

University of Sussex Consultancy FAQs

<http://www.sussex.ac.uk/staff/research/development/business/consultancy>

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Definitions

WHAT IS CONSULTANCY?

Consultancy is normally characterised as an activity where an individual is required to provide the benefit of their personal knowledge or experience in a particular field, usually on a sole basis. It will typically be a small number of days, and make limited use of University facilities (which must be paid for in full). Consultancy generally makes use of University expertise, but would not normally be expected to generate new intellectual property (IP) or lead to academic publication. Typically consultancy would generate client-specific information or data, which would normally belong to the client.

WHAT ARE TYPICAL EXAMPLES OF CONSULTANCY, HOW IS THIS DIFFERENT FROM 'OTHER SERVICES'?

Examples of consultancy include:

- Advice to a company on its research or product development
- Member of a steering or advisory group of a commercial project or trial
- Member of an advisory group for a public sector body for a specific project or activity
- Interpretation of the results of analysis
- Policy and procedural reviews
- Acting as an expert witness or undertaking assessments
- Technology road mapping
- Market research and technology audits
- Feasibility and scoping studies

Other Services covers:

- Use of a standard process to provide analysis and testing work where no substantive advice is given
- Use of a standard manufacturing process to provide one-off or limited number of products (e.g. wafer manufacture)
- Delivery of training or development

If you are unsure whether the work being considered is consultancy or not, please contact the University's Consultancy Manager: Alex.Silvestri@sussex.ac.uk

NOTE: More information on the difference between Research and Consultancy can be found here: <http://www.sussex.ac.uk/staff/research/development/business/consultancy>

WHAT ABOUT EXAMPLES OF WORK THAT IS NOT NORMALLY CLASSED AS CONSULTANCY?

Consultancy does not normally include:

- Provision of teaching and training including continuing Professional Development and short courses
- Writing articles or other publications
- Book or peer reviewing
- Advising on publications
- Occasional external examining and lecturing
- Broadcasting and giving outside lectures
- Development of a piece of original work which will yield new results and a publishable paper.

Benefits

WHAT ARE THE BENEFITS OF CONSULTANCY?

The aims and benefits of consultancy activity can be:

- Building and maintaining commercial relationships;
- Creating the potential for future research funding;
- Opening up possibilities for student projects and graduate employment;
- Staff motivation and career development;
- Feedback into research and teaching;
- Awareness of industry or policy developments and technological, product, process and policy innovation;
- Personal and University income.

NOTE: Consultancy income is measured as part of the metrics that determine Higher Education Innovation Fund, which provides core funding to support knowledge exchange activities / capacity. Hence, recording consultancy through the University accounts has an impact on institutional income, and league table positions.

WHAT PERSONAL BENEFITS ARE THERE?

While there is a financial incentive for both the individual and the University, the benefits of working with clients on a consultancy go much deeper:

- Satisfaction of seeing your knowledge and expertise appreciated and applied;
- Build your skills and experience;
- Increase commercial awareness;
- Demonstrates external recognition of individual and group expertise;
- Builds relationships with industry and other external organisations, which may develop into other projects or activities.

University or Private?

SHOULD I CARRY OUT CONSULTANCY VIA THE UNIVERSITY OR PRIVATELY?

When a prospective client approaches you directly with a consultancy assignment, there are pros and cons that you need to weigh up when deciding whether to work through the University or in a Private capacity.

In general terms, working through the University means that you can access the support available, which would normally include professional indemnity insurance cover, help with contract negotiation, costing and pricing advice, marketing and invoicing. A contribution to the cost to the University of providing these services is met from the consultancy price.

Working in a Private capacity means just that – you are working on your own and do not benefit from any of the support available through the University. It is important that your client is aware of this when you are working in a private capacity and you must not use the University name or University stationery, email accounts, phones, etc, which might imply otherwise. The University has no liability for work carried out by individuals in a Private capacity.

All consultancy activity, Private or University must be registered and approved in accordance with the University's policies. This helps manage potential conflicts of interest. Contacting the Research Development team at the earliest possible stage helps us to maximum support and avoid possible problems later on. Clients recognise the benefits of working with academics through the University and are prepared to pay a premium for this service. This means we can often command a higher fee for you working through the University than you could achieve working in a Private capacity.

Eligibility to act as a consultant

WHO CAN UNDERTAKE CONSULTANCY UNDER THE AUGUST 2010 POLICY?

University academic or academic-related staff (grades 7 and above).

I AM PART-TIME - CAN I STILL DO CONSULTANCY?

Yes, you are permitted to undertake consultancy within your contracted hours.

I AM PART-TIME – HOW MANY DAYS CONSULTANCY CAN I DO?

Consultancy undertaken within your contracted hours is set to the equivalent pro rata of 30 days per annum. E.g. If you are part-time 0.8 FTE your allowance will be 24 days per year.

Authorisation

WHY DO I NEED TO HAVE APPROVAL FOR A CONSULTANCY

Staff usually undertake consultancy as a consequence (directly or indirectly) of their employment. Hence it is part of the University's duty of care to ensure the consultant's work load is appropriately balanced such that they are able to complete all the various responsibilities of their role and their consultancy activity is recognised and

rewarded. It is also important to ensure the University is not exposed to any liabilities or conflicts of interest. When properly informed Heads of School and Research and Enterprise are able to help foster the opportunities created via consultancy to develop more substantive client relationships and activities, both for the individual and wider University community.

WHAT DO I HAVE TO DO TO REGISTER AND GAIN APPROVAL FOR A CONSULTANCY?

When you first have an opportunity to undertake a consultancy, let your Head of School and the **Consultancy Manager** know as soon as possible.

Do not discuss fees or price or contractual arrangements with the client if possible until you have spoken with the Consultancy Manager who can work with you to shape the opportunity, complete the internal administration, negotiate with your client to use the University terms and conditions where possible, and negotiate price and schedule of work.

WHO HAS TO APPROVE THE CONSULTANCY WITHIN THE UNIVERSITY?

The internal approval form requires signatures / electronic authorisation from:

Staff member/ Consultant
Head of School/Director of Professional Services
Authorised signatory from Research and Enterprise Services
(see below for 'Who can sign a contract or Consultancy')

Electronic authorisation requires a typed name and date instead of a hand-written signature but must come from the signatory's University of Sussex email account.

WHY SHOULD CONSULTANCY ACTIVITY BE DECLARED?

There are several reasons why all consultancy activity undertaken by members of staff must be declared:

- To ensure recognition for professional development and of external demand for an individual's expertise;
- To avoid and manage potential conflicts of interest;
- To properly manage risks to individuals and the University.

WHO CAN SIGN A CONTRACT FOR CONSULTANCY?

When you undertake a consultancy in the University's name, only certain authorised signatories are permitted to sign on behalf of the University.

Team	Signatory	Role
Research Development	Rossana Dowsett	Head of Team
Contracts & IP	Nigel Knight	Head of Team
Research and Enterprise Services	VACANCY	Director

HOW MUCH CONSULTANCY AM I PERMITTED TO UNDERTAKE?

Academic and academic-related staff are permitted to undertake up to 30 days consultancy activity (University and Private) per financial year (01/08-31/07), subject to the agreement of their Head of School or Professional Services Division, and subject to the terms of any specific funding that is supporting their post.

Agreement to consultancy activity will be dependent upon operational feasibility (including a holistic view of workloads), taking account of contractual obligations, and being mindful of employment legislation, including the working time directive.

NOTE: Your Personnel Officer will be able to provide specific advice, if required and Research Finance, if you are employed on an externally funded research project (in some cases, funders require those fully employed on externally funded projects to be 100% dedicated to that project).

WHAT HAPPENS IF THERE IS A REQUIREMENT TO EXCEED THE 30 DAYS LIMIT?

Where it is desirable for the School or Professional Services Division that a member of staff spends more than 30 days per annum on consultancy activity, the activity over the 30 days should be undertaken as University

consultancy with full cost recovery to the School or Division. If the activity operates at a profit, that profit will be shared with the member of staff using the standard split for Other Services.

WHY DO I NEED UNIVERSITY AUTHORISATION FOR A PRIVATE CONSULTANCY?

To avoid any conflicts of interest, staff must always gain approval from their Head of School/Professional Services Director before starting a private consultancy assignment. If a consultancy is undertaken on a private basis, no use may be made of University premises, stationery, email or facilities as this could imply involvement of the University in the work and also exposure to liabilities.

Private consultancy work is not covered by the University's insurance policies and staff consulting in a private capacity are strongly advised to take out their own professional indemnity insurance.

It is important for staff to remember that they are personally responsible for the consequences of performing private consultancy work and for ensuring that clients are fully aware that the University is in no way responsible or liable in respect of consultancy work which is carried out privately by members of its staff.

CAN I CONSULT FOR ANY ORGANISATION?

No, there are some organisations and companies where the University may have concern on ethical or financial grounds. This may be due to a concern over the organisation being able to pay the invoice due to a risk in their credit rating or due to the nature of their trade or activity. The Consultancy Manager can support you with this further.

Timings

HOW LONG DOES IT TAKE FOR A CONSULTANCY TO BE SET UP?

The amount of time taken to process each consultancy will vary. You can help to speed up the process by:

- 1) contacting the Consultancy Manager as soon as possible
- 2) through the Consultancy Manager, offer the client the University terms and conditions
- 3) ensure that you have all the information required for setting up the consultancy by completing the form and reading through the checklist.

If you need to work on the client's terms and conditions it will be necessary for the University's legal team to check the contract before it can be signed. This can take some time. It is not advisable to start work without the contract being scrutinised and signed, as you will not be protected by the University, and Professional Indemnity cover may not apply.

Legal and contracts

IS THERE A STANDARD AGREEMENT THAT CAN BE USED TO AGREE THE CONSULTANCY CONTRACT WITH THE CLIENT?

For consultancy being operated through the University, standard University agreements should be used wherever possible, as is practised by other professional and consultancy organisations. Using contractual terms and conditions from the client often causes significant delays to the approval process.

Agreements to undertake consultancy activity require review and signature by Research and Enterprise Services, who can provide guidance.

DOES THE UNIVERSITY HAVE STANDARD TERMS AND CONDITIONS FOR CONSULTANCY?

Yes, there is a standard contract including offer of services and terms and conditions. This offers beneficial terms to the client and can be modified to protect IP and academic rights as required as well as specific contractual arrangements and conditions.

NOTE: Contracts are only really effective if they are drawn up prior to any work taking place. So if you are considering any commercial work, please do not hesitate to contact the Consultancy Manager first.

Intellectual property and publication

WHAT ARE THE ISSUES RELATING TO IP AND CONSULTANCY?

Typically, consultancy would not be expected to generate new IP other than client-specific information or data, which would normally belong to the client. However, for each consultancy activity it is important to review possible University IP issues to ensure the University retains/gains appropriate rights. Where necessary, the terms and conditions of the standard University offer of consultancy services agreement may be modified such that the University retains IP rights.

WHAT DO I DO IF I WANT TO PUBLISH ACTIVITY RELATING TO THE CONSULTANCY?

It is not typical to publish results from consultancy. If this is a requirement, a variation to the standard University terms and conditions will be necessary. If working on a client's terms, then this will need to be negotiated. You will need to talk to the Consultancy Manager as early as possible as this will add prolong the establishment of the agreement and delay the start date of the consultancy. The requirement to publish might indicate that the activity is not true consultancy under the University definition.

I WANT TO BE ABLE TO REUSE MATERIALS CREATED FOR A CONSULTANCY WITH ANOTHER CLIENT, CAN I?

Most consultancy retains the background / sideground IP relating to the activity in that such activity involves the application of a methodology. The specific materials generated for the client would normally belong to the client in their entirety and cannot be reused by you without express permission. If a new methodology will be generated, please check with the Consultancy Manager who will be able to advise on whether the activity is consultancy or a research activity.

Insurance

AM I COVERED BY INSURANCE?

Staff will only be covered by the relevant University insurance where the activity is declared and approved before taking place, and is operated under an institutionally-authorized agreement. Whilst the University's insurance policies encompass most activities and locations, they do have some exclusions, and work involving the following should be referred to the Insurance section in Finance Office before any agreement is signed:

- Any clause that extends the liability of the University;
- Where the risk of pollution / landfill etc. is increased;
- Any work to be undertaken outside the UK;
- Where a claim may be made in the courts of the USA or Canada or their territories or possessions;
- Where there are conditions that restrict the right of recovery;
- Where design / specifications or advice in relation to aircraft or aerial devices is involved;
- Where use of vessels or crafts is involved;
- Where prototype machinery is being supplied.

NOTE: The University's policies do not include cover for claims for penalties and liquidated damages. Acceptance of agreements including such terms will be a commercial decision on a case-by-case basis. If additional premiums are required, they will be a direct, first charge against the consultancy income.

Finance and rewards

WHAT IS THE COSTING AND PRICING BASIS FOR UNIVERSITY CONSULTANCY?

The University has to comply with rules that demonstrate that it is charging clients a full and fair rate for work that it undertakes and is not undercutting private sector competitors. The University must also ensure that it is not making a loss on work that it undertakes on a commercial basis and where all the benefits flow to the client.

To support the above requirements, the University has calculated minimum day and hour fee rates for each salary grade. This figure is based upon an average fee representing each salary grade plus a fixed sum representing the infrastructure costs supporting all staff at the University (Overhead). This is the minimum amount that should be charged to any client. Ideally the consultant should charge a price higher than this figure, representing their market value.

WHAT IS THE DISTRIBUTION OF INCOME FROM UNIVERSITY CONSULTANCY?

Income from consultancy will be distributed on the following basis. Costs charged to the project account in relation to incidental costs or use of University facilities or other resources will be a first charge against the income.

The remainder of the income (i.e. the consultant's employment costs and the premium) will be split as follows: 85% to pay the consultant and associated employer's NI cost, 5% to the University to contribute to Professional Indemnity Insurance costs, and 10% to the School's Research Support Account.

The 85% available to the consultant can either be taken as a personal payment (inclusive of employer's NI), or transferred into the individual's Research Support Account, or a mixture of the two.

Funds placed in a Research Support Account are not subject to personal taxation, and are available, subject to school oversight and University Financial Regulations, to the individual for appropriate approved research activities, such as conference attendance, support of PGR students, and so on.

NOTE: Deployment of other staff in support of a consultancy may require additional payments to the individual concerned, e.g. for overtime.

The decision concerning the treatment of the consultancy fee must be made at the time of approval, before work commences, otherwise it will be subject to tax under HM Customs & Revenue rules. Payments to the individual will only be made after the client has settled and all other relevant costs have been met.

Payments to the individual will be made through the payroll and taxed under PAYE, unless the University has received in writing an instruction from HM Customs & Revenue that the individual's earnings (other than those arising from an office or employment) are subject to Schedule D, and therefore payable without deduction of tax at source.

I NEED A WORKED EXAMPLE SHOWING HOW COSTING, PRICING AND INCOME IS ALLOCATED IN PRACTICE

- Lecturer (Grade 7) providing five days of consultancy.
- Five hours of Technician Grade 5
- Travel costs to meet with the client.

COST			
The FEC minimum for this grade	£	540	per day
It is judged that client will pay a higher rate	£	600	per day
The technician cost	£	23	per hour
Travel costs	£	200	Total

PRICE			
The pricing for the work would be:			
Consultant: 5 days x £600	£	3,000	Fee
Technician: 5 hours x £ 23	£	115	Cost
Travel £200	£	200	Cost
Total Price	£	3,315	+ VAT

DISTRIBUTION			
The distribution of this income would be:			
Technician time	£	115	School
Travel	£	200	Balanced against project account costs
Fee, £3,000:			
85% To Consultant	£	2,550	(subject to tax, NI and employer NI)
10% School	£	300	
5% University General Funds	£	150	(contributes to insurance etc.)

