

## UNIVERSITY CONSULTATION WORK POLICY

<b>Policy declaration</b>	
Purpose	Management of consultation work at Stellenbosch University (SU) (“the University”) to achieve optimal benefits for external clients, the University and its employees as well as protecting the University and employees involved in consultation work through the mitigation and management of inherent risks.
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<b>Policy ownership</b>	
Policy owner	Deputy Vice-Chancellor: Research, Innovation and Postgraduate Studies
Policy custodian	Director: Research Contracts; Division for Research Development
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## 1. Introduction

- 1.1 An extensive portfolio of activities is considered essential for Stellenbosch University's ("the University's") long term sustainability. Consultation work is one such activity that has benefits for the University, the employee(s) involved as well as the external client. Consultation work is a mechanism for the transfer of knowledge which can be applied in public interest or for commercial use. It can demonstrate the relevance of the expert knowledge of thought leaders at the University to public stakeholders. Consultation work is therefore also an important dimension of social impact. Consultation work provides a source of income for the University and the employees concerned, but also involves certain risks and accountabilities that need to be considered and managed carefully.
- 1.2 The spirit of the Policy is not one of undue restriction, but rather to create a disciplined management framework for consultation work.
- 1.3 In this Policy a clear distinction is made between private consultation work (i.e. "external/outside work"), University consultation work and consultation work as part of a broader research contract.

## 2. Application of the Policy

- 2.1 The Policy applies to all employees of the University (See 3.5 below for a definition of 'employee').
- 2.2 The Policy should be read together with the University's other relevant policies and guidelines, including those specifically mentioned in this document. Save where otherwise indicated in this Policy, where there is any inconsistency between any other policy and this Policy, the provisions of this Policy will prevail.
- 2.3 This Policy is intended for institutional use and does not confer any rights or privileges to a third party.
- 2.4 This Policy replaces all previous references to consultation work in any documentation, policies, or procedures at the University.

## 3. Definitions and exclusions

- 3.1 **Client:** A third party with whom a contract is signed for delivering consultation services to such third party.
- 3.2 **Conflict of commitment:** A situation where an employee's (See 3.5) consultation work has a negative impact on the employee's overall performance or limits the employee's availability for other tasks. A limitation on time spent or restriction placed on consultation work undertaken, is subject to the discretion of the Dean of the Faculty (or Environmental Head of Support Service), taking into account relevant factors, including but not limited to: (i) the operational requirements of the environment; (ii) the employee's work performance; (iii) the best interests of the employer etc.
- 3.3 **Conflict of interest:** Any situation in which an employee (See 3.5) has an actual or potential interest that may impact negatively on the integrity or objectivity of the University, thereby causing prejudice to the University or undue or improper benefit to the individual, including situations where:
  - a position of authority may be used to influence or to make decisions that lead to any form of financial or personal gain for that employee or for his or her relations;

- financial or other personal considerations may compromise, or may have the appearance of compromising, an employee's professional judgement in conducting or reporting research.  
(Please refer to the Policy of Conflict of Interest for further information)

- 3.4 **Consultation work:** Specialised and professional work done by an employee in his/her area of specialisation for clients. In contrast to research, the main focus of consultation work is not to create new knowledge, but to make specialist services available by giving advice on technical issues and solving problems for clients. Other consultation activities can include: participation in government or relevant committees, or legal or administrative bodies that charge a fee; providing professional expertise in exchange for a fee or honorarium, e.g. contributions to the written media, radio or television interviews; testifying as an expert witness in court, etc. For examples of what is excluded in the definition, please refer to 3.11. The output of consultation work is often a report owned by the client. In most cases, the University does not reserve the right to publish such results. Within the scope of this Policy, Consultation work will refer to all *consulting activities that makes use of the specialist knowledge of the SU employee*.
- 3.5 **Employee:** Any natural person employed by the University. For the purposes of this Policy, Post Doctoral Fellows, Honorary Professors, Research Fellows Extraordinary Appointments, and Students are excluded from this definition as an employee and cannot perform any form of consultation work under the auspices of the University. The employee will mostly be employed in an academic role or on in terms of a research contract, but those employed in other professional roles are not excluded. A person without a permanent or fixed term appointment cannot be the Principal Investigator/Project Leader on consultation work / research. A person on a fixed term appointment can only be the Principal Investigator/Project Leader if the appointment period covers the contract period and subject to the Departmental Chair / Environmental Head and Dean's approval. In some relevant policies there may be reference made to "staff" or "members", which have a broader meaning. For the purpose of this policy, "employees" are restricted to that defined under this definition.
- 3.6 **Private consultation work**, also know as **External / Outside work:** External/Outside work involves all private work, including private consultation work. No university resources may be used, no association with the University may be indicated and the University cannot be held accountable for any actions taken by the employee during private consultation work, also know as External/Outside work. Refer to the General Procedure for Private Work on the Human Resources webpage for further information <http://www.sun.ac.za/english/human-resources/hr-documents/policies-procedures#outsidework>
- 3.7 **Research:** In the context of this Policy, research refers to a process with the main purpose of creating new knowledge, in contrast to consultation work where existing knowledge is only applied. Within this context, research leads to academic outputs, e.g. graduation of postgraduate students or publications. Research could, however, involve an aspect of consultation, but it would be excluded under the University consultation work definition in 3.9.
- 3.8 **University:** Stellenbosch University (SU), including all divisions, faculties, centres, bureaus, institutes, units and any other bodies that fall under the University.
- 3.9 **University consultation work** (also known as "SU consultation work"): See definition of consultation work (3.4). University consultation work is where Stellenbosch University employees provide consultation to a client in their University capacity within a formal consultation contract between the University and the client. Within the context of this Policy, consultation work will not include any research (i.e. excluding

activities regarding the creation of new knowledge) and is limited to the application of expert knowledge subject to the exclusions mentioned below.

3.10 **University contract:** A formal and binding legal document between the University and the client, managed according to the Policy on Contract Research Management.

3.11 Certain work is not viewed as Stellenbosch University consultation work, including:

- Authorship of, or royalties earned from the publication of books
- Income from academic activities (including external examination, conference contributions, presenting lectures on invitation, etc.)
- Editorship of academic journals or publication of academic articles
- Professional art performances
- Delivering services to the profession (e.g. ECSA or another professional body)
- Short courses
- Certificate programmes
- Seminars and workshops
- Continuous professional education or development programmes (CPD)
- Or any other work of a similar nature
- Where in doubt, contact the policy custodian for advice

#### **4. Purpose of the Policy**

The purpose of the Policy is:

4.1 To outline measures required to establish a managerial framework for University employees to deliver high quality consultation services to external clients, whilst managing potential associated risks and optimising associated benefits for both the employee and University.

4.2 To provide guidelines to clearly distinguish between Private consultation work (also known as 'external/outside work'), University consultation work (also known as 'SU consultation work') and Research (which can include a component of consultation).

4.3 To outline the requirements for performing consultation work by also taking into account the requirements of the Faculty or other University Department (where applicable).

#### **5. Objective of the Policy**

The objective of the Policy is to provide a framework for the management of consultation work at the University by:

- 5.1. Mitigating the legal liabilities linked to each of the University consultation work types (See 7.2 and 7.3);
- 5.2. Managing employee' involvement in University consultation work through implementing the necessary approval processes, making human- and other resources (equipment, facilities, etc.) available; and
- 5.3. Managing remuneration aspects of University consultation work in a transparent and accountable way.

The Policy is published in support of Stellenbosch University's value system as an ethically responsible institution.

## **6. Principles of the Policy**

There are four core principles that underlie consultation work undertaken by SU employees.

### **6.1. Maintaining appropriate priorities:**

University employees must at all times further the best interests of their employer including giving priority to their agreed responsibilities as outlined in their employment contracts and annual work agreements. SU consultation work will only be approved by the relevant line manager and environment (e.g. Faculty / Department / Support Division) if the employee's performance in terms of the agreed responsibilities are up to standard, with due consideration of the available resources in the particular environment. The management of conflict of commitment (See 3.2) and conflict of interest (See 3.3) is essential in this regard. The University encourages an order of priority:

- Research
- University Consultation Work, and lastly
- Private Consultation Work

### **6.2. Ethical conduct:**

When performing duties relating to University consultation work, including interaction with external parties (Stellenbosch University clients, among others), employees will maintain the highest possible ethical standards and comply with all Stellenbosch University policies and procedures relating to ethical conduct.

### **6.3. Accountability:**

Performing University consultation work involves various risks that must be managed within a framework of responsibility and accountability. Consultation work performed under the auspices of Stellenbosch University is regulated according to the approval processes outlined in the Policy on Contract Research Management at SU. The line managers of the various environments (e.g. Faculty / Department / Support Division) may require additional reporting requirements to serve as added management mechanisms.

#### 6.4. **Contractual arrangements:**

University consultation work will only be performed once all the necessary contractual arrangements are in place in the form of a University contract (See 3.10). A contract will be approved by the Division for Research Development's Research Contracts Office in consultation with the employees concerned and their line manager (as per the SU Policy on Research Contract Management). The contract will ensure that the risks related to consultation work are managed appropriately.

### 7. **Scope of application**

It is essential to distinguish between private consultation work (7.1), University consultation work (7.2) and consultation work as part of a bigger research contract (7.3) in order to determine the respective requirements and prescriptions that will direct Faculty's/Support Division's management decisions. It is important that, at all times, any potential or actual conflict of interest that may arise from either of these types of consultation work, must be appropriately declared and management in terms of the SU Policy on Conflict of Interests.

7.1. **Private consultation work** (also known as "external/outside work" (see 3.6)) - as per the applicable general procedures/rules on private work as available at <http://www.sun.ac.za/english/human-resources/hr-documents/policies-procedures#outsidework>, is:

- *"understood as work of a specialised nature which bears a relationship with the employees (applicant)'s subject area and which is performed on a continuous or repetitive basis on a limited scale for payment, including directorships".*

Employees should still obtain approval from their line manager and department to perform private consultation work. The employee performing the private consultation work will take personal responsibility to ensure that no conflict of commitment (see 3.2) or conflict of interest (see 3.3) occurs and that Stellenbosch University is not placed at risk by the employee's private consultation work (be it liability risk, reputational risk, etc.).

No private consultation contracts may be entered into in the name of, or with any reference to the University. The University will not take responsibility for any liabilities or claims that may arise from private consultation work. Employees must ensure that they have sufficient professional liability insurance before undertaking private consultation work. Employees may not use any University letterheads, e-mail addresses, facilities, trademarks, affiliations, etc. while performing private consultation work – please refer to the Human Resources webpage for information on the general procedures and rules for private work. When University facilities are required, the consultation work performed is deemed as University consultation work (see 3.9) and not private consultation work.

Employees wanting to perform private consultation work must familiarise themselves and comply with the relevant Stellenbosch University policies and procedures listed in (but not limited to) Part II of this Policy. Private consultation work may never compete with the services delivered by the University on a commercial basis and any possible conflict of interest that may arise from the private consultation work, must be declared and managed up front in accordance with the SU Policy on Conflict of Interest. (The

Policy on Conflict of Interest stipulates that the declaration of any possible conflict of interest does not constitute approval to proceed with the conflict of interest.)

All income generated from private consultation work is payable to the employee who performed the consultation work. The employee must ensure that all tax requirements are adhered to as determined by SARS. At the discretion of the line manager and/or Dean, he/she may request an employee to annually report on private consultation work performed during the relevant period, with specific reference to the nature of the private consultation work, the time spent on private consultation work.

**7.2. University consultation work** refers to consultation services as defined in 3.4 provided by employees to a client within a formal University contract between the University and the client.

Consultation work is encouraged, it will only be approved when the conditions stipulated in Section 9.1 are met. However, the associated risks and the lack of academic outputs resulting from consultation work should be considered within the broader context of the employee's work agreement when deciding whether or not to conclude a University contract for university consultation.

