

# Policy on Consultancy and Other Work for Outside Bodies

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Edge Hill  
University

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# Policy on Consultancy and Other Work for Outside Bodies

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## Summary

This policy outlines the procedure that must be followed when an employee of the University engages in consultancy and other work for outside bodies. It considers the definition of consultancy and other work, private consultancy, the relevant disclosure required by staff and approval mechanisms. The policy also describes how the University will incentivise staff to undertake University consultancy.

## Purpose

This policy is intended to provide the information required to undertake consultancy work in accordance with the University's approved procedures to ensure that staff understand the process and procedures that will support them in undertaking consultancy.

This document applies to all employees who are undertaking consultancy and or other work for outside bodies.

## Policy on Consultancy and Other Work for Outside Bodies

### 1. Introduction

Edge Hill University's mission statement sets out the University's 'commitment to the advancement, dissemination and application of knowledge'.<sup>1</sup> Consultancy and other forms of work for outside bodies are important channels through which knowledge and expertise can be transferred, exchanged and or co-created between the University and partners in the private, public and third sectors. They also provide important mechanisms for the University to contribute to local, regional and national communities, and to communities of practice and interest globally.

Consultancy and other external work also help to ensure that our employees develop and maintain a good understanding of current and emerging issues facing practitioners within their fields. For example, consultancy undertaken by our employees can (directly or indirectly) enhance teaching, the quality of student experience, and expand the range of opportunities available to our students. It can also help to inform research agendas.

As such, the University recognises the value of its employees undertaking consultancy and other work for outside bodies. This policy sets out the principles, rules and practices through which that activity by employees at Edge Hill University is managed.

### 2. General policy and principles

All consultancy work, specified public duties and other outside work is subject to formal approval by the University. Approval will be withheld if the approver is not satisfied that the employee will be able to continue to perform all the duties required

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<sup>1</sup> [Edge Hill University Strategic Plan 2013-2020](#)

of them by their contract of employment with the University (including teaching, research and administrative activities).

The University's arrangements for the approval and management of consultancy, public duties and other work are intended to ensure that:

- work is appropriate to, and consistent with, the discharge of employee's contractual responsibilities, whether the work is undertaken on behalf of the University or in a private capacity;
- employees and their managers give due consideration to benefits and opportunity cost of engaging in particular projects (in terms of time and energy that could be directed elsewhere) before committing to a project or activity;
- professional indemnity, resources, facilities and services are provided where work is undertaken on behalf of the University;
- the full costs of any of the University's resources, facilities or services drawn upon during the work are recovered, and that the price charged generates additional income where appropriate;
- the terms and conditions applied or suggested by external bodies are acceptable to the University and that the University's interests regarding intellectual property are safeguarded; and
- appropriate arrangements are in place to assure the quality of the work, and to ensure that it can be completed in the event that the original employee contracted becomes unable to complete the work for any reason.

### 3. Definitions and scope

#### 3.1 Consultancy

The University uses a broad definition of consultancy. Under this definition consultancy is deemed to be:

- Work undertaken by University employees for clients outside the institution in order to meet specific needs or requirements articulated by the client(s), for which payment is made
- Work which produces some form of contracted output (which in most cases would be the sole property of the client) and other agreed deliverables
- Activity for which the University is not likely to have (full or partial) freedom of publication over the results, although it may be possible to negotiate publication rights on a case by case basis.
- Activity which is part of a defined assignment, which uses existing knowledge only and which does not lead to the generation of new intellectual property.

The University identifies a clear distinction between consultancy and **research** as defined in the Frascati Manual.<sup>2</sup> Unlike research, consultancy does not have the generation of new knowledge as its primary purpose.

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<sup>2</sup> In the Frascati Manual research is defined as follows: 'Research and experimental Development (R&D) comprise creative work undertaken on a systematic basis in order to increase the stock of knowledge,

New intellectual property is not generally created through consultancy projects (beyond the production of outputs which may, in some cases, be copyrighted). If it seems likely that new intellectual property will be created, it may be that a simple consultancy agreement is not the most appropriate form of contract. In such cases, employees should discuss this with the Research Office.

#### 4. Types of Consultancy and other outside work

##### 4.1 Consultancy

The University distinguishes between **University consultancy** and **private consultancy** as follows:

- **University consultancy:** University consultancy is carried out by a member of staff in their capacity as a University employee. All consultancy activity must be undertaken through the University's trading subsidiary, Edge Hill Enterprises Ltd, unless otherwise directed. University contracts are covered by the University's professional indemnity cover and other insurances. The University will administer taxation issues relating to the contract.
- **Private consultancy:** Private consultancy is carried out by employees entirely independently from the University, must be undertaken only in their own time and without use of University resources. Private consultancy by employees is not included under the University's Professional Indemnity Insurance Cover so employees must take out their own cover. The University will not accept liability if the client seeks any redress. The employee is responsible for dealing with all returns to HM Revenue and Customs and for the payment of tax and National Insurance relating to the consultancy contract.

All employees intending to undertake consultancy are therefore required to consider:

- the advantages of undertaking projects as University consultancy projects
- the need to take out personal professional indemnity insurance if acting in a private capacity; and
- the need for approval in either case.

The rules and practices that employees must follow when proposing to undertake both University and private consultancy are set out in separate sections below.

#### 5. Work for outside bodies requiring formal approval

Formal approval is required from the University for the following indicative but not exhaustive list of activities (activity not normally exceeding 20 days per annum in total):

- University consultancies
- Provision of services and/or products to an outside body

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including knowledge of man, culture and society, and the use of this stock of knowledge to devise new applications. R&D is a term covering three activities: basic research, applied research and experimental development.'

- Provision of CPD, teaching or training (including acting as an external tutor for another institution), where this is not part of the University's portfolio of credit-bearing courses and programmes
- Employment by outside bodies
- Membership of research councils, government or similar committees or a non-department public body (quango)
- Private consultancies
- Directorships of companies
- Partnerships of any kind
- Private professional practice
- Charity and voluntary work during normal working hours
- Regular journalistic work
- Pro-bono work
- External roles identified in conditions of service (for example, membership of the Reserve Forces, membership of the Special Constabulary).
- Public service and appointment as a:
  - Magistrate (Justice of the Peace)
  - Member of a local authority (or police or fire authority)
  - Member of a national or European Parliament
  - Member of a statutory tribunal
  - Member of NHS bodies, including boards of Health Trusts, Primary Care Trusts and Strategic Health Authorities / clinical commissioning groups
  - Member of a prison visitors or prison visiting committee, or
  - Member of relevant educational bodies.

#### 6. Work for outside bodies that does not normally require formal approval

Central approval for the following types of work for outside bodies is not normally required, but your Head of Department should be informed, with some indication of resulting work load:

- Work for royal colleges and similar outside bodies, where such work is a normal expectation of professionally qualified employees in nursing, medicine, dentistry and related medical fields.
- Professional work involving academic scholarship, including:
  - Acting as a peer reviewer for funding applications, academic journals or books
  - Authoring or editing books, articles and journals
  - Provision of technical or literary advice
  - Refereeing

- Acting as a member of a panel or sub-panel for REF
- External examining
- Providing *ad hoc* comment or opinion to inform media discussion in an area in which professional expertise is held
- Advising learned societies and charities
- Charity and voluntary work outside work hours
- Membership of validation / review panels at other HEIs
- Undertaking QAA and Professional, Statutory and Regulatory Bodies (PSRB) reviewer activities.

Where these and other external activities in total exceed (or are expected to exceed) 20 days per annum, employees should contact their head of department as formal approval will be required. If there is any doubt about whether or not approval is required, employees should contact the Research Office or their head of department for a discussion.

## 7. University consultancy and other outside work

### 7.1 Eligibility

Each proposed new consultancy assignment or piece of outside work must be authorised through the process outlined below. In each case, the authorising person must ensure that the amount of work required to complete the project or duties does not conflict with the employee's University responsibilities or prejudice the wider interests of the University.

### 7.2 Securing authorisation to undertake University consultancy

Employees wishing to undertake University consultancy or other work for an outside body for which formal approval is required must obtain permission through the University's PURE system.

Approval may be given for a University consultancy if:

- The work is in the general interests of the University
- The work is in the area of expertise of the employee involved
- The full market rate is being recovered for the work
- The work can be undertaken without detriment to the individual employee's management of his or her existing workload / capacity
- No costs will fall on the University which are not recharged to the external client
- The work is not likely to bring the University into disrepute, create unwarranted risks for the University and is not likely to conflict with the individual's commitments to the University
- The issue of intellectual property has been addressed properly
- The work is compatible with the University's charitable status.

If the market rate is not being recovered, other benefits to the University may, exceptionally, be taken into account. However, all direct and indirect costs incurred must be recovered.

### 7.3 Securing authorisation to undertake other outside work

Employees should contact their head of department/area via email, outlining the nature and extent of the work. The head of department/area will advise on the appropriate process for approval.

### 7.4 Disclosure of University consultancy and other work for outside bodies

All work for outside bodies (as part of a University project or privately), even where approval is not required, must be disclosed to the relevant faculty office. All University consultancy projects (including contract research) must be disclosed to the Research Office and be authorised via the PURE system. Disclosure is required for the following reasons:

- **Maintaining public accountability:** consultancy activity and other work for outside bodies undertaken by the University may be supported indirectly through public funds. It is important that the University is able to manage and maintain a record of activity (as may be required by both internal and external auditors).
- **Ensuring accurate costing:** the University will need to ensure that no costs fall on the University, other than those that have been clearly identified and agreed. The price charged for consultancy and other work for outside bodies must be set at a level that recovers all direct and indirect costs incurred by the University and, wherever possible, generates a surplus.
- **Contracting:** individual employees are not authorised to enter into contracts with third parties on behalf of the University and should take care to ensure that they do not imply intention to contract on behalf of the University, without approval to do so.
- **Propriety and probity:** work for outside bodies must be academically and professionally appropriate and must not bring the University's name into disrepute. Work must be consistent with the University's Charter and must not endanger the University's charitable status. Employees should ensure that conflicts of interest are avoided (in line with the guidance below).
- **Quality assurance:** members of staff able to authorise work for outside bodies will need to be satisfied that the work can be undertaken to an appropriate quality and that any contractual obligations to a third party can be met.

### 7.5 Professional indemnity and insurances

The University will offer professional indemnity and insurance to an employee undertaking work for outside bodies relating to his or her professional discipline or the business of the University, including University consultancy projects, provided that prior approval for the work has been granted and that the agreement or contract to undertake the work is between the University and the outside body.



The University will also provide professional indemnity and insurance for its employees undertaking public duties for which approval is required and has been obtained. The University will also be covered by insurance in these cases.

The University disclaims all liability in every case in which work for outside bodies is undertaken without prior approval.

### 7.6 Pricing

Edge Hill University is an exempt charity regulated by the Office for Students. Charitable status provides a number of benefits (including entitlement to some tax reliefs). However, like any other charity, the University's activities are constrained and shaped by the requirement to further the charitable aims (teaching and research) referenced in our governing documents for the public benefit.

It is important to ensure that University consultancy projects and other work for outside bodies for which income is receivable are costed appropriately. Unless particular circumstances justify otherwise, consultancy projects should be priced to cover all of their costs (including overheads) and to generate a surplus. Any work that does not further our charitable aims should be treated as a fundraising activity, unless exceptional and time-limited circumstances apply.

It is also important that the University sets prices in light of State Aid Regulations. Wherever possible the University will look to design State Aid out of projects by establishing and following the market rate. Where this is not possible further work will be required to render the State Aid provided legal.

Figure one (below) provides a summary of the approach to be taken when setting day rates for consultancy and other outside work.

The University has a target consultancy day rate of £750. However, in some cases it may be desirable and appropriate to charge a higher day rate - the setting of day rates for specific projects (or for consultancy services in general) should also be informed by an assessment of what the market will bear.

If it is not possible to charge this target consultancy day rate (or higher), members of those pricing projects should seek to set a day rate that is greater than the full economic cost (fEC)<sup>3</sup> of undertaking the work.

Where services involve University premises or specialised equipment and facilities (e.g. scientific equipment or the use of television studios) and the University is not charging for the use of the equipment directly, some additional uplift in the staff day rate should be made. Please discuss this with business development staff in faculty, or with the Research Office, to determine an appropriate figure.

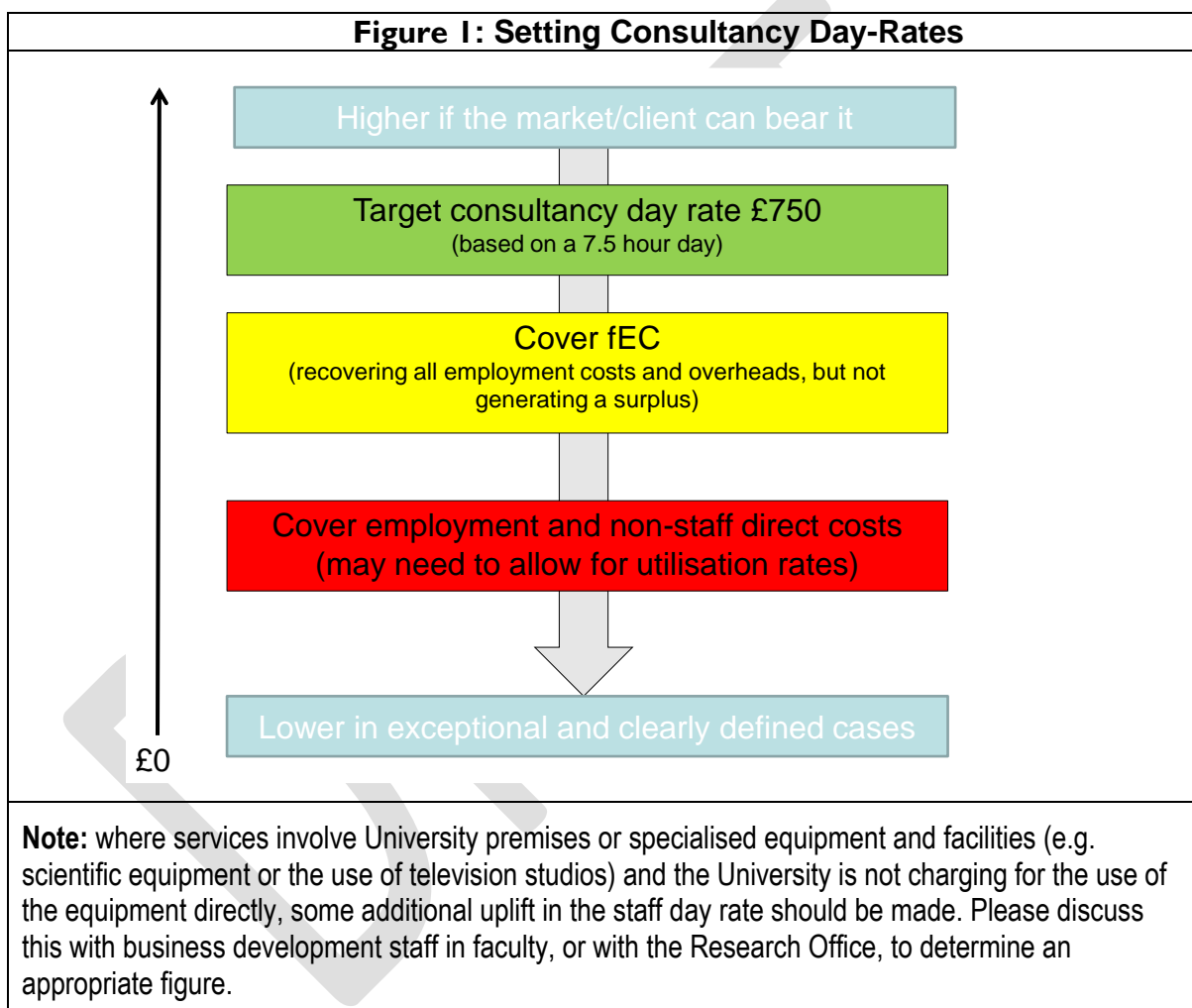
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<sup>3</sup> Full economic costing takes account of overhead costs, in the form of estates and indirect costs, as well as employment costs (salaries, employer's National Insurance Contribution and pension contributions).

Marketing or business development strategies may require services to be priced competitively, at or below FEC (for example, to establish a track record in a service area or to build relationships with particular clients).

Where project leaders propose to charge below full economic cost it is important that:

- such an approach to pricing is discussed and agreed with their head of department/area and with the Research Office in advance, and that it contributes towards university strategy
- that the income forgone is calculated, and
- that there is a clear plan of action to move quickly toward sustainable pricing.



The Research Office must be engaged from the outset with the drafting of any University consultancy contract (or contract for other work undertaken for outside bodies in a University capacity) between the University and the external client.

The University will invoice the external client, receive all payments to be made under the contract and will be responsible for chasing late payments in accordance with University payment terms. For all University consultancies and other outside work, University sales invoices must be raised via the University's finance system only: no

other invoices should be issued. Before raising invoices, project leaders should seek advice from the Research Office and/or the Finance Office on VAT issues.

Most consultancy projects are undertaken on a fixed fee basis (often with the fee fixed strictly, but sometimes with the opportunity to negotiate additional payment). For fixed fee work it is important to be certain that the work is genuinely achievable in the time allowed and costed.

The extent to which consultancy work is completed and signed off within budget will be gauged by the Research Office through periodic assessments or as part of the post-commission quality assurance review.

In some cases, the University may be willing to accept a medium of exchange other than money for some or all of the services provided (e.g. exchanging placement opportunities for students in return for the provision of consultancy services). Project leaders should contact their head of department for a discussion before raising this as a possible means of payment with clients – it should not be discussed with the client as a possible alternative to monetary payments unless approval to do so has been given.

#### 7.7 Distribution of net fee income

Net fee income is the surplus that remains after the deduction of the following:

- the cost of employing staff to work on the project as identified in the project budget (including salary, National Insurance and pension costs)
- project expenses (e.g. costs of travelling to and from meetings)
- VAT charged to the client
- All disbursements to external collaborators (e.g. fees that the University needs to pay to sub-contractors)
- All disbursements to internal collaborators (payment to other parts of the University for costs they have incurred).

Net fee income is to be divided into proportions agreed at the outset. Unless otherwise agreed, these will be:

- 60 per cent within the department for use in research and knowledge exchange activities (e.g. buy-out of teaching time, funding conference attendance). Departments will determine (either as a general principle or on a case-by-case basis) the extent to which funds are ring-fenced for the use of the fee-earners.
- 40 per cent to be retained with the University centrally.

The above treatment of net fee income will not be applied in circumstances where consultancy is a core expectation of the employee's role or where the University itself has commissioned the activity.

A successful track record in raising net income through consultancy will be taken into consideration in all departments for the purposes of career progression (subject to

the goals agreed in performance review) and departmental planning documents. The University recognises the value of this activity and will ensure that consultancy and other forms of knowledge exchange are given adequate weight.

### 7.8 Intellectual Property

Any intellectual property created in the course of a University consultancy or outside work (excluding *private* consultancy), other than copyright created specifically in the course of creating a report for the client, should belong to the University.

This may exclude intellectual property created as a contractually agreed output with the client, or intellectual property captured by the contract with the client. The University's Intellectual Property policy applies to consultancy and other outside work and employees must comply with this policy at all times. Any potential intellectual property issues should be discussed with the Research Office.

If, from the outset, it appears likely that intellectual property will be generated it may be that a standard consultancy agreement is not appropriate. Again, employees should discuss any potential intellectual property issues with the Research Office.

### 7.9 Conflicts of interest

Employees must ensure that they disclose fully all work for outside bodies in order to avoid potential conflicts of interest. If an employee undertakes outside work for a third party that employee must not be involved in any decisions regarding purchasing, sales, employment or any other contract between that third party, its staff and the University. Work for outside bodies must be conducted within the University's Financial Regulations governing conflict of interest and conflict of commitment. These may also apply if the outside work is for a company or other body in which a family member is employed or has an interest.

### 7.10 Quality assurance

Where project leaders are required to provide details of the University's quality assurance processes the University's Quality Assurance Management Framework should be used. This document is available on the Research Office wiki.

As detailed in the Quality Assurance Management Framework, for projects with a total cost of £10,000 (or lower, at the discretion of the Research Office in consultation with the appropriate dean) staff from within the relevant faculty office will contact the client representative to assess their satisfaction and gather feedback. Findings are disseminated to the consultant team for discussion, review and (if appropriate) action to ensure improvement. These post-commission reviews will inform the identification of staff training and development priorities.

## 8. Private consultancy

All private consultancy must be authorised by the University before commencement. The University asserts the right to grant or withhold permission for employees to undertake private consultancy or other outside work. Where external work, including

private consultancy, exceeds (or is expected to exceed) 20 days per year (either in a single project or cumulatively, pro-rated) approval may be withheld.

Please see *Securing approval for private consultancy*, below.

Employees are permitted to retain all income from private consultancy or other outside work they undertake in a private capacity. The individual is responsible for declaring any income from such work on all relevant tax returns and the University will have no responsibility for any tax, national insurance, interest or penalties payable in connection with the work.

The University has no interest in the conditions under which consultancy is conducted and has no claim on any income earned; however, the University would advise that commercial rates charged to clients should not undercut the market rate for the relevant profession.

Private consultancy must be arranged and performed solely in the employee's own time and must not make use of any of the University's resources, unless explicit consent has been sought and received. No adjustment to workloads will be made as a result of an employee undertaking work in a private capacity.

An employee undertaking private consultancy may not use the University's name, logo, intellectual property, services, facilities, equipment, stationery, email accounts and telephones

No University address can be used in connection with invoices requested or issued for the sale or purchase of goods and services by employees undertaking private consultancy. No University address can be given as the delivery address for goods or documents, unless it is made clear that such goods can be delivered to that employee *care of* the University.

Staff are personally responsible for the consequences arising from their undertaking of private consultancy work and other outside work performed in a private capacity (or for agreeing to undertake such work). Staff members undertaking private consultancy or other outside work in a private capacity will not be covered by the University's Professional Indemnity Insurance or any other insurance provided by the University, and must ensure that this is fully understood. Staff will be personally responsible for arranging any insurance they require, or might wish to have in place, before undertaking any work.

Consultancy carried out privately must not involve activities that have the potential to bring the University into disrepute, or that conflict with the interests of the University, both as an employer and as a Higher Education Institution, or those of any of the University's subsidiaries.

### 8.1 Securing approval for private consultancy and other outside work undertaken in a private capacity

Permission to undertake consultancy and other work for outside bodies in a private capacity is subject to formal approval in advance by the University. Approval is required for the following reasons:

- **Avoiding conflicts of interest or bringing the University into disrepute:** Consultancy and other outside work carried out privately must not involve activities that have the potential to bring the University into disrepute or that conflict with the interests of the University, both as an employer and as a Higher Education Institution, or those of any of its subsidiaries.
- **Collecting data for annual returns:** in some cases the University may be able to report private activity to its funders and regulators (for example, as part of the Higher Education – Business and Community Interactions Survey).

Approval may be given for outside work if the following conditions are met:

- No University resources are used
- The work is done in the employee's own time
- The work will not conflict with the employee's duties to the University as an employee (including teaching, research and administrative tasks), and therefore not normally exceeding 20 days per annum (pro rata) cumulatively
- The work is not better undertaken through the University
- The employee indemnifies the University
- The work does not put the University in conflict of interest positions.

Approval must be given by two members of staff, as shown in table one.

<b>Table 1: Securing approval for private consultancy</b>		
<b>Staff employed on academic contracts</b>		
<i>Person seeking approval</i>	<i>Approver 1</i>	<i>Approver 2</i>
Lecturers, Senior Lecturers, Readers and Professors	Head of Department	Dean
Head of Department	Dean	Other Member of Directorate
Associate Deans	Dean	Other Member of Directorate
Deans	Member of Directorate	Other Member of Directorate
<b>Staff employed on non-academic contracts</b>		
	<i>Approver 1</i>	<i>Approver 2</i>

All staff below heads of service areas	Line Manager	Head of Service <sup>1</sup>
Heads of service areas	Member of Directorate with responsibility for service area	Second member of Directorate
<p><sup>1</sup> Where the head of service is also the individual's line manager, approval should be sought from the appropriate member of Directorate for the service.</p>		

## 8.2 Appeal process

If an employee feels that they are unfairly prevented from undertaking private consultancy activities they may appeal for a review of the decision, contacting the Director of the Research Office in the first instance.

## 8.3 Disclaimer for private consultancy

Staff are personally responsible for ensuring that their clients are fully aware that the University is in no way responsible for or liable in respect of consultancy work that is carried out privately by employees.

An employee intending to undertake private consultancy or other outside work must make it clear to the client, at the outset of discussions, that the proposed work would be undertaken by them in a private capacity. Employees must not represent, or permit to be represented, that the University has any association with, or involvement in, the private consultancy.

Before any offer of services in return for a consideration is made, and before any formal contract is entered into, employees must issue a disclaimer that the proposed work would be undertaken by them in a private capacity.

The example below would be suitable text for such a disclaimer. Disclaimers must not be printed on University stationery, nor should they use a University address for return correspondence.

*Dear Sir/Madam*

*[Title of Consultancy/Outside Work]*

*With reference to our previous discussions and correspondence, I confirm that this work is undertaken in a private capacity. Whilst my employer, Edge Hill University, allows its employees to undertake private consultancy assignments and other outside work, once its approval has been given, it exercises no control or supervision over the performance or direction of this work. Consequently, the*

*University cannot accept responsibility for this work or the advice which I give in connection with it. This advice is given in a personal and private capacity.*

*Please acknowledge in writing your receipt and acceptance of this letter.*

*Yours faithfully*

Work must not begin until a positive response is received to this letter and a copy provided to the Research Office.

### 9. Non-compliance

Failure to comply with the terms of this policy may be considered as a breach of contract which may result in disciplinary action in accordance with the University's Disciplinary Policy and Procedure.

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## Endmatter

Title	Policy on Consultancy and Other Work for Outside Bodies
Policy Owner	Chris Hughes, Research Office
Approved by	University Research Committee
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