

OUTSIDE EARNINGS OF ACADEMIC STAFF POLICY 2011

The Vice Chancellor, as delegate of the Senate of the University of Sydney, adopts the following policy.

Dated: 17 May 2011

Last amended: 20 June 2017 (administrative amendments only)

Signature:

Name: Dr Michael Spence

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1 Name of policy

The name of this policy is the Outside Earnings of Academic Staff Policy 2011.

2 Commencement

This policy commences on 1 June 2011.

3 Policy is binding

Except to the extent that a contrary intention is expressed, this policy binds the University, staff, students and affiliates.

4 Statement of intent

This policy:

- (a) permits members of the University's academic staff to engage with government and industry through professional activity which assists them to stay in the forefront of their areas of expertise;
- (b) sets out the circumstances in which academic staff may undertake outside earnings activities;
- (c) articulates the differences between University commercial activities and private professional activities;
- (d) requires the appropriate approval and conduct of outside earnings activities; and
- (e) ensures that the University's reputation and resources are protected from liability arising from the private professional activities of members of its academic staff.

5 Application

- (1) This policy applies to all academic staff.
- (2) This policy does not apply to activities specifically exempted under Clause 8.
- (3) If there is any inconsistency between this policy and the *Commercial Activities Guidelines*, the *Commercial Activities Guidelines* will prevail.
- (4) This policy does not address the commercial exploitation of intellectual property, which is addressed by the [Intellectual Property Policy 2016](#).

6 Definitions

clinical academic	means a member of the University's academic staff involved in the delivery of clinical services.
Commercial Activities Guidelines	means the Guidelines Concerning Commercial Activities made by the Senate under Section 26B of the University of Sydney Act 1989 (as amended)
executive supervisor	means the relevant Deputy Dean, or Deputy Head and Deputy Dean of a University school, Director or other chief officer of an administrative area, Deputy Vice-Chancellor, as the case may be.
outside earnings activity	means professional activity outside the scope of the academic's University employment which generates financial or in-kind benefits, including both private professional activity and University commercial activity.
private professional activity	means outside earnings activity undertaken in a staff member's private capacity, including an arrangement between the academic and an external client or other third party to which the University is not directly or indirectly a party.

Senior Medical Practitioner (Academic)	means a clinical academic who is engaged part time by a New South Wales Area Health Service to deliver clinical services in New South Wales public hospitals.
University commercial activity	means outside earnings activity, administered through the University, which provides professional services, products or advice to external parties and which generates financial or in-kind benefits.
University resources	includes accommodation, technical or secretarial staff, facilities, equipment, telephone, computing or network links.

7 Eligibility to engage in outside earnings activity

Members of the University's academic staff are eligible to engage in outside earnings activities provided that:

- (a) there is no express prohibition of such activity in their contract of employment;
- (b) they obtain approval consistent with clause 9 of this policy; and
- (c) they comply with the requirements of this and other applicable University policies and procedures.

8 Exemptions from this policy

- (1) The following are exempt from the provisions of this policy other than the insurance and indemnity requirements set out in clause 14:
 - (a) University initiated and controlled activities such as Unit or Faculty clinics, practices or businesses;
 - (b) activities governed by the *Commercial Activities Guidelines*;
 - (c) royalties received by a staff member for writing or publishing conventional scholarly works in his or her field of expertise;
 - (d) Senior Medical Practitioner (Academic) or equivalent appointments;
 - (e) activities for which a modest fee is paid but which are otherwise within the usual scope of academic employment, including but not limited to:
 - (i) refereeing books or preparing journal articles;
 - (ii) setting examinations or examining theses for other institutions;
 - (iii) occasional broadcasts, lectures or similar appearances; or
 - (f) activities specifically exempted by the Vice-Chancellor or the relevant Deputy Vice-Chancellor
- (2) The private professional activities of staff members employed on a part-time basis are not subject to this policy, provided that:
 - (a) the activities occur outside the part-time work period; and
 - (b) the staff member does not represent the activities, or the staff member, as being connected with the University.

- (3) Staff members employed on a part-time basis require approval under this policy for any outside earnings activities which occur during their normal University working week.

9 Approval of outside earnings activities

- (1) Staff members wishing to engage in outside earnings activities must obtain the prior written approval of the relevant executive supervisor.
- (2) Unless exempted under clause 8, clinical academics who derive income or in-kind personal benefits from the billing of patients treated by them are considered to be engaging in private professional activities, and will therefore require approval to do so. This is so even if the patients participate in research or teaching.
- (3) The policy administrator may prescribe a form or forms for the purposes of this clause.
- (4) An executive supervisor may only approve a proposed outside earning activity if satisfied of each of the following:
 - (a) it will not prevent the staff member from fulfilling his or her normal duties of employment, including individual workload allocation;
 - (b) subject to clause 11, the amount of time taken by the staff member to perform all relevant outside earnings commitments will not exceed, on average, a period equivalent to 20% of the staff member's normal University working week (in addition to the full workload commitments arising from their University employment); and
 - (c) there will be no unauthorised use of University intellectual property.
- (5) In addition to subclause (4), an executive supervisor may only approve a proposed private professional activity if satisfied of each of the following:
 - (a) there will be no material use of University resources in the conduct of the activity;
 - (b) the applicant's direct supervisor does not object;
 - (c) the activity is not materially in competition with services offered by the University;
 - (d) there is no conflict of interests between the activity and the applicant's normal University duties;
 - (e) no University letterhead or postal address will be used in connection with the activity;
 - (f) there is no implication that the activity is being conducted on behalf of the University; and
 - (g) the applicant has obtained:
 - (i) any necessary professional registration to undertake the activity; and
 - (ii) appropriate professional indemnity insurance.
- (6) An executive supervisor may grant a standing approval to a staff member if:
 - (a) the outside earnings activity is ongoing or allowed under the staff member's contract of employment; or
 - (b) the services being performed involve a number of minor projects of a similar nature; or

- (c) the outside earnings activity involves a company director role.
- (7) Standing approvals must:
 - (a) clearly specify the activities for which approval is given; and
 - (b) be reviewed at least every two years.
- (8) Any change in the nature of outside earnings activities the subject of a standing approval will require a further application for approval.

10 Use of University logo

- (1) The University's logo may not be used in connection with a staff member's private professional activities otherwise than as provided in this clause.
- (2) Use of the University's logo by a staff member for private professional activities, including on letterhead, is equivalent to use by a third party, and must be approved by the relevant delegate authorised to approve third party use.

Note: See [University of Sydney \(Delegations of Authority – Administrative Functions\) Rule 2016](#).

- (3) Staff members who are approved to use the University logo on letterhead used in their private professional activity must ensure that:
 - (a) any contract, letter or other document which records the terms of the staff member's engagement to undertake private professional activity contains an acknowledgement that the staff member is not being engaged in the course of employment by the University; and
 - (b) any letterhead on which the University's logo appears also contains a statement to the effect that any communication made on that letterhead is not made in the capacity of an employee of the University.

11 Time allowed for outside earnings activities

- (1) Staff who engage in approved outside earnings activities must still meet all requirements of their University employment including, as applicable, individual teaching, research and service workload allocations.
- (2) Subject to subclause 11(1), staff may be permitted to use up to 20% of their normal University working week to undertake approved outside earnings activities.
- (3) Subject to subclause 11(1), additional time above 20% may be allowed for University commercial activity if, in the opinion of the relevant executive supervisor:
 - (a) the activities are to the overall benefit of the University; and
 - (b) the time required will not adversely impact overall academic workload allocations, including teaching, research and service activities.
- (4) Subject to subclause 11(1), additional time above 20% may be allowed for private professional activity if, in the opinion of the relevant executive supervisor:
 - (a) it is possible for the private professional activity to be done concurrently with University research work; and
 - (b) the research value of the combined work justifies the granting of additional time; and

- (c) the additional time required will not adversely impact overall academic workload allocations including, as applicable, teaching, research and service activities.

12 Conduct of University commercial activities

- (1) University commercial activities must be administered through the University and conducted under its auspices.
- (2) Income derived for individuals from participation in University commercial activities must be paid only as remuneration through the University payroll.
- (3) Income derived for faculties from participation in University commercial activities must be paid only through the relevant specific University accounts.

13 Conduct of private professional activities

- (1) The University will not be a party to any contract or agreement for the private provision of professional services by members of its academic staff. A staff member engaged in private professional activity must not represent that the University is a party to such activity, and must not execute any document which refers to the University as a party.
- (2) Except as provided in clause 14, the University will accept no liability for any matters arising out of private professional activities.
- (3) Income generated from private professional activities must not be paid into University accounts otherwise than as a donation to the University as a whole.
- (4) Donations referred to in sub-clause (3) must not be directed to specified University accounts.

14 Insurance and indemnity requirements

- (1) Private professional activities are not covered by the University's insurance.
- (2) It is the responsibility of any staff member undertaking private professional activities to ensure that he or she:
 - (a) holds any necessary professional registration to practice in New South Wales; and
 - (b) holds professional indemnity insurance sufficient to cover all potential claims, damage or loss sustained during or as a result of private professional activities.
- (3) Senior Medical Practitioners (Academic) are required to carry adequate public liability and professional indemnity insurance for work undertaken for private patients arising from their hospital and University appointments.

15 Company directorships

- (1) Directorship of a company which is work-related or which is to be used for outside earnings activities constitutes private professional activity, and therefore requires approval.

- (2) Names of companies owned or operated by staff members for the purposes of private professional activities must not:
 - (a) use the University's name; or
 - (b) be similar to the names of units, projects or activities within the University.

16 Outside earnings constitute external interests

Outside earnings activities constitute external interests for the purposes of the [External Interests Policy 2010](#) and must be declared as such in accordance with that policy.

17 Record keeping and reporting

- (1) Each executive supervisor will establish and maintain a register of all applications made under this policy and their outcomes, including the application forms.

Note: The [Privacy Policy 2013](#), [Privacy Management Plan](#), [University Recordkeeping Policy](#) and [Recordkeeping Manual](#) apply to such records.

- (2) Each executive supervisor will report to the relevant Deputy Vice-Chancellor by 31 March each year on outside earnings activities conducted within the faculty or unit over the previous year.
- (3) Academics who have received approval to engage in outside earnings activities must certify at least once each year that their engagement in private professional activities has not, on average, involved more than the approved amount of their normal University working week (in addition to the full workload commitments arising from their University employment).

18 Breach of policy

Breach of this policy or its associated procedures may constitute misconduct, and may result in disciplinary action.

NOTES

Outside Earnings of Academic Staff Policy 2011

Date adopted:

Date commenced: 1 June 2011

Date last amended: 1 December 2016, commencing 1 January 2017
20 June 2017 (administrative amendments only)

Administrator: *Provost and Deputy Vice-Chancellor*

Review date: 1 June 2016

Related documents:

[The University of Sydney Enterprise Agreement 2013 -2017](#)

[Guidelines Concerning Commercial Activities](#)

[University of Sydney \(Delegations of Authority - Administrative Functions\) Rule 2016](#)

[Intellectual Property Policy 2016](#)

[The University of Sydney \(Library\) Rule 2011](#)

[Code of Conduct - Staff and Affiliates](#)

[External Interests Policy 2010](#)

[Honorary Titles Policy 2013](#)

[Honorary Titles Procedures 2013](#)

[Use of University Information and Communications Technology Resources \(ICT Resources\) Policy](#)

AMENDMENT HISTORY

Provision	Amendment	Commencing
	References and links to the Enterprise Agreement; Honorary Titles Policy and Procedures; and Commercial Development and Industry Partnerships updated.	16 May 2014
	Clarify ambiguities in the eligibility and approval criteria; time allowed for private professional work; and use of University logo	6 September 2016
4(d)	“provides for” replaced with “requires”.	1 January 2017
7	Clarification regarding when academic staff are eligible to engage in outside earnings.	1 January 2017
8(d), 8(e), 9(1), 9(2), 9(3), 9(4), 9(5), 10(3)	Minor amendments for clarification.	1 January 2017
10(2)	Replacement clause.	1 January 2017
11	New subclause (1) added and references and amendments relating to the new subclause added throughout.	1 January 2017
13(1), 13(4)	Amendments relating to execution of documents.	1 January 2017
17(1), 17(3)	Amendments relating to recordkeeping and reporting requirements.	1 January 2017



Provision	Amendment	Commencing
18	Clause deleted.	1 January 2017
6; 10(2)note; related documents	Updated references and appointed delegate to align with <i>University of Sydney (Delegations of Authority – Administrative Delegations) Rule 2016</i>	20 June 2017