

## POLICY

### Policy Title: **Consultancy Policy**

Descriptors :    1) Service            2) Professional            3) Consultant

Category :        Human Resources

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#### 1. Title

Consultancy Policy

#### 2. Purpose

This policy outlines procedures for routine consultancy as well as for more specific arrangements which may require negotiation and University approval beforehand, and outlines the difference between Institutional and Private Consultancies.

#### 3. Organisational Scope

This Policy applies to all academic and general staff employees of the University.

#### 4. Policy Statement

All consultancies must be executed ethically and in accordance with the relevant standards for professional conduct applicable to the field in which the consultancy is undertaken. The University will regulate and establish a system of approvals for the operation of a consultancy when employees are involved to maximise the financial and strategic benefits of such activities to the University and the individual.

#### 5. Definitions

“**Consultancy**” refers to the provision of professional advice and service for a fee.

“**Employee**” means an academic or general staff employee.

“**Institutional Consultancy**” means all approved consultancies conducted in the name of the University. Institutional Consultancies can originate from the Work Unit.

“**Private Consultancy**” means any consultancy work not undertaken by, supported by or associated with the University, and is consultancy work solely entered into by an employee or group of employees which is not classified as an Institutional Consultancy.

“**Relevant Line Executive**” refers to the delegated authority as provided within the University’s Schedule of HR Delegations.

“**Research**” means original investigations, experimental developments and creative work undertaken on a systematic basis to gain knowledge, understanding and insight.

“**University**” means Edith Cowan University.

“**University Resource(s)**” means property, facilities and resources owned by the University. This includes but is not limited to intellectual property, which is developed through research and teaching and learning activities.

“**Work Unit**” means the employee’s faculty, school, centre or institute.

## 6. Principles

The University recognises that participation in consultancy work is a facet of academia and such activities, engagements and collaborations undertaken by academic employees provide benefits to the University. For employees holding a general staff position the principles and terms of this policy equally apply.

The Edith Cowan University Act 1984 requires the University to support and pursue research and scholarship and promote and encourage collaboration, engagement and consultation between the University and other institutions and authorities.

Participation and engagement in consultancy work by employees is of benefit to the University and the community. Some of the benefits stemming from this work could include:

- broadening and strengthening the employee’s skills and expertise;
- availing University resources, knowledge and talent to the community;
- building research enterprise and generating enhanced research outcomes;
- establishing and enhancing partnerships and links at a local, national and international level with industries, governments and other organisations; and
- recognising the importance of these engagements in academic promotions.

This policy seeks to:

- a. Minimise the University’s and employee’s legal liabilities arising from the absence of formal agreements between the University and/or the Work Unit with external clients, and by employees acting without or exceeding their University authority.
- b. Reduce the potential for conflict of interests between consultancy and University activities.
- c. Ensure:
  - i. accurate information is available about the number of employees involved in consultancy and the value of University resources used in the consultancy;
  - ii. the University is properly reimbursed for the use of its resources; and
  - iii. that limits on the extent of consultancy are observed.
- d. Allow the University to monitor the impact of consultancy work on an employee’s performance of their University duties.
- e. Ensure Consultancies are undertaken in such a way as to maintain the University’s good relations with the private and public sector. This relates to both Institutional and Private Consultancy work, and must not involve the use of University resources in a manner to gain a commercial or unfair advantage.
- f. Ensure employees do not accept consultancy payments for activities which would be regarded as part of their University work activities.

**7. Policy Content**

**7.1 Activities Not Covered by this Policy**

Consultancy activities not covered by this policy include but are not limited to:

- research publications, textbooks, refereeing of journals, books and the like;
- occasional editorial work for journals, books and the like;
- occasional professional contributions to the media;
- occasional lectures, broadcasts, exhibitions and the like;
- examining for other educational and professional bodies;
- unpaid membership of committees; and
- community engagement and liaison work.

Note that none of the activities mentioned above fall within the ambit of this policy. However, it may be the case that there is a need for the University or the Work Unit to approve participation in such activities if they have the potential to:

- form a conflict of interest; and/or
- affect the employee’s performance; and/or
- use University resources; and/or
- expose the University to some legal liability for example but not limited to, a community or business advice centre.

**7.2 Activities Covered By This Policy**

Consultancy activities covered by this policy may include but are not limited to:

- consultancies (including research consultancies);
- professional practice, for example, as an accountant, lawyer or psychologist;
- specific paid functions, for example, expert witnesses;
- company directorships or partnerships;
- formal programmes of lectures (including short courses), broadcasts, performances or exhibitions on behalf of the individual, another institution or other body and including the sale of any product of such activity; and
- activities that utilise University resources in a commercial operation and the like.

Subject to provision 7.7 of this Policy an employee may provide services as consultants to bodies external to the University on a paid basis, and these activities may be undertaken in the name of the University (Institutional Consultancy) or under an entirely private arrangement between the employee and the body concerned (Private Consultancy).

A consultancy is subject to an employee obtaining the necessary approval required by this policy.

**7.3 The Distinction Between Institutional and Private Consultancies**

The essential differences between Institutional and Private Consultancies are the degree of support from the University, the burden of risk and the allocation of rewards.

| Issue                              | Institutional  | Private   |
|------------------------------------|--|---|
| 1. Use of name                     | May use University's name (or other agreed Work Unit or Entity name) as the contract is with the University. | May not under any circumstances use name or logo of the University.                                   |
| 2. Use of the University resources | May use University resources provided they are properly recorded and reimbursed from income.                 | May not use the University resources unless prior written approval is given and costs are reimbursed. |

|            |  |                                       |
|------------|--|---------------------------------------|
| 3. Risk    | Risks are covered by the University insurance policies.            | Cover to be provided by the employee. |
| 4. Rewards | Income passes to the University for allocation on an agreed basis. | Income passes to the employee.        |

Where there is any doubt as to whether an activity falls within the categories outlined above, the employee should seek clarification in the first instance from their Relevant Line Executive and where necessary, the matter may be referred to the Vice-Chancellor for determination.

**7.4 Ethical Considerations**

All consultancies must be executed ethically and in accordance with the relevant standards of professional conduct applicable to the activity’s field. The employee is obligated to abide by the relevant Federal and State legislation and professional codes of conduct and standards, including but not limited to teaching and research. Where the consultancy procedures are of a kind requiring approval by the University’s Human Research Ethics Committee or Animal Ethics Committee, or by another safety or validly-constituted regulatory committee, the consultancy must not proceed without such approval.

**7.5 Institutional Consultancy**

All Institutional Consultancies conducted in the name of the University or the Work Unit must be approved prior to their commencement. Institutional Consultancies originating from the Work Unit are subject to the same conditions and principles.

The following principles govern Institutional Consultancies:

- a) To be charged on a cost basis that avoids unfair competition with the private sector.
- b) Unless specifically approved by the Relevant Line Executive, employee engaged in Institutional Consultancies are not to derive any income from those consultancies other than that distributed to them by the University.
- c) In case of disputes or reviews Institutional Consultancies are to be appropriately recorded and maintained by the Work Unit.
- d) Employee must be capable of performing the Institutional Consultancy work required, and the work must be of an appropriate standing and quality.
- e) Where the consultancy procedures are of a kind requiring approval by the University’s Human Research Ethics Committee or Animal Ethics Committee, or by another safety or validly-constituted regulatory committee, the consultancy must not proceed without such approval.
- f) Cost of services provided must be recovered, and all assets owned/purchased or generated are to be identified and ownership appropriately determined.
- g) All payments and receipts are to be processed via the University’s financial systems in accordance with policy.
- h) The University insurance policy shall only apply to appropriately approved Institutional Consultancies which are conducted in accordance with this policy.
- i) Unless agreed otherwise by the relevant supervisor an Institutional Consultancy must not interfere with the performance of the employee’s University duties.
- j) An Institutional Consultancy must not use confidential information or University resources unless the University has expressly provided approval and been adequately compensated.

Where an employee seeks to convert their Private Consultancy work into an Institutional Consultancy it shall for all purposes be treated as a new Institutional Consultancy and will be subject to the same conditions, principles, submission and approval processes governing such consultancy work.