WHY DO I HAVE TO PAY EMPLOYER NI?

If you decide to receive your share or part of your share through the payroll, the University is required by law to pay HM Revenue & Customs Employer's National Insurance at the prevailing rate. This has to be met from the consultant's share of the income.

WHEN DO I GET PAID?

When payment is received from the client and cleared in the bank, the Research Finance team will transfer payment into the account(s) identified on the Consultancy Pricing and Approvals Form. Depending on the payment terms agreed with the client, this could mean that there is 3 months from your invoice request to payment being made to you.

THE CLIENT WANTS TO PAY ME IN EUROS (OR OTHER CURRENCY) WHAT SHOULD I DO?

If you are working on University terms and conditions we would offer the client a price in sterling (GBP) and ask them to pay in GBP as then they are absorbing any currency fluctuation. If this is not possible or if you are working on their terms you need to be aware of the potential for currency fluctuation and if possible either build this into the price of the consultancy or use the official University exchange rate for that week. This official exchange rate will be available via the Consultancy Manager. Payment in foreign currency will affect the amount available to the consultant at the end of the activity.

University facilities

CAN I USE THE UNIVERSITY'S FACILITIES AND RESOURCES FOR CONSULTANCY?

Normally this can be arranged when consulting through the University. You need to be aware that for some University equipment and software their contract terms and conditions limit their use to research and teaching work only, so please first check with the owner that the resource can be used on a commercial basis. Research and teaching use would normally take priority over consultancy activity, so please confirm availability of the resource.

Where University facilities and resources are to be used on a contract, which may include the time of technicians and administrative support, this should be fully costed into the contract. Some University equipment may not be calibrated to industry standards, particularly if used primarily for teaching purposes, and clients must be made aware of this.

Use of University facilities is not permitted for Private Consultancy.

Support

WHO CAN HELP WITH A CONSULTANCY QUERY?

Please contact the Consultancy Manager: alex.silvestri@sussex.ac.uk (or consultancy@sussex.ac.uk)

Rossana Dowsett (Head of Research Development) oversees consultancy activity at the University and can be contacted on +44 (0)1273 678238, E: r.l.dowsett@sussex.ac.uk

W <http://www.sussex.ac.uk/staff/research/development/business/consultancy>

What help is available for costing and pricing consultancy work?

The University Consultancy Manager can help costing and pricing work. There is an under-pricing culture prevalent in UK Universities and we encourage staff to consider the real value of their work to the client and to identify the consultancy package on offer, not just the cost of their time. It is also important to recognise that consultancy is one of the principal mechanisms of knowledge exchange and it is important to develop a long-term relationship with clients where possible, so we always strive to deliver good value.

WHO CAN SUPPORT ME WITH NEGOTIATING THE CONTRACT?

The Consultancy Manager can assist negotiations and help achieve the best possible deal for all parties, including you, the University and the client. Consultancy assignments are a good way to start working with an organisation and should not be seen as a “one-off” deal. We want to work with consultancy clients long after the initial contract is signed, so it is important that all sides are happy with what they are getting out of the deal.

HOW CAN I GET INVOLVED?

We are always pleased to hear from individuals who would like to work with organisations on a consultancy basis and from organisations looking for expert advice. Please contact the Consultancy manager (external organisations can use also log enquiries via: consultancy@sussex.ac.uk or business@sussex.ac.uk)

Troubleshooting

WHAT HAPPENS IF I CAN'T COMPLETE THE ASSIGNMENT FOR ANY REASON?

This will depend on the terms of the contract and the nature of the problem. For some activities it may be sensible to identify a “colleague” who in your absence and with the agreement of the client, can quickly pick up the activity and complete the assignment, minimising the impact to the client.

Here are the relevant sections from our standard agreement:

“6.2 The University will endeavour to complete the Services by the time specified in the Quotation Letter (if any), but will not be liable for any failure to do so, however caused.

6.3 If, due to the University’s negligence or breach of this Agreement, there is any material error or omission in the performance of the Services, the Customer’s sole remedy will be to require the University to re-perform the affected part of the Services within a reasonable time.”