# Employment Conditions Procedure - Additional Employment and University Consultancies

# Section 1 - Purpose

(1) This procedure sets out the conditions and requirements for employees who undertake paid or unpaid work outside of their employment with Charles Sturt University (the University). This ensures that any conflicts of interest are managed and that work done as a University consultancy is appropriately costed and compensated.

### Scope

(2) This procedure applies to all employees, including academic and professional/general staff, who are employed on a continuing, fixed-term, and casual staff basis.

(3) This procedure does not apply to the approval (but may apply to the financial management and payment processes) of research activities with external parties. These must be approved under the processes established by the Office of Research Services and include activities where the predominant nature of the activity meets the HERDC definition of a research activity, or is activity associated with a research grant.

# Section 2 - Policy

(4) This procedure supports the:

a. Code of Conduct
b. Fraud and Corruption Control Policy

# Section 3 - Procedure

## Part A - Additional employment

### General principles

(5) Employment at the University carries with it an obligation to act in the public interest and in accordance with generally accepted standards of conduct for public employees. In some circumstances, this may apply to conduct and activities outside of University employment as set out in the Code of Conduct.

(6) Additional employment is any work or provision of services (paid or unpaid) undertaken by a University employee in their private capacity for a third party, where the University is not directly or indirectly a party and where the employee bears the benefits and risk of the activity.

(7) This procedure is not intended to unreasonably restrict an employee's capacity to earn other income or engage in additional employment.

(8) For academic staff, the following activities are considered part of their normal duties and do not require approval

under this procedure, 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 Commercial Activities Policy
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 or research candidate supervision 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
l. advice to Senate inquiries, tribunals and the community, and
m. such other activities as specifically exempted by the Vice-Chancellor or the relevant delegated officer.

## Identifying conflicts of interest in additional employment

> See also the Conflict of Interest Procedure and Conflict of Interest webpage.

(9) Any additional employment that creates an actual, potential, or perceived conflict of interest must be approved in accordance with this procedure. Where there is no actual, potential, or perceived conflict of interest between the additional employment and the University, no approval is required.

(10) Approval of the additional employment and the appropriate conflict of interest management plan must be secured before commencing the additional employment or as soon as practicable. Where a person has other employment when they are appointed to a position with the University that may cause a conflict of interest, this must be disclosed before commencing in the position.

(11) Without limiting the range of circumstances where there may be a conflict of interest, approval may be required for any additional employment that:

a. is related to the employee's role, discipline or professional expertise (not listed under normal duties of academic staff in clause (7))
b. is undertaken during the employee's ordinary hours of work at the University
c. involves a commercial or business interest/relationship with students or staff of the University
d. may compromise the employees' capacity to perform their duties or meet their work health and safety obligations within the University
e. makes use of any University facility, equipment or resource including computer software and information technology resources
f. makes use of, or may benefit from commercial or other information that the employee possesses by virtue of their employment with the University, or
g. is with any organisation or private enterprise (including an employee's own business) that
    i. the University is involved, or is considering involvement, with in respect to grants, contracts, agreements, sponsoring and/or licensing
    ii. may compete with the University for funds, staff, students, projects, consultancy or any other activity, or

iii. supplies the University with, or may acquire from the University, equipment, services or staff, or
iv. creates a risk of foreign interference and/or foreign bribery (see Part C).

(12) Employees should also consult the Conflict of Interest Procedure and/or seek advice from their supervisor in determining whether their additional employment requires approval. If the supervisor or staff member feels there is any uncertainty, the staff member should apply for approval.

(13) Employees standing for public office must also refer to the Employment Conditions Procedure - Standing for Public Office.

(14) The University will request the details of an employee's additional employment if it becomes aware of a possible conflict of interest.

## Additional employment approval process

(15) For additional employment requiring approval, the employee should seek approval from the delegated officer before commencing the additional employment, using the Request for Approval of a Secondary Appointment Approval Form

(16) Requests will not be approved in cases where the additional employment:

a. creates a conflict of interest (either directly or indirectly) with University interests that cannot be mitigated
b. creates an unacceptable risk of foreign interference, or
c. substantially impairs the employee's ability to perform all expected duties and responsibilities of their position within the University.

(17) Employees must undertake any mandatory training required by the University before additional employment involving foreign interactions is approved (see Part C).

(18) Employees and supervisors will review and discuss additional employment arrangements at least annually (normally as part of the employee's performance and planning review process) to ensure there are no conflicts of interest or non-compliance with this procedure.

(19) Additional employment applications are confidential for all purposes other than review and action by appropriate officers.

(20) University leaders (e.g. SNR5 and above, academic institutional leaders, and Level 10 professional/general staff) generally hold significant delegations to make decisions on behalf of the University and so all cases of additional employment in respect of these staff require approval.

