

Aberystwyth University & Bangor University Common Policy on Consultancy Services

Aberystwyth and Bangor Universities are both committed to ensuring that the results of its scholarly teaching and research are used for the benefit of the society and economy of Wales and beyond. This document sets out both Universities' policy position with regard to the application of that knowledge through the provision of consultancy services.

Partnership

Aberystwyth and Bangor Universities have acted in concert in the development of this Policy and the Universities have agreed to adopt a common consultancy policy to promote greater synergy between the academic and support communities of the two institutions. This Policy operates as a policy for both Aberystwyth and Bangor Universities whether they are acting together or separately and applies to each institution as a separately constituted organisation.

The Universities have established a joint vehicle for the administration of University Supported Consultancy activities as defined in this Policy. Aber-Bangor Consultancy Ltd provides a single support framework for supporting the consultancy activities of the Universities where they meet the definition for University Supported Consultancy.

The Universities strongly encourage the delivery of consultancy activities within the context of this policy. Through this policy the Universities are seeking to achieve a framework that rewards staff (where permissible) for their engagement whilst also providing a model for service delivery, which will protect Staff and the University in managing the associated risks.

1. INTRODUCTION

- 1.1.** The purpose of this Policy is to set out the principles and procedures governing Consultancy and other Outside Services undertaken by Staff Members of the University.
- 1.2.** Staff Members of the University are encouraged to undertake University Supported Consultancy and other similar work provided it does not conflict with the interests of the University.

The University recognizes that consultancy work undertaken by staff can benefit both the individual and the University, and wish to encourage transfer of knowledge through more engagement in consultancy work. More specifically, consultancy can:

- enhance the University's research capacity
- raise the profile of the University
- promote the financial wellbeing of the University

- facilitate the commercialization of research
- contribute to achieving excellent examples of research impact and contribute to the impact agenda
- provide a conduit for innovative external feedback into research and teaching
- recruitment and retention of academic staff, allowing more autonomy and ways of supplementing income
- contribute to the personal development of staff
- expand the provision of services across the community, and
- increase the employment prospects of students.
- Information relating to University and University Supported Consultancy can be used to demonstrate performance such as in the Research Excellence Framework.

1.3. The provisions of this policy relating to the distribution of monies received in respect of consultancy services will normally apply to all University staff apart from staff who are:

a. Subject to third party arrangements relating to either their employment or activities at the University which may impact upon their freedom to undertake consultancy.

b. employed in a section of the University tasked with securing external income for their sustainability.

2. DEFINITIONS

The following definitions shall apply in the interpretation of this policy

2.1. “Authoriser” means the individual set out in the table below:

Authoriser	Staff Member
Chair of Council	Vice Chancellor
Vice Chancellor	Registrar and Pro Vice Chancellors
the appropriate Pro Vice Chancellor	Deans of Colleges or Heads of Institutes
Registrar	Senior Administrators and Heads of Non-College based departments.
Head of School or Department	Academics and non-academic members of staff

2.2. “Consultancy” means the provision of expert advice and work, which while it may involve a high degree of analysis, measurement or testing, is crucially dependent on a high degree of intellectual input to the client (commercial or non-commercial) without the creation of new knowledge. Consultancy may be carried out either by academic staff or by members of staff who are not on academic contracts, such as senior university managers or administrative/support staff.

2.3. “Private Consultancy” means Consultancy undertaken in the strictly personal and private capacity of the member of staff with no use of the University’s resources, no use of the University’s name, no University insurance coverage, and no liability on the University. It is undertaken in an area outside of the academic, research or administrative expertise of the member of staff for which he or she is employed by the University. Occasionally, Private Consultancy may be undertaken within the Staff Member’s area of expertise such as when Consultancy activities may fall outside of the University’s policy or ethical frameworks but

remains subject to the consent of the Authoriser.

