



Policy on Outside Earnings for Academic Staff

This policy applies to academic employees (excluding casual staff).

1. Aim and Scope of Policy

This policy has been developed in accordance with the minimum standards established by the Audit Office of New South Wales in its Performance Audit Report on "Academics' Paid Outside Work" which was issued in February 2000. The policy is to be reviewed every 24 months.

2. Principles

To support the achievement of the University's goal of 1:5:40 full time academic employees may engage with government and industry through professional activity such as consulting, contract and collaborative research and service on committees to assist them to stay in the forefront in the areas of their expertise.

The university recognises two types of Outside earnings activities; *Private Professional Activities* and *University Commercial Activities*. These are defined in sections 3 of this policy.

This policy applies to Academic Staff however exceptions may be made for some senior General Staff to be released to participate as Company Directors or in other outside activities on a case by case basis.

All approvals for staff participation in both Private and University Commercial Outside Earnings will be given by the "Approving Manager" who is defined as the manager responsible for the supervision of the employee's work provided that they are not less senior than the Dean of the employing faculty or their delegate.

3. Definition of Outside Earnings

Outside earnings are defined to be financial or in-kind benefits that result from an individual's professional activities. These earnings may result from:

a. Private Professional Activities

- o *Private Professional Activities* refers to relevant consultancy and other activities undertaken by members of staff operating in a private capacity. The arrangement is between the staff member and the party seeking the service and is entirely independent of the University. Such activities must not involve the use of University resources or its name. The University accepts no liability for any matters arising out of these arrangements. The conditions contained in this policy are designed to ensure that the

University is not legally liable in respect of activities undertaken by members of staff in a private capacity.

Private Professional Activities include but are not limited to the following;

- Private consultancy where the staff member provides the service independently of the University;
- A company directorship and/or involvement in which the staff member is involved because of his/her professional experience or qualification except where appointed by the University;
- Provision of professional services to private patients/clients e.g. in medicine, law, dentistry, architecture, veterinary science;
- Acting as an expert witness in court hearings;
- A series of lectures, broadcasts or performances given under the auspices of another University, a separate institution or separate organisation.

In the case of staff involved in the delivery of clinical services ("clinical academics"), *Private Professional Activities* generally arise in relation to derivation of income or in-kind personal benefits (such as non work-related travel benefits, funds for medical indemnity cover, etc) from the billing of patients treated by them. This applies even where such patients are made available for teaching and research purposes. Clinical academics are therefore deemed to be undertaking *Private Professional Activities* from the billing of patients unless these activities generate no personal, financial or in-kind benefits. The University does not at present impose any limit on earnings derived from such activity nor does the University impose any surcharge on such earnings, although it reserves the right to alter this practice at any time in light of changing circumstances.

Private Professional Activities do not include remuneration from NSW Health for clinical or administrative service in public hospitals by a member of staff acting in the capacity of a Senior Medical Practitioner (Academic), since such an appointment is exempt from the provisions of this policy (see Clause 5 below).

b. University Commercial Activities

University Commercial Activities refers to relevant consultancy and other activities, administered through the University, and involving the provision of professional services, products and advice to external parties for monetary or in-kind benefits. These activities usually involve the use of University resources and are conducted under the auspices of the University. These activities are exempt from this policy but are subject to policies relating to the University's commercial activities and must be conducted through standard Sydnovate agreements (contracts) and authorised in accordance with University delegations. All negotiations must proceed through Sydnovate. Information regarding policies and procedures relating to the University's commercial activities may be obtained from Sydnovate.

Subject to approval from the Dean of the relevant faculty staff may use the time allowed for Private Professional Activities set out in Section 8 of this policy to participate in University Commercial Activities. In approving such participation the Approving Manager must be mindful of the impact of the activities on both Category 1 Peer Reviewed research and contract research.