### Recordkeeping

(21) A copy of approved applications and arrangements must be sent to Division of People and Culture to be captured on the employee's file.

## Additional employment conditions

(22) The following conditions apply to additional employment:

a. Employees may undertake additional employment where there is no unacceptable actual, potential, or perceived conflict of interest or risk of foreign interference.
b. Additional employment must not impinge on the capacity or performance of an employee's University duties and responsibilities.

c. Additional employment must not utilise University equipment, information or resources.
d. Employees, when undertaking additional employment:
    i. are not covered by the University's workers compensation, public liability, professional indemnity or other insurances
    ii. must not act in their capacity as an employee of the University (for example, they may not use their university title or position)
    iii. must not use the University's emblem, logo, letterhead, stationery, postal address, phone number, fax number, email address, web address or any other information that might associate the University with the additional employment in any way, and
    iv. are responsible for ensuring that the University will not be liable for, and is indemnified in respect of, any loss or claim connected with contracts that are entered into with other people or organisations.

# Part B - University consultancies

## General principles

(23) University consultancies are those where the University enters into a written agreement with the external party and either:

a. the employee undertakes the activity for and on behalf of the University, and the University bears responsibility for the performance of the activity as well as the benefits and risks of the activity, or
b. for academic staff with a teaching and professional work function, the employee undertakes the activity as part of their professional workload agreement (as per the Teaching and Professional Work Function Guidelines – Professional Activity Workload).

(24) Income received from the external party for the University consultancy must be paid to the University (not the employee) and will be dispersed as set out under the 'Payment for University consultancies' heading.

(25) University consultancies that are commercial activities (as defined in the Commercial Activities Policy) must include a budget, prepared as set out in this procedure.

(26) Where University consultancies are approved to be undertaken as part of a workload or work function agreement, use of University facilities may be approved in limited circumstances and will form part of the agreement with the external party. Comparative commercial rates may be charged to comply with competitive neutrality legislation and avoid unfair competition with other service providers (see Finance Procedure - Cost Recovery).

(27) All University consultancies undertaken as a University employee may be subject to 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.

## Approvals for University consultancies

> See also the Additional employment and University consultancy flowchart

(28) Applications for University consultancies (other than research consultancies) must be approved by the delegated officer.

(29) Applicants must complete:

a. application form

b. OPA budget tool (if the consultancy has a total value of $10,000 or above, the budget tool must be prepared in consultation with a Finance Business Partner).

(30) The delegated officer must request the appropriate agreement/contract from Legal Services, which must be signed by all relevant parties.

(31) Employees may be required to complete mandatory training before a University consultancy involving foreign interactions is approved and/or undertaken (see Part C).

(32) Before approving a University consultancy, the delegated officer must be satisfied that:

a. the activity will enhance the academic reputation and community standing, and/or align with the strategic goals of the University
b. the activity does not unreasonably restrict other employees' or students' use of University resources
c. the employee has completed any required foreign interference training and any risks of foreign interference can be managed (see Part C)
d. all necessary legal and insurance checks have been completed and the University's exposure to legal or financial liability is minimised
e. 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
f. the activity has been costed appropriately in line with the Finance Procedure - Cost Recovery and principles of competitive neutrality applied
g. for consultancies with a total value of $10,000 or above, the Finance Business Partner has checked the budget submitted for the activity to ensure appropriate and accurate provisions have been made, and that the project is financially viable
h. agreement has been reached on the disbursement of residual income to the University, organisational unit or employee (see the 'Payment for University consultancies' heading)
i. where more than one employee is involved in a University consultancy, there is agreement on how the employee's share of residual income entitlements will be shared.

## Recordkeeping

(33) For the documents completed at clauses 29-30:

a. the approved application form must be sent to Division of People and Culture to be captured on the employee's file
b. the approved OPA budget tool must be sent to the Division of Finance to allow for the collection and disbursement of funds
c. the signed agreement(s) must be captured in the University's contract management register (Unirecords).

## University consultancy conditions

(34) Where University consultancies are approved, subject to the terms of the agreement, the employee:

a. can include the activity within workload management arrangements as required by the organisational unit
b. can use the University name and brand and their academic rank or administrative title
c. can 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
d. may be covered by the University's professional indemnity and public liability insurances (provided that any acts of default or negligence by the employee are not deemed wilful)

e. may be eligible to be defended by the University in the event of a claim against the employee
f. must provide other regular reports to the employee's supervisor if requested, and
g. for commercial activities, must provide a final report to the Executive Dean/Executive Director/Band 7.

(35) The activity must be reported on during the employee's annual planning and performance review. This should include reporting on compliance with the conditions set out in this procedure and achievements against the objectives of the University consultancy.