- 2.4. **“University Supported Consultancy”** means consultancy provided through a contract entered into by the University or one of its subsidiaries with a third party, in which the Consultancy will be performed by a member of staff within his or her area of academic, research or administrative expertise and is delivered in addition to the staff members normal duties. This Consultancy is supported by the University and may involve the use of University resources, intellectual property, know-how and other resources and will be covered by the University’s professional indemnity insurance.
- 2.5. **“University Consultancy”** means consultancy provided under contract between the University or one of its subsidiaries with a third party in which the Consultancy will be performed by a member of staff within his or her area of academic, research or administrative expertise and is delivered as part of the staff member’s duties. Income from University Consultancy will not be subject to clause 4 of this agreement except that 20% of the income relating to Consultancy staff time will be retained by the University and the remaining 80% of income relating to consultancy staff time will be paid to the Institute.
- 2.6. **“Commercial Office”** means the Research, Business and Innovation team in Aberystwyth University or the Research and Enterprise Office in Bangor University.
- 2.7. **“Director”** means Director of the Commercial Office at the University, who may delegate that responsibility to another person.
- 2.8. **“Outside Services”** means the other ancillary and occasional use of a Staff Member’s expertise and knowledge that is normally expected of academics, such as guest lecturing, presentations at conferences, serving on scientific advisory boards, research councils or other professional associations, or performing charitable and community work. Please see section 6 for specific examples.
- 2.9. **“Policy”** means this Policy on Consultancy and other Outside Services.
- 2.10. **“University”** means Aberystwyth or Bangor University and in context may mean a subsidiary or affiliate designated as an appropriate entity for the conduct of Consultancy activities such as Aber-Bangor Consultancy Ltd.

3. UNIVERSITY SUPPORTED CONSULTANCY

- 3.1. University Supported Consultancy arrangements are only permitted where the work is distinct from any project or other work undertaken on the University’s behalf (in order to avoid a Staff Member competing for contracts with the University).
- 3.2. A Staff Member may only agree to provide University Supported Consultancy services with the written consent of the Authoriser and in accordance with terms and conditions of the Consultancy Registration Form attached as Schedule 1 and as amended from time to time.
- 3.3. The Authoriser may only approve University Supported Consultancy or other Outside Services if the consultancy can be undertaken without detriment to the Staff Member’s academic, research or administrative duties and if the Consultancy will not adversely affect the workload of other Staff Members. The Authoriser will consult with the Director

to ensure compliance with the relevant University policies and procedures prior to approving Consultancy or other Outside Services. Each College or Institute or Non-College Based department is responsible for recording the days a Staff Member devotes to Consultancy.

- 3.4.** The Director's approval is required to ensure compliance with University processes, protection of the University's Intellectual Property, the management of Conflicts of Interest and the appropriateness of contractual terms including those relating to liability and Intellectual Property.
- 3.5.** A maximum of 30 days per annum (subject to clause 9.4) may be devoted to University Supported Consultancy. In extra-ordinary circumstances a case may be made to exceed this allowance only with the confirmation of the Vice-Chancellor or their nominee.
- 3.6.** Charges for the use of University resources will normally be based on the full cost of the resources as determined by the Commercial Office and agreed by the Staff Member and the Authoriser.
- 3.7.** The Authoriser and/or the Director may decline to offer University support for the Consultancy, but allow the Staff Member to perform the work as Private Consultancy. In such cases, the Staff Member must comply with the requirements of Clause 5.
- 3.8.** When the Authoriser or the Director denies a Staff Member authorisation to perform the University Supported Consultancy, the Staff Member may appeal in writing to the Pro Vice-Chancellor for Research (PVCr). The PVCr will have wide discretion to resolve issues regarding Consultancy and may appoint an independent senior Staff Member to review the decision.
- 3.9.** Unless justified, University Supported Consultancy will not be allowed in the following circumstances:
 - 3.9.1.** when the Consultancy services are to support projects, such as research projects, being conducted by the University; or
 - 3.9.2.** when such Consultancy would contractually preclude the University or its Staff from engaging in other research or other Consultancy.
- 3.10.** When the Consultancy involves the provision of expert evidence in Courts of Law, in Arbitrations, or before Parliamentary Committees, the Consultancy may only be undertaken with the express authorisation of the Vice-Chancellor or their nominee. The University has a "Request for Permission to act as an Expert Witness" form, which must be duly signed by the Staff Member, the Authoriser and approved by the Vice-Chancellor.
- 3.11.** In undertaking a University Supported Consultancy, the Staff Member will be indemnified for the work undertaken in accordance with the terms of the University's Professional Indemnity Insurance. Such insurance is not provided in Private Consultancy (see Clause 6, below).
- 3.12.** Staff Members must declare annually in their Declaration of Outside Interests the number of days spent on University Supported Consultancy services, and comply with all relevant University Policies such as those governing conflicts of interest and intellectual property.

4. COMPENSATION FOR UNIVERSITY SUPPORTED CONSULTANCY

4.1. Income from University Supported Consultancy will be allocated in the following manner:

4.1.1 The University will receive 20 percent of the gross income relating to the consultant's time as a fee for managing the Consultancy and providing the University's support.

4.1.2 All expenses incurred in the project will be paid from the balance. Such expenses, for illustration purposes, could include payments to sub-contractