

Consultancy Policy – December 2008

1.0 Introduction

1.1 Consultancy is defined as: The deployment of existing knowledge to meet the specific requirements of a client either in the private or public sector in an area of expertise relevant to the research and teaching activities of the College.

1.2 Royal Holloway, University of London (“the College”) recognises the link between consultancy activity and growth in contract research income. Consultancy is an important part of its “third stream” activities and the College wishes to give encouragement and clear guidance to members of staff planning to undertake activity in this area.

1.3 Royal Holloway Enterprise Ltd (RHE) is a wholly owned subsidiary of the College. Commercial activity is carried out through RHE to protect the charitable status of the College.

2. Scope of Policy

2.1 For the avoidance of doubt the following activities are not regarded as consultancy and do not form a part of this policy:

- 2.1.1 Royalties from the publication of books and proceeds from other works e.g. films, plays, lyrics and songs
- 2.1.2 Proceeds from articles published in journals.
- 2.1.3 Refereeing of articles in learned journals.
- 2.1.4 Fees for editorial duties.
- 2.1.5 Reviewing book proposals or manuscripts for publishers or advising on publication.
- 2.1.6 Peer reviewing research proposals for Research Councils and other research sponsors.
- 2.1.7 External examining.
- 2.1.8 External ad hoc lectures, conferences, presentations.
- 2.1.9 Contributions to press, TV, and other media.
- 2.1.10 Service on committees of public sector organisations, government agencies and charitable bodies.

2.2 There are several types of revenue generation activities undertaken by the College and its staff:

2.2.1 Consultancy work undertaken in the College's name by members of staff; i.e. College based consultancy.

2.2.2 Consultancy undertaken by individual members of staff of the College in their own name i.e. private consultancy.

2.2.3 Work undertaken by consultancy units in or related to, academic departments e.g. Geography, Earth Sciences.

2.2.4 An academic or group of academics responding on behalf of the College to an external tender.

2.2.5 The commercial use of College equipment and facilities e.g. analytical services.

2.3 This document is only concerned with consultancy by individual members of staff i.e. the first two types of consultancy defined in 2.2.1 and 2.2.2. Where work is to be undertaken which falls into the other categories in 2.2, whether as a "one-off" or as a long term arrangement, then guidance should be sought from Research & Enterprise.

2.4 Interpretation of a court judgement (University of Nottingham v Dr Simon Fishel, January 2000) has blurred the distinction between private consultancy work and University based consultancy work. The judgement stressed the need for clear guidelines and processes to be in place associated with academic consultancy and the need for unambiguous communication.

2.5 This policy describes the support and procedures at the College to encourage College based consultancy and clarifies procedures for staff wishing to carry out private consultancy to mitigate, as far as is reasonable possible, risk to the College.

2.6 Staff considering consultancy activity should engage with Research & Enterprise at the earliest opportunity.

3.0 College based consultancy (CBC)

3.1 College based consultancy (CBC) is the provision by College staff of expert advice (including acting as an expert witness) or professional services relating to their College appointment. It is provided to external clients that can include both public and private sector organisations and the voluntary/charitable sectors. The income and cost sharing arrangements in this policy are on the basis that there is no use or purely incidental use of College resources for the CBC. When the CBC does involve the use of College resources an appropriate charge will be made and this charge will need to be reflected in the price for the work.

3.2 College staff who have specialist and marketable expertise enabling them to act as consultants are potentially eligible to undertake CBC work.

3.3 Staff who wish to undertake CBC work can do so for up to the equivalent of 30 days a year, defined as a rolling twelve month period, provided that the Head of Department confirms (via the CAF1 form, see section 5.0) that the proposed consultancy can be managed without adversely affecting normal workload. Further, written permission is required from the Head of Department where the work in any one year is likely to exceed 30 days. This written permission will specifically confirm that appropriate arrangements are in place to cover normal workload and that these arrangements have been adequately funded from the consultancy activity.

3.4 If a proposed CBC will have an adverse impact on normal workload, the staff member, Head of Department and Research & Enterprise will consider options on how the project may be accommodated.

3.5 CBC will be managed on behalf of the staff member through the Research & Enterprise department. Research & Enterprise will:

- 3.5.1 Provide advice and guidance to individual staff members undertaking consultancy work.
- 3.5.2 Complete all necessary administrative and finance forms.
- 3.5.3 Provide advice on pricing, payment and other commercial terms and if appropriate carry out credit checks on the client; determine the appropriate payment terms and take responsibility for any bad debt. (For the avoidance of doubt, it should be noted that appropriate terms may in some cases require payment in advance or staged payments).
- 3.5.4 Negotiate with the client in consultation with the member of staff.
- 3.5.5 Provide and execute contracts to adequately protect the consultant and College.
- 3.5.6 Provide professional indemnity cover to the consultant.
- 3.5.7 Liaise with Finance to arrange invoicing.
- 3.5.8 Ensure prompt payment to the consultant (see 3.12)

3.6 Academic salary scales have no direct bearing on the price and charging rates for consultancy. The amount chargeable will depend on the market conditions at the time and will be a reflection of a number of factors including:

- 3.6.1 The extent of the customer's needs;
- 3.6.2 The level of expertise involved;
- 3.6.3 The time involved on the project;
- 3.6.4 The results expected by the customer;
- 3.6.5 The availability of competitive alternatives;
- 3.6.6 The extent of knowledge in the public domain;
- 3.6.7 To the consultant, the extent of convenience, intrusion and relevance to main research activities;
- 3.6.8 The strategic value of the relationship to the College;
- 3.6.9 Historical relationship.

3.7 The price should not be less than the full cost of the activity as calculated in the CAF1

- 3.7.1 Any exception to this must be discussed with and approved by the Director of Research & Enterprise and the Director of Finance prior to completion of the CAF1.

3.8 Where the proposed consultancy has no adverse impact on normal workload (3.3) then after settling direct costs, 70% of income is retained by the consultant, 20% is allocated to meet costs incurred by the College in supporting and administering consultancy activity and charged to RHE Limited under a cost sharing agreement and 10% is allocated to meet costs incurred by RHE Limited, including company administration and management and to provide a small profit margin.

3.9 In some circumstances, completion of the consultancy activity may require the use of additional services either from the College or from a commercial provider e.g.

laboratory analysis.

- 3.9.1 Additional College resources will be provided by the College to RHE in the same manner in which they would be priced to any commercial client. RHE will add a minimum of 5.3% to this price to provide an allocation from the income of 5% to be split between the College and RHE. The College price plus the 5.3% is regarded as a direct cost and will be deducted from the income prior to any further distribution.
 - 3.9.2 External commodity services will be procured by RHE at the best price. RHE will add a minimum of 5.3% to this price to provide an allocation from the income of 5% to be split between the College and RHE. The cost of the service plus 5.3% is regarded as a direct cost and will be deducted from the income prior to any further distribution.
 - 3.9.3 External consultancy services, required to supplement the services of the College consultants will be instructed by RHE with the agreement of the College consultants. RHE will add a minimum of 43% to this cost to provide an allocation from the income of 20% and 10% to the College and RHE respectively.
- 3.10 Any travel and other personal expenses incurred whilst carrying out the consultancy work will be treated as direct cost and reimbursed to the member of staff via the normal expenses system and in accordance with the College policy. Where the client reimburses expenses at a higher rate than the College policy, eg mileage rate, the surplus is regarded as a part of the nett surplus of the contract and is distributed on the 70:20:10 principle.
- 3.11 In circumstances where the proposed consultancy has an adverse impact on normal workload (3.4) the distribution of income described above will not apply. The distribution of income will be agreed with the Head of Department, Finance and Research & Enterprise to reflect the expenditure incurred by the College.
- 3.12 The income retained by the consultant will be paid via payroll subject to employer's and employee's National Insurance and tax.
- 3.13 Alternatively the consultant may chose to waive payment. An election to waive payment must be made before the work commences.
- 3.14 Where the consultant chooses to waive payment, the amount due will be retained by RHE.
- 3.15 Subject to the approval of the board of directors, RHE will donate profits associated with CBC to the College via gift aid.
- 3.16 The Departmental Financial Analysis (DFA) will take account of the total income from CBC

4.0 Private Consultancy

4.1 All staff are encouraged to engage in consultancy work as College based consultancy through RHE rather than making private arrangements. The services provided under the aegis of the College are aligned with the College's third stream aims and enable the College to protect its interests more fully, to generate income and to record and report the volume and value of these activities.

4.2 Should a member of staff wish to undertake private consultancy then, in order to ensure that no liability for the College can arise; the member of staff must, in each case:

- (a) sign, and obtain the client's signature on a Disclaimer of Liability Letter (annex 1) informing the client that there is no contractual responsibility with the College and no liability to the College for the work being undertaken; and (b) complete a Private Consultancy Waiver form (annex 2)

4.3 The purpose of the Private Consultancy Waiver form is to:

- 4.3.1 Declare that no use will be made of College resources e.g. laboratories, meeting rooms, offices, branded paper, e:mail , general IT equipment, databases and intellectual property and that the member of staff is responsible for providing indemnity insurance.
- 4.3.2 Declare that the carrying out of normal duties will not be affected by the consultancy.
- 4.3.3 Declare that no use will be made of titles associated with the member of staff's appointment, eg Professor, Dean, Vice Principal.
- 4.3.4 Obtain the Head of Department's signature to authorise the declarations made by members of staff.
- 4.3.5 Notify Research and Enterprise of the consultancy through submission of the completed forms.

4.4 Staff carrying out private consultancy should take out indemnity cover to a minimum of £2m.

4.5 A member of staff shall not use College facilities to negotiate or deliver private consultancy, unless this is the subject of a separate agreement between the College and the member of staff, such agreement only to be authorised by the Director of Research and Enterprise in consultation with the Head of Department and the Principal's office.

4.6 No indication, implied or specific, should be given that the work is undertaken in anything but a private capacity and College email addresses and stationery bearing the College's name, address or identity must not be used in any connection with the work.

4.7 The member of staff alone is responsible for fulfilling his/her personal taxation, VAT and national insurance liabilities.

4.8 Any revenue generated by private consulting is not included in the Department DFA.

4.9 The College acknowledges that these Waiver arrangements may not be appropriate or practicable for some members of staff employed on a part-time basis. Such staff should contact Research & Enterprise to discuss appropriate Waiver arrangements.

5.0 Management, Processes and Procedures

5.1 The management of staff consultancy will be the responsibility of Research & Enterprise.

5.2 The CAF1 form is to be used to cost, price and authorise all College based consultancy and will also calculate the distribution of income. The form will be completed by R&E on behalf of the academic consultant.

5.3 Based on the CAF1, a contract will be agreed with the client and issued by Research & Enterprise for consultancy work prior to commencement of any work.

5.4 Research and Enterprise will retain records of all consultancy work and any associated personal disclaimers or declaration forms associated with consultancy activity, including the CAF1 forms.

5.5 Consultancy activity milestones will be monitored by R&E. The consultant should keep R&E informed of any delays or changes to the agreed programme.

5.6 Invoices from RHE Ltd will be raised by Finance on dates specified by the contract or on request from Research & Enterprise on reaching predefined milestones. To ensure prompt invoicing and payment, the consultant needs to keep Research & Enterprise informed of progress.

5.7 Collection of monies due from clients against valid invoices will be the responsibility of Finance. Research & Enterprise and the academic consultant will assist in this process if requested

5.8 Disputes will be settled via existing College procedures.

5.9 Failure to comply with this policy may lead to disciplinary action.

Martin Kelly
Research & Enterprise

10th December 2008

Approved by Council 25th March 2009

Royal Holloway, University of London Consultancy Policy - Annex 1
Disclaimer of Liability

Model disclaimer letter to be exchanged between the member of staff and the client when staff undertake private consultancy

Note: College notepaper must not be used

[Private Address]

Dear [.....]

[Title of private consultancy work]

With reference to our previous discussions and correspondence, I write to confirm that I am undertaking the above-mentioned work entirely in my private capacity and not in the course of my employment with Royal Holloway, University of London, (“the College”).

I am required to advise you that, in accordance with its established policy, the College does not accept any responsibility or liability for this work or the advice that I give in connection with it. This work is therefore not covered by the College’s insurance.

Please sign and return one copy of this letter which I am required to submit to the College authorities before commencing work.

Yours [...]

I hereby acknowledge and agree that the above-mentioned work will be provided on the basis set out above, and that you will provide a copy of this acknowledgement to the authorities of Royal Holloway, University of London.

Signed [Authorised Representative of client]

Annex 2: Private Consultancy Waiver Form

1 Name

2 Department

3 Client Details

Client Name:

Project Title:

I confirm that a liability disclaimer letter associated with the above work has been signed by my client and a copy of the signed letter is attached.

4 Type of Private Outside Work being carried out

5 Approx. Start Date: _____ **6 Estimated Completion Date:** _____

7 Time Required (days)

8 Total Number of days' consultancy work (private and UBC¹) undertaken over the last 12 months including this proposal

9 Will the work require the use of University/Department resources or intellectual property?

No Yes Select relevant box. If YES please discuss with Research & Enterprise.

In accordance with the College's consultancy policy, I confirm that:
- No use will be made of titles associated with my staff appointment e.g. professor
- The carrying out of normal duties will not be affected by the consultancy
- I am responsible for indemnity insurance

Signed

Member of Staff

Date:

Head of Department (VP if staff is HoD)

Date:

Director, R&E

Date:

A copy of this signed form will be retained and held in confidence by Research & Enterprise

Note¹ UBC=University Based Consultancy