### Payment for University consultancies

(36) All University consultancies that attract income (commercial activity) must include a budget (see the Finance budget tool or contact their Finance Business Partner for assistance for assistance).

(37) Costs and prices must comply with the principles of commercial neutrality and not use the advantages of government-funded facilities and/or salaries to compete unfairly with commercial companies or consultants in the private sector.

(38) Current charges to be used as the basis for costing and pricing of University consultancies can be found in the Finance Procedure - Cost Recovery.

(39) The University will recover the University indirect costs (UIC) in line with the Finance Procedure - Cost Recovery and the agreed rates applied in the approved budget. Minimum percentages are prescribed in the Finance Procedure - Cost Recovery.

(40) Any remaining surplus will be distributed as follows (unless varied by the authorised delegate):

a. 50% to the appropriate employee(s):
    i. taken as a direct salary bonus payment (less tax, superannuation and payroll oncosts)
    ii. deposited into the employee(s) internal consulting account, or
    iii. a combination of (i) and (ii) as negotiated with the Band 7 delegate for the employees' organisational unit.
b. 50% to the University and relevant organisational unit.

(41) The organisational unit's portion of residual income will be distributed within the unit at the discretion of the relevant Executive Dean/Executive Director/Band 7 approval authority.

(42) Residual income will only be distributed after a financial statement, outlining income and expenditure against the initial budget, is submitted and the Executive Dean/Executive Director/Band 7 has approved the distribution in writing. Any University financial contribution provided to supplement a research project's costs is recovered before any residual income distribution.

## Part C - Foreign interference

(43) The University and all employees are subject to the legislation that has compliance requirements regarding foreign interactions and national security. Accordingly, where additional employment or University consultancies create a risk of foreign interference, the Countering Foreign Interference Procedure must be consulted for guidance.

(44) Factors which may be taken into consideration in assessing this risk include (but are not limited to):

a. whether the additional employment or University consultancy is with a foreign government, political party, military, policing or security organisation

b. what obligations are owed to foreign institutions as part of the additional employment or University consultancy
c. the nature of the role, and
d. the amount of remuneration received.

(45) All employees undertaking additional employment or University consultancies involving foreign interactions (as per the Countering Foreign Interference Procedure) must complete any mandatory training specified by the University.

(46) Additional employment or University consultancies that create a risk of foreign interference that cannot be appropriately managed will not be approved.

## Part D - Breach of procedure

(47) Employees who commence additional employment without approval (where approval is required under this procedure) must correct this immediately when they become aware of the need to do so. Where unapproved additional employment involves an undisclosed conflict of interest, the disciplinary and misconduct/serious misconduct provisions of the Code of Conduct will apply, and some circumstances may require reporting to the Independent Commission Against Corruption (ICAC).

(48) Undertaking a University consultancy without approval, or other non-compliance with this procedure, will be considered a breach of the Code of Conduct and dealt with in accordance with the relevant industrial instrument (e.g. Enterprise Agreement or contract of employment).

(49) Employees may raise a concern and grievance about the application or operation of this procedure under the Complaints Management Policy and Complaints Procedure - Workplace.

(50) Where an employee's additional employment or University consultancy gives rise to perceptions that the University has not been fair or proper in its dealings, a complaint or public interest disclosure can be made to the University. See the Complaints Management Policy and Public Interest Disclosure (Whistleblowing) Policy.

### Transitional arrangements

(51) Employees undertaking additional employment that was exempted under the Outside Professional Activities Policy [previous versions of this procedure] must seek approval as soon as practicable if their additional employment now meets the criteria for requiring approval under this procedure.

# Section 4 - Guidelines

(52) Nil.

# Section 5 - Glossary

(53) This document uses the following terms:

a. Additional employment – means work or provisions of services (paid or unpaid) undertaken by a University employee in their private capacity for a third party (including the employee's own business), where the University is not directly or indirectly a party and where the employee bears the benefits and risk of the activity.
b. Conflict of interest – as defined by the Conflict of Interest Procedure.
c. Delegated officer – means the approval authorities for outside professional activities [terminology to be updated if approved] as set out in Delegation Schedule B - People and Culture
d. Foreign interference – as defined by the Countering Foreign Interference Procedure.

e. University consultancy – means work or provisions of services undertaken by an employee of the University as an employee, for and on behalf of the University, where the University is responsible for the performance of the activity and bears the benefits and risks of the activity. This may include professional activities approved under workload agreements, etc.

f. Research consultancy – means research activities with external parties, or activities where the predominant nature of the activity meets the HERDC definition of a research activity, or is activity associated with a research grant, which must be approved under the processes established by the Office of Research Services and Graduate Studies available at https://staff.csu.edu.au/researchers/research-support.

# Section 6 - Document context

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