

# Paid Outside Work by Academic Staff Policy

<b>Responsible Officer</b>	Vice-President, Human Resources		
<b>Contact Officer</b>	Vice-President, Human Resources		
<b>Superseded Documents</b>	Replaces the UNSW Policy on Paid Outside Work approved by the Deputy Vice-Chancellor (Academic Affairs) in February 1995		
<b>Review</b>	January 2014		
<b>File Number</b>	2016/08637		
<b>Associated Documents</b>	Conflict of Interest Policy Code of Conduct Intellectual Property Policy Competitive Neutrality and Pricing Procedure for Pricing of Externally Funded Research		
<b>Version</b>	<b>Authorisation</b>	<b>Approval Date</b>	<b>Effective Date</b>
2.12	Administrative update by Acting Head of Governance	18 February 2016	29 February 2016

*Notwithstanding section 1.2.1, 1.2.2, and 1.2.3, this policy does not apply to Staff at AGSM until a date to be advised.*

## 1. SECTION ONE

**This section applies to all types of paid outside work**

### 1.1 INTRODUCTION

#### 1.1.1 Rationale

The University recognises the value of academic staff ("Staff") having the opportunity to undertake a limited amount of Paid Outside Work and therefore gives Staff the opportunity to perform that work, especially where this can:

- improve the quality of teaching and research;
- especially in professional disciplines, establish or continue good relations between the University and the community;
- maintain professional skills and standing, particularly where this is required so that the University retains accreditation in a professional discipline; and/or
- provide the benefits of academic research and professional expertise to the community.

#### 1.1.2 Comparability and Review

This policy takes account of the NSW Parliament, Legislative Assembly, Public Accounts Committee Inquiry into Academics' Paid Outside Work (Report 7/53(150)) published in September 2004, a 1999 review of policies for paid outside work in all universities in NSW by the Audit Office of NSW, and of paid outside work policies in other comparable Australian and overseas universities.

In accordance with the requirements of the NSW Auditor-General, this policy was revised in 2005. It will be monitored annually, based on an analysis of annual reports, and will be reviewed at least every five years.

## 1.2 APPLICATION OF THE POLICY

### 1.2.1 Full-Time Staff

This policy applies to all continuing and fixed-term full-time Staff employed by UNSW. Where Staff are employed by UNSW through a research grant with conditions on Paid Outside Work, then this policy will also apply to the extent that it is not inconsistent with those conditions.

### **1.2.2 Part-Time Staff**

Staff who are employed on a part-time basis (casual or fractional) are also subject to this policy where the conduct of Paid Outside Work affects their ability to fulfil the duties of their employment, where the work is associated with the University, or when University facilities are used for the work.

### **1.2.3 Visiting, Adjunct and Conjoint Academic Staff**

Persons who have a Visiting, Adjunct or Conjoint appointment are bound by this policy when the work they perform is done using the name of the University, where the work is associated with the University, or when University facilities are used for the work.

### **1.2.4 Special Studies Programs and Internal Release**

This policy applies to Staff during approved periods of Special Studies Programs and Internal Release.

### **1.2.5 Exemptions and Exclusions**

This Policy does not apply to the following types of work:

#### **1.2.5.1 Work not related to a Staff member's discipline or association with the University**

This policy does not apply to 'second jobs' which are unrelated to the Staff member's academic standing or his/her employment at UNSW (provided that the activity is not detrimental or injurious to the reputation of the staff member or University). For example, a Staff member who teaches an aerobics class as a second job is not bound by this policy except where the second job interferes with the performance of their UNSW duties, or involves use of University resources. While not requiring approval for this type of work, the University requires Staff to inform their supervisor of outside work commitments which may affect their contract of employment with the University. If there is any uncertainty about whether the work comes within this Policy, the Staff member should consult with his/her supervisor.

#### **1.2.5.2 Work which is part of the normal duties of a Staff member as an academic**

Activities which are normally associated with the academic or scholarly work and standing of an academic staff member and which may be remunerated are not covered by this policy. These activities include:

- writing, reviewing and editing scholarly books and journal manuscripts
- reviewing research grant applications for outside organisations
- examining theses for other organisations
- service on committees of learned societies and academies
- service on boards of public research organisations
- the role of examiner and related activities for the NSW Board of Studies
- service on community bodies where the particular professional expertise of the staff member is the main reason for their service
- creative performances and/or exhibitions
- occasional broadcasts, telecasts, articles of media publications and public lectures
- organisation of and participation in academic conferences, symposia and seminars.

If such work interferes with other duties of the Staff member or carries a significant level of remuneration it should be treated as University Paid Outside Work. If there is doubt about whether a particular activity is part of normal academic duties, the Supervisor of the Staff member will resolve the matter in consultation with the Staff member.

#### **1.2.6 Paid Outside Work which is not allowed**

Approval will not be given to undertake the following types of Paid Outside Work:

- private tuition of UNSW students
- work that competes with services provided by the University
- work solicited by an individual member of staff through any form of paid advertisement (excepting work which falls within 1.2.5.1).

With the exception of occasional guest lectures and co-supervision of research students, full-time Staff of the University may teach at another higher education institution only pursuant to an agreement between the institutions. Teaching while on SSP is governed by the SSP policy.

### **1.3 DEFINITIONS**

#### **1.3.1 Paid Outside Work**

Paid Outside Work is any activity undertaken by a Staff member for a person or entity other than UNSW and for which the Staff member is remunerated.

Paid Outside Work includes activities such as consultancies, acting as an expert witness, conduct of clinical trials, conduct of workshops and short courses, contract services and remunerated directorships and partnerships even when these are with externally funded research centres or controlled entities of the University. It does not include directorships where the Staff member is nominated to a Board by the University.

#### **1.3.2 University Paid Outside Work (Refer to section 2 below)**

University paid outside work is paid outside work that is managed commercially by UNSW or its controlled entities.

#### **1.3.3 Private Paid Outside Work (Refer to section 3 below)**

Private Paid Outside Work is work which is not managed by the University or its controlled entities. In addition to the general requirements for Paid Outside Work, Private Paid Outside Work must comply with the following requirements:

- The member of Staff must provide evidence of holding adequate professional indemnity and public liability insurance for the work [This is a requirement of the NSW Government.]
- The University must be adequately indemnified for any loss or damage that might arise from the undertaking of the outside work.
- No University resources are used in relation to the work except in accordance with section 3.2 below.

The University does not indemnify Staff and/or their clients in relation to Private Paid Outside Work.

#### **1.3.4 Advisory Service**

Human Resources will oversee the administration of Paid Outside Work at UNSW and provide an advisory service to staff on the provisions of the policy.

### **1.4 TIME ALLOWANCE**

Staff may undertake Paid Outside Work up to an average of one day per week over the calendar year (52 days per calendar year in total). This allowance is not an entitlement, and will only be granted where the conditions for approval are satisfied and once approved, is subject to compliance with those conditions.

If more than half of a University Paid Outside Work project has been certified as research under the definition in the Australian government's [Higher Education Research Data Collection](#), then work on that project will not be counted as part of time allowed for Paid Outside Work.

Approval of the Senior Deputy Vice-Chancellor must be obtained for exceptional cases where the Paid Outside work exceeds an average of one day per week. Approval in these cases will be at the discretion of the Senior Deputy Vice-Chancellor and normally requires a corresponding reduction in a Staff member's employment status to part-time/fractional.

## 1.5 CONFLICT OF INTEREST

Staff who engage in Paid Outside Work must ensure that any potential, perceived or actual conflict of interest arising from their involvement in Paid Outside Work is managed according to the Conflict of Interest Policy and the UNSW Code of Conduct.

## 1.6 APPROVAL

No Paid Outside Work can be undertaken unless it is approved by the University prior to the commencement of the work and in accordance with this Policy. Approval to undertake Paid Outside Work is for the specific period of time indicated on the approval form. The project will be reviewed if an extension to that period is sought.

Approval by a Head of School is conditional on the work being consistent with section 1.1.1 of this policy and satisfactory performance of UNSW duties by the member of academic staff.

The Head of School must forward the application to the Dean in circumstances where:

- The value of the contract/project to the member of Staff is more than the Head of School's financial delegation.
- The project requires the use of UNSW facilities beyond those of the School.
- It is proposed that the costs of the work are not to be recovered in accordance with the UNSW Policy on Competitive Neutrality and Pricing. The Dean is to indicate the amount and source of any shortfall and provide reasons for approval.
- The application is NOT endorsed by the Head of School because the performance of the Staff member is deemed to be unsatisfactory.
- The Head of School is the applicant.

Applications for approval to undertake Paid Outside Work must be lodged on the [Application for Approval to Undertake Paid Outside Work form](#) (available through myUNSW) EXCEPT where the University Paid Outside Work is undertaken on a research project where approval must be obtained via the Acceptance form for the project prepared by the Division of Research. If the Head of School is absent or unable to consider the application within three days of receiving the form, and where there is no Acting Head of School, the member of staff may refer the request directly to the Dean.

Where there are or are likely to be multiple requests for approval of the same or similar type of Paid Outside Work the Head of School may recommend approval for a specified amount of such work.

Applications for approval to take up a Directorship / Partnership of a company must be made in accordance with section 4 of this policy.

## 1.7 REPORTING

All Staff must submit an annual report on their involvement in all Paid Outside Work (University, Private and Directorships), including nil returns. Heads of School will monitor Paid Outside Work activities on the basis of the annual report by academic staff. The Annual Report on Paid Outside Work is available to the Head of School, Dean and the Senior Deputy Vice-Chancellor.

## 1.8 USE OF UNIVERSITY RESOURCES

The University's Code of Conduct requires staff to avoid improper use of the resources of the University for private gain or the gain of a third party. Contracts for Paid Outside Work where the use of the University's resources is approved must comply with the University's Competitive Neutrality and Pricing Policy and the terms of any applicable license agreements to which UNSW is party.

## 1.9 REFERENCE TO UNIVERSITY

Reference to the University in connection with Paid Outside Work must be in accordance with the Code of Conduct

## 1.10 INVOLVEMENT OF PROFESSIONAL & TECHNICAL STAFF AND STUDENTS

Staff must obtain the permission of the Head of School before involving Professional & Technical (P&T) staff in Paid Outside Work, whether this involvement is on a paid or unpaid basis.

In considering whether to grant permission, a Head of School must take account of the employment contract of the member(s) of P&T staff and determine if the proposed work is consistent with that contract and may require the written consent of the P&T staff member.

Where a Head of School approves that the work can be carried out during normal working hours, the School must be fully reimbursed for the time worked. The engagement of students in the support of any form of outside work by members of staff:

- (i) must be voluntary. Staff must obtain the *agreement of the student in writing* and produce it to the Head of School before any work is done by the student;
- (ii) can only occur with the permission of the Head of School;
- (iii) must be appropriately remunerated;
- (iv) must not affect adversely or prejudice the study program of the student(s);
- (v) for postgraduate students, must not exceed the time allowed for outside work as specified in the conditions for Australian Postgraduate Awards, or any other scholarship award conditions that might apply at any given time; and
- (vi) must be on the basis of full indemnity for the University.

Staff must ensure that any actual or potential conflict of interest in employing students is dealt with in accordance with University policy.

## 1.11 INTELLECTUAL PROPERTY

Any intellectual property issue likely to affect UNSW that arises or is likely to arise in relation to Paid Outside Work must be clarified in writing with the University and the client before undertaking the work or, if it arises subsequently, at the earliest time possible.

## 1.12 STAFF RESPONSIBILITY

Failure to comply with this Policy, the UNSW Code of Conduct and/or the Policy on Conflict of Interest may be treated as misconduct/serious misconduct and result in disciplinary action.

Staff are also responsible for and should take their own advice on their personal legal obligations relating to the performance of Paid Outside Work. These include taxation obligations and professional obligations such as registration requirements and compliance with professional standards.

## **2.0 SECTION TWO**

### **University Paid Outside Work**

#### **2.1 INTRODUCTION**

University Paid Outside Work is the form preferred by the University, because it:

- ensures that there are contractual arrangements in place to deal with the interests of Staff
- provides Staff with professional indemnity insurance
- ensures that projects are evaluated for reporting as research income with financial benefits to both the University and the individual.

#### **2.2 FINANCIAL ARRANGEMENTS**

The following financial arrangements will apply for Staff engaged in University Paid Outside Work:

- There will be indirect cost recovery on all University Paid Outside Work. Indirect costs are deducted from gross revenue and allocated to research revenue in the operating budget of the relevant Faculty.
- Charging for UNSW resources should be in accordance with the UNSW Competitive Neutrality and Pricing Policy and Procedure for Pricing of Externally Funded Research.
- UNSW controlled entities may charge a fee for managing University Paid Outside Work.

#### **2.3 LIABILITY AND INSURANCE**

Staff undertaking University Paid Outside Work will be normally be covered by professional and public liability insurances maintained by the University and/or its controlled entities.

## **3.0 SECTION THREE**

### **Private Paid Outside Work**

#### **3.1 INTRODUCTION**

University Paid Outside Work is the form preferred by the University; however, a member of staff may choose to undertake Private Paid Outside Work in accordance with this policy.

#### **3.2 USE OF UNIVERSITY RESOURCES**

The use of University resources in the conduct of Private Paid Outside Work may only occur where access to such resources is generally available, and in such cases, use of University resources will be charged at the same cost as to members of the public.