**7.3. Consultation work as part of a bigger research contract** is the process whereby the University conducts research for a client under a University contract with the main purpose of creating new knowledge (as opposed to consultation work where knowledge is only applied). Within this context, research will lead to academic outputs, such as the graduation of postgraduate students or academic publications. Contract research may include a component of consultation work (i.e. cost recovery of the input and time of an expert/specialist as part of the research project) and the payment of consultation fees will be approved when the conditions stipulated in Section 9.2 are met.

## **8. Limitations to time spent on private consultation work and University consultation work**

Upon implementation of this Policy, the time spent on University and/or private consultation work will be per written agreement and at the discretion of the Faculty/ Support Division and is subject to operational requirements, work performance etc. Permission to conduct consultation work, whether University- or private consultation work, can be withdrawn by the line manager and the Faculty/Support Division, if the employee's performance in terms of the agreed responsibilities is not up to standard.

**9. Policy Conditions and Management Framework: Budget, pricing and distribution of income generated from University consultation work and consultation work as part of a bigger research contract**

**9.1. University consultation work:**

Consultation work must always be ***budgeted at a minimum of full cost*** with reference to SU’s Full Cost Policy. For the purpose of clarity, full cost includes all direct and indirect costs (whereas indirect costs refer to line items such as the Indirect Cost Recovery Rate (ICRR) and Value Added Tax (VAT)). The ***pricing*** will depend on the environment’s requirements for performing consultation. Payments to employees are only approved once all costs are recovered according to the full cost pricing approach (see Note 1 and 2 below). Written approval of the price must be obtained from the line manager (or according to Faculty arrangements) *before* entering into a contract.

All Full Cost Budgets and Pricing must be signed off by a Full Cost Accountant at the Division for Research Development, prior to the contractual procedure being concluded.

***Income*** generated from University consultation work will be ***distributed*** as follows (Table 1):

<b>Line item</b>	<b>Distribution formula</b>	<b>End “receiver”</b>
Running costs (including travel, accommodation, etc.)	All costs attributed to direct running costs	Paid from research cost centre
Salaries of employees who already receive an SU salary (from mainstream funds)	The amount payable to the employee as consultation fees will be determined at the discretion of the Faculty and paid after successful completion of the consultation project and subject to the conditions set out in Note 1 below	Employee’s personal bank account via Oracle HR system
Salaries of employees appointed to the consultation contract on a contract basis	Where the contract appointment is funded entirely from the consultation project, the salary component can be paid to the employee via the Oracle system	Salary via Oracle system
External consultancy fees	Where an external consultant needs to deliver a portion of the consultation work, the fees must be agreed on upfront and included in the budget. Please ensure that the Financial Policy (see 11.4) is adhered to when appointing an external consultant (procurement procedures need to be followed at the outset) and the applicable Service Level Agreement (SLA)	Payment based on the budgeted amount and a suitable invoice from the consultant or registered entity.



	must be put in place by the Division for Research Development through its Research Contracts Office	
Indirect Cost Recovery Rate (ICRR)	ICRR Policy applies on the total contract amount	As per ICRR Policy
Levies	As determined by the Full Cost Policy	As determined by the Full Cost Policy
VAT	Usual VAT requirements	Paid to SARS
Surplus	As determined by the Full Cost Policy	As determined by the Full Cost Policy

**Note 1:** An employee will not have any unconditional entitlement to payment of the consultation fees, until it is approved to accrue to the employee. Accrual to the employee will only take place after the following conditions are fulfilled:

- (a) The project has been successfully completed and the client has paid in full; or where the project run over multi-years, payments to an employee will be possible based on meeting certain milestone objectives which the client has approved and payment received; and
- (b) Subject to the prior approval (and provisions) of the Faculty or Support Environment / Division as described in this policy.

**Note 2:** Support environments/divisions are also subject to the provisions of this Policy and must contact the Policy custodian to develop support environment specific full cost and pricing guidelines and to establish mechanisms to make the distribution of the generated income possible.

## 9.2. Consultation work as part of a bigger research contract:

Consultation fees payable to the employee after completion of the research contract (contract research performed under a University contract as described in 7.3) is subject to the budgeted hours and hourly rates, and prior approval of the Departmental Chair and Dean unless the funder has specific provisions in this regard (e.g. the National Research Foundation (NRF) does not allow paying consultation fees to permanent employees). The University therefore encourages its employees to give preference to research projects where an adequate number of academic outputs can be delivered and to include consultation fees in the budget. Consultation fees are only payable once all conditions are met as set out in Note 1 above.

Once the research project is finalized and all the payments are made and commitments finalized, the surplus amount will be treated as per the requirements of the Full Cost Policy. No further consultation fees are allowed to be paid out from the surplus to the employee already being paid consultation fees.

A Research contract must always be ***budgeted at a minimum of full cost*** with reference to SU's Full Cost Policy. For the purpose of clarity, full cost includes all direct and indirect costs (whereas indirect costs refers to line items such as the Indirect Cost Recovery Rate (ICRR) and Value Added Tax (VAT)). The ***pricing*** will depend on the environment's requirements for performing research contracts. Payments to

employees are only approved once all costs are recovered according to the full cost pricing approach (see Note 1 and 2 above). Written approval of the price must be obtained from the line manager (or according to Faculty arrangements) *before* entering into a contract.

All Full Cost Budgets and Pricing must be signed off by a Full Cost Accountant at the Division for Research Development, prior to the contractual procedure being concluded.

**Income** generated from University research contracts will be ***distributed*** as per Table 1 above.

## 10. Policy governance

10.1. The Policy custodian is responsible for the Policy's formulation, approval, review, communication, availability and monitoring. The Policy custodian is also responsible for interpretation and guidance in respect of the implementation of the Policy.

### 10.2. Policy implementation

The Management of the particular environment (e.g. Faculty / Department / Support Division) is responsible for the implementation of the Policy and specific control in their own areas. Where the specific environment deems it necessary, additional requirements may be imposed on an employee requesting to perform private or University consultation work.

### 10.3. Management process

The Management of the particular environment (e.g. Faculty / Department / Support Division) is responsible for the following processes within their environment:

10.3.1 To establish mechanisms to manage the balance between University consultation work and private consultation work (within the context of the employee's employment contract and annual work agreement) through work allocation and performance evaluation, thus also adequately managing any possible conflict of commitment;

10.3.2 To manage all the compensation aspects surrounding University consultation work within the framework of this Policy;

10.3.3 To manage any possible conflict of interest that may accompany consultation work;

10.3.4 To highlight technical risks associated with the nature of the consultation work to the Research Contracts Office to enable the mitigation of possible legal risks.

### 10.4. Actions taken in case of non-compliance with the Policy

Any violation of the Policy will be managed according to SU's disciplinary code.

## 11. Related documentation

Significant related documents include:

Item #	Title	Status	Policy owner
11.1	Policy for Responsible Research Conduct at Stellenbosch University	Approved	Division for Research Development
11.2	SU Research Contracts Management Policy	Approved	Division for Research Development
11.3	SU Risk Management Committee Regulations / SU Risk Management Policy	Approved	Risk and Security Services
11.4	SU Financial Policy	Approved	Division of Finance
11.5	Policy in Respect of the Indirect Cost Recovery Rate (ICRR) with regard to Third-stream Income at Stellenbosch University	Approved	Division for Research Development
11.6	Policy for Costing and Pricing of Research and Research related Contracts	Approved	Division for Research Development
11.7	Policy on Remuneration and Performance Management	Approved	Human Resources
11.8	General Procedure for Private Work by Lecturing Staff (BW0276) & General Procedure for Private Work by Support Service Staff (BW0277) & General Procedure for Private Work by Lecturing Staff at the Faculty of Medicine and Health Sciences (BW0278) And any other relevant policies and procedures relevant to this Policy	Approved	Human Resources
11.9	Policy in Respect of the Commercial Exploitation of Intellectual Property	Approved	InnovUS
11.10	Policy on Conflict of Interests	Approved	Human Resources