### 7.5.1 Submission of Institutional Consultancy Proposal

Prior to granting approval, the instigator for the Institutional Consultancy shall provide the following documentation:

- a) Statement of the consultancy service to be provided;
- b) Details of employee time/hours to be allocated to providing the service;
- c) Copy of the Contract;
- d) Budget and details of distribution/allocation to the individual;
- e) Itemization of University resources to be used;
- f) Proposed timelines;
- g) Details of any quality/OSH/Risk assurance procedures and/or compliance requirements (including approval by the University's Human Research Ethics Committee or Animal Ethics Committee if required); and
- h) Any other document as requested by the delegated authority.

### 7.5.2 Approval by Delegated Authority

The authority to approve an Institutional Consultancy is provided within the respective University Delegation authority:

- [Delegations Relating to Agreements](#)
- [Delegated Authorities – Research Activities](#)

The approval process shall be determined by the delegate's financial limit as provided at Attachment 1 of this Policy.

### 7.5.3 Institutional Consultancy Submission & Record Keeping

Institutional Consultancies are subject to normal University monthly reporting requirements, and the Relevant Line Executive or nominee shall be responsible for providing a summary of consultancies applicable to their Work Unit if requested.

#### **Research Consultancies**

Institutional Consultancies relating to research activities and grants must be submitted to the Office of Research and Innovation (ORI) to ensure beneficial recognition to the employee and the University. All revenue and fee income derived from such activities should be detailed in accordance with related finance policies and procedures.

#### **Other Consultancies**

Other Institutional Consultancies once approved are to be appropriately recorded within the Work Unit and comply with University procedures. All revenue and fee income derived from such activities should be detailed in accordance with related finance policies and procedures.

### 7.6 Private Consultancy

The Institutional Consultancy framework prescribed by this policy outlines the University's preference for its employees to undertake consultancy through this framework. Where an employee decides to undertake a Private Consultancy the employee shall forever indemnify the University and its officers against any account, action, cost, expense, arbitration, litigation or suit in respect of any aspect of their Private Consultancy work. The following principles shall apply for Private Consultancy work:

- a) Employees undertaking a Private Consultancy do so with the knowledge that they are outside the protection and support of the University. The University has no, and shall accept no responsibility for the consultant or the Private Consultancy work.
- b) The employee undertakes a Private Consultancy at their own risk and is solely responsible for seeking their own professional advice and personal protection. The employee acknowledges Private Consultancies are not covered by any University insurance policy, unless the employee has made an agreed remittance to the University, and they are not entitled to any University indemnity.

- c) The employee must make clear to the client that they are working in a purely personal and professional capacity, and not acting as an employee, agent or representative of the University, and the University is in no way connected to the Private Consultancy.
- d) The use of University resources and administration or other employees is not normally permitted in connection with Private Consultancies unless prior University approval has been obtained. Where the University’s delegated authority has provided such approval the employee must adequately reimburse the University.
- e) A Private Consultancy that has approval to utilise University resources must not compete unfairly with the private sector.
- f) Payments for a Private Consultancy are paid directly to employee concerned and not to or through the University.
- g) Private Consultancy work should be of an appropriate professional quality and standing, and should not compromise the employee’s integrity, or undermine or conflict with the terms of their position, status or role within the University. Where the consultancy procedures are of a kind requiring ethics or safety-related approval, the consultancy must not proceed without such approval.
- h) A Private Consultancy must not interfere or provide a real or potential conflict of interest to the employee performing their University duties.
- i) Information relating to an employee’s Private Consultancy is deemed to be confidential.

The University may require an employee to provide written advice outlining paid or unpaid Private Consultancies, and to certify compliance with this Policy and other relevant University policies including but not limited to the Code of Conduct.

**7.7 Directorships, Partnerships and Board Membership**

Employees must obtain the approval of the Vice-Chancellor, or nominee, prior to entering into a partnership, accepting the directorship of a company, accepting a board membership or being involved in the affairs of a Trust. The Vice-Chancellor or their nominee must be satisfied that providing such services will not result in real or potential conflicts of interest or in practices which are contrary to the best interests of the University.

When such engagements are for the purpose of managing personal or family affairs, or where the engagement is with an organisation of a not-for-profit or charitable nature approval shall not be required. However the employee will still be required to abide by the principles as stated at provision 7.6 of this Policy.

Activities where an employee is serving on a board of a government agency or equivalent are not considered as consultancy even though a fee may be paid. Where appointments are made due to the employee’s University position, or utilise the University’s name the individual will need to seek approval from the Vice-Chancellor or their nominee prior to serving in this capacity.

