

# Outside Professional Activities Policy

## Section 1 - Purpose

(1) This Policy sets out the management principles of Charles Sturt University (the University) for the undertaking of outside professional activities by staff on behalf of the University or in a private capacity.

### Scope

(2) This Policy applies to and must be complied with by:

- a. continuing and fixed term full time staff;
- b. continuing and fixed term part time staff or casual staff where the conduct of the outside professional activity may affect the ability of the staff member to fulfil the duties of their employment with the University;
- c. visiting and adjunct staff when undertaking work for and on behalf and in the name of the University; and
- d. staff during periods of leave and during Special Study Programs.

### References

(3) Where intellectual property arises, or is likely to arise, from the undertaking of outside professional activities, all ownership and use issues in respect of the intellectual property are to be determined in accordance with the University Intellectual Property Policy.

(4) Where any University outside professional activity involves commercial activity as defined by and coming within the scope of the University Statutory Guidelines for Commercial Activities (including in particular any commercial activity that involves the receipt or expenditure (including funding) or uninsured risk by the University in excess of \$100,000 per annum) that University outside professional activity must be conducted in accordance with the University Statutory Guidelines for Commercial Activities. In the event of any inconsistency between the provisions of this Policy and the provisions of the University Statutory Guidelines for Commercial Activities, the provisions of the University Statutory Guidelines for Commercial Activities shall prevail.

(5) The University [Appointments Procedure - Academic Work Functions](#) and the related [Teaching and Professional Work Function Guidelines - Professional Activity Workload](#) establish four work function categories for academic members of staff. One of those categories is the Teaching and Professional work function category which requires engagement in Professional Activity as defined in the Workload Guidelines. The issue of whether any work undertaken in an outside professional activity by a Teaching and Professional work function academic member of staff counts towards their Professional Activity workload is referred to in Part H of this Outside Professional Activities Policy.

## Section 2 - Glossary

(6) In this Policy:

- a. Professional activity - means the provision of services as a member of a profession or trade.
- b. Outside professional activity - means professional activity with a third party outside the University which generates financial or in-kind benefits.

- c. University outside professional activity - means outside professional activity undertaken by an employee of the University for and on behalf of the University where the University is responsible for the performance of the activity, the benefits and risks of the activity are borne by the University and for which a written Agreement will be entered into by the University with the outside individual or organisation.
- d. Private outside professional activity - means outside professional activity undertaken by a University employee in their private capacity to which the University is not directly or indirectly a party and in which the benefits and risks of the outside professional activity are borne by the University employee.
- e. Research outside professional activity - means any outside professional activity where the predominant nature of the activity satisfies the definition of research as provided by the Commonwealth Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (or equivalent or successor Commonwealth Department from time to time).
- f. Non-research outside professional activity - means all outside professional activity not coming within the definition of research outside professional activity in clause 6e.
- g. Delegated Officer - means the officer appointed to determine applications for approval of outside professional activities in accordance with Part L of this Policy.
- h. Primary Budget Centre and Primary Budget Centre Manager - respectively have the same meanings as set out in the University Delegations and Authorisations Policy

## **Part A - Benefits and Risks of Engaging in Outside Professional Activities**

(7) Outside professional activities which can create benefits for the University and employees are therefore encouraged to undertake outside professional activities provided such activities do not conflict with their primary employment obligation to the University and do not conflict with the interests of the University (for information on what constitutes a conflict of interest, employees should refer to the University Code of Conduct and the University Conflict of Interest Procedure). Such outside professional activity should be related to the employee's expertise and should be of a kind and standard that is likely to enhance the academic and professional status of the individual employee and of the University. The benefits which may accrue to the University include:

- a. bringing the University into closer contact with a variety of external situations, thereby leading to invigorated research, teaching and professional practice;
- b. community engagement whereby the special expertise and skills of University employees is made available to the wider community and, in particular, to the regions that the University was established to serve;
- c. national benefits accrue from expert advice in the development of policy;
- d. new products and know-how reach the market place, or increase export income and import replacement;
- e. students are given valuable educational opportunities and added experience outside the University, or in projects inside the University which are funded by outside professional bodies, government or industry;
- f. Creating links with government and industry and expanding opportunities for workplace learning for University students in a competitive workplace learning environment
- g. collaborative arrangements are established with outside organisations that attract various benefits for both the University and the other party;
- h. the promotion of the University's image to the wider community;
- i. income received may supplement University's operating grant; and
- j. the individual's professional standing is enhanced.

(8) On the other hand, there is a need to ensure that the University, its staff and students are protected from legal and financial liability associated with outside professional activities. Outside professional activities must be managed to reduce the level of risk to the University and to avoid conflict of interest and damage to the reputation of the

University. This could arise through unfair competition with the private sector that may prove to be detrimental to the University reputation and standing.

(9) The quality of the normal activities of the University should be maintained when any staff are employed to cover an employee's work and responsibilities whilst that employee is participating in an outside professional activity or when any staff are employed to contribute to an outside professional activity.

## **Part B - Preference for University Outside Professional Activity**

(10) The University preference is that the benefits and risks of outside professional activities will usually be best managed by the activity being undertaken as a University outside professional activity rather than as a Private outside professional activity.

(11) Research outside professional activity will normally only be approved as a University outside professional activity.

(12) Any outside professional activity which requires the use of the University facilities and resources other than the facilities and resources of a University clinic or business must be undertaken as a University outside professional activity.

(13) If the outside professional activity is likely to interfere with the duties of the University employee or carries a significant amount of remuneration it should be undertaken as a University outside professional activity.

(14) Private outside professional activity is not a right of staff but is an activity which may be permitted subject to the provisions of this policy.

## **Part C - Activities which are Exempt from this Policy**

(15) The following activities are exempt from the provisions of this Policy:

(16) The following activities which are considered to be part of the normal duties of an academic member of staff at the University, even though such activities may attract income:

- a. clinics, practices or businesses conducted by the University or its controlled entities;
- b. activities governed by the University Statutory Guidelines for Commercial Activities;
- c. writing, refereeing, reviewing, contributing to and editing of scholarly books and journal manuscripts;
- d. occasional public lectures, broadcasts, telecasts, articles in media publications or participation in conferences;
- e. examining theses for other institutions;
- f. reviewing research grant applications for outside organisations;
- g. organisation of and participation in academic conferences, symposia and seminars;
- h. service on community bodies where the professional expertise of the University employee is the main reason for their service on the community body;
- i. creative performances and/or exhibitions;
- j. acting as Examiner and in associated roles for the New South Wales Board of Studies;
- k. unpaid membership of committees (including university sector, government or syllabus committees, learned societies and professional associations), which may include recovery of expenses; and
- l. advice to Senate inquiries, tribunals and the community.

(17) The following activities which are not considered to be part of the normal activities of a member of staff (whether academic member of staff or professional/general member of staff) at the University:

- a. community service;

- b. volunteer service; and
- c. work with an employer other than the University where that work is undertaken outside the staff member's ordinary hours of work at the University, is unrelated to the staff member's discipline and is not detrimental to the reputation of the staff member or the reputation of the University. Staff should consult with their supervisor if there is any uncertainty as to whether a proposed second job comes within this exemption;

provided that the service or work does not impact adversely on the performance of the staff member's duties at the University and does not create any actual or perceived conflict between the staff member's private interests and the interests of the University.

(18) Such other outside professional activities as may be specifically exempted from time to time by the Vice-Chancellor or the relevant Delegated Officer.

(19) The Private outside professional activities of staff members employed on a part time basis are exempt from the approval requirements of this Policy if:

- a. the activities occur outside the University part-time work period; and
- b. the staff member does not represent the activities or the staff member as being connected with the University.

## **Part D - Prohibited Activities**

(20) Approval will not be given to undertake the following types of activity:

- a. private tuition of University students;
- b. work that competes with services provided by the University;
- c. With the exception of occasional guest lectures or co-supervision of research students, University staff may not teach at another higher education institution unless pursuant to a written Agreement between the University and the other higher education institution.

## **Part E - Activities Permitted Subject to Prior Approval**

(21) All outside professional activities which are not either exempted or prohibited under Part C and D respectively of this policy require approval in accordance with the provisions of this Policy. Such activities that are permitted subject to prior approval include:

(22) Consultancies - Consulting occurs when an external organisation pays for the skills and expertise of University employees to work on specified projects. In such cases, the client will normally expect to own the intellectual property or advice given which arises from the paid consultancy and will also expect confidentiality from the University. Consultancies can either be University or Private (see Part F and G of this Policy). Research consultancies will normally only be approved as University outside professional activities. Work as an expert witness is deemed to be consultancy by this Policy.

(23) Contract work - Contract work is activity undertaken by University employees for an outside organisation or company on a specific project with specified objectives and usually results in a deliverable product or report. Ownership of any intellectual property arising out of the work must be negotiated between the parties according to their relative financial and intellectual contributions prior to the start of the work.

(24) Collaborations - Collaborations occur where projects are jointly developed between the University and an outside organisation. Collaborations may also occur where an outside organisation or company wishes to support work by the University of a general or strategic kind with the outside organisation having first option to commercial rights to any products, processes or other outcomes. Unless otherwise agreed to in advance, the ownership of intellectual property

arising from collaborative arrangements should be retained by the University.

(25) Professional practice - Professional practice covers both University and private work done by employees in areas such as clinical practice, counselling and related professional activities where practice or staff development is required for professional accreditation. This is normally regular or long-term and is subject to the approval of the Delegated Officer, who will determine any conditions to be attached to the approval including the conditions in Part G of this Policy.

(26) Testing Services - Testing occurs where analysis and data collection are made by the University on behalf of an outside person or organisation. The University does not normally encourage routine testing unless the service demonstrably enhances the University's core research and teaching mission or supports the region by providing expertise or services which would not otherwise be available. Full commercial rates should be charged for such services.

(27) Licensing, joint ventures and other commercial arrangements - Intellectual property often arises out of collaborative activities that may have commercial value leading to licensing, joint venture and other commercial arrangements. For University outside professional activities of this type Agreements covering such activities shall be negotiated in advance by the University and should include, for instance under licensing arrangements, up-front payments and royalties.

(28) Any private work conducted by an employee and related to his/her professional expertise, including that done while on leave or on a Special Studies Program except for that described in Part C of this Policy.

(29) Service on Boards of public research organisations.

(30) Appointment to any public or private body where an employee may be expected to serve at any times when University facilities may be used.

(31) Membership of committees (including government committees or other management groups) where the employee receives payment other than for expenses.

(32) Involvement as partner, principal, company director or board member in a company or in a long-term engagement by a company or organisation.

(33) Delivery of a series of lectures or broadcasts undertaken for an outside organisation.

(34) Preparation of learning materials for other universities or other organisations except for occasional presentations and occasional lectures.

(35) Any private work undertaken by an employee related to their professional expertise within a clinic, practice or business conducted by the University or its controlled entities.

## **Part F - University Outside Professional Activities**

(36) University outside professional activities will be conducted on the condition that an employee engaged in an approved university outside professional activity:

- a. will be entitled to use the name of the University, its letterhead and his/her academic rank or administrative title;
- b. will be permitted to use the University's resources such as technical or professional/general staff, equipment, administration and information and communications technology on terms to be determined by the Delegated Officer;
- c. is covered by the University's professional indemnity and public liability insurances. These safeguard the

employee, within the conditions and financial limits of the insurance cover, provided that any acts of default or negligence by the employee are not deemed wilful; and

d. may be defended by the University in the event of a claim against the employee.

## **Part G - Private Outside Professional Activities**

(37) Private outside professional activities will be conducted on the following conditions:

- a. The University accepts no responsibility and no legal or financial liability for any private outside professional activities undertaken by a University employee; and
- b. An employee engaged in a private outside professional activity will:
  - i. be responsible for their own Professional Indemnity and Public Liability insurance, evidence of which is to be provided with the application for approval to undertake private outside professional activity as set out in the Approval Procedure in Part M of this Policy;
  - ii. provide a Release and Indemnity to the University releasing and indemnifying the University from and against all claims of liability in respect of or arising out of the private outside professional activity as part of the application for approval to undertake the private outside professional activity as set out in the Approval Procedure in this Policy;
  - iii. be responsible for notifying their client, in writing, that the activity is being undertaken in a purely private capacity and not as an employee or representative of the University, that the University is not responsible for and does not provide any express or implied warranty in respect of the work, and the employee shall provide evidence of that notification as part of the Approval Procedure in this Policy;
  - iv. not be defended by the University in the event of any claim against the employee;
  - v. not use the University's resources, facilities, letterhead or information and communications technology in connection with private activities;
  - vi. not make use of the University's reputation, name or logo in connection with the private activity;
  - vii. not use their University academic rank in connection with the private activity;
  - viii. request clients to direct all communications including postal, telephone and email, to a place other than the University;
  - ix. not credit fees arising from private activities to any University account;
  - x. be responsible for all of their own financial arrangements including any requirement for the obtaining of an Australian Business Number and any legally required payment of tax; and
  - xi. obtain prior approval from Executive Dean , Executive Director, Head of School or Primary Budget Centre Manager for any proposed absences from the University relating to the outside professional activity and provide contact details during such absences.
- c. As part of the Application and Approval procedure referred to in clause 55 of this Policy a copy of all applications for approval of Private outside professional activities shall be provided by the applicant's supervisor to the University Division of People and Culture and any comments or suggestions by the Division of People and Culture shall be attached by the supervisor to the application and shall be considered in the recommendation and approval stages referred to in clause 55 of this Policy.

## **Fractional-Time Appointments**

(38) Where an employee wishes to pursue Private outside professional activities, apart from those activities which are exempt from this Policy, the Delegated Officer may consider fractional-time release with proportional salary savings to the University.

(39) Any such variation in employment conditions will be recorded in writing by the Division of People and Culture.

## Part H - Teaching and Professional Staff

(40) Where a member of academic staff is categorised as having a Teaching and Professional work function then the issues of whether the undertaking by that member of staff of a University outside professional activity or a Private outside professional activity as approved under this Outside Professional Activities Policy:

- a. shall constitute a Professional Activity as defined in the [Appointments Procedure - Academic Work Functions](#) and [Teaching and Professional Work Function Guidelines - Professional Activity Workload](#); and if so
- b. to what extent the undertaking of the outside professional activity shall count towards the staff member's Professional Activity workload shall be determined by the Head of School in accordance with the provisions of the [Appointments Procedure - Academic Work Functions](#) and the [Teaching and Professional Work Function Guidelines - Professional Activity Workload](#).

## Part I - Important Issues for Staff

(41) Before considering any outside professional activity, it is important that staff be aware of the following:

- a. Many University outside activities are initiated by informal discussions between employees and external individuals and organisations. University employees are not authorised to commit the University to any agreement and potential clients should be advised of that fact. With permission from their supervisor, employees may commence initial negotiations concerning the broad nature and scope of work to be undertaken, but are not authorised in initial negotiations to commit the University to detailed matters such as the asking price, particulars of payment, length of contract period, secrecy provisions, restriction on publication, royalty provisions, performance clauses and intellectual property rights and such detailed matters are to be left to the later Agreement drafting stage.
- b. Undertakings made verbally or in writing to an outside person or organisation may expose the University to liability. In communications with the outside party, it should always be made clear that any initial discussions are subject to internal University approval processes and are undertaken on a "without prejudice" basis. Staff members should not give any undertakings with respect to the conditions of an Agreement.
- c. Employees should take care to avoid a conflict of interest with their University responsibilities, and to avoid outside involvement which may impede their teaching, research and other responsibilities to the University.
- d. The University and employees should negotiate to retain the right to publish in all consultancies, contractual and collaborative arrangements. In the event that publication is restricted, the period of restriction should be limited to 18 months unless otherwise approved by the Delegated Officer.
- e. All work undertaken should be conducted in the most productive and efficient manner possible. In doing so, employees should not agree to timelines for specific outcomes that cannot be guaranteed.
- f. Special care should be taken with termination clauses to ensure that financial commitments, such as emoluments committed for postdoctoral or support workers or for scholarships, are protected.
- g. The University should seek to own intellectual property arising or likely to arise from any University outside professional activity, and any negotiations in respect of intellectual property must be conducted on behalf of and in consultation with the Delegated Officer rather than by an individual employee.
- h. In the absence of specific written agreement by the Delegated Officer to the contrary, a student should not be involved in University outside professional activities of a commercial nature until the student has assigned their rights in respect of the activity to the University.
- i. The appropriate person to sign an Agreement on behalf of the University for a University outside professional activity shall be determined by reference to the University Policy on Delegations and Authorisations which forms part of the University Administration Manual.

## **Part J - Participation of Other University Staff**

### **University Outside Professional Activities**

(42) Participation in a University outside professional activity by member of University staff other than the member of staff to whom approval is granted pursuant to this Policy shall be undertaken as part of the normal duties of the other member of staff and subject to the provisions of the other member of staff's employment contract with the University and all applicable University policies and procedures.

### **Private Outside Professional activities**

(43) If a member of staff wishes to undertake a Private outside professional activity which will involve one or more other members of University staff then as part of the Application and Approval process referred to in Part M of this Policy the member of staff who is applying for approval of the Private outside professional activity pursuant to this Policy must obtain and attach as part of the application:

- a. written consent of each other member of staff to such participation; and
- b. written approval of such participation by the Head of School or Executive Director of the School or Division in which each other member of staff is employed.

## **Part K - Participation of Students**

### **University Outside Professional Activities**

(44) Students may participate in University outside professional activities where both the University and the student benefit from the activity, but students cannot be responsible for any University outside professional activity, and an appropriately qualified and senior member of staff must take responsibility for the student and any other person employed to perform the activity.

(45) The University will not normally encourage the involvement of students in a University outside professional activity which involves commercial activities where there is the possibility that the results are to be kept confidential for commercial or other reasons whereby the student's opportunity to engage in free debate may be restricted.

(46) Where honours or postgraduate students are invited by University staff as part of their course to be involved in University outside professional activities, students must be immediately and fully informed by their Principal Supervisor of any likely consequences such as those affecting free discussion and publication of the results of the activity. Postgraduate students and their supervisors shall be required to sign Agreements detailing matters including confidentiality and ownership of any intellectual property developed. Postgraduate students shall be alerted to their rights and obligations on intellectual property by the Principal Supervisor. The University Intellectual Property Policy determines any rights of ownership of intellectual property by students.

(47) Unless the Delegated Officer waives or agrees in writing and in advance, where students are employed by the University on a full-time, fractional-time or casual basis, the University owns any intellectual property arising from the employment of a student.

(48) Any proposed participation of a student or students in a University outside professional activity must be disclosed in detail in the Application and Approval Form referred to in clause 54-55 of this Policy.

### **Private Outside Professional Activities**

(49) If a member of staff wishes to undertake a Private outside professional activity which will involve participation by one or more students of the University then as part of the Application and Approval process referred to in clause 54-55



of this Policy the member of staff who is applying for approval of the Private outside professional activity pursuant to this Policy must provide detail of that participation and obtain and attach as part of the application:

- a. written consent of each student to such participation; and
- b. written approval of such participation by each student's Head of School.

(50) Where the Head of School has approved the participation of a student in a Private outside professional activity as referred to in clause 49 that participation must:

- a. be voluntary;
- b. be appropriately remunerated;
- c. be covered by all insurances required by law;
- d. be conducted in accordance with all applicable laws;
- e. not adversely affect or prejudice the study program of the student;
- f. for postgraduate students, not exceed the time allowed for outside work as specified in the conditions for Australian Postgraduate Awards or any scholarship award conditions applying to the student;
- g. be covered by the Release and Indemnity to the University referred to in clause 37b(ii) of this Policy; and
- h. not create any actual, potential or perceived conflict of interest between the private interest of the member of staff to whom approval for the private outside activity is granted pursuant to this Policy and that member of staff's responsibilities to the University as referred to and as covered by the University Conflict of Interest Procedure.

## **Part L - Approval Authority**

(51) In accordance with the University Policy on Delegations and Authorisations ('the Delegations Policy') and in particular with Schedule 5 of that Policy:

- a. The Vice-Chancellor is the Delegated Officer with authority:
  - i. to approve any outside professional activity that involves the acquisition or lease of property abroad or a formal agreement between a Minister of the Crown or Chief Executive Officer of a Commonwealth or State Government Department (Delegations Policy OPA6); and
  - ii. to approve staff engagement as an expert witness (Delegations Policy OPA 7).
- b. The Primary Budget Centre Manager (Band 7) as defined in the Delegations Policy is the Delegated Officer with authority:
  - i. to approve engagement of staff in delivering educational short courses or professional training programs (except occasional lectures and other activities exempted under Part C of this Policy) (Delegations Policy OPA12);
  - ii. to approve secondary employment, professional practice or other work within salary (Delegations Policy OPA14); and
- c. All other applications for approval of outside professional activities not covered by subclause (a) or (b) in this clause shall be determined by a Deputy Vice-Chancellor. The particular Deputy Vice-Chancellor shall be determined as follows:
  - i. Learning and Teaching - Applications for approval of outside professional activities which have a predominantly learning and teaching nature shall be determined by the Deputy Vice-Chancellor (Academic).
  - ii. Research - Applications for approval of outside professional activities which have a predominantly research nature shall be determined by the Deputy Vice-Chancellor (Research).
  - iii. Applications by members of academic staff or by professional/general members of staff for approval of

outside professional activities which are not predominantly in the nature of either Learning and Teaching or Research shall be determined by the Deputy Vice-Chancellor who has ultimate line management responsibility for the applicant under the applicant's contract of employment.

- iv. In the event that any dispute arises as to the predominant nature of an outside professional activity as referred to in this subclause or as to the particular Deputy Vice-Chancellor to approve an application, the dispute shall be referred to and determined by the Vice-Chancellor whose decision on the dispute shall be final.

## **Part M - Application and Approval Procedures**

(52) Separate application and approval procedures exist for research outside professional activities and for non-research outside professional activities as defined in Section 2 of this Policy and as provided for in this clause. All other clauses in this Policy remain applicable to both research outside professional activities and to non-research outside professional activities as respectively.

### **Research Outside Professional Activities**

(53) All applications for and approvals of research outside professional activities shall be made subject to the procedures established by the University Office of Research Services and Graduate Studies available at [www.csu.edu.au/research/support/researchers/funding/submission](http://www.csu.edu.au/research/support/researchers/funding/submission).

### **Non-Research Outside Professional Activities**

(54) All applications for approval of non-research outside professional activities shall be made on the University [Application and Approval Form for Non-Research Outside Professional Activities](#).

(55) The approval process for non-research outside professional activities shall be undertaken in the following stages:

- a. the Non-Research Application and Approval Form will be submitted by the applicant to their supervisor. In respect of Private outside professional activities (but not in respect of University outside professional activities) the supervisor will provide a copy of the application to the University Division of People and Culture and will attach to the application a copy of any written comment or suggestion made by the Division of People and Culture. The supervisor shall then consider the application and recommend to the Executive Dean, Executive Director or Primary Budget Centre Manager of the Faculty, Division or Primary Budget Centre in which the applicant is employed by endorsement on the Application Form whether the application should be approved;
- b. the Executive Dean, Executive Director or Primary Budget Centre Manager shall then consider the application and recommend to the Delegated Officer by endorsement on the Application and Approval Form whether the application should be approved;
- c. the Delegated Officer will then approve or not approve the application by endorsement on the Application and Approval Form;
- d. the recommendation stages referred to in paragraphs (a) and (b) of this subclause shall not be conclusive of any application. All applications shall proceed through both of those recommendation stages before being determined by the Delegated Officer at the approval stage referred to in paragraph (c);
- e. the Office of Governance and Corporate Administration will allocate an Outside Professional Activity Number to the activity as part of the registration process referred to in clause 58 of this Policy;
- f. the Delegated Officer shall then request the University Legal Services to arrange for an appropriate Agreement to be drafted, negotiated and signed by the Vice-Chancellor or Delegated Officer before any approved University outside professional activity is commenced; and
- g. the original of the signed Agreement for each University outside professional activity is to be filed in the office of the relevant Executive Dean, Executive Director or Primary Budget Centre Manager and a copy of the signed

## Part N - Approval Criteria

(56) Before a supervisor, Executive Dean, Executive Director or Primary Budget Centre Manager recommends and before a Delegated Officer approves an application to undertake outside professional activities each must be satisfied that:

- a. in respect of University outside professional activities:
  - i. the activity will enhance the academic reputation and community standing of the University;
  - ii. use of University resources by other employees or students is not unreasonably restricted;
  - iii. exposure to legal or financial liability is minimised;
  - iv. all necessary legal and insurance checks have been completed;
  - v. all necessary approvals, including animal and human ethics and radiation safety procedures and approvals will be obtained as a precondition before any activities that are dependent upon those approvals will be undertaken;
  - vi. the Division of Finance has checked the budget submitted for the activity to ensure appropriate and accurate provisions have been made, and that the project is financially viable;
  - vii. principles of competitive neutrality as set out in the NSW Treasury Policy Statement on the Application of Competitive Neutrality are reflected in appropriate costing and pricing in accordance with clause 66 of this Policy; and
  - viii. agreement has been reached on internal disbursement of residual income to the University, Faculty, School, Division, Primary Budget Centre or employee, as may be determined in accordance with clauses 69 to 71 of this Policy; and
- b. in respect of Private outside professional activities:
  - i. the outside professional activity will not prejudice the academic reputation and community standing of the University;
  - ii. the staff member is satisfactorily performing their employment obligations to the University;
  - iii. the outside professional activity will not adversely affect the staff member's performance of their employment obligations to the University;
  - iv. No conflict exists between the interests of the University and the interests of the staff member and in particular that the Private outside professional activity may not be seen as being in competition with the University;
  - v. University logo, facilities and resources will not be used or involved in the Private outside professional activity;
  - vi. The University is not exposed to any legal or financial risk by the Private outside professional activity;
  - vii. there is no implication that the activity is being conducted on behalf of the University;
  - viii. the staff member holds any necessary professional registration to undertake the outside professional activity;
  - ix. the staff member has taken out sufficient professional indemnity and public liability insurance for the private outside professional activity as referred to in clause 37b(i) of this Policy; and
  - x. the staff member has provided the release and has provided evidence of notification to client as respectively referred to in clause 37b (ii) and (iii) of this Policy.

## Part O - Registers

(57) The Office of Research Services and Graduate Studies shall maintain a Register of all approved research outside

professional activities, including copies of all documents prepared for the application and approval process with attachments.

(58) The Office of Governance and Corporate Administration shall maintain a Register of all approved non-research outside professional activities including copies of all documents prepared for the application and approval process with attachments.

(59) The Office of Research Services and Graduate Studies and the Office of Governance and Corporate Administration will provide access to each approved outside professional activity registered in their respective offices to the Division of People and Culture for recording on the respective staff member's employment file.

## **Part P - Reporting and Monitoring**

(60) Staff undertaking approved outside professional activities are responsible for reporting to their supervisor on their activities annually as part of the staff member's annual performance and professional development assessment procedures. A supervisor may request a report on any outside professional activity at any time from the staff member to whom approval for the activity has been granted if the supervisor is concerned about the impact of the outside professional activity on the staff member's performance of their duties at the University or is concerned about any actual or perceived conflict between the staff member's private interests and the interests of the University.

(61) supervisors are responsible for monitoring approved outside professional activities against continued compliance with the Approval Criteria set out in clause 17 of this Policy and for reporting any concerns to their Executive Dean, Executive Director or Primary Budget Centre Manager who may in turn liaise with the relevant Delegated Officer to ensure that the concerns are addressed.

(62) All University outside professional activities are to be the subject of a Final Report by the staff member to whom approval for the activity was granted to the staff member's Executive Dean, Executive Director or Primary Budget Centre Manager on completion of the

(63) Each of the Office of Research Services and Graduate Studies and the Office of Governance and Corporate Administration shall provide an Annual Report to the Vice-Chancellor providing a summary of all outside professional activities approved and registered in their respective offices during the previous calendar year, not later than 31 March of the following year.

## **Part Q - Financial Management**

(64) Each application for approval of a University outside professional activity which is to be conducted as a commercial activity shall attach a Budget developed by the applicant in conjunction with the Division of Finance.

(65) The Division of Finance will develop and review annually a Schedule of Charges for each of the permitted categories of University outside professional activity referred to in clauses 22 to 28 of this Policy as the basis for costing and pricing of those activities within budgets. If costing and pricing is appropriate for any of the other permitted categories of University outside professional activity referred to in clauses 28 to 34 of this Policy such costing and pricing shall be determined by the Division of Finance on a case by case basis.

(66) In developing costing and pricing for University outside professional activities the University will comply with the principles of commercial neutrality which require that the University is not to use the advantages of government funded facilities and/or salaries to compete unfairly with commercial companies or consultants in the private sector.

(67) The Division of Finance will also determine the appropriate code for each University outside professional activity within the University's accounting system.

(68) All University outside professional activities shall be the subject of audit within the University to ensure that the

requirements of the Public Finance and Audit Act, Treasury Regulations, Accounting Standards and University accounting policies are met.

(69) Income from University outside professional activities shall be distributed as follows:

- a. Until further notice or decision of the Vice-Chancellor acting with the advice of the Intellectual Property and Outside Professional Activities Committee (formed pursuant to provisions of the University Intellectual Property Policy), the residual income (being the gross income less [University overheads and less expenses of the project including salary costs for those directly working on the project](#)) shall be shared on the following basis:
  - i. 50% to the appropriate employee(s);
  - ii. 25% to the appropriate Faculty, Division or Centre;
  - iii. 25% to University accounts nominated by the Vice-Chancellor.
- b. The Vice-Chancellor may vary this distribution for individual University outside professional activities.

(70) The Faculty, Division or Centre portion of residual income shall be distributed within the Faculty, Division or Centre at the discretion of the relevant Executive Dean, Executive Director or Centre Director.

(71) Where more than one employee is involved in a University outside professional activity, the distribution of the employees' share of residual income between those employees will be a matter for the employees to agree. Where there is a failure to agree, then the distribution shall be determined by the Delegated Officer.

(72) Before any residual income is distributed the member of staff to whom approval was granted for each University outside professional activity shall submit as part of their Final Report to the Executive Dean, Executive Director or Centre Director a Financial Statement that outlines the income and expenditure of the project against the initial budget and produces the residual income for distribution pursuant to this Policy and such distribution of residual income shall be subject to the prior written approval of the Executive Dean, Executive Director or Primary Budget Centre Manager.

## **Part R - Breach of Policy**

(73) Any breach of this Policy that is deemed to be a breach of discipline of the University will be dealt with in accordance with the relevant industrial instrument (i.e. Enterprise Agreement or Contract of Employment).

## **Part S - Review**

(74) The decision of a Delegated Officer in relation to an outside professional activity application shall not be subject to internal appeal or review.

(75) Nothing in this Policy prevents an employee from accessing any appropriate procedures for resolution of concerns and grievances under the University Complaints Policy .

## **Part T - Administration**

(76) The Office of Governance and Corporate Administration should be contacted in connection with any administrative matters covered by this Policy.

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	22nd May 2014
<b>Review Date</b>	25th February 2025
<b>Approval Authority</b>	University Council
<b>Approval Date</b>	21st May 2013
<b>Expiry Date</b>	Not Applicable
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