

Policy Redesign Project

All policies and procedures are being reviewed as part of this project. This document is pending review, but remains in effect until the review is carried out.

Outside Professional Activities Guidelines

Establishment: Council, 7 June 2007

Last Amended: EDA, January 2011

Nature of Amendment: Consequential amendments arising from a restructure of Central Administration / VCs office and the creation of new senior executive positions replacing the EDA and Registrar

Date Last Reviewed:

Responsible Officer: Vice-President (Corporate Services)

1. Preamble

This document provides information to assist you in making an application for approval to undertake outside professional activities in accordance with the [University's policy](#).

The requirement to seek approval for outside professional activities is intended to enable staff to exercise their duty of care and disclosure obligations to the University as employer (clause 3.2), while at the same time protecting the interests of the University in meeting standards of public accountability and risk management (clause 3.1).

Questions of interpretation of the Policy should be referred in the first instance to your supervisor, who may take advice as required from the Cost Centre Head and the Manager, Personnel, Policy and Practice.

2. When is approval required?

The Policy answers this question by articulating:

- Exclusions, i.e., specific types of outside activity not covered by the Policy (clause 4.2);
- Exceptions, i.e., activities which are considered to be outside professional activities, but do not require formal approval (clause 4.3);
- Activities which will not be approved because they are unacceptable (clause 4.4).

You should assume that all other outside professional activities that involve a person or entity receiving or benefiting from the professional skills, experience and expertise attributable to, or otherwise arising from your duties or association with the University will require formal approval in accordance with the Policy. You should consult with your supervisor if there is any doubt. Some examples of activities requiring approval are outlined at clause 4.5 of the Policy.

Where approval is required, this must be obtained before it is necessary to make any formal commitment to a client. In cases such as involvement in a tender process, it is acceptable for you to participate in preparation and submission of the tender, while your application for approval is being considered.

Formal approval must be sought if activities which might otherwise be 'exceptions' under the Policy have the potential to be time consuming and could interfere with performance of your normal University duties (clause 3.3.3). You are also required to promptly inform the Cost Centre Head, through your supervisor, should there be any changes in circumstances related to an approved activity (clause 7.5). Annual re-approval is required for outside professional activities that involve you in a business or company role.

In the case of outside teaching, if you are not certain of the existence of an agreement between Flinders and the other institution that covers the specific teaching arrangement, you must assume there is no agreement and seek approval, or confirm that an agreement exists by asking your Dean of School or Executive Dean.

Payments for activities with exception status

The University accepts responsibility for your involvement in activities which have exception status because they are normally associated with your academic or scholarly work or professional standing and you have the opportunity to be involved in this type of professional activity because of your University employment. Even if most or all of the activity is performed off campus, you benefit from the University's insurance and professional indemnity cover and if the activity is remunerated, you should organise for the payment to be invoiced by the University or credited to a University account (Policy clause 6.3). This will ensure that both you and the University share in the financial benefits of the outside professional activity.

The income will generally be subject to the University's infrastructure levy in accordance with the [Cost Recovery and Pricing Policy](#).

If you request, the Cost Centre Head may grant approval for you to receive the payment, less infrastructure levy, as personal remuneration, by paying the amount through payroll, deducting tax etc.

Contracts with publishers and distribution of royalties

Contracts with publishers for writing, reviewing, editing and/or publishing works of conventional scholarly output where such activity occurs as part of a staff member's normal University duties have exception status under the Policy. Such activity may attract a lump sum or upfront payment or downstream royalty payments. The Policy provides that you should make arrangements for payments associated with activities in the exceptions category to be paid to the University (Policy clause 6.3).

With respect to contracts with publishers and the operation of clause 6.3, remuneration received from the commercial exploitation of a work or subject matter created in the course of employment must be distributed as per clause 3.2.1 of the [Intellectual Property Policy](#) in accordance with clause 7 of that policy.

Under clause 7 of the [Intellectual Property Policy](#) the creator is entitled to 100% of the payment, up to an annual amount of \$15,000 per work, which may be used for personal remuneration or paid to a University consulting account for use for University purposes; amounts greater than this must be distributed between the creator, the creator's Faculty and the University in accordance with the table at clause 7.2 of the [Intellectual Property Policy](#).

It is a breach of your duty of care obligation to the University as employer if you do not distribute remuneration received from the commercial exploitation of a work or subject matter in accordance with the University's [Intellectual Property Policy](#). It is anticipated that the Annual Performance Review process will include a question asking you to confirm that remuneration received in accordance with clause 3.2.1 of the [Intellectual Property Policy](#) by you and other joint creators of a work or subject matter has not exceeded \$15,000 per annum in total, and if it does, what arrangements you have made to distribute the remuneration in accordance with clause 7.2 of the Intellectual Property Policy. In these circumstances, you need to be aware of the taxation implications of receiving remuneration directly from a publisher and should seek independent taxation advice.

3. Application Form

Section 1: Application Type

The application form is designed to be completed electronically. It contains check boxes, text fields and drop-down list fields.

