



Consultancy Guidance

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1. Introduction and Overview

Consultancy is one of the principal mechanisms by which universities and colleges transfer knowledge to public, private and third sector groups, and contribute to the growth of the economy and to the needs of society more generally. The provision of expert advice to external clients by university staff is a prominent example of 'third mission' activity, through which higher education institutions promote and support productive interaction with business and industry. Consultancy services might include: offering specialist opinion, advising on technical issues, or solving problems for firms.

The University can derive valuable benefits by offering consultancy services, including: generating external income, enriching the experience of staff and contributing to teaching and research. The academic can use consultancy to generate additional income, but also as a way of engaging with new or existing partners. This can be done either in your capacity as a member of University staff or as a private individual; in either case there are a number of considerations that need to be addressed prior to engaging in the consultancy so the academic and the University are not exposed to undue financial and other risks, such as conflicts of interest.

This guide outlines the aspects of consultancy which should be considered prior to engaging in any project. All academics should refer to their Departmental guidelines (if such guidelines exist), and also to the University's [Working with Outside Bodies](#) policy.

1.1. Definition of consultancy

The University's definition of consultancy is "work undertaken which relies on a member of staff's academic expertise such as advice to industry or government departments". This does not include work undertaken which forms part of the wider academic endeavour such as external examining, journal editing, peer review, committee work, lectures or presentations for funding bodies or other universities and academic conferences. Neither does it include work which does not depend on the member of staff's academic or administrative expertise such as membership of a governing body.

1.2 Benefits and Risks

Benefits for the academic and the institution

Consultancy can provide a range of benefits to institutions, academics, and to the clients to whom the work is delivered. From the point of view of institutions, the main benefits include:

- **enriching intellectual activity:** provides external stimulus that is helpful for teaching, and is essential in many subjects (e.g. clinical, art, and performance-based subjects, vocational, and industry-focused subjects)
- **extending the research and knowledge base of the institution:** consultancy often leads on to other forms of partnership including research projects
- **marketing benefits:** provides useful contacts, marketing opportunities and reputation for institutions
- **financial benefits:** provides revenue, and diversifying sources of income
- **staff benefits:** generates income for academic staff, provides personal development and creates new professional opportunities, and so acting as a useful incentive to attract and retain staff.

Risks for the Institution

- commercial risks, e.g. the loss of institutional intellectual property or resources consumed without adequate return (which may have a knock-on damaging effect on other institutional activities, including student learning)
- academic risks, e.g. stress and negative impacts on staff, diversion of staff time and effort or other resources away from teaching and research
- accountability and financial risks – e.g. public funds for teaching and research being used inappropriately, exposure to audit or other investigation, unplanned tax liabilities
- Reputational risks – e.g. poorly-managed or delivered consultancy or other work having an adverse impact on the reputation or income of the institution
- legal liabilities e.g. arising in an unforeseen way from the activities of staff.

Risks for academics

- becoming over-stretched, to the detriment of teaching, research, and administrative responsibilities
- professional risks, e.g. loss of reputation from engaging in activity or entering into commitments which takes them outside their area of competence or under-valuing their time
- exposure to legal liabilities (such as professional liability)
- exposure to tax liabilities
- conflicts of interest with the University or research collaborators.

2. Types of Consultancy

There are two ways of undertaking consultancy, either as a private individual or in your capacity as a member of University staff. Either way is permissible according to University policy, however it is worth considering a number of factors in order to choose the most appropriate route.

In essence, any academic undertaking private consultancy is operating as an independent individual, without the support of the University, whereas academics undertaking consultancy through the University will be able to make use of the payroll and other systems, may be covered by the University's insurance, have access to the Business Development and IP & Legal Teams within Research and Enterprise, and, with permission from their Head of Department, use Departmental facilities. The other benefit of undertaking University consultancy rather than private consultancy is the use of the University's reputation and brand, and reference to the wider expertise and interests of the Department or Faculty. If the consultancy you are undertaking is part of a wider Departmental engagement strategy then the University consultancy route should be followed. It is also worth considering the value to the Department of any impact activity of which the consultancy may form part. It is preferable that consultancy which may form part of an impact case study be undertaken via the University rather than as a private individual.

There is no automatic use of the University's intellectual property if an academic is operating as a private individual. If University IP is used during the consultancy the consultancy should be undertaken via the University.

2.1 Private Consultancy

As per the University [Policy on Working with Outside Bodies](#), all academics can undertake 20 days consultancy on a private basis, subject to approval by the Head of Department. This is known as private consultancy. If academic staff undertake private consultancy they are wholly responsible for the work, including:

- Costing Pricing
- Finding access to equipment and facilities Legal and IP considerations
- Private Indemnity Insurance
- Defining and negotiating the scope of work and deliverables

It is expected that the academic does not make use of University facilities. If an academic undertakes private consultancy there is no automatic access to facilities, access needs to be negotiated and paid for. If an academic is using University facilities in his or her capacity as a private individual, rather than a member of staff, their personal indemnity insurance would need to cover the work and access to the facilities.

In the case of private consultancy the revenue resulting from the work is not processed via University systems, and therefore is not registered on Departmental or University finances. The academic is solely responsible for tax owed to HMRC. In this instance the academic should declare to their Head of Department that they are undertaking the work as part of their 20 day consultancy allowance.

2.2 University Consultancy

This route should be used if the relationship with the company is valuable to the Department, or if the academic does not wish to manage all the procedural, legal, and financial considerations listed in section 2.1. Your Management Accountant will assist with costing (using the Worktribe budget), and the Business Development and IP and Legal teams will assist in pricing and contractual considerations.

	Through the University	As a private individual
Contracting Parties	Contractual arrangements are between the client and the University	Contracts are between the client and the individual liable for the work
Contract Negotiation	Use of the expertise of the IP and Legal Team.	The individual may need to seek private legal advice
Costing	Use of the Management Accountant to cost via Worktribe	The individual must consider all the relevant costs of the consultancy
Pricing	The Business Development Team will assist in pricing to ensure suitable value is generated and all costs considered	The individual can assess the value of the consultancy and price accordingly
Insurance	Cover from the University's policies, including professional indemnity	Individuals must consider obtaining their own insurance, with adequate cover for the period of the work
University affiliation	Use of the University's name and address	Home address and personal name only
Use of facilities	Use of University facilities subject to full economic costing (FEC)	No use of the University facilities
Intellectual Property	Access to University intellectual property	No automatic right to use intellectual property developed as an employee of the University

3. Process for Consultancy

3.1 Working with Outside Bodies

All consultancy work falls under the [University policy on Working with Outside Bodies](#), and must adhere to this policy.

3.2 Departmental Guidelines

Some Departments have guidelines on consultancy, and can offer support at a Departmental level to academics wishing to undertake consultancy. Always check with your Department before undertaking any consultancy work. Academics whose departments currently do not offer specific consultancy support should discuss the project with the Business Development team.

3.3 Departmental Approval

It is expected that all academics will gain approval for consultancy work from their Head of Department (see individual Departmental policies for further clarification by Department). A Head of Department may refuse the request if he or she identifies issues of risk or conflict of interest. If the consultancy is being undertaken via University systems then the Management Accountant will also need to have signed off the costing and pricing of the project.

3.4 Use of institutional facilities

If the consultancy is being undertaken in a private capacity, academics must not make use of Departmental or University facilities. If the consultancy requires the use of the University's facilities then the academic must undertake the consultancy as University consultancy and ensure the Management Accountant has costed access to the facilities appropriate to the project.

3.5 Conflicts of interest

Any consultancy work undertaken must be reported on the [Register of Interests](#), which should be updated as interests arise. All academics must adhere to the guidelines and procedures for declaration of interests and avoiding conflicts

3.6 Use of Computing Facilities

Academics are expected to work within Regulation 11, Use of Computing Facilities. IT Services have comprehensive Guidelines to the Regulations for the Use of Computing Facilities to accompany this Regulation. These ensure any potential issues around data confidentiality, data security, and use of third party licences are correctly addressed.