#### **3.3 FINANCIAL ARRANGEMENTS**

Staff engaged in Private Paid Outside work are responsible for all of their own financial arrangements, including the legally required payment of tax.

Staff engaged in Private Paid Outside work may not use the University's financial systems and facilities, including business activity accounts, or University staff to invoice, pursue debtors or in any way manage the funds associated with Private Paid Outside Work.

No UNSW indirect cost recovery will apply to Private Paid Outside Work.

### 3.4 LIABILITY AND INSURANCE

Staff who undertake Private Paid Outside Work are responsible for their own legal liability, professional indemnity and worker's compensation as appropriate in respect of that outside work. Staff must ensure that all other parties and interested persons understand and acknowledge that the University is not responsible for nor does it provide any implied or expressed warranty or guarantee in respect of the work. The University requires the Staff member to obtain and provide to the Head of School a signed release from the other party/ies to a contract for Private Paid Outside Work before the Staff member agrees to undertake the work. Wording of the release required by the University is included on the [Application for Approval to Undertake Paid Outside Work form](#).

### 4.0 SECTION FOUR

#### Directorships and Partnerships

Approval of the Senior Deputy Vice-Chancellor is required where a staff member wishes to take up a directorship of a company, if the arrangement is work-related or the company is to be used in outside earnings activities. This approval must be obtained annually, even when the partnership or directorship is continuing.

Approval to become a director or partner may be granted if the Senior Deputy Vice-Chancellor is satisfied that there has been a full and complete disclosure as to the circumstance of the directorship, including any actual or potential conflict of interest in accordance with the UNSW Conflict of Interest policy, and, if satisfied, that the staff member has undertaken:

- To provide to the Head of School further information promptly should there be a change in any of the circumstances related to the company or the directorship;
- To continue to declare his/her interest on each and every instance where there are dealings by the University with the company or any related part of the company and to alert his/her Head of School to any potential for a conflict of interest;
- To follow the directions of his/her Head of School as to the management of any actual or potential conflict of interest;
- To carry out the duties of the directorship and any other work for the company in accordance with the University's policy on Paid Outside Work.

A Staff member must apply for approval to undertake a remunerated directorship or partnership on –the Application for Approval to Undertake Paid Outside Work.

#### **Associated Documents:**

##### **Attachment A:**

[Application for Approval to Undertake Paid Outside Work](#) (available through myUNSW)

##### **Attachment B:**

[Guidelines on Paid Outside Work for Clinical Academics](#)

## Appendix A: History

Version	Authorised by	Approval Date	Effective Date	Sections modified
1.0	Deputy Vice-Chancellor (Academic Affairs)	February 1995	February 1995	
1.1	Amendment, Deputy Vice-Chancellor (Academic)	February 2004	February 2004	
2.0	UNSW Council (CL05/114)	26 September 2005	1 January 2006	Full review
2.1	Amendment, Deputy Vice-Chancellor (Academic)	21 October 2005	1 January 2006	Section 1.2.5.2.
2.2	Amendment, Deputy Vice-Chancellor (Academic)	28 October 2005	1 January 2006	Section 1.2.5.2, 1.2.6, 1.3.1, 1.3.5, 1.6, 1.7, 3.4 and 4.0
2.3	Amendment, Deputy Vice-Chancellor (Academic)	7 November 2005	1 January 2006	Section 1.2.3
2.4	Amendment, Deputy Vice-Chancellor (Academic)	17 January 2006	17 January 2006	Section 1.6 and 3.4.
2.5	Amendment, Deputy Vice-Chancellor (Academic)	14 February 2006	14 February 2006	Section 1.10
2.6	Amendment, Deputy Vice-Chancellor (Academic)	10 November 2006	10 November 2006	Section 1.3.5, 1.7 and 1.10.
2.7	Administrative update by Head, PMU	9 February 2010	9 February 2010	Links updated section 1.5, 1.6, 1.8, 1.9, 1.12, 2.2. Name amended 1.3.2, 1.3.4
2.8	Amendment, Vice-Chancellor	30 March 2011	1 April 2011	Sections 1.3.2, 1.3.3, 1.3.4 (deleted), 1.10, 2.2 and 2.3
2.9	Administrative update by Acting Head, Governance Support	29 May 2013	29 May 2013	Section 2.2 and 3.3
2.10	Administrative update by Head, Governance Support	4 December 2013	4 December 2013	Section 1.6
2.11	Administrative update by Acting Head of Governance	27 November 2015	27 November 2015	Amendments to the Responsible Officer and Contact Officer.
2.12	Administrative update by Acting Head, Governance	18 February 2016	29 February 2016	Amendments reflecting changes in senior leadership positions.