1. Choose one of the four categories that best describes your application

- One-off activity approval
- Blanket or ongoing approval
- Re-approval without change from previous approval
- Re-approval with changes from previous approval

You may be applying for permission to undertake an outside professional activity for the first time or could be seeking re-approval. Annual re-approval is required for outside professional activities that involve you in a business or company role, for instance. The Policy also provides for you to seek a blanket or ongoing approval where there are likely to be multiple requests for approval of the same or a similar type of outside professional activity. You can also resubmit an approved application as a 're-approval' application for the purpose of informing the Cost Centre Head, through your supervisor, should there be any changes in circumstances related to an approved activity.

2. Indicate whether the activity is a business/company role or other type of outside professional activity

The approval of business/company roles is the responsibility of the Deputy Vice-Chancellor (Research). Approval of all other applications is the responsibility of the Cost Centre Head.

3. Responsibility – University or Private?

There are a range of issues you need to consider when establishing arrangements for outside professional activities, including: ensuring that arrangements made with third parties recognise and deal properly with any legal or financial risks to individual staff or the University, including: insurance and indemnities; control of work; publication of results; confidentiality requirements; ownership of intellectual property; impact of the GST etc.

3.1 University or controlled entity responsible

Most outside professional activities in which staff engage will be suitable for approval as activities where the University or a controlled entity is accepting responsibility, liability and risk. When the University or one of its controlled entities accepts responsibility for, and risk associated with, the activity, you will be covered by the University's insurance policies including public liability, professional indemnity and workers compensation and will be permitted to use the University's resources and name in pursuit of the activity.

The University encourages its staff to undertake outside professional activities in conjunction with the University's controlled entities. Flinders Partners, for example, provides a full project documentation and management service and can advise on securing the best price and setting terms that benefit the staff member and the University.

The University or controlled entity will also take responsibility for the financial arrangements and billing of the client. Payment for the activity is received into the University's accounts and the University can ensure there is adequate compensation for use of the University's resources and name. When income from outside professional activities is expended for University purposes, this represents a reinvestment in the University. However, the staff member's share of remuneration can be paid through payroll as salary, if requested.

3.2 Private – staff member responsible

If you seek to undertake an activity in a private capacity, you are generally not permitted to use the University's resources or name and payments cannot be received into the University's accounts. You will need to have your own public liability and professional indemnity covers and be able to demonstrate that all other parties and interested persons understand and acknowledge that the University is not responsible for, nor provides any warranties in respect of, the activity. See section 4.

Section 2: Applicant Details

Information about you, including your contact details and appointment status.

Section 3: Conflict of Interest Declaration (clause 3.3)

Failure to disclose a conflict of interest in relation to performance of outside professional activity is a breach of an employee's duty of care obligations to the University. These obligations are not restricted to normal working hours; they govern all the activities of an employee whenever undertaken, which could materially affect the University's interests. The application form requires that you complete this section, even if making a nil declaration.

Section 4: Declaration in respect of outside professional activities in a private capacity

The University liability insurances will not indemnify you when performing outside professional activities in a private capacity. If you are applying to undertake the activity in a private capacity, you must generally be able to meet the special conditions outlined at clause 9.2 of the Policy, including that you have appropriate professional indemnity and public liability insurance. If you do not have your own public liability and professional indemnity covers for outside professional activity in a private capacity, the activity will not be protected. You are therefore required to attach details of the insurance held, generally in the form of a certificate of currency for each type. If the 'private' activity means you will be employed by another entity that holds this insurance, the insurance held by that entity is likely to be adequate.

Where a special case can be made that there will be no cost or detriment to the University, the Vice-Chancellor has discretion to waive one or more of the clause 9.2 requirements. However, if the Vice-Chancellor waives the requirement to show proof of public liability and professional indemnity insurance for an outside professional activity in a private capacity and you do not have such insurance cover, this does not mean that the University is providing these indemnities.

Section 5: Details of the client/company receiving the benefit of your professional expertise

Basic information about your client is requested, including a contact person.

Section 6: Description of the activity

The purpose of this section is to provide information about the duration and time commitment involved in your participation in the activity, how the activities of the client relate to your services and whether any alternative arrangements need to be made in order for you to engage in the activity without adverse impact on your normal duties. If you are seeking blanket or ongoing approval for the same or similar types of activity in the application, it is recommended that you discuss this with your supervisor, as you are required to indicate in the application exactly what you expect will be covered by the blanket approval. This section also provides for you to indicate the benefits of the activity.

Time Commitment

It is not the intention of the Policy to necessarily place limits on the amount of outside professional activity in which a staff member engages, if it does not impinge on performance of their normal University duties. The question in the application form about whether the time commitment is more than one day a week (full time equivalent, averaged over the period of activity) is included as a guide, only, and to alert the supervisor and Cost Centre Head, who have complete discretion to limit approved activity to an agreed maximum time commitment or to require the staff member to move to a reduced fractional appointment (clause 8.2).

