



**Research & Impact Services**

## **CONSULTANCY POLICY & PROCEDURE**

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## 1. INTRODUCTION

The University is committed to supporting and encouraging its staff in the engagement of knowledge exchange activities through consultancy services. University Consultancy activity contributes to the University's strategic aims by way of promotion of external engagement, enterprise and innovation thus stimulating the exchange of ideas and knowledge through external partnerships. It supports the reputation of the University and enhances its knowledge transfer effort and impact statements for the REF.

University Consultancy activities undertaken by members of staff have many benefits for both the University and the individual which include:

- Strengthening links with businesses and external organisations.
- Showcasing case studies through internal and external media channels.
- Counting towards knowledge exchange activities.
- Helping to develop REF impact Case Studies.
- Contributing to cases for academic promotion/advancement.
- Providing staff professional indemnity insurance.
- Financial contributions to KA/KC accounts to support research and professional development, and to salary.

Consultancy has also been proven to stimulate industrial research funding, for example in the form of externally funded research studentships, software licence agreements, Knowledge Transfer Partnerships, industrial research collaboration agreements.

The University is keen to encourage its staff to engage in University Consultancy activities in a professional and well-regulated manner, in order to minimise risk to the individual, the University and its reputation. [Consultancy Services](#) within Research & Impact Services manages and supports this.

Staff who wish to offer their services as a University consultant must work with the University's Consultancy Services and will benefit from the full support and resources available to them including:

- Confidentiality Disclosure Agreements arranged/executed where necessary.
- Use of University email account, IT facilities and departmental/faculty equipment.
- Consultancy contract negotiation and pricing.
- Provision of insurance including personal liability and travel as appropriate.
- Identifying and managing of conflicts of interest, including with respect to third-party funders and University intellectual property.
- Coordination of the approval process.
- Invoicing, distribution of funds and expenses.
- Payroll, NI and Tax deductions through PAYE.
- University legal support.
- Internal/external marketing of case studies where applicable.

Further information is available via the University's Consultancy Services website:

<https://www.bath.ac.uk/guides/consultancy-services/>

## 2. AIMS OF THE POLICY

The purpose of this Policy is to increase transparency and clarity of the University's approach to Consultancy, to facilitate procedures that will support members of staff employed by the University and to be used for the management of University Consultancy activities and other commercial services.

This policy explains the roles and responsibilities of staff and groups involved and ensures that all University consultancy activity involving University employees is carefully managed and accurately documented by Heads of Departments, Deans, the Finance Department, Senior Management within the University and Consultancy Services.

In addition, the Policy & Procedure aims to simplify processes and clarify the use of documentation, as well as to ensure that appropriate attention is paid to:

- Minimising risk for the individual and the University through insurance coverage.
- Protection of the reputation of the University.
- Ensuring that the full economic costs (FEC) of the activity are recovered by the University as appropriate.
- Capturing Consultancy activities within the University's Workload Allocation Management System (WAMS) as required, including for Transparent Approach to Costing (TRAC) purposes.
- Ensuring that Consultancy is carried out in a transparent and professional manner and in accordance with appropriate legal guidelines.

## 3. DEFINITIONS

For the purpose of this Policy the meanings of important terms are set out below:

**An "academic"** is as defined in Statute 1.1 (membership of academic assembly) a University employee who is employed as a Lecturer, Senior Lecturer, Reader or Professor on a contract that requires both teaching and research, or a contract that requires only teaching (both types of contract also require contributions to management, leadership and administration).

**An "Applicable Member of the Education & Research (E&R) staff"** for this Policy & Procedure is defined as a member of staff from Grade 7 and above from the E&R Job Family who is employed under a contract that requires both teaching and research, or a contract that requires only teaching or a contract that requires research only e.g. Research Fellows and Research Associates. This will include all academic staff plus those staff G7 and above who are on a research-only contract.

An “**Applicable Member of the Management, Specialist & Administrative (MSA) Staff**” is defined as a member of staff from Grade 7 and above from the MSA Job Family who is employed under a contract of employment. The roles within this family are engaged in the provision of support services to staff, and/or students and/or to the wider public. The work might involve specialist support, development or implementing policy, specialist advice or project management.

An “**Applicable Member of the Technical & Experimental (T&E) Staff**” is defined as a member of staff from Grade 7 and above from the T&E Job Family who is employed under a contract of employment. The roles in within this family are engaged in the provision of specialised technical and experimental activities to staff, students, research and/or to the wider public. The work might involve specialist technical support, specialist advice, instrument specialisms. In the case of consultancies being delivered through the Core Research Facilities, T&E staff at Grade 6 may sometime be delivering the work as a part of their normal role.

An “**Applicable Member of the Operational, Facilities & Support (OFS) Staff**” is defined as a member of staff from Grade 7 and above from the OFS Job Family who is employed under a contract of employment. The roles in this family are engaged in the provision of specialised management and deployment of OFS staff or undertaking specialised trade skills and knowledge.

“**University Consultancy**” is defined as the application of a staff member’s expertise that is required in their job in the University for the benefit of a third party for the deployment of existing knowledge for the resolution of specific problems presented by external clients through the provision of services, guidance and expert or professional advice, for a fee. It is unlike research in that it does not have as its prime purpose the generation of new knowledge. The output in general would be partly or wholly owned by the client.

“**Private Consultancy**” is defined as externally remunerated activities cognate to the individual’s job description within their university employment contract taking place independently of and without the use of University time or resources (of all types). It does not benefit from the support outlined in (1) above.

#### **4. KEY PRINCIPLES OF UNIVERSITY CONSULTANCY**

University Consultancy activities may be undertaken by members of staff outlined in this Policy who are fulfilling their primary duties and/or research and teaching obligations and where the work does not conflict with the terms and conditions set by the funders of any research in which an individual is involved, and any other contractual or legal obligations of the University.

University Consultancy work must also comply with the University’s governance policies including:

- Ordinance 26 - External Work - <https://www.bath.ac.uk/publications/university-ordinances/>
- Finance and Procurement - <http://www.bath.ac.uk/finance-procurement/regulations-policies-procedures/other-regulations/index.html#id5>
- Ethics - <https://www.bath.ac.uk/guides/ethics-review-process/>  
Ethics enquiries: [research-ethics@bath.ac.uk](mailto:research-ethics@bath.ac.uk)
- Ordinance 25 - Intellectual Property - <https://www.bath.ac.uk/legal-information/intellectual-property-policy/>
- Anti-Bribery Policy - <https://www.bath.ac.uk/legal-information/anti-bribery-policy/>
- Initial queries concerning Due Diligence should be addressed to the Due Diligence and Compliance Manager within RIS. There is an escalation possibility to the [Research Governance and Compliance team](#) if required.

Prior to contacting Consultancy Services members of staff should not:

- Share any information with the client that may be confidential to the University, including unpublished data, computer code/software or any physical material e.g., samples.
- Sign any legal documentation or contract provided by the client, including Non-Disclosure Agreements/Confidentiality Agreements.
- Agree to start negotiations for any specific legal terms or conditions for the provision of the services.

The staff member should discuss costing their consultancy proposal with Consultancy Services and Head of Department before submitting a quotation to the client in order to ensure that all costs are captured.

Projects are undertaken within set timescales (a few weeks or months) and should have clear and well-defined deliverables and involve extra work for existing staff members rather than the employment of new staff.

A University consultancy proposal must be discussed with Consultancy services then initially approved by the Head of Department by completing the Consultancy Contract Proposal Form. In the case of a disagreement between the member of staff and Head of Department the Dean will make the final decision. For non-academic departments a dispute will be decided by the relevant Director or PVC/VP.

There should be no presumption that a member of staff can engage in a University Consultancy activity or that a legal contract will be formally approved.

In the event that the project description requires further clarification or is deemed to be onerous to the University the decision will rest with the Head of Department advised by Consultancy Services.

In order to protect a member of staff and the University from legal and other forms of harm the staff member wishing to undertake any Private Consultancy with a third party must follow the guidelines outlined within this Policy under the heading 'Private Consultancy' - Section Undertaking unapproved consultancy activities or failing to report on consultancy activities undertaken will be considered a breach of contract and may result in disciplinary action being taken.

## **5. EXAMPLES OF UNIVERSITY CONSULTANCY SERVICES**

University Consultancy is the application of existing specialist knowledge to address or resolve a client's needs or issues. By way of example, but not exhaustive, consultancy services would normally be considered to include:

- Advising on protocols for clinical trials.
- Advising on technical issues.
- Analytical services and laboratory testing with or without advice.
- Feasibility and scoping studies.
- Market research and technology audits.
- Policy advice.
- Product development testing.
- Professional practice work (e.g. accounting, architecture, social work).
- Providing expert witness services for litigation and patent infringement.
- Serving on Scientific Advisory Boards (advice and guidance).
- Supply of expert advice and opinion.
- Technology road mapping.

The work is undertaken by existing staff rather than recruiting someone specifically to do the work and requires:

- Academic, professional or technical expertise.
- Work that is time-bound and task-based.
- It is funded entirely by the external organisation.

University Consultancy excludes the following types of activities, which either form part of normal staff roles or are defined as Continuing Professional Development (CPD) – this is not an exhaustive list e.g.

- Presenting academic papers outside the University.
- Giving lectures and seminars outside the University.
- External examining.
- Provision of a short course developed for a specific client or group.
- An externally recognised short course.
- An academic programme designed for a specific employer/sector or external body.
- Post-qualification CPD programmes.
- Provision of services to other University of Bath departments.
- Appointments to serve on funding councils, research councils, academic trusts and foundations.
- Writing academic books.

In the event that a staff member is unsure as to whether or not a given activity may be undertaken or supported as consultancy work, the staff member should contact Consultancy Services for advice in the first instance.

## **6. OTHER COMMERCIAL SERVICES RENDERED UNDER UNIVERSITY CONSULTANCY**

In some instances, consultancy contracts may include the use of university facilities, equipment, IT networks, and staff resources. Such use should be fully costed into the CCAF form. This work can also be assisted by relevant members of staff, under the direction of the staff member who is undertaking the Consultancy service, and this would normally be done during normal business hours as business as usual.

All income generated from these types of services, which may form part of a departmental 'commercial' service or a staff member's normal duty, will normally be recharged to the relevant department and no fee would be paid to the staff member personally.

## **7. WHO CAN CONDUCT UNIVERSITY CONSULTANCY?**

University Consultancy is aimed at academic staff (Grade 7 and above), specific members of the Education & Research Job Family (Grade 7 and above), those within the Management, Specialist & Administrative Job Family (Grade 7 and above) and members of the Technical & Experimental Job Family (Grade 7 and above) as referenced in this Policy – Section 3. As noted in Section 3, in the case of consultancies being delivered through the Core Research Facilities, T&E staff at Grade 6 may sometimes be delivering the work as a part of their normal role.

Research Associates and Research/Teaching Fellows (Grade 7 and above) may undertake University Consultancy subject to the confirmation of their funding arrangements.

Research Associates and Research Fellows whose employment contract is externally funded must ensure with their contract providers that there are no contractual restrictions concerning the undertaking of commercial activities for the University. Staff must seek confirmation from the RIS Post-Award team and their Principal Investigator that their grant conditions allow University Consultancy and, that there are not any contractual restrictions in their grant conditions and contract that would prevent the undertaking of commercial activities for the University. If it is confirmed that their grant and contract allow them to undertake University Consultancy, the staff member must request agreement from their Head of Department. This must be confirmed to their HR Advisor or Business Partner so that minor changes to their employment contract can be made to capture the activity.

Management, Specialist & Administrative and Technical and Experimental Staff may undertake University Consultancy activities. Their involvement will be subject to the agreement of their Head of Department supported by their Human Resources Advisor or Business Partner. If agreement is confirmed from this process, this will require a revision of



their contract of employment in writing, so that it includes the necessary further terms and conditions that capture the undertaking of University Consultancy activities.

Other members of the Education and Research Job Family (E&R) i.e., Research Assistants or casual PhD students (provided Head of Department/Supervisor approval has been given) may, if their existing contract/workload allows, provide support under the supervision of the academic lead. This work should be by mutual agreement and should be recognised separately from their existing contractual arrangements and remunerated separately. PhD students undertaking consultancy should therefore be placed on an employment contract. (See procedure for engaging non-academic staff and students in this Policy – Section 10 (iv)).

Occasionally, it may be necessary for a member of staff to call upon the expertise of an external sub-contractor to perform certain aspects of a University Consultancy project. See further procedures outlined in this Policy - Section 10 (i).

## **8. PROCESS AND APPROVAL**

The Head of Department is responsible for determining whether or not to grant authorisation to a member of staff to undertake University Consultancy work. In each instance where authorisation for a piece of consultancy is being requested, prior to granting any such authorisation, the Head of Department must satisfy themselves that:

- the University Consultancy project for which a member of staff has requested authorisation is consistent with the research and teaching strategy or the services of the department and University.
- by acting as a consultant, the member of staff involved maintains a satisfactory level of performance in their normal responsibilities such as teaching, research, administration and other duties.
- They are content with the proposed costing model.

Projects undertaken by Heads of Department will require their line manager's approval.

Consultancy Services will respond to all requests from the Head of Department with respect to providing information that may be required in order to make an informed decision regarding authorisation for University Consultancy work.

### **Internal approval forms**

Prior to any University Consultancy activity being progressed, the proposing member of staff should complete a University Consultancy Contract Proposal Form, submitted to the Head of Department for approval and copied to Consultancy Services.

The following internal documentation and approval is required for every University Consultancy proposal before contractual discussions with a client can take place regarding the consultancy terms of engagement.

- (i) Consultancy Contract Proposal Form



- (ii) Consultancy Costing and Approval Form (CCAF)
- (iii) Digital Ethics application

Further details regarding the above forms and authorisation are outlined below and available on the Consultancy Services website:

<https://www.bath.ac.uk/guides/consultancy-services/>

<https://www.bath.ac.uk/guides/ethics-review-process/>

Approval process: Please see the table below.

Staff criteria/job title	Approval
E&R Job Family	Head of Department
Head of Department/School	Dean
MSA Job Family	Head of Department
Senior Management (MSA job family)	Director of Finance or Vice-Chancellor
Dean	Vice-President (Enterprise)

- (i). Consultancy Contract Proposal Form available via:  
<https://www.bath.ac.uk/guides/consultancy-services/>

- (ii). **CCAF – Consultancy Costing and Approval Form.**

This internal form is processed by [Consultancy Services](#) and outlines the fee and direct costs for the delivery of the services to the client. It also initiates an Agresso project code, an invoice to the client and final disbursement of income by the Finance Office.

1 x CCAF form per staff member involved in the proposed project is required.

The CCAF form is available through Consultancy Services or via the website:  
<https://www.bath.ac.uk/guides/consultancy-services/>

Additional approval by the Dean (or equivalent) is required to undertake assignments where the Full Economic Cost (FEC) is not being recovered by the University.

(iii). **ETHICS** – Digital Ethics application.

<https://www.bath.ac.uk/guides/ethics-review-process/>

It is a University compulsory requirement for each project to consider the potential ethical implications in order to promote good practice and demonstrate the proper use of public funding. This should be submitted at the same time as completing the Consultancy Contract Proposal Form.

A synopsis of the relevant approval process is outlined below.

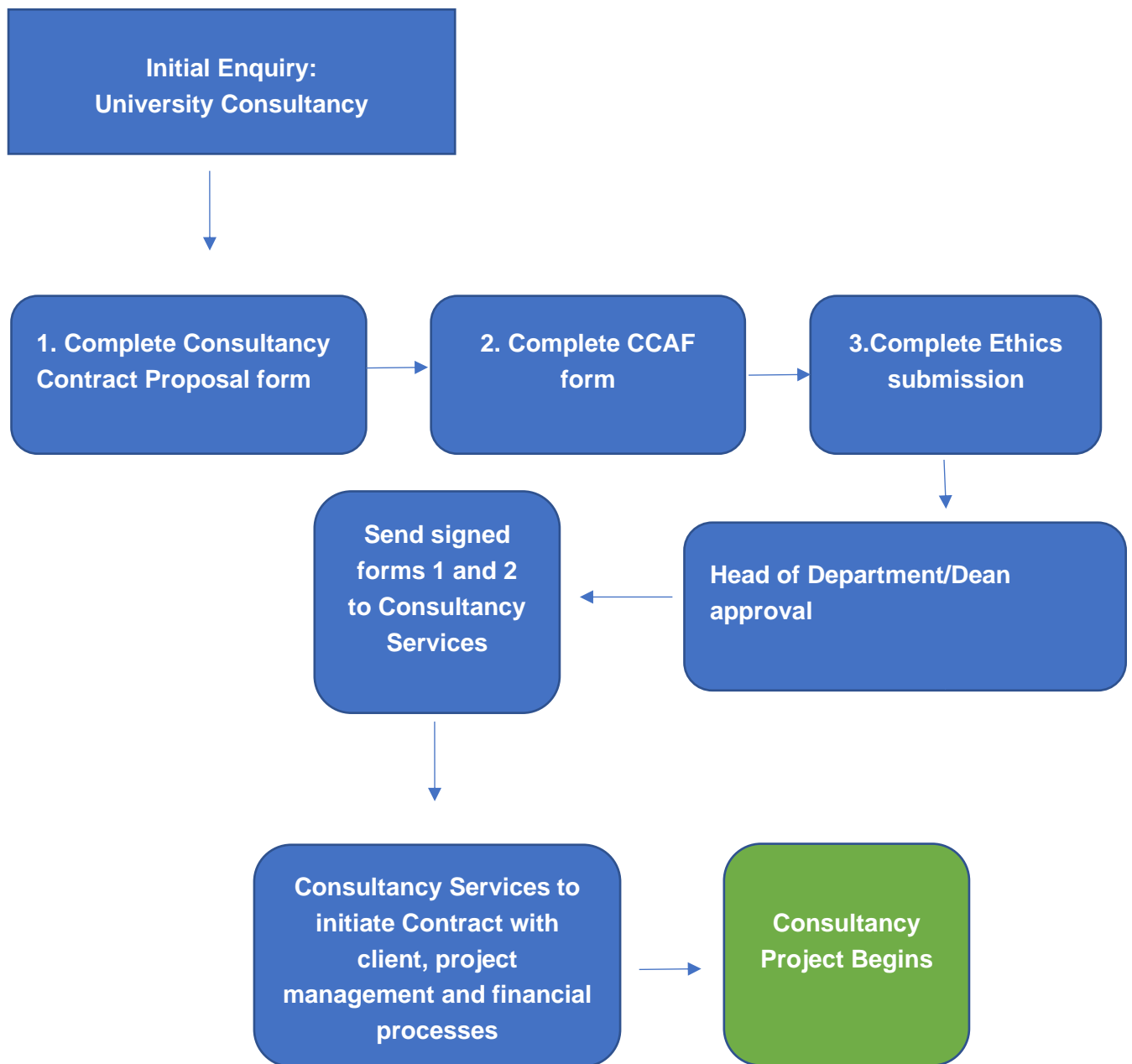
Forms	Approvals
Consultancy Contract Proposal Form	Head of Department
CCAF	Head of Department
Ethics	<a href="https://www.bath.ac.uk/guides/ethics-review-process/">https://www.bath.ac.uk/guides/ethics-review-process/</a>
Consultancy Agreement	Authorised Senior Management or Director/Senior Management within Research & Impact Services

(iv) **Consultancy Contracts**

A consultancy contract, arranged through Consultancy Services and executed by authorised signatories within Research & Impact Services, will need to be in place before the work can commence. The terms and conditions of a University Consultancy contract will include:

- Financial arrangements.
- Timescale for the work.
- Milestones/Deliverables.
- Protection of Background IP.
- Use of Foreground IP.
- Ownership of the outputs.
- Limitations to liability.

University Consultancy Flow Chart.



## 9. INTELLECTUAL PROPERTY RIGHTS AND LIABILITY

The standard terms and conditions for University Consultancy agreements are on the basis that any intellectual property created in the course of the consultancy project is assigned to the client. Where (exceptionally) the client is assigned rights to Background Intellectual Property (“Background IP”) (for the purposes of the Services only), this should be reflected in the price of the consultancy assignment and measures taken to ensure further use of the Foreground Intellectual Property (“Foreground IP”) is not unduly restricted.

## **Intellectual Property Definitions:**

**Background IP** means pre-existing or independently development Intellectual Property belonging to a party.

**Foreground IP** means all information, know-how, results, designs, inventions and other matters capable of being the subject of Intellectual Property rights which is conceived, first reduced to practice or writing or development in whole or in substantial part in the course of the Services.

**Intellectual Property** means all patents, trademarks, service marks, plant variety rights, registered designs, utility models, applications for any of the foregoing and the right to apply for any of the foregoing in any part of the world, copyrights, database rights, design right, inventions, confidential information (including without limitation Know how) and any other similar rights situated in any country in the world.

## **Indemnity and liability**

If the consultancy activity falls outside of the University's standard insurance coverage, is deemed to be high-risk in nature, involves work (by way of example) in the USA where liability cover is reduced, requires some variations from the standard terms and conditions or the client demands their own contractual terms and conditions, further advice will need to be sought from the Research and Commercialisation Contracts team within Research & Impact Services and/or the University's Insurance Services Manager.

## **10. FINANCIAL ARRANGEMENTS**

The Consultancy Contract Proposal Form must indicate whether the work is to be accounted through the Workload Allocation Model. Consultancy rates must be based on evaluation of the full economic cost of the consultancy. **The University Recommended Daily Consultancy Rate is between 1.5 and 2 times the total cost including staff time (excluding VAT).** Updated information is available on the University web pages.

### Academic and members of Education & Research (E&R) - Grade 7 and above:

- (i). For services where the work is to be accounted through the Workload Allocation Model, considering any deductions for direct costs, the full economic cost of academic staff time will be reimbursed to the University/Department. Funds will be distributed to a member of staff's salary or an academic's and researcher's KA/KC account, as in the CCAF form, insofar as the net income from the project exceeds 100% FEC (Full Economic Cost) of the project to the University. The University's FEC is calculated making use of the Consultancy Costing and Approval Form (CCAF).

- (ii). For services where the work is not to be accounted through the Workload Allocation Model and, after any deductions for direct costs and a 10% overhead rate on the total cost, funds will be distributed to a member of staff's salary or an academic's and researcher's KA/KC account, as in the CCAF form, providing the net income from the project exceeds 100% FEC (Full Economic Cost) of the project to the University. As the academic staff time is not accounted through WAMS, the associated costs do not appear in the FEC for this calculation.

Management, Specialist and Administrative (MSA), Technical and Experimental (T&E) and Operational, Facilities & Support (OFS) staff - Grade 7 and above:

For staff whose job role is not managed through the Workload Allocation Model, a comparable decision will be taken by their line manager/Head of Department and accounted within the Consultancy Contract Proposal Form.

- (i). For services where the work is to be accounted as part of the member of staff's employment contractual hours, and after any deductions for direct costs, the funds will be reimbursed to the University/Department. Funds will be distributed to a member of staff's salary account as in the CCAF form provided net income from the project exceeds 100% FEC (Full Economic Cost) of the project to the University. The University's Full Economic Cost is calculated making use of the Consultancy Costing and Approval Form (CCAF).
- (ii). For services where the work is not to be accounted as part of the member of staff's employment contractual hours the net residue, after deduction of direct costs and a 10% overhead on the total costs, can be taken into the member of staff's salary (subject to PAYE and NI deductions).

Should there be an overspend on direct costs, e.g., expenses and consumables, which has not been agreed in writing with the client and/or not included in the contract terms, the distributions of income will be altered accordingly by the Finance Department. If there is to be a payment to payroll, as outlined in the agreed CCAF form, then the extra costs incurred will be recouped in the first instance from the payroll payment and then KA/KC account (if applicable).

All University Consultancy proposals should be costed using the daily consultancy rates published by the University available on the Consultancy Services website. All fees, where applicable, are plus VAT.

Additional approval by the Dean or equivalent is required to undertake assignments where the full cost is not being charged.

When pricing a University Consultancy project, the member of staff will need to take into account other associated services and costs ('Direct Costs') and include appropriate fees and charge rates in addition to the member of staff's daily rate.

Once a CCAF form has been agreed, and the project code assigned by the Finance Department and the work commenced, in the event that there are surplus funds available (the University having recouped all costs within the CCAF form), such surplus funds will be redirected to a departmental charge account provided by the Head of Department. For the avoidance of doubt, surplus funds will not be allocated to a staff member's KA/KC account or salary.

Examples of direct costs, as categorised on the CCAF form, are as follows:

**(i) Sub-contracts (engaging external subcontractors)**

When a member of staff is considering the deliverables and costs associated with a University Consultancy proposal it is not generally appropriate for the majority of the work to be sub-contracted to a third party. This is because the reputational consequences to the University have to be taken into account especially if an external individual and/or organisation does not perform the work to the client's satisfaction.

If some of the work requires the specific skills of an external individual and/or organisation, and those skills are not available through the University, then the following procedures will need to be applied:

- The request is documented within the Consultancy Contract Proposal Form.
- Fee agreed with the external sub-contractor.
- The client is informed of the services and details and name of the sub-contractor and approves this additional function.
- The member of staff must retain control of and take responsibility for the delivery of the project outputs.
- Sub-contractor/supplier be set up on Agresso and relevant forms completed via the NESA form process and a contract issued. <https://www.bath.ac.uk/guides/engaging-contractors-through-non-employment-status-assessment-nesa/>
- Assistance for completion of forms/process via Faculty/School/Departmental Finance Officer.
- Confirm that the sub-contractor has relevant indemnity and liability insurance cover in place.

**Reimbursement is as follows:**

Payment to the sub-contractor will be disbursed by the University's Finance Office under the University's sub-contracting terms and conditions and as outlined in the CCAF.

**(ii) University equipment/facilities**

Where University facilities are used, the Department/Faculty/School and/or the Director of Research Infrastructure and Facilities should identify an element of depreciation in the costing. This depreciation element should be fed back into equipment maintenance, calibration and renewal such that the facilities remain fit-for-purpose and attractive to potential clients and sponsors.

If a University Consultancy project includes the use of university facilities and equipment (including materials), a fair and reasonable reimbursement, in line with commercial or Faculty/School rates where applicable, must be costed into the project proposal and CCAF form, and reimbursed to the University.

Where equipment and materials have been purchased/supplied by an external funder to the University for the purposes of research and teaching only, the member of staff must not use such equipment for a commercial project without seeking the express written permission from the providing funder.

**(iii) Consumables and travel expenses**

Project costs including consumables and travel expenses in addition to the daily fee must be calculated as accurately as possible before the project contract price is agreed.

**(iv) Payment to support staff – (engaging non-academic staff)**

Members of staff, not outlined within this Policy, may be able to aid University Consultancy projects, providing the following rules are applied:

- The request is documented within the Consultancy Contract Proposal Form.
- Consideration must be given to the individual's normal workload and their Head of Department and Line Manager approval must be obtained in advance.
- The individual must expressly agree to conduct the assignment.
- The consultancy assignment must be short-term.
- For staff fully funded via one or more research grants, the terms and conditions of their employment should be discussed with Human Resources and permissions sought.
- The individual must be supervised by the member of staff responsible for the project.

Where a department agrees that a member of staff can provide a service the appropriate sums must be calculated into the project proposal and outlined in the CCAF.

**Reimbursement is as follows:-**

Option 1: One-Off Fee Payment to Staff:



If the service is to be conducted outside the individual's normal working hours (or any additional hours relating to their substantive contract) and if the duties fall outside those of their substantive contract; a discretionary fee can be made to the individual via their salary (less tax and employers NI). The fee is pensionable (unless the member of staff has opted out of the pension scheme). A Finance Non-Academic Claim form would need to be completed by the individual (available via the Finance Office):

<https://www.bath.ac.uk/publications/using-e-timesheets-on-itsrent/>

Option 2: Recharge to the Department:

Where a member of staff provides a service during their normal working hours; the project must reimburse the department for the associated salary costs of this individual. There would be no financial gain to that member of staff as they are already being paid a salary by the University for duties conducted within the hours set out in their substantive contract.

**(v) Payments to students – (engaging students)**

Postgraduate and undergraduate students may be able to provide assistance providing the following rules are applied:

- The request is documented within the Consultancy Contract Proposal Form.
- Approval must be obtained in advance from the individual's Supervisor/Director of Studies.
- The student must be engaged by the University for the purpose of the consultancy project in the usual way for casual work and must have registered with Human Resources and Job Link.
- When engaging international students, care must be taken to ensure that their student visa does not contain any restrictions.
- The student must be supervised by the member of staff responsible for the project at all times.

**Reimbursement is as follows:-**

The appropriate hourly rate of pay will be determined according to the University's casual pay scales issued through Human Resources. University Consultancy services are paid at the Casual Pay Scale CW6 as the student must always work under a member of staff's supervision.

A Casual Workers Timesheet (or E-timesheet) must be completed for the hours worked and assigned against the consultancy project code (obtained via Consultancy Services once the CCAF has been fully authorised). Details concerning E-timesheets are available on the Human Resources website. <http://www.bath.ac.uk/hr/itsrent/e-timesheets/index.html>

#### **(vi). Net consultancy distribution**

Once an invoice has been paid by a client, income will be disbursed by the Finance Department, taking into account all deductions and overhead fees, in accordance with the authorised CCAF form.

### **11. PRIVATE CONSULTANCY**

#### **Overview:**

Members of staff may wish to carry out consultancy services privately, and not through the University. Members of academic staff and professional services staff from grade 7 and above may undertake Private Consultancy subject to the following conditions.<sup>1</sup>

- (i) Staff must notify and receive prior approval from their Head of Department for all instances of Private Consultancy, which is defined here as activities relating to the individual's job description under their University contract of employment that take place independently of, and without the use of, University time or resources (of all types).
- (ii) The employee must ensure that a Standard Disclaimer of Liability letter for private work, signed by them and countersigned by the client, is lodged with their Head of Department in advance of the commencement of private employment.
- (iii) The work must be entirely private, with no use of University time or facilities, and in particular involve no use of University premises or equipment, supplies, administrative support, University logos, email, phones or IT facilities.

For staff on professional service contracts (OFS, T&E and MSA Job Families) in grades 7 and above who have received approval from their Head of Department to undertake consultancy work, a variation to their contract will be issued which gives them the right to undertake consultancy work where approved by their line manager. This variation to contract must be issued and signed by all parties, before they are able to request, and if authorised, carry out any consultancy work.

At all times members of staff are expected to follow the rules and expectations for External Work as outlined in the University's Ordinances 26 – External Work.

<https://www.bath.ac.uk/publications/university-ordinances/>

For members of staff wishing to undertake Private Consultancy, the University must minimise the likelihood of conflicts of interest and ensure that both the member of staff and their client is clear that the University has no liability for work carried out by individuals in a private capacity. Below are some examples of conflicts of interest:

- A member of staff sets up a spin-out company which is closely related to their area of research. They make extensive use of the PhD student/s for their own company work which conflicts with their research progress and the terms of the research funding.

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<sup>1</sup> For certain part-time members of academic staff, a different process will apply. See the relevant Q&A.

- A member of staff has obtained a lucrative consultancy contract which may include travel. They may often have to rearrange seminars and the member of staff's normal duties are having to be picked up at short notice by University colleagues.
- A member of staff working full time for the University and wishing to take on another job outside of the University should bear in mind the following issues; additional hours will be worked in their spare time, this may still pose potential issues such as; breaching the Working Time Regulations' 48-hour week working limit; impact on their role at the University and possible conflicts of interest, depending on the nature of the business and work involved.

The contract of engagement with the external party and the work must be arranged privately by the member of staff without any involvement or support from the University. Income generated by private work flows directly to the member of staff, who assumes responsibility for any consequent financial commitments.

The University does not provide liability cover for Private Consultancy so a member of staff should ensure that they have suitable professional indemnity in place that covers them for all the potential situations and costs that may arise. It is advisable that a member of staff seeks private legal advice to ensure that there is adequate cover for all work that they do.

The member of staff undertaking Private Consultancy must not under any circumstances hold themselves as the agent or representative of the University, for example by using a University email account, University's headed paper, the University's address, logo or using any of the University's facilities or equipment.

In accordance with the University's Policy on Intellectual Property (University's Ordinance 25) the University owns intellectual property generated by members of staff in the course of their duties at the University. Therefore, members of staff acting in a Private Consultancy capacity cannot, as part of any agreement they sign with a client, give rights to any University of Bath Intellectual Property.

Ordinance 25 - Intellectual Property - <https://www.bath.ac.uk/legal-information/intellectual-property-policy/>

## **Private Consultancy Process**

Notification of Private Consultancy by a member of staff should be issued to their Head of Department via submission of a Private Consultancy Approval Form, also copied to Consultancy Services.

Approval from the Head of Department must be received before any Private Consultancy activity is undertaken, contracts signed or agreements with external clients made. Undertaking unapproved consultancy activities or failing to report on consultancy activities undertaken will be considered a breach of contract and may result in disciplinary action being taken.

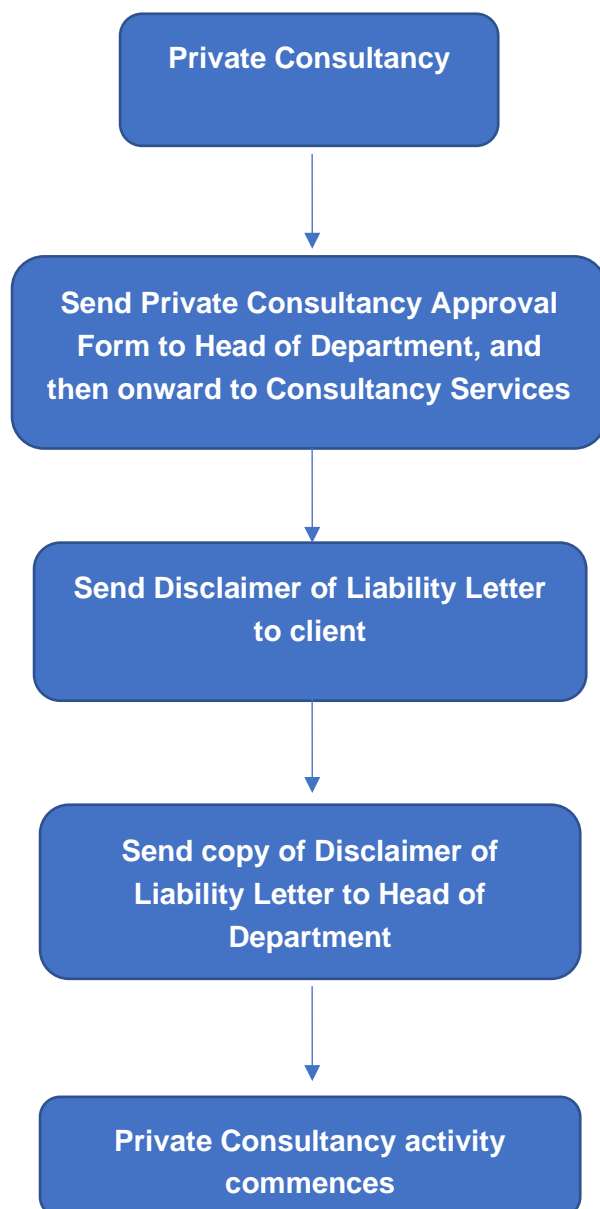
Once approval has been given, the Disclaimer of Liability Letter (Annex B) must be sent to the client for signature and return. Copies of the signed letter must be forwarded to the Head of Department and Consultancy Services prior to the commencement of any Private Consultancy activity.

Please note that the Disclaimer of Liability Letter must not be sent using University headed stationery and/or or University logo.

<https://www.bath.ac.uk/guides/consultancy-services/>

Heads of Department and/or line managers will be responsible for keeping records of all Private Consultancy proposals that they have considered. These records will be subject to an annual audit in order to ensure due diligence and consistency of process.

**Private Consultancy Flow Chart.**



## Annex A

### Private Consultancy Request Form



#### PRIVATE CONSULTANCY REQUEST FORM

A member of university staff wishing to undertake **Private Consultancy** activity is required to obtain approval ahead of carrying out the activity with their Head of Department.

In the case of University Consultancy please contact [Consultancy Services](#).

Name:	
Department:	
Name and address of external party:	
Business description of external party:	
Nature of proposed activity:	
Proposed amount of time involved:  (e.g., expected number of days per week / months per year, expected pattern of work).	Start date:  End date:
Do any potential conflicts of interest or other risks exist?  If yes, please provide details:	
Please provide any other relevant information and attach any relevant documentation.	

I confirm that I have read and understood the regulations within Ordinance 26 (External Work) <https://www.bath.ac.uk/publications/university-ordinances/> and the guidelines within the Consultancy Policy <https://www.bath.ac.uk/guides/consultancy-services/> and the information provided above is accurate to the best of my knowledge.

Signature:

Date:

**HEAD OF DEPARTMENT APPROVAL**

Signature:

Date:

## **Annex B**

### **Disclaimer of Liability Letter for Private Consultancy**

**[NB University headed stationery must not be used for this letter]**

*Consultant's name and home address*

*[NB Must not be a University of Bath or Departmental address]*

.....

*Date*

Dear *Client Contact Name*

*Re: Assignment reference*

With reference to my work on the above assignment I am required by the University of Bath as my employer to advise you that I shall be acting in an entirely personal capacity and not for or on behalf of the University of Bath. While the University of Bath permits its members of staff to undertake private consultancies subject to prior approval, which I have obtained from my Head of Department, once approval has been given the University of Bath exercises no control or supervision over the actual performance of the work. Consequently, the University of Bath cannot accept responsibility for the work I do or for the advice which I give in connection with the assignment and accepts no liability for any acts or defaults on my part, whether negligent or otherwise. In the event of any conflict between the provisions of this letter and the terms of any other contract between myself and your company this letter will take precedence.

Please countersign below and return one copy of this letter to me.

Yours sincerely

*Consultant's signature*

### **Countersigned**

Signed:

Name:

Position:

Date:

For and on behalf of: