



PAID OUTSIDE WORK BY ACADEMIC STAFF  
POLICY AND RELATED INFORMATION

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This booklet contains information on:

**UNSW POLICY ON PAID OUTSIDE WORK BY ACADEMIC STAFF**

**UNSW POLICY ON COMPETITIVE NEUTRALITY AND PRICING**

**CONFLICT OF INTEREST POLICY**

These policies are available on the infoNET website

[www.infonet.unsw.edu.au/poldoc/policy.htm](http://www.infonet.unsw.edu.au/poldoc/policy.htm)

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FOR INFORMATION AND SUPPORT ...

**UNSW POLICY ON PAID OUTSIDE WORK BY ACADEMIC STAFF**

**Compliance Unit – 9385 2497 / 8768**

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**CONFLICT OF INTEREST POLICY**

**Human Resources – 9385 2711**

For further assistance on the application of the policy contact

Your Faculty Human Resources Consultant (HRC)

**UNSW POLICY ON COMPETITIVE NEUTRALITY AND PRICING**

**Accounting Services – 9385 2750**

Email: [fsd@unsw.edu.au](mailto:fsd@unsw.edu.au)

The information contained in this booklet is available online at <http://www.legal.unsw.edu.au/compliance.htm>  
For further copies, or any enquiries regarding this booklet contact the Compliance Unit of the  
UNSW Legal Office 9385 8768 / [paidoutsidework@unsw.edu.au](mailto:paidoutsidework@unsw.edu.au)

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***NOTE: The policies and related documents in this booklet are accurate as at the time of printing (December 2005). The current versions of these documents are available on the UNSW infoNET policy website ~ [www.infonet.unsw.edu.au/poldoc/policy.htm](http://www.infonet.unsw.edu.au/poldoc/policy.htm)***

# Introduction from the Deputy Vice-Chancellor (Academic)

Council approved a new University Policy on Paid Outside Work by Academic Staff on 26 September 2005.

In 2004 the Vice-Chancellor, Professor Mark Wainwright, initiated a comprehensive project to review and report on the framework of policies, procedures and guidelines governing University commercial activities and paid outside work. The revisions to the Paid Outside Work policy take account of the NSW Parliament Public Accounts Committee Inquiry into Academics' Paid Outside Work (published in 2004), a 1999 review of policies for paid outside work in all universities in NSW by the Audit Office of NSW and the requirements of the NSW Auditor-General. The project involved extensive consultation with academic staff, and resulted in significant changes to the policy and the development of associated policies and procedures, all of which come into effect from 1 January 2006.

The University supports paid outside work as it recognises that this work benefits the University and the community, as well as the individual staff involved. The revised policy is intended to provide a framework for paid outside work which maximises these benefits and satisfies the stringent and increasing requirements for accountability regarding the use of University resources.

The implementation of this policy will be reviewed in 2007, and your comments and feedback will be sought at that time.

This booklet is provided to enable all academic staff to be familiar with the revised policies and new requirements, and I believe that it will be a valuable resource.

Yours sincerely

**PROFESSOR ROBERT KING**  
**Deputy Vice-Chancellor (Academic)**

## Information from NewSouth Global

NewSouth Global has been requested by UNSW to undertake management of projects falling under the banner of University Paid Outside Work. To this end, parts of Unisearch and International Projects have been amalgamated to create **NewSouth Global Consulting**.

The types of projects that will be managed by NewSouth Global include expert opinion, medico-legal, technical consulting and testing, professional consulting to industry and government and international projects.

The services that NewSouth Global Consulting will provide for staff undertaking University Paid Outside Work include: quote and proposal management, contract management, insurance, risk and quality management, invoicing, debt collection and project management. There will be a charge for these services. NewSouth Global Consulting will also manage the payment of consultancy fees to academics engaged in University Paid Outside Work, as well as the University levy of 15% (*see information from Accounting Services on p. 4*).

NewSouth Global will report to UNSW with statistical information relating to projects and pricing to provide assurance that compliance and legal obligations are being met under the UNSW Paid Outside Work Policy and the UNSW Policy on Competitive Neutrality and Pricing, as well as legislative requirements.

For further details on engagement with NewSouth Global Consulting  
[www.nsg.unsw.edu.au](http://www.nsg.unsw.edu.au)  
Meg Debus-Rogers, Director: 9385 3183

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## Information from UNSW Research Services

If you believe that your University Paid Outside Work project has a research component you should provide documentation regarding the project to UNSW Research Services.

Your Faculty Team Leader in UNSW Research Services will assess your project against the prevailing Department of Education, Science and Training definitions for research, and if any proposed work does not meet these definitions you will be provided with an explanation.

If UNSW Research Services certifies that more than half of your project is research, work on that project will not be counted as part of time allowed for paid outside work and this should be declared on your Application for Approval to Undertake Paid Outside Work.

For further details contact UNSW Research Services  
[www.ro.unsw.edu.au](http://www.ro.unsw.edu.au)  
Ph: 9385 7230  
Fax: 9385 7238  
Email: [research@unsw.edu.au](mailto:research@unsw.edu.au)

## Information from Accounting Services

In line with changes to the University's policy on Paid Outside Work by Academic Staff, from 1 January 2006 Accounting Services will be introducing changes to the management of external revenue at UNSW. A new Accounting Services Policy on Commercial Activities and Other Income Generating Activities has been developed.

From 2006 staff will not be able to generate invoices for Paid Outside Work through their School / Unit or deposit income from Paid Outside Work into University accounts. Academic staff members who wish to donate Paid Outside Work income to the University can do so through the University Foundation.

During 2006 Accounting Services will also be undertaking a project to categorise all Business Activity (BA) accounts depending on the nature of the income received, and over the 12 months from January 2006 BA accounts will gradually be replaced by Commercial Activity and Income Generating (GI) accounts.

### ***University Paid Outside Work***

Income received from University Paid Outside Work conducted through NewSouth Global will be paid directly to the academic by NewSouth Global. Academics will need an Australian Company Number (ACN) in order to receive any such payments from NewSouth Global. External advice is being sought regarding other payment options, such as use of an Australian Business Number (ABN). Further information will be available from NewSouth Global and the Compliance Unit.

From 1 January 2006 a 15% overhead levy will apply to all University Paid Outside Work. The levy is intended to cover the indirect costs associated with the work such as telecommunications, buildings, physical infrastructure and information resources and technology, and will be calculated on the consultant's fee for the project. It will be deducted by NewSouth Global and paid directly to the relevant School / Unit. This levy does not cover the direct costs associated with any Paid Outside Work project, such as use of specific School / Unit facilities or equipment, which must be costed separately and take into account the UNSW Policy on Competitive Neutrality and Pricing. NewSouth Global will assist with the calculation and reimbursement of these expenses for University Paid Outside Work projects.

### ***Private Paid Outside Work***

All payments for Private Paid Outside Work, Directorships and Partnerships must be handled by individual academics or their private company, and payments cannot be deposited into University accounts.

For further details  
[www.fsd.unsw.edu.au](http://www.fsd.unsw.edu.au)

# Paid Outside Work Categories and Definitions

**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. This includes activities such as consultancies, expert witness, clinical trials, contract services and remunerated directorships and partnerships even when these are with externally funded research centres or controlled entities of the University.

The following categories of Paid Outside Work are allowed under the new policy on Paid Outside Work by Academic Staff: -

**University Paid Outside Work (UPOW)** is managed by NewSouth Global and may involve the use of University resources. Invoicing and project expenditures are managed by NewSouth Global, and staff undertaking UPOW will normally be covered by NewSouth Global's professional and public liability insurances.

**Private Paid Outside Work (PPOW)** is undertaken by staff in a private capacity, does not involve the use of University resources (unless these are generally available and charged at the same cost as to the public), and is not associated with the University. Staff are responsible for their own professional indemnity and public liability insurance and for all of their own financial and taxation arrangements.

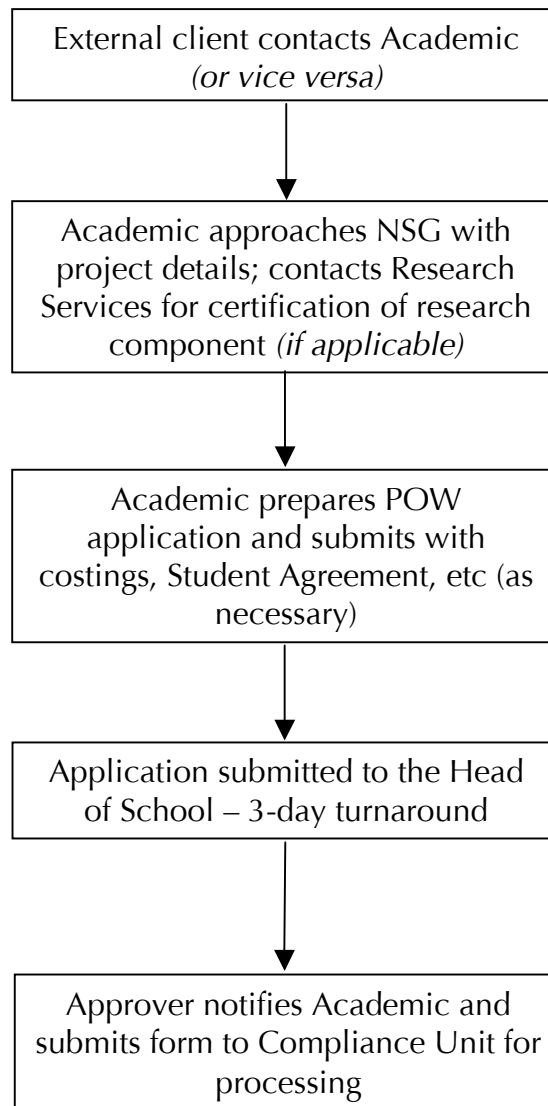
**Directorships and partnerships** (other than those where a staff member is nominated to a Board by the University) fall within the policy on Paid Outside Work by Academic Staff if the arrangement is work-related or the company is to be used in outside earnings activities.

**The following categories of work are not considered to be Paid Outside Work:**

- second jobs (unrelated to the staff member's academic standing or employment at UNSW)
- 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

**Approval will not be given to undertake Paid Outside Work which involves private tuition of UNSW students, competes with services provided by UNSW, or is solicited by a staff member through any form of paid advertisement.**

## Paid Outside Work process map



In some circumstances, the Head of School may be required to forward applications to the Dean or Deputy Vice-Chancellor (Academic) – see section 1.6 of the policy on Paid Outside Work by Academic Staff for further information.

**NewSouth Global:** An academic may approach NSG for advice either before or after applying for approval to undertake University Paid Outside Work. However, NSG will only enter into contractual discussions once approval to undertake Paid Outside Work has been granted.

If NSG does not accept a project (for example, if it is not considered to be financially viable) two options are available:

- a. the academic undertakes the project as Private Paid Outside Work.
- b. the activity is undertaken by the Faculty / School as a UNSW Commercial Activity.

*Note: if an academic disputes the non-approval of a Paid Outside Work application, UNSW Grievance Procedures are to be followed.*

## Engaging in University Paid Outside Work...

### 1. Initial contact with external parties and/or NSG

If you have decided to undertake a project as University Paid Outside Work (UPOW), you may wish to contact NewSouth Global at this stage to discuss the work and request assistance in preparing costings to be submitted with your Application for Approval to Undertake Paid Outside Work.

### 2. Preparation of Application for Approval to Undertake Paid Outside Work

If undertaking UPOW you should:

- a. contact NewSouth Global to discuss project details (Note: NewSouth Global will only enter into contractual discussions once the academic has received formal approval from UNSW to undertake the work. If NewSouth Global does not accept a project, the academic may undertake the work as PPOW, or the School / Faculty may undertake the work as a UNSW Commercial Activity).
- b. contact UNSW Research Services for certification of the research component of the project (if applicable).

The Application for Approval to Undertake Paid Outside Work is completed online through myUNSW, then printed and signed by the applicant. Once completed, the application and any supporting documentation should be submitted to the Head of School, Dean or Deputy Vice-Chancellor (Academic) as appropriate.

### 3. Application evaluation

The relevant approval authority will assess the application to undertake Paid Outside Work. The Head of School must forward applications to the Dean where:

- i. the value of the project is more than the Head of School's financial delegation;
- ii. the project requires use of UNSW facilities beyond those of the School;
- iii. it is proposed that full costs not be recovered; or
- iv. the application is not endorsed by the Head of School as the performance of the academic is deemed to be unsatisfactory.

Paid Outside Work applications by Heads of School will be assessed by the Dean, and Paid Outside Work applications by Deans will be assessed by the Deputy Vice-Chancellor (Academic).

Once the application has been assessed the academic will be notified of the outcome, and applications will be forwarded to the Compliance Unit for processing.

UNSW Grievance Procedures are to be followed for any disputes relating to the non-approval of a Paid Outside Work application.

### 4. Annual reporting

All academic staff must provide an annual report to their Head of School detailing their involvement in all paid outside work for the previous year. This report should be compiled in December of each year, and is available to the Head of School, Dean and the Deputy Vice-Chancellor (Academic).

The Compliance Unit will issue a list of prior Paid Outside Work approvals to academic staff and Heads of School that can provide the basis for individual reporting.

## Engaging in Private Paid Outside Work...

### 1. Contact with the external client

If you have decided to undertake a project as Private Paid Outside Work (PPOW) you must advise all external clients / parties that you are undertaking the work in a private capacity, and that the University is not involved in the work in any way.

### 2. Preparation of Application for Approval to Undertake Paid Outside Work

If undertaking PPOW you must:

- a. obtain written confirmation from the external contracting party acknowledging and agreeing that the University accepts no liability and has no involvement or interest in the work.
- b. ensure that you hold adequate professional indemnity and public liability insurance for the work.

The Application for Approval to Undertake Paid Outside Work is completed online through myUNSW, then printed and signed by the applicant. Once completed, the application and any supporting documentation should be submitted to the Head of School, Dean or Deputy Vice-Chancellor (Academic) as appropriate.

### 3. Application evaluation

The relevant approval authority will assess the application to undertake Paid Outside Work. The Head of School must forward applications to the Dean where:

- i. the value of the project is more than the Head of School's financial delegation;
- ii. the project requires use of UNSW facilities beyond those of the School;
- iii. it is proposed that full costs not be recovered; or
- iv. the application is not endorsed by the Head of School as the performance of the academic is deemed to be unsatisfactory.

Paid Outside Work applications by Heads of School will be assessed by the Dean, and Paid Outside Work applications by Deans will be assessed by the Deputy Vice-Chancellor (Academic).

Once the application has been assessed the academic will be notified of the outcome, and applications will be forwarded to the Compliance Unit for processing.

UNSW Grievance Procedures are to be followed for any disputes relating to the non-approval of a Paid Outside Work application.

### 4. Annual reporting

All academic staff must provide an annual report to their Head of School detailing their involvement in all paid outside work for the previous year. This report should be compiled in December of each year, and is available to the Head of School, Dean and the Deputy Vice-Chancellor (Academic).

The Compliance Unit will issue a list of prior Paid Outside Work approvals to academic staff and Heads of School that can provide the basis for individual reporting.

## Engaging in Directorships and Partnerships...

### 1. Contact with the external party / board

If you wish to take up a directorship of a company (not including directorships where you are nominated to a Board by the University), you must identify any actual or potential conflict of interest in accordance with the UNSW Conflict of Interest Policy.

### 2. Preparation of Application for Approval to Undertake Paid Outside Work

If taking up a directorship, you must:

- a. disclose any actual or potential conflict of interest on the Conflict of Interest Disclosure Form.
- b. ensure that you hold adequate professional indemnity and public liability insurance for the work.

The Application for Approval to Undertake Paid Outside Work is completed online through myUNSW, then printed and signed by the applicant. Once completed, the application and any supporting documentation should be submitted to the Deputy Vice-Chancellor (Academic).

### 3. Application evaluation

The Deputy Vice-Chancellor (Academic) will assess the application and notify the academic of the outcome. Applications will then be forwarded to the Compliance Unit for processing.

UNSW Grievance Procedures are to be followed for any disputes relating to the non-approval of a Paid Outside Work application.

### 4. Annual reporting

All academic staff must provide an annual report to their Head of School detailing their involvement in all paid outside work for the previous year. This report should be compiled in December of each year, and is available to the Head of School, Dean and the Deputy Vice-Chancellor (Academic).

The Compliance Unit will issue a list of prior Paid Outside Work approvals to academic staff and Heads of School that can provide the basis for individual reporting.



## Paid Outside Work by Academic Staff

<b>Responsible Officer</b>	Deputy Vice-Chancellor (Academic)
<b>Contact Officer</b>	Director, Human Resources
<b>Approving Authority</b>	UNSW Council (CL05/114)
<b>Date Approved</b>	26 September 2005
<b>Date Effective</b>	1 January 2006. 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.
<b>History</b>	Replaces the UNSW Policy on Paid Outside Work approved by the Deputy Vice-Chancellor (Academic Affairs) in February 1995
<b>Review Commencement Date</b>	January 2008
<b>Related Policies</b>	Conflict of Interest, Code of Conduct, Intellectual Property, Competitive Neutrality and Pricing
<b>File Number</b>	2004/3526

### 1.0 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 NewSouth Global (NSG) or any other Entity nominated by UNSW.

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

Private paid outside work is work which is not managed by NSG. 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 NewSouth Global Pty Ltd (NSG)**

NSG is a controlled entity of the University of New South Wales.

Contracts governing University paid outside work are between an external client and NSG. Invoicing and project expenditures are managed through the NSG financial system.

### **1.3.5 Compliance Unit (CU)**

The Compliance Unit assists UNSW to meet its legal obligations in relation to commercial activities. The CU holds and maintains a database of approvals to undertake paid outside work and assists staff in the annual reporting of paid outside work.

### **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 DEST definition, then work on that project will not be counted as part of time allowed for paid outside work.

Approval of the Deputy Vice-Chancellor (Academic) 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 Deputy Vice-Chancellor (Academic) 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. 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. The Compliance Unit will issue members of academic staff and Heads of School with a list of prior approvals in a form that can provide the basis for reporting by individual academics. 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 Deputy Vice-Chancellor (Academic).

## **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 GENERAL STAFF AND STUDENTS**

Staff must obtain the permission of the Head of School before involving general 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 general staff and determine if the proposed work is consistent with that contract and may require the written consent of the general 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 an overhead charge on all University paid outside work. The overhead charge is deducted from gross revenue by NSG and is distributed to the relevant Faculty.
- Charging for UNSW resources should be in accordance with the UNSW Competitive Neutrality and Pricing Policy.
- A fee for managing University paid outside work will be charged by NSG.

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

Staff undertaking University paid outside work will normally be covered by NSG professional and public liability insurances.

## **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 overhead charges 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 Deputy Vice-Chancellor (Academic) 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 Deputy Vice-Chancellor (Academic) 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.



## Guidelines on Paid Outside Work for Clinical Academics

### INTRODUCTION

The University understands that it is important for clinical academics to work in a professional capacity to ensure that they are conversant with current professional practice and to maintain professional registration.

Due to the ever increasing incidence of litigation, it is important to manage the risks associated with the outside work of staff members and to differentiate between University work and the work that a staff member undertakes privately. The UNSW Policy on Paid Outside Work by Academic Staff and these guidelines have been developed to protect and balance the interests of both clinicians and the University.

UNSW's Policy on Paid Outside Work by Academic Staff applies in all cases where the staff member is working in a private capacity, either as an employee of another entity, as a member of a partnership or as an individual.

The following Guidelines have been developed to assist clinical academic staff and Heads of School to interpret the Policy on Paid Outside Work in relation to clinical academics.

#### Approval

No type of paid outside work can be undertaken without the approval of the Head of School through completion of the Application for Approval to Undertake Paid Outside Work form.

In the case of clinical academics, approval can be sought for a category or sequence of work (e.g. to run a clinic as a sole practitioner every second Friday afternoon). Approval is not required for work done as part of emergency or other response at short notice. Wherever possible though, approval in advance should be sought in such a manner that most likely contingencies are addressed.

#### Conflict of Interest

As with all paid outside work, the clinical academic should ensure that there is no conflict of interest between his or her work for the University and the private practice. A good rule of thumb in conflict of interest cases is to ask the question as to whether it could be perceived that the staff member is putting his or her interests above those of the University. If the answer is yes, then there needs to be further discussion with the Head of School as to whether the work should proceed, and if so, how the conflict of interest is to be managed.

#### Insurances

Clinical academic staff need to take out the following insurances at the requisite levels to cover themselves for:

- Professional indemnity insurance;
- Third party insurance; and
- Run-off insurance to cover any claims which may be made after the paid outside work has been completed.

While public patient work in public hospitals is covered for UNSW clinical academic staff by the Treasury Managed Fund, there may be ambiguities in relation to insurance cover for treating private patients in public hospitals.

Almost all clinicians are required by law to hold professional indemnity insurance. Where a clinician is working for another entity that holds this insurance (eg a clinical practice) the insurance held by that practice is likely to be adequate. Details of the insurance and a certificate of currency for each must be provided to the Head of School at the time that approval for outside work is sought.

### **Indemnity**

Clinical academic staff members must indemnify the University against any claims made as a result of their private clinical work. Normally, the statement set out in the Application for Approval of Paid Outside Work form will suffice.

### **Acknowledgement and Release**

The Paid Outside Work Policy requires that an acknowledgement and release be obtained from the person for whom any private paid outside work is being done. Clearly this imposes difficulties in situations where private patients are being seen. A third party release is not necessary if:

- The clinical academic is not indicating in any way that there is a connection with the University in the operation of the practice;
- The clinical academic is working as part of a clinic or partnership where there is no clear relationship to the University;
- The patient is a long-standing current patient.

In the cases where the clinical academic is working as a sole practitioner in premises or circumstances which associate him or her with the University, every effort should be made to ensure that new patients understand the fact that the clinical academic is working in a private capacity ( by inclusion of this acknowledgement on a new patient information sheet).

A suggested wording is "I understand that Dr/Associate Professor/Professor X is consulting in his or her private capacity and independently of the University of New South Wales".

### **University Facilities**

In some cases, there are long-standing arrangements that University facilities are used for the conduct of private clinics. Where the facilities are clearly signed as University facilities, this could create the impression that the work is being undertaken by the University.

Every effort should be made to ensure that new patients are aware that the clinical academic is consulting in his or her private capacity. Signs to this effect should be displayed in reception and other appropriate areas.

Arrangements for payment of the costs associated with using University facilities for private practice must be made as part of the approval process.

### **Use of other University Staff**

Normally it is inappropriate to use other University staff (e.g. administrative or technical staff) to support private outside work. In some cases, University administrative staff make booking times and other arrangements associated with the clinical academic staff member's private consulting. The risk with this practice is the more contact patients have with staff at the University, the greater the likelihood of the patient believing that the University is standing behind the clinical academic. University staff should only be involved in the support of private practice in accordance with the provisions for agreement and payment as set out in the Policy on Paid Outside Work. This

includes taking calls from general practitioners to make appointments for patients and answering calls from patients requesting test results or in an emergency.

### **Reference to University**

A member of staff is entitled to use a University position title, providing that they abide by the requirements of the Code of Conduct and refrain from representing themselves as acting for or on behalf of the University when undertaking private paid outside work. The statements of acknowledgement and release described in these Guidelines satisfy the requirements of the Code of Conduct.

Where the private work of a clinical academic is carried out on University premises, it will not be possible to refrain from the use of the University address, phone numbers and the like. In this circumstance, the clinical academic should seek approval from the Deputy Vice-Chancellor (Academic) to be excluded from this provision of the policy.

# APPLICATION FOR APPROVAL TO UNDERTAKE PAID OUTSIDE WORK



THE UNIVERSITY OF  
NEW SOUTH WALES

This application should be completed in accordance with the provisions of the University's policy on Paid Outside Work by Academic Staff.

**Prior approval must be sought for all Paid Outside Work proposed to be undertaken by full and part time members of academic staff.**

Employees with Visitor, Conjoint and Adjunct appointments who propose to conduct paid work which is associated in some way with UNSW must also apply for prior approval using this form.

**This form must be used for University Paid Outside Work, Private Paid Outside Work and applications for Directorships and Partnerships.**

## University Paid Outside Work

**Staff seeking approval for University Paid Outside Work must complete *parts A, B and C* only.**

Costings of work must be attached to this application, indicating compliance with UNSW Competitive Neutrality and Pricing policy and Code of Conduct in relation to recovery of the direct and indirect costs of University resources.

If it is proposed that a student will be engaged to support any work, a Student Agreement signed by the student/s must also be attached to this application.

## **Declaration of Research Component**

Consulting income may attract IGS/RTS for the University if the project or any component of the project meets DEST's definition of research.

**UNSW Research Services** must certify the research component of any work.

Research, for the purposes of the DEST Higher Education Data Collection Return (HERDC) is any activity characterised by originality; it should have investigation as a primary objective and should have the potential to produce results that are sufficiently general for humanity's stock of knowledge (theoretical and/or practical) to be recognisably increased. **If you can publish the results and have residual rights to use these results it may be possible to count the project as research.**

In addition, activities that support research and meet the definition of research may include:

- provision of professional, technical, administrative or clerical support and/or assistance to staff directly engaged in research
- management of staff who are either directly engaged in research or are providing professional, technical or clerical support or assistance to those staff
- activities of students undertaking postgraduate research courses
- development of postgraduate research courses
- supervision of students undertaking postgraduate research courses

## Private Paid Outside Work

**Staff seeking approval for Private Paid Outside Work must complete *parts A, B and D* only.**

Staff must attach documentation from all external parties acknowledging that the academic is acting in a private capacity and that the University is not involved in the work and accepts no liability whatsoever.

## Directorships and Partnerships

**Staff seeking approval to take up directorships / partnerships must complete *parts A, B and F* only.**

**Part A – Applicant Information**

Name		
Employee Number		<input type="checkbox"/> Full time
Academic Level		<input type="checkbox"/> Fractional
School / Organisational Unit		<input type="checkbox"/> Casual

**Part B - Proposed Paid Outside Work Details**

Category:  University Paid Outside Work  Private Paid Outside Work  
 Directorship/Partnership

**Name of Paid Outside Work:**

Consulting  Short Course  Expert Witnessing  
 Conduct of Clinical Trials  Directorship/Partnership  Other

Provide a short description of the work to be undertaken (attach relevant documents):


**Duration of Activity**  
 Total time involved: \_\_\_\_\_ days  
 The commitment is from \_\_\_\_\_ to \_\_\_\_\_ (date)

Are you requesting covering approval for multiple activities of the same type? Yes  No   
 If yes, provide reasons and basis for seeking approval:


**Use of UNSW facilities / resources:**  
 Are you proposing to use University facilities or resources in relation to this activity? (Note: staff undertaking Private Paid Outside Work may only use University resources / facilities where these are generally available to the public and will be charged at the same cost as to members of the public)  
 Yes  No   
 If yes, provide details below:


**Conflict of Interest (see the UNSW Conflict of Interest Policy)**  
 Is there any actual, potential or perceived conflict of interest associated with this work?  
 Yes  No   
 If yes, you must complete and submit a UNSW Conflict of Interest Disclosure form

**Part C – For University Paid Outside Work only**

Attach costings of work, indicating compliance with UNSW Competitive Neutrality and Pricing policy and Code of Conduct in relation to recovery of the direct and indirect costs of University resources. Approval by the Dean is required if it is proposed that less than full cost is to be recovered.

Is it proposed that general staff or students will be involved in the Paid Outside Work?

Yes  No

If yes, describe any proposed involvement of general staff or students in the activity, and how the conditions of the policy will be met. Note: if students are involved in the activity, a Student Agreement completed by the student must be attached to this application.


**Declaration of research component (see cover sheet for details)**

The project has no research component

OR

I confirm that Research Services have certified that \_\_\_\_\_% of the project comprises research in accordance with the Dean's definition.

Provide a brief description of the research component of the work (attach extra pages if necessary):


**Applicant Declaration**

I consent to the University and NSG exchanging information relevant to my involvement in paid outside work.

I acknowledge that if research involving humans or animals is to be conducted as part of the paid outside work, ethics approval must first be obtained.

I acknowledge and agree that I am responsible for any taxation liabilities I incur in relation to the Paid Outside Work and I have obtained such professional advice as I require.

I will inform the University of any change to the circumstances set out in this form. I acknowledge and agree that any approval is subject to my continued satisfactory performance of my duties with the University and to my compliance with the Paid Outside Work Policy and other relevant University policies.

Signature of applicant and date

\_\_\_\_\_ (date)

**Part D – For Private Paid Outside Work only**

**Indemnification and Insurance (No approval will be granted unless this section is completed)**

Attached is a letter/fax from any and all entities or persons who are engaging me to do the work, which acknowledges and agrees that I am engaged in a solely private capacity and that the University has neither involvement nor interest in the work and accepts no liability whatsoever.

OR

This acknowledgement is included in the attached contract.

**Applicant Declaration**

I grant and agree that there will be no association of this work with the University (including use of University letterhead, AB address, phone number, internet address and e-mail), unless I first obtain the approval in writing of the DV (Academic).

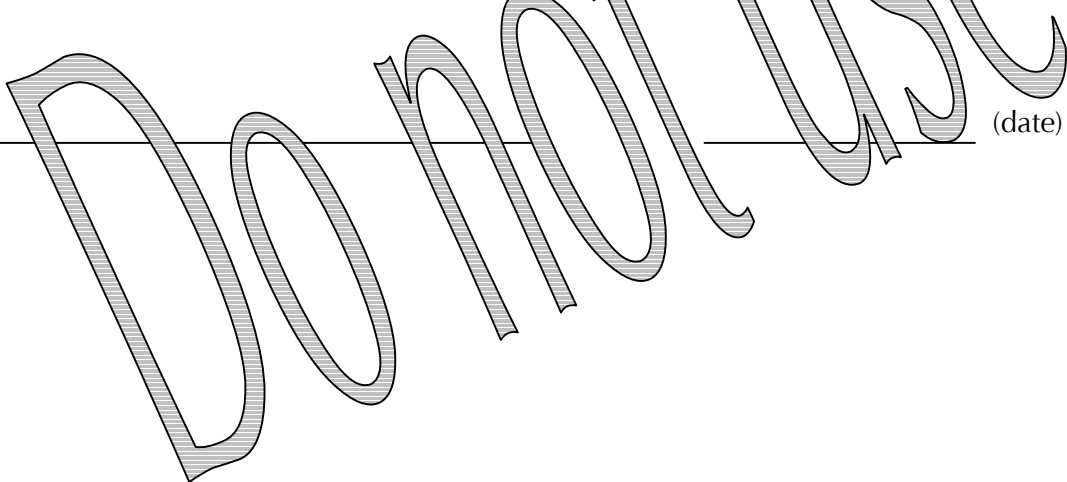
I indemnify the University, its servants and agents in respect of any liability, claim, suits or demands (including costs) of any kind, including negligence, arising from or in relation to my performing, undertaking or agreeing to undertake the work.

I acknowledge and agree that I am personally responsible for professional indemnity obligations and liabilities, any worker's compensation obligations, taxation liabilities and any other obligation and liability related to the work. I confirm that I can provide evidence of holding adequate professional indemnity and public liability insurance if requested by the University.

I acknowledge that if research involving humans or animals is to be conducted as part of the paid outside work, ethics approval must first be obtained.

I will inform the University of any change to the circumstances set out in this form. I acknowledge and agree that any approval is subject to my continuing to perform satisfactorily my duties with the University and to my complying with the Paid Outside Work Policy and other relevant University policies.

*Signature of applicant and date*

 (date)

**Part E - Approval**

- The work to be undertaken is compatible with the academic standing of the applicant
- The work will be undertaken within the applicant's total allowable time for Paid Outside Work.
- The applicant is satisfactorily performing his/her normal duties of employment in accordance with his/her contract of employment.
- There is no conflict of interest between the work to be undertaken and the applicant's University duties;  
or There is a conflict of interest between the work to be undertaken and the applicant's University duties. This has been disclosed on a UNSW Conflict of Interest Disclosure form and satisfactory arrangements have been made to deal with the conflict of interest.
- For University Paid Outside Work: Arrangements have been made for any proposed use of University facilities, equipment, staff or services. Associated costs appear in the project budget and will be recovered from the project by N.G.
- For Private Paid Outside Work: The required insurance and liability section of this form has been completed and signed.

If the following conditions are met, this application must be forwarded to the Dean for approval:

- The value of the contract project to the member of Staff is more than the HOS financial delegation
- The project requires the use of UNSW facilities beyond those of the School.
- It is proposed that the full costs 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

Approval of the Deputy Vice-Chancellor (Academic) must be obtained for exceptional cases where the Paid Outside Work exceeds an average of one day per week – *note: this normally requires corresponding reduction in the staff member's employment status to fractional.*

- Application approved
- Application not approved.  
*Provide reason:*

Approval authority signature and date

Name: \_\_\_\_\_

UNSW Position: \_\_\_\_\_

Staff Number: \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_

**Part F – Directorships and Partnerships**

**Applicant Declaration**

I will undertake to:

- Provide to my Head of School further information promptly should there be a change in any of the circumstances related to the company or the directorship;
- Continue to declare my interest on each and every instance when there are dealings by the University with the company or any related part of the company and to alert my Head of School to any potential for a conflict of interest;
- Follow the directions of my Head of School as to the management of any actual or potential conflict of interest; and
- 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.

I understand that approval to become a director / partner must be obtained annually, even when the partnership / directorship is continuing.

I acknowledge and agree that I am responsible for any taxation liabilities I incur in relation to the Paid Outside Work and I have obtained such professional advice as I require.

*Signature of applicant and date*

\_\_\_\_\_ (date)

\_\_\_\_\_

**Approval**

- The directorship or partnership is in accordance with the UNSW Policy on Paid Outside Work.
- The work to be undertaken is compatible with the academic standing of the applicant
- The work will be undertaken within the applicant's total allowable time for Paid Outside Work.
- The applicant is satisfactorily performing his/her normal duties of employment in accordance with his/her contract of employment.
- There is no conflict of interest between the work to be undertaken and the applicant's University duties; or  
There is a conflict of interest between the work to be undertaken and the applicant's University duties. This has been disclosed on a UNSW Conflict of Interest Disclosure form and dealt with satisfactorily.

Application approved

Application not approved.  
*Provide reason:*

*Deputy Vice-Chancellor (Academic) signature and date*

\_\_\_\_\_ (date)

\_\_\_\_\_



## Conflict of Interest Policy

<b>Responsible Officer</b>	
<b>Contact Officer</b>	Director, Human Resources
<b>Authorisation</b>	UNSW Council, 18 April 2005 (CL05/022)
<b>Policy Effective from</b>	18 April 2005
<b>Associated Documents</b>	UNSW Code of Conduct; Responsible Practices of Research; UNSW Guidelines for Commercial Activities; Employment or Engagement of Services involving Personal or Other Significant Relationships; Protected Disclosures; Intellectual Property; Grievance Procedures
<b>Modifications</b>	
<b>Review Commencement Date</b>	January 2008
<b>Superseded Documents</b>	
<b>File Number</b>	2005/0311

### 1. Background

This policy elaborates the requirements relating to Conflict of Interest set out in the UNSW staff Code of Conduct. The Code of Conduct, which forms part of the contract of every member of staff, sets out the obligation to act appropriately when a conflict arises between a staff member's own self-interest and duty to the University. Where such conflict does or may arise, the issue should be disclosed to an appropriate officer of the University and, wherever feasible, the staff member plays no role in decision-making that might be associated with that issue. When a staff member, whose position or role entails supervisory or management duties, is notified or becomes aware of a conflict or potential conflict of interest, his or her duty is to:

- (i) inform the staff member involved of the provisions of the Code of Conduct as a basis for deciding on an appropriate way to handle the issue; and
- (ii) where appropriate, notify the matter to a more senior colleague for further attention.

### 2. Preamble

The Independent Commission Against Corruption (ICAC) guidelines on Conflict of Interest state clearly 'there is nothing unusual or necessarily wrong in having a conflict of interest. How it is dealt with is the important thing'.

Conflicts of interest may be inherent in the appointment and conditions of some categories of staff (such as conjoint staff), where the relationship of the staff member to UNSW as well as to their employer(s) may lead to a situation of differing interests which may, at times, be in conflict. Where this type of appointment arrangement is apparent and publicly disclosed through a title such as 'conjoint', then such inherent conflicts of interest do not have to be declared by the individual member of staff, unless they are likely or may be perceived to materially adversely affect the

interests of the University. Conflicts arising as a direct result of the appointment at UNSW are not personal conflicts.

While conflicts of interest are not wrong in themselves, and indeed cannot always be avoided or prohibited, the potential for conflict of interest exists in all aspects of University operations, including research, teaching, assessment, staffing, administration, and commercial activity. With increasing links between the University and other organisations, companies, and institutions, it is important that there is no perception that a member of staff has benefited by using their association with the University inappropriately, or acting in any way contrary to the public interest.

Because the complexity and diversity of relationships and perspectives at universities is extensive, the most effective means to address unavoidable conflicts of interest is to establish a system under which members of staff disclose and obtain evaluation of potential conflict. This system assumes that avoiding the conflict of interest is the best first strategy in dealing with conflicts of interest in the workplace.

The purpose of this policy is to outline just such a system—the University’s principles and procedures for the identification and management of actual, potential, or perceived conflicts of interest—and to assist staff in addressing conflict of interest issues.

### **3. Definition of Conflict of Interest**

ICAC has defined conflict of interest in the following terms, based on the OECD (Organisation for Economic Cooperation and Development) definition:

‘A conflict of interest involves a conflict between the public duty and private interests of a public official, in which the public official has private interests which could improperly influence the performance of their official duties and responsibilities’ (OECD guidelines, 2003, para10).

More specifically, conflicts of interest can be actual, perceived, or potential:

- Actual: involves a direct conflict between current duties and responsibilities and existing private interests
  - Perceived: conflict exists where it could be perceived, or appears, that private interests could improperly influence the performance of duties—whether or not this is in fact the case
  - Potential: arises where private interests could conflict with official duties
- A conflict of interest can be pecuniary (involving financial gain or loss) or non-pecuniary (based on enmity or amity). A conflict of interest can arise from avoiding personal losses as well as gaining personal advantage, financial or otherwise.

### **4. Objective key test for Conflict of Interest**

The test is: Whether an individual could be influenced, or appear to be influenced, by a private interest in carrying out their duties and responsibilities.

This test should focus on the official role and the private relationships and interests of the person concerned, and whether a reasonable disinterested person would think these relationships and interests could conceivably conflict or appear to conflict with the person’s public role.

### **5. Material Conflict of Interest**

A conflict of interest is considered to be ‘material’ if a reasonable disinterested person would take it into account in exercising judgment or making a decision. Only material conflicts of interest (those conflicts of interest of sufficient dimension and significance) are within the scope of this policy.

Factors such as the following can increase the risk that a situation will have inherent potential for conflict of interest and that the conflict of interest will be material:

- Increasing magnitude of the personal benefit expected
- Increasing level of leadership or authority
- Involvement of students or human subjects in an activity
- When a researcher holds equity in a company which may jeopardise research integrity

## **6. Examples of Conflicts of Interest at Universities**

### ***Academic***

- In academic research, the term 'conflict of interest' refers especially to situations in which financial or other personal considerations may compromise, or may have the appearance of compromising, an investigator's professional judgment in conducting or reporting research. The bias can affect collection, analysis, and interpretation of data, hiring of staff, procurement of materials, sharing of results, choice of protocol, and the use of statistical methods.
- In the peer review and publication process, a conflict of interest may arise where an author, reviewer, or editor allows personal conviction, financial interests, or personal relationships (of amity or enmity) to influence the work improperly.
- The supervision of research students presents an environment for potential conflict of interest because of the power relationship between supervisor and student and the extent to which the student may be dependent on the supervisor's support for the completion of their work.
- The use of human subjects in work by an investigator who has compensation from a company creates, for the human subjects, additional risk for adverse consequences. Patients must be recruited and treated with full protection of their personal rights and their right to ethical and impartial clinical or professional management.

### ***Administration***

- In academic administration, the term 'conflict of interest' refers especially to situations in which financial or other personal considerations may compromise, or may have the appearance of compromising, decisions made by administrators.

### ***Outside work and/or commercial activity***

- A conflict which arises in relation to the allocation of time, intellectual energy and primary professional commitment between University responsibilities and external activities can constitute a conflict of interest.
- Conflict of interest can arise where a member of staff has multiple official roles (such as being an officer of the University and serving as the Director of a company controlled by the University). Such conflicts may be difficult to identify, as personal interest may not be involved. In these situations, a person may use information obtained in exercising one role to the advantage or disadvantage of another organisation in an improper way.
- Conflict of interest may be particularly difficult to identify and manage in work environments characterized by complex commercial relationships, such as where there is a mix of University unit as well as a CRC or other externally funded centre, spin-off companies, and/or UNSW controlled entities.

The following is a partial list of activities or actions that merit case-by-case examination to determine whether they create a material conflict of interest that should either be managed appropriately or eliminated.

- Consulting - <http://www.infonet.unsw.edu.au/poldoc/pow.htm>
- Engaging in contract research - <http://www.infonet.unsw.edu.au/poldoc/pow.htm>

- Purchasing goods or services for the University from businesses in which the member of staff or his or her close associates has a financial interest or benefit - <http://www.fsd.unsw.edu.au/am/acct/amlist2.html>
- Receiving gifts, gratuities, loans, or special favours (including trips or speaker's fees) from research sponsors or vendors - <http://www.fsd.unsw.edu.au/am/acct/amlist2.html>
- Serving as a member or director on boards of directors, committees, advisory groups (or similar bodies) of governmental, for-profit, or not-for-profit entities, including UNSW controlled entities and associated companies - <http://www.infonet.unsw.edu.au/poldoc/pow.htm>
- Using information received as a University employee for personal purposes
- Serving on selection and promotions committees
- Exercising financial delegations - <http://www.fsd.unsw.edu.au/am/acct/amlist2.html>
- Transferring allocations or expenses between accounts - <http://www.fsd.unsw.edu.au/am/acct/amlist2.html>
- Holding of an ownership interest by the member of staff or their close associates in any real or personal property leased or purchased by the University
- Holding of an equity, royalty, or debt instrument interest by the member of staff or their close associates in an entity providing to the University financial support, including research or other support or services, when such support will benefit the member of staff or persons supervised, directly or indirectly, by them
- Receiving directly cash, services, or equipment in support of the member of staff's University activities from non-University sources

## 7. Application of policy

This policy applies to all persons subject to the UNSW Code of Conduct.

## 8. Disclosure Review Committee

The Disclosure Review Committee (DRC) is the main body monitoring conflict of interest compliance at UNSW. This committee comprises:

- the Deputy Vice-Chancellor (Research) (Chair);
- a person with legal expertise in a relevant field, nominated by the Dean, Faculty of Law;
- a person with commercial expertise in a relevant field, nominated by the Dean, Faculty of Commerce and Economics.

An officer from Human Resources will assist the Committee and will normally be in attendance at meetings. The Committee may obtain advice from external or internal independent experts.

Heads of School and Administrative Units are required to report to the DRC on an annual basis about the management of conflict of interest cases in their area.

The responsibilities of the Disclosure Review Committee include:

- a) Determination of conflict of interest management procedures, where these cannot be agreed between the member of staff and supervisor;
- b) At least an annual review of the types of disclosures and management strategies used, as reported by Heads of Schools and administrative units, and evaluation of the effectiveness of chosen management strategies;
- c) Review and advice to the Audit Committee of Council in relation to the Policy on Conflict of Interest at least every three years;
- d) Identification of high risk functions or areas, and advice to the Deputy Vice-Chancellor (Academic) on requirements for monitoring, audit, or staff development; and
- e) Regular advice to the Deputy Vice-Chancellor (Academic) on matters to be included in induction programs for managers and new staff and other forms of staff development.

## **9. Management of Conflicts of Interest**

The following procedures are designed to manage situations that present conflicts of interest. The procedure to be applied will depend on assessment of the degree of risk in the situation, based on the key test for conflict of interest—whether a reasonable disinterested person would think these relationships and interests could conceivably conflict or appear to conflict with the person’s public role.

The procedures for management fall into categories based on increasing levels of risk. These procedures are not all-inclusive and may require variation in particular circumstances.

- a) An actual, perceived, or potential conflict of interest must always be disclosed. Information about the procedure for the disclosure of actual, perceived, or potential conflict of interest is set out below. The form of the disclosure must be sufficient to allow a decision to be made about its management. In most situations, compliance with the disclosure procedure will be the only management required.
- b) In the case of multiple relationships by a member of staff with the same company or other external organisation, it may be necessary for the University to review the totality of the relationship between the staff member and the company or organisation. This situation may arise where consulting arrangements and financial support for research, which may include the support of students, are derived from the same source. It may also arise in a complex commercial environment, where a member of staff may have varying levels of commitment and opportunities for benefit.
- c) Management procedures will escalate commensurate with the risk presented. This may include public disclosure of conflict of interest.

## **10. Disclosure Procedure**

Members of staff are required to complete a confidential Disclosure Statement as soon as they become aware that they may have an actual or potential conflict of interest.

A copy of the Disclosure Statement can be found at [www.hr.unsw.edu.au/poldoc/disclosure.rtf](http://www.hr.unsw.edu.au/poldoc/disclosure.rtf)

The Statement should be downloaded and completed and then either emailed or personally delivered to the staff member’s Head of School or Head of administrative unit for evaluation.

If a management procedure beyond disclosure is deemed to be required by the supervisor, this will be reported to the member of staff and, if appropriate, to other relevant officers of the University. An appropriate procedure to manage or eliminate the conflict of interest will be agreed.

Any unresolved situation or disagreement will be referred to the Disclosure Review Committee (DRC) for a final decision.

A perceived, potential, or actual conflict of interest affecting a Head of School or administrative Division should be disclosed to the Deputy Vice-Chancellor (Academic). Conflicts of interest affecting members of the Senior Management Group, including the Vice-Chancellor, should be disclosed to the Chair of the Audit Committee of Council.

## **11. Confidentiality of Disclosure**

The University will seek to ensure that confidential disclosures are protected from misuse. Conflict of Interest disclosures will be treated as confidentially as possible, within the requirements of the law.

A supervisor in receipt of a disclosed conflict of interest will exercise his or her judgment about the level of confidentiality necessary to manage the conflict. If in doubt, the supervisor should seek advice from the DRC.

The supervisor will inform the person disclosing the conflict of their decision on further disclosure, where this arises. If this is not agreed between the parties, the matter will be referred to the DRC.

The annual reporting of the management of conflict of interest will be presented in a way that safeguards the confidence of the person making a disclosure. The DRC may seek further particulars on any conflict of interest where they judge the interest of the University to be affected.

At the time of enrolment, every research student has the right to know the sources of funding of the research person or group with which they will be associated. The research student should sign a statement, acknowledging that he or she has received this information.

## **12. Whistle-blowing**

If a member of staff or student has knowledge that leads them to the assumption that a conflict of interest exists that may not be disclosed, they should deal with this through discussion with a relevant supervisor, or through the grievance resolution (<http://www.infonet.unsw.edu.au/poldoc/contact.htm>) or protected disclosures ([http://www.infonet.unsw.edu.au/poldoc/protected\\_disclosure.htm](http://www.infonet.unsw.edu.au/poldoc/protected_disclosure.htm)) procedures.

## **13. Disclosure Forms**

Disclosure only occurs when submitted on the confidential Disclosure Statement. The fact that a matter may be known by others, or is considered public knowledge, is not a substitute for disclosure on the required form.

The confidential Disclosure Statement form is available at <http://www.hr.unsw.edu.au/poldoc/disclosure.rtf>.

## **14. Failure to avoid Conflict of Interest**

Failure to avoid conflicts of interest, or failure to adequately disclose and manage unavoidable conflicts of interest, may result in:

- resentment amongst staff or students who perceive others to be gaining unfair advantage;
- University and individual's inability to respond to unfounded accusations of personal benefit;
- damage to the reputation of the University and the individual;
- loss of public trust in the University and its research, teaching, services, or management.

Failure to disclose actual or potential conflicts of interest can lead to:

- misconduct or other disciplinary proceedings against the staff member;
- action by agencies such as the Audit Office of NSW, ICAC, and Ombudsman;
- legal action against the University or the individuals concerned.

## **15. Related UNSW Policies**

UNSW Code of Conduct - <http://www.hr.unsw.edu.au/poldoc/codecond.htm>

Responsible Practice of Research -

[http://www.secretariat.unsw.edu.au/acboard/approved\\_policy/Code\\_of\\_Conduct\\_Research.pdf](http://www.secretariat.unsw.edu.au/acboard/approved_policy/Code_of_Conduct_Research.pdf)

UNSW Guidelines for Commercial Activities -

[http://www.infonet.unsw.edu.au/poldoc/UNSWguidelines\\_commercial\\_activities.htm](http://www.infonet.unsw.edu.au/poldoc/UNSWguidelines_commercial_activities.htm)

Employment or Engagement of Services Involving Personal or Other Significant Relationships -

<http://www.hr.unsw.edu.au/poldoc/emprel.htm>

Paid Outside Work by Academic Staff - <http://www.infonet.unsw.edu.au/poldoc/pow.htm>  
Protected Disclosures - [http://www.infonet.unsw.edu.au/poldoc/protected\\_disclosure.htm](http://www.infonet.unsw.edu.au/poldoc/protected_disclosure.htm)  
Intellectual Property - <http://www.infonet.unsw.edu.au/poldoc/ippol.htm>  
Grievance Procedures - <http://www.infonet.unsw.edu.au/poldoc/contact.htm>



## UNSW Policy on Competitive Neutrality and Pricing

<b>Responsible Officer</b>	Deputy Vice-Chancellor (Resources)
<b>Contact Officer</b>	Chief Financial Officer
<b>Authorisation</b>	UNSW Council Resolution CL05/093 (29 August 2005)
<b>Policy Effective from</b>	1 January 2006
<b>Associated Documents</b>	Paid Outside Work by Academic Staff, Conflict of Interest
<b>Modifications</b>	
<b>Review Commencement Date</b>	January 2008
<b>Superseded Documents</b>	Paid Outside Work by Academic Staff, Conflict of Interest
<b>File Number</b>	97/3218

### 1. Background

In 1995, the Council of Australian Governments (COAG) implemented the recommendations of the report entitled National Competition Policy, commonly referred to as the 'Hilmer report'. One aspect of that agreement which has implications for UNSW is the application of the principles and practices of competitive neutrality.

The Australian government's policy of competitive neutrality (CN) applies to business activities carried out by publicly funded institutions, including universities.

The relevant objectives of the policy in terms of UNSW commercial activities are:

- To ensure that commercial businesses do not enjoy net competitive advantage over their private sector competitors simply by virtue of their public ownership (and the various advantages this entails) either by the removal of the advantage or by applying some surrogate which neutralises the advantage
- To encourage fair and effective competition in the supply of goods and services

Key aspects of the policy relate to administrative transparency, accountability, and contestability as well as efficient allocation and utilisation of public resources. Complaints about failure to comply with competitive neutrality principles may be referred by the Premier to the Independent Pricing and Regulatory Tribunal of New South Wales.

### 2. Application of Competitive Neutrality at UNSW

This policy applies the principles of competitive neutrality to UNSW businesses and other commercial activities (including contract research).

The principles of competitive neutrality require that UNSW businesses and other commercial activities charge a competitive amount for their services, rather than a reduced price based on cost advantages that arise from being part of a large, government-funded institution. These cost advantages emerge from a range of sources, such as the University's tax-free status and shared infrastructure and resources funding, which typically underwrite the indirect costs of projects.

Many of the benefits of applying CN are not easily measured in dollar terms, but are substantial for UNSW:

- the adoption of improved business practices at UNSW
- establishing a better basis for resource allocation decisions at UNSW
- improved accountability and transparency at UNSW
- unwinding of cross subsidies in service provision at UNSW

The costs that must be recognised in terms of CN principles include buildings and physical infrastructure, university-wide information technology, and other non-faculty services, including insurance and financial management services. From 2006, these costs will be recovered through an overhead levy to be charged on all externally funded commercial activities and contract research.

### **3. Full Cost Recovery**

Prices charged should reflect the full cost of activities. This means that prices should include all direct and indirect costs (including shared and joint costs) associated with providing the service. Where the client is external to the University, UNSW expects the client to meet the total costs of the activity, including indirect costs.

Cross-subsidisation between commercial and other activities is undesirable as it is not competitive and reduces the transparency of transactions. While under-pricing may appear to have advantages in securing a contract, such an approach is usually not in the interest of the University. Full cost recovery encourages identifiable and rational use of resources and the disclosure to the community of the real cost of providing services. This leads to pricing policies for commercial work in line with national competition policy.

### **4. Costing**

To calculate full project costs you need to identify the direct costs of the project, calculate the indirect costs of the project, and add these figures together to arrive at the competitively neutral cost.

The cost of a business activity is the sum of the full direct and indirect costs. The price of the activity to the client must be at least the full cost, unless a conscious decision is made by the University that the activity should be subsidised on community benefit grounds.

#### **4.1 Direct Costs**

Direct costs are those costs that are directly attributable to the project, and may include:

- salaries and on-costs of project staff, including the principal investigator/consultant (on-costs include superannuation contributions, payroll tax, worker's compensation insurance, annual leave loading, and provisions for long service leave; on-costs are approximately 26% of base salary, though this may vary depending on the superannuation scheme)
- stipends of research assistants
- specialised computing and database charges
- materials and supplies
- equipment and components

- brokerage and freight
- large volume communication (telephone, fax, courier, postage)
- photocopying, report production
- external consulting services
- workshop, laboratory, and other scientific services
- travel and living expenses

## 4.2 Indirect Costs

Indirect costs (overhead or infrastructure costs) are the costs to the institution for carrying out programs that cannot be easily allocated to single projects.

Indirect costs for a particular research or consultancy project:

- do not represent a profit margin for the university
- are difficult to attribute and difficult to quantify
- are estimated by averaging them across all projects to derive a simple formula (at UNSW, a percentage of each project's gross revenues irrespective of whether the project makes a profit or loss)

At UNSW, the indirect costs for which commercial activities are charged are:

- provision and maintenance of buildings and physical infrastructure
- university-wide information resources and technology
- basic telecommunications
- insurance and legal services
- financial management services
- security
- non-faculty administrative services

## 5. Pricing

In order to ensure that pricing of commercial activities and contract research is consistent with the interests of the University and the principles of competitive neutrality, pricing for each project will be determined on the basis of:

- a comprehensive analysis of direct and indirect costs; and
- a deliberative and defensible decision about the final price in the context of competitive neutrality guidelines and the University's expectations of full cost recovery.

Pricing of projects will be done in the context of developing a contract between the external client and UNSW or one of its controlled entities.

## 6. Community Benefit

Under certain circumstances, government permits that universities may supply particular goods and services, including research, at or below cost, on public policy grounds.

This permission is modelled on the public sector commitment to community service obligations (CSOs), where certain activities are undertaken for community benefit and are therefore not required to be commercially profitable or competitively neutral. CSOs allow the public sector to retain its commitment to social and cultural objectives in the context of competition policy reform.

Any University subsidy of commercial activities undertaken on the basis of community benefit must be transparent, and this funding approved and reported. In signing off on the proposal for such activities, the Dean is required specifically to approve the subsidy on the grounds of community benefit, with a periodic review requirement from the DVC (Academic).

## **7. Approval**

Approval of University Paid Outside Work and other University commercial activities by the HOS/Dean is dependent on the appropriate costing of all aspects of the activity and provision for the full recovery of any UNSW costs associated with the activity.

## **8. Staff Responsibility**

Staff should ensure that UNSW business activities (including contract research) are conducted in accordance with the principles of competitive neutrality and the UNSW Pricing Policy. Any departure from full cost recovery and competitively neutral pricing should only occur in accordance with this policy and must have the approval of the Dean, with reasons placed on the registered file.

## **9. Reporting and Review**

All commercial activities at UNSW are required to have a Registered File and be reviewed at least every three years. Staff are required to report involvement in paid outside work on an annual basis. The review of this policy will take account of the reports of these reviews.