Section 7: Ethics and Biosafety

If the University or a controlled entity will be responsible for your involvement in the outside professional activity, you must indicate any relevant ethics approvals that will be required and ensure that these are obtained before the activity commences.

Section 8: Resources and Risks

8.1 Use of University resources and staff is generally only permitted where the University or a controlled entity will be responsible for the activity. If you need to involve professional staff and access University resources that could impact on other staff and students, you should discuss with your supervisor in the first instance and provide details.

8.2 The University owns the copyright in teaching materials which are produced by its staff in the course of their employment. Clause 4 of the University's [Intellectual Property Policy](#) outlines the University's position on the use of such materials for other purposes.

Queries in respect of intellectual property should be addressed to the relevant Faculty General Manager in the first instance.

8.3 The conditions for engagement of students in the outside professional activities of staff are outlined at clause 8.1.3 of the Policy. As the permission of the Cost Centre Head is required, you must provide details, including attaching written evidence that the student/s agree to be involved.

8.4 If the University or a controlled entity will be responsible for the activity, you must declare that you are able to meet contractual obligations to the external client and have made arrangements with your supervisor for proper maintenance and storage of relevant data and records in relation to the activity.

8.5 There should generally be a contract with the client which sets out the obligations of the parties and covers issues of risk such as confidential information, intellectual property, insurance and indemnities. If the University rather than a controlled entity is taking responsibility for managing the relationship with the client, you may ask the Office of Research for a suitable consultancy agreement or contract for signature under the University's Policy on [Delegations of Authority to Enter into Contracts](#) (Executive Deans have authority to sign consultancy agreements).

In some cases the client may provide the agreement, which you can refer to the relevant Faculty General Manager for advice, in the first instance. In other cases the arrangement may be by letter of agreement and could even be a verbal undertaking. If this is the case, you should provide details and attach any correspondence that will assist the supervisor and Cost Centre Head to make a judgement about the management of risks.

8.6 For director and office bearer roles in companies, other than a controlled entity of the University, you need to provide information about the company's arrangements for directors and officers insurance. Provide details, attaching certificates of currency, if possible.

Section 9: Business/company role remuneration and expenses

If applicable, you are required to disclose remuneration as director/officer fees and any interest held by you or your associates (e.g. a family member or member company) in the company as shares, share options, dividend payments, classes of shares held etc. If you or an associate has an interest as shares in the company, you should explain the basis on which you received the shares.

Section 10: Financial information for activities where the University/controlled entity is responsible

In this section, you can nominate whether your share of any remuneration from the activity is to be paid to you as salary or to a University account, such as a consultancy account.

For information on the operation of consulting accounts, see [Consulting Fund Policy](#).

For further information contact the Grants Finance Office on extension 13412 or email grants.finance@flinders.edu.au.

If the activity involves use of University resources and professional staff, the payment from the client must include recovery of these costs in accordance with the [Cost Recovery and Pricing Policy](#): and [Guidelines](#)

You should contact your Cost Centre Resources Officer or equivalent for advice about the fee to be charged and get their authorisation that the fee is in accordance with the [Cost Recovery and Pricing Policy](#), unless the fee is set by the client/company.

Section 11 and 12 Authorisations

Business/company role

The approval process for business/company role activities is via the supervisor to the Cost Centre Head to the Deputy Vice-Chancellor (Research). If approval is being sought to undertake the activity in a private capacity and you have requested waiver of any of the conditions at clause 9.2 of the Policy (Section 4 of the application form), it is the responsibility of the Deputy Vice-Chancellor (Research) to refer the application to the Vice-Chancellor.

Other activities

The approval process for all other activities is via the supervisor to the Cost Centre Head. If approval is being sought to undertake the activity in a private capacity and you have requested waiver of any of the conditions at clause 9.2 of the Policy (Section 4 of the application form), it is the responsibility of the Cost Centre Head to refer the application to the Vice-Chancellor.

4. Procedures for distribution of the completed and authorised form

If the Cost Centre Head's is the last authorisation signature, the Cost Centre Head will ensure:

- copies are forwarded to the staff member and supervisor; and
- the original is forwarded to Central Records for filing.

If the authorisation of the Deputy Vice-Chancellor (Research) or Vice-Chancellor is required, the original application will be referred to them by the Cost Centre Head. The Deputy Vice-Chancellor (Research) or Vice-Chancellor (whoever is the last signatory) will ensure:

- copies of the fully authorised form are forwarded to the staff member, supervisor and Cost Centre Head; and
- the original is retained on the central file.

Central Records will folio the application and refer the file to Human Resources to ensure a copy is filed on the staff member's personal file.

5. Review of applications, if not approved

If your application is not approved, you have the option to refer the application for review to either the Vice-Chancellor or the Vice-President (Corporate Services), as follows.

	<i>Business/company interest/role</i>	<i>Other</i>
<i>Academic Staff</i>	Vice-Chancellor	Vice-Chancellor
<i>Professional Staff</i>	Vice-Chancellor	Vice-President (Corporate Services)