<https://www.york.ac.uk/about/organisation/governance/governance-documents/ordinances-and-regulations/regulation-11/>

<https://www.york.ac.uk/about/organisation/governance/governance-documents/ordinances-and-regulations/computing/>

4. Financial and contractual

4.1 Costing

Costing a consultancy project is vital to ensuring the benefits of the work are realised by both the academic and by the University / Department. If the financial aspects of consultancy projects are not managed then the financial risk will be borne by the Department, in terms of lost contribution or lost staff time. It is expected that:

- approved consultancy projects are managed appropriately in terms of their financial aspects
- the opportunity costs of staff time are considered
- prices are quoted and negotiated in a manner appropriate to the type of service being delivered all significant resource inputs are costed in a consistent and comprehensive way
- paying clients are presented with prompt and accurate invoices.

Departments have different policies on the costing of consultancy, and academics should refer to any Departmental policies before concluding costs. However the following is a list of costs that should be taken into account.

- FEC should be taken as a starting point price for an academic's time
- Travel costs should be considered
- Equipment and facilities usage
- Admin / support time
- Subcontract costs

Academics are advised to discuss costing with their Management Accountant if the work is being undertaken via University systems.

4.2 Pricing

Costing is a technical issue, pricing, i.e. the amount charged to the client, is a decision made based on covering the costs as outlined above, and based on market value for the services provided. This can be seen as the profit charged for the work as opposed to the costs for undertaking the work.

It is good practice to ensure that prices reflect:

- the market value of the work (what the client would have to pay elsewhere)
- the level of expertise and service provided (if the University has unique expertise clients would expect to pay a premium)
- the impact of the consultancy on the University / Department (e.g. the opportunity costs, impact on students or research, what other benefits it will bring in terms of developing relationships with external organisations).

Costs should therefore inform pricing, but not determine it. Situations can be envisaged where the work is undertaken at or below cost in order to cement or develop a relationship with a prospective client. If consultancy is being undertaken in a private capacity this is entirely at the discretion of the individual; if the consultancy is being processed via University systems then pricing must be agreed with the academic's HoD.

It is good practice for only the fee to be shown to the client. The cost calculation is for internal use only. Prices should be quoted on a daily (or other time period) all-inclusive rate. VAT will also be chargeable; all invoices should be marked accordingly

4.3 Contracting

Academic staff should not agree to consultancy work without a clear written brief for the work to be delivered and the payments to be received in return. This is provided through a contract. If an academic is working via the University the IP and Legal team will support these contract negotiations.

Some clients will prefer to work to their own terms and conditions, and will have a standard contract template that reflects those terms. In this instance if the academic is operating under the University process and systems for consultancy, then the contract can be reviewed by the IP and Legal team, and they will support the contract negotiations to ensure that all relevant aspects of pricing, deliverables, Intellectual Property ownership, publication rights, and liability are covered.

Contracts are legally binding and should only be signed by authorised officer/s, according to the University's Regulations. If signed only by the academic or an unauthorised manager, then individuals may be exposed to personal liability, as well as the institution to unintended liability; and these contracts might not be covered by the University's insurance.

The IP and Legal team can offer standard terms and conditions of contracts a basis for negotiating consultancy contracts.

4.4 Insurance

All consultants providing advice for payment should be covered by professional indemnity insurance (PII). If an academic is undertaking consultancy in a private capacity and not via University systems, he / she is not covered by the University's PII, and must therefore consider the cost of purchasing PII, or the risks associated with failure to do so. Insurance companies and professional bodies can provide advice on the levels of cover normally required. The University cannot advise on insurance arrangements for private consultancy

4.5 Intellectual Property Considerations

Unlike research, it is not normally an aim of consultancy to generate new intellectual property for the institution. Intellectual property will, however, sometimes be generated by consultancy. This is normally the property of the client, and the consultancy rates charged should reflect this fact.

Before entering any consultancy contract academics should consider the likelihood of the work leading to new IP or to publishable results. Academics should be careful not to inadvertently give away existing intellectual property to consultancy clients without having considered the issues, obtained approval, and received appropriate remuneration.

5. Distribution of Income

Unlike the distribution of revenue from licencing or spinning-out a company, there are no University policies on the distribution of income from consultancy. Distribution of income should be agreed upon between the academic and the Head of Department. This conversation should take into account the cost to the University, the value of the consultancy to the University, and the use of University brand or facilities, and is therefore very much dependent on the nature of any specific consultancy project. The Department should expect to cover the associated costs and then discuss the distribution of any additional income. It is preferable that this an agreement on distribution of income is made between the academic and the University prior to the consultancy taking place.