients.
University Executive	Any of the following positions: <ul style="list-style-type: none"> • Vice-Chancellor • Senior Deputy Vice-Chancellor • Deputy Vice-Chancellors • Chief Financial Officer.
University Property	Tangible and non-tangible things, belonging to, or contracted to the University or members of the University Community, including campuses, facilities and services.
University Time	The hours of work stipulated in an Employee's — <ul style="list-style-type: none"> (a) University of Western Australia Academic Employees Agreement (b) University of Western Australia Professional and General Employees Agreement (c) common law employment agreement.

3 Scope

3.1 The scope of this Policy applies to all Employees and Honorary, Adjunct, Clinical (excluding Clinical Academic) or Emeritus/Emerita Appointments, hereon referred to as University Consultant(s).

3.2 This Policy does not apply to –

- (a) An Employee's private, recreational or other professional interests that are unrelated to the terms of engagement as expressed in their contract of employment;
- (b) Employees whose employment has been agreed through the ELICOS (English Language Intensive Courses for Overseas Students) Conditions of Employment Award; or
- (c) Students, where they are not also Employees.

4 University Consultancy

- 4.1 University Consultancies may —
 - (a) make full use of University Property; and
 - (b) be performed during University Time.
- 4.2 University Time means the hours of work stipulated in an Employee's —
 - (a) University of Western Australia Academic Employees Agreement;
 - (b) University of Western Australia Professional and General Employees Agreement; or
 - (c) common law employment agreement.
- 4.3 The amount of University Time permitted to be used for University Consultancies must be agreed by the Employee and their Manager with consideration to —
 - (a) the requirements of the Employee's role;
 - (b) the Employee's performance; and
 - (c) the value contribution of the University Consultancy.
- 4.4 Employees may only accept fees for private coaching of Students where such coaching has been approved by the Head of School.
- 4.5 A University Consultant may act as an expert witness and provide an expert opinion in accordance with the Expert Opinion Guidelines.

5 Approvals

- 5.1 University Consultants must not perform University Consultancy without prior written approval.
- 5.2 University Consultancies must be approved by the relevant Consultancy Approver in accordance with the Consultancy Guideline.
- 5.3 Approvers must only approve Consultancy Work where the work will not have an undue impact on the —
 - (a) expected performance of that Employee;
 - (b) performance of the colleagues of that Employee; and/or
 - (c) mission or strategy of UWA.
- 5.4 Approvers may look favourably upon University Consultancies that —
 - (a) address more challenging and innovative issues;
 - (b) advance an Employee's or the University's academic interests.
 - (c) help the University achieve the objectives of its Strategic Plan;
 - (d) broaden the University's funding and income sources;
 - (e) build stronger relationships with industry or the broader community;
 - (f) enhance the prestige of the University; and/or
 - (g) lead to additional opportunities for the University.
- 5.5 University Consultants seeking to become a director, partner or principal of a public or private company, firm or partnership (including incorporated associations and not-for-profit organisations, but excluding schools or companies formed solely to deal with private affairs), must seek written approval from the Vice-Chancellor prior to accepting a position.
- 5.6 University Consultants may seek a review of a decision not to approve an application to perform a University Consultancy in accordance with the Consultancy Guideline.

6 Pricing

- 6.1 University Consultancies must be priced at market rates and in accordance with the Consultancy Guideline.
- 6.2 Competitive Neutrality
 - (a) A University Consultant must not use the University's competitive advantage when undertaking a University Consultancy to reduce the cost of a contract.
 - (b) Consultancy Work must not compete with services otherwise provided by the University on a commercial basis.
- 6.3 Funds generated through University Consultancy will be managed in accordance with the Finance Policy (UP20/1).

7 Conflicts of Interest

- 7.1 Where an application for a University Consultancy would result in an actual, potential or perceived conflict of interest, the Approver may decide not to approve the application on this basis.
- 7.2 University Consultants must notify the Approver when they become aware of the potential for their University Consultancy to cause actual, potential or perceived Conflicts of Interest, in accordance with the Conflicts of Interest Policy (UP12/32).
- 7.3 An Approver must inform the Senior Deputy Vice-Chancellor of any disagreement between themselves and an Employee as to whether or not any proposed or current University Consultancy presents a Conflict of Interest.

8 Private Consultancy

- 8.1 Private Consultancy means any Consultancy Work —
 - (a) that is not performed under a contract involving the University and other parties; and
 - (b) where remuneration and the contractual relationship are independent of the University.
- 8.2 Private Consultancy may be requested by Academic Employees but such activities must not be in conflict with the mission or strategy of the University.
- 8.3 The opportunity to participate in Private Consultancy work will be given on the basis that contractual obligations to the University must take priority over any Private Consultancy. Those engaged in Private Consultancy work must still play a full role as an Employee in fulfilling their primary duties including teaching, research, administrative activities and other service.
- 8.4 Approval for Private Consultancy work may only be given to Academic Employees in cases where performance of the full range of duties is satisfactory; this judgment falls to the Head of School or Institute Director (activities of a Head will require judgement by the Senior Deputy Vice-Chancellor, and of Institute Directors by the Deputy Vice-Chancellor (Research)). The Head of School must monitor for any effects on an Employee's priority commitments and its impact on other Employees.
- 8.5 The privilege of Private Consultancy will be withdrawn where there are concerns about an Employee's performance or about its impact on the work of the School.
- 8.6 An Academic Employee may request to engage in Private Consultancy work up to 20% of the working year; whereas no such limit exists for University Consultancy and in both cases will require approval by the Head of School or Institute.
- 8.7 For each instance of Private Consultancy work, the Employee must provide details of the proposed activity and obtain written approval from the Head of School or Institute. The Employee must complete an Annual Activity Return to the Head of School or Institute.
- 8.8 A register of Private Consultancy work by members of a School or Institute will be kept by the Head of School or Institute Director and reported annually to the Senior Deputy Vice-Chancellor.

- 8.9 Private Consultancy must be undertaken in accordance with the Conflict of Interest Policy (UP12/32).
- 8.10 In instances in which it is in the best academic interests of the University to establish a formal agreement with a company owned and operated by one or more Employees (this is also a Private Consultancy) it is essential for the Head of School and Executive, to prepare formal legal documentation setting out the legal relationship in consultation with —
- (a) UWA Legal; and
 - (b) Employment Relations and Tax Services.
- 8.11 Private Consultancies must not —
- (a) make use of the University's Intellectual Property;
 - (b) make use of a University position or professorial title;
 - (c) contribute towards an Employee's Service Activities; or
 - (d) be associated in any way with the University, including through use of but not limited to the University's —
 - iii. e-mail addresses;
 - iv. fax numbers;
 - v. letterheads;
 - vi. name;
 - vii. phone numbers;
 - viii. postal addresses;
 - ix. stationery; or
 - x. web addresses.
- 8.12 Private Consultancies may use University Property by written agreement with their Approver, if —
- (a) the individual responsible for that University Property has provided a written endorsement for its use;
 - (b) The Approver is satisfied that a sufficient Public Liability policy is held by the Employee undertaking Private Consultancy; and
 - (c) the University receives reimbursement of the full market costs of use.
- 8.13 University Employees performing Private Consultancy will not be covered by the University's insurance policies for any such work.
- 8.14 The University will not accept any liability for accident or injury that occurs to an Employee during the performance of Private Consultancy, including travel to and from the place of work.
- 8.15 The University will not accept liability in regard to any work delivered as part of a Private Consultancy.

Legislative Context

Relevant Legislation or Regulations
<i>University of Western Australia Act 1911 (WA)</i>
<i>University of Western Australia Statute (2020)</i>

End