4. Income Generated from Professional Activities

Private Professional Activities

Income generated from *Private Professional Activities* cannot be paid into University accounts unless they are formally donated to the University as a whole. Donations must not be directed to specified accounts.

University Commercial Activities

If income is derived for individuals or faculties from participation in *University Commercial Activities* it is to be paid to individuals as remuneration through the University payroll, in which case the payment will be inclusive of mandatory superannuation guarantee contributions. Or, alternatively it could be paid to faculties through specific University accounts subject to the contracts or arrangements established under the control of Sydnovate and in accordance with its policies on University Commercial Activities.

Money held in University accounts must not be used for any of the expenses listed in the Non-Allowable Expense Procedures of the University's Finance and Accounting Manual. Such expenses include purchases of alcohol, entertainment, private equipment, fines, gifts, parking permits, personal clothing, private travel etc.

5. Coverage and Exemptions

This policy applies to all academic employees.

University controlled and initiated activities such as Unit or Faculty clinics, practices or businesses are not covered by this policy.

This policy does not apply if a royalty is received by an academic employee for writing or publishing conventional scholarly works in his/her field of expertise.

The following activities are also outside the scope of this policy and are governed by policies relating to the University's commercial activities.

- University consultancy where the University provides professional skills to a client for a specified project. The project may involve the evaluation of data provided by the client, or an assessment of the current state of knowledge in a field, but in all cases, there will be an expected or assured outcome, unlike research where the outcome is uncertain e.g. testing services which are a type of University consultancy where the expertise involves experimental measuring or testing for a client;
- It also does not apply to University controlled and initiated activities such as approved Faculty/ School/ Unit clinics, practices or businesses. Such activities are subject to special approval, with the arrangements for the employee involved, determined and documented during the approval process.

Clinical academics who deliver clinical services in NSW public hospitals for more than 8 hours per week are generally engaged as part-time (0.4 FTE) Senior Medical Practitioners by the relevant Area Health Service. They are referred to by NSW Health as Senior Medical Practitioners (Academic). The University believes that the duties of a Senior Medical Practitioner (Academic) are compatible with its expectations of a clinical academic and that such appointments are mutually beneficial. It has, therefore, been decided to exempt Senior Medical Practitioner (Academic) appointments from the provisions of the University's Outside Earnings Policy.

Note: Although commercial exploitation of intellectual property may elicit outside earnings, it is not listed above. This is because it is dealt with separately and in detail in the University's Intellectual Property Policy.

Additional exemptions may only be obtained on request from the relevant Deputy Vice-Chancellor or Vice-Chancellor as appropriate. In cases where an exemption applies the employee must ensure that his/her Head of School/Division/Unit has approved the activity.

6. Conflicts of Interest

In conducting any approved activity, staff should ensure they do not place themselves in a situation where there is or may reasonably be perceived to be a conflict of interest. Conflicts of interest are described in more detail in the University's Code of Conduct.

Where there is some cause for concern regarding a conflict, this should be discussed with the Approving Manager and should be noted on the application for approval of the outside earnings activity.

7. Eligibility to Engage in Outside Earnings Activities

Unless otherwise stated in their contract of employment the University's, academic staff who are employed in accordance with the University's academic enterprise agreements or its Australian Workplace Agreements are eligible to apply to engage in outside earnings activities.

Fractional Appointments

Where a staff member is employed on a fractional appointment, any private activities conducted in the staff member's own time will not need to be approved by the University. This assessment will be left to the staff member's discretion in the first instance, but any apparent discrepancy will be followed up by the Unit Head. Any activities involving the use of University resources and/or occurring during the fractional appointment period must operate within this policy or be conducted subject to the rules applying to University Commercial Outside Earnings.

Note: Where the fractional staff member acts in a private capacity they must ensure that they do not in any way represent themselves or the activity as being connected with the University and they must, if requested, provide evidence that they comply with this requirement.

8. Time Allowed

The University may provide academic staff with up to of 20% of their normal University working week to conduct their relevant combined outside earnings activities (inclusive of both Private Professional Activities and University Commercial Activities).

Additional time for University Commercial Activities

Additional time above the 20% maximum may be allowed for participation University Commercial Outside Earnings Activities provided that the activities are to the overall benefit of the University and do not reduce the ability of the relevant faculty or unit to meet its research, teaching and administrative obligations.

Additional time for Private Professional Activities

In some cases it may be possible for both University research work and paid consulting activity such as consulting to government or business to be done concurrently. Provided that the research value of such work is clearly demonstrated to the Approving Manager additional time may be allowed. The activities must be conducted as Private Professional Activities and the requirements set out in section 10 will apply other than the 20% time limit.

Approval for Additional Time

Approval for additional time above the 20% maximum for either University Commercial Activities or research based Private Professional Activities will be at the discretion of the Approving Manager. In approving such increased participation the Approving Manager must be mindful of the impact of the activities on both Category1 Peer Reviewed research and Contract research as well as the faculty's teaching and administrative activities.

9. Insurance and Indemnity

Private Professional Activities are not covered by the University's insurance program. It is strongly recommended that adequate professional indemnity insurance be acquired covering all potential damage or loss sustained during or as a result of the *Private Professional Activity*. Care should be taken to ensure that the insurance is relevant for any activities conducted outside Australia. Clinical academic staff undertaking *Private Professional Activities* must be registered to practice in NSW and have professional indemnity insurance sufficient to cover all potential claims damage or loss sustained during or as a result of their activities.

NSW Health and the University require Senior Medical Practitioners (Academic) (clause 5) to carry adequate public liability and professional indemnity insurance for work undertaken in relation to private patients arising from their hospital and University appointments. For the avoidance of doubt, the University does not assume responsibility for any claims arising from the treatment of private patients by Senior Medical Practitioners (Academic) associated with their hospital and University appointments, except where the prior, written approval of the Dean of Medicine is obtained in cases where the staff member receives no personal

benefit and where it would be in the University's best interests to agree to the arrangement.

10. Requirements for Approval of Private Professional Activities

Release from duties to participate in *Private Professional* activities must be formally approved in writing by the University prior to the activity being undertaken. Failure to seek formal approval for any outside earnings activity could lead to disciplinary action and/or involve recovery of monetary or in-kind benefits. Applications for approval must be made on standard application forms. The Outside Earnings Activities and Permission to Conduct Private Outside Earnings are available at www.usyd.edu.au/personnel/forms/ Note: An electronic application within the HR Information System is under development and will become the successor to the current application form.

The application must be endorsed by the relevant Unit Head and approved by the Approving Manager. Approval to retain outside earnings from the exercise of higher consultative practice in the University's teaching hospitals will normally be granted in the staff member's letter of appointment.

Applications will only be approved by the Approving Managers if they are satisfied that:

- the *Private Professional Activity* will not prevent the staff member from fulfilling all his/her normal duties of employment;
- the amount of time to be taken by the staff member to perform all their relevant outside earnings commitments will not exceed, on average, 20% of the normal University working week (prorated for fractional appointments);
- There is to be no material use of University resources in the conduct of the *Private Professional Activity*;
- There is no unauthorised use of university Intellectual Property;
- the direct supervisor has no objections to the staff member undertaking the *Private Professional Activity*;
- The *Private Professional Activity* is not materially in competition with services offered by the University;
- There is no conflict of interest between the staff member's *Private Professional Activity* and his/her normal University duties;
- No University letterhead or postal address, is to be used, nor any other information that might imply that the *Private Professional Activity* is being conducted on behalf of the University;
- Professional indemnity insurance has been obtained for medically qualified staff undertaking *Private Professional Activity* (Clause 9).

A report on outside earnings activities is to be submitted by the Dean or Unit Head to the relevant Deputy Vice-Chancellor annually.

11. Standing Approvals

It is possible to get a standing approval in the following circumstances:

- The outside earnings activity is ongoing and/or is allowed under the staff member's contract e.g. the provision of professional services through a private clinic.
- The services being performed involve a number of minor projects of a similar nature (e.g. intermittent articles for newspapers).
- The outside earnings activity involves a company director role.

It is essential however that the standing approvals clearly specify the activities that are covered. Standing approvals should be reviewed periodically. Any change in the nature of outside earnings activities must be submitted for re approval.

12. Transitional Arrangements

There will be a number of ongoing outside earnings activities that commenced under the previous version of this University policy. As a result they may not have approval in accordance with this policy.

Any academic staff member who is currently conducting outside earnings activities will need to seek approval in accordance with this policy, where the outside earnings activity:

- Requires approval under this policy and has never been formally approved under this policy; or
- is of an ongoing nature; or
- will not be finalised within the six months following the approval of this policy.

13. Company Directorships

Approval 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. Approval must be sought in writing from the relevant Deputy Vice-Chancellor or the Vice-Chancellor. Any staff member who is currently a director of company that fits the above description should seek to obtain approval in accordance with this policy.

Staff members must ensure that the name of their private company(s) is not similar to units, projects or activities within the University. Nor is the University's name to be used. The use of an inappropriate name could lead to rejection of the application for approval.

14. Honoraria

Academic staff may participate in various outside activities from which they may be offered honoraria either in cash or in kind. Honoraria may only be retained if they result from approved time allowed to participate in Private Professional Outside Earnings Activities otherwise they must be donated to the University.

15. Accountability

Copies of all completed outside earnings approval forms should be retained by the Unit and Faculty.

The Dean is to use the approved forms as a basis for an annual report to the Vice-Chancellor on the scope and extent of Outside Earnings Activities within the Faculty. The report is due to the Vice-Chancellor by March 31 of the following year.

These records may need to be accessed by Internal Audit and Review during the course of audit activity which it will undertake as part of a regular program of monitoring compliance with this policy.

16. Compliance Monitoring

Academic staff who undertake Private Professional Activities shall certify at least once annually, whether as part of the PM & D process or otherwise, that their engagement in Private Professional Activities has not involved a time commitment on their part which, on average, exceeds 20% of the normal University working week or an amount of time otherwise approved by the Dean as set out in clause 8 above.

Academic staff who are engaged in University Commercial Activities and are remunerated for that undertaking shall provide a certificate at least once annually, whether as part of the PM & D process or otherwise, as to the time during which they have been engaged on those Activities in the course of the reporting period and shall annex to that certificate a copy of the approval of the Dean of their Faculty to them being so engaged. They shall also certify the amount of time which they have spent in the course of the relevant reporting period on Private Professional Activities other than University Commercial Activities.

Administration

1. References

- [Code of Conduct - Staff](#)
- [Intellectual Property: University of Sydney \(Intellectual Property\) Rule 2002](#)
- [Information and Communication Technology Resources: Use of University Information and Communication Technology Resources \(ICT Resources\): Policy](#)
- Finance and Accounting Manual.
- Delegations of Authority
- The University of Sydney, Academic Staff Agreement 2006-2008
- AWA Handbook and individual AWAs

2. Management Responsibility

Provost and Deputy Vice Chancellor

Chief Operating Officer and Deputy Vice – Chancellor

3. Implementation Responsibility

Deans

4. Dates

Approval (version 1)	22/11/2000
Effect	1/01/2001
Approval (version 2)	9/10/2007
Effect	9/10/2007
Review	2009

5. Approval

Version 1	Prof Ken Eltis Deputy Vice-Chancellor (Planning and Resources)
Version 2	Prof Don Nutbeam Provost and Deputy Vice-Chancellor

6. Signatures

Approved by:

Name

Professor Don Nutbeam

Position

Provost and Deputy Vice - Chancellor

Date

9/10/2007