**8. References**

|                             |   |                                    |
|-----------------------------|---|------------------------------------|
| Policy Code:                | HR104   | File No: 93/2240, 95/3221, SUB/378 |
| Policy Owner:               | Human Resources Service Centre  |                                    |
| Approved by:                | Vice-Chancellor   |                                    |
| Date Approved:              | 05 December 1996  |                                    |
| Revision Date:              | 22 February 2010  |                                    |
| Amendments:                 | 22 February 2008<br>01 December 2001  |                                    |
| Related Policies/Documents: | Relevant Industrial Instrument<br><a href="#">Code of Conduct Policy</a><br><a href="#">Research Code of Conduct</a><br><a href="#">Accounting for Revenue Policy</a><br><a href="#">Intellectual Property Policy</a> |                                    |

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|--|--|
|  | <a href="#">Public Comment Policy</a><br><a href="#">Research Grant Administration Policy</a><br><a href="#">HR Schedule of Delegations</a><br><a href="#">Delegations Relating to Agreements</a><br><a href="#">Delegated Authorities – Research Activities</a><br><a href="#">Human Research Ethics Committee</a><br><a href="#">Animal Ethics Committee</a> |
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## 9. Contact Information

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|-----------------|--|
| Contact Person: | Director, Human Resources Service Centre                           |
| Telephone:      | 6304 2937  |
| Facsimile:      | 6304 2760  |
| Email address:  | <a href="mailto:r.bernstein@ecu.edu.au">r.bernstein@ecu.edu.au</a> |

## CONSULTANCY POLICY ATTACHMENT 1

Excerpts from relevant Delegation Authority current at October 2007:

### DELEGATIONS RELATING TO AGREEMENTS BY ACTIVITY

(NT = Authority not transferable)

**NOTE: ALL DELEGATIONS ARE TO BE EXERCISED IN ACCORDANCE WITH THE RELEVANT POLICIES AND DIRECTIONS OF THE VICE-CHANCELLOR OR AUTHORISED UNIVERSITY BODY AND WITHIN THE LIMITS OF APPROVED BUDGETS**

#### 4. Agreements providing for institutional consultancies involving ECU staff (excluding research)

| Financial Limit                    | Delegate   |
|------------------------------------|--|
| Above \$5,000,000                  | Vice-Chancellor (with report through Resources Committee to next Council meeting)  |
| \$5,000,000 (above \$1,000,000 NT) | Vice-Chancellor  |
| \$1,000 000 (above \$300,000 NT)   | Vice-President (Resources) and Chief Financial Officer   |
| \$250,000 (above \$50,000 NT)      | Deputy Vice-Chancellors / Pro Vice-Chancellors / Executive Deans / Dean, Faculty of Regional Professional Studies / Executive Director, Governance and Planning / Directors, Service Centres / Directors, Offices (see attached list*) |
| \$100,000 (above \$50,000 NT)      | Heads of Schools or nominated equivalents<br>within Faculty  |

#### Directors, Offices

Director – Research and Innovation  
 Manager – Marketing  
 Head – Centre for Learning and Teaching  
 Director – ECU International  
 Director – Risk Management and Audit Assurance  
 Dean – Graduate Research School

**DELEGATED AUTHORITIES – RESEARCH ACTIVITIES  
BY ACTIVITY**

(NT = Authority not transferable)

**NOTE: ALL DELEGATIONS ARE TO BE EXERCISED IN ACCORDANCE WITH THE RELEVANT POLICIES AND  
DIRECTIONS OF THE  
VICE-CHANCELLOR OR AUTHORISED UNIVERSITY BODY AND WITHIN THE LIMITS OF APPROVED BUDGETS**

2. **Approve all agreements and contracts relating to research projects and research based institutional consulting work**

| Function                            | Delegate   |
|-------------------------------------|--|
| Above \$5,000,000                   | Vice-Chancellor (with report through Resources Committee to next Council meeting)  |
| \$5,000,000 (above \$1,000,000 NT). | Vice-Chancellor  |
| \$2,000,000                         | Deputy Vice-Chancellor (Research & Operations) / Director, Research and Innovation |

(Current @ 22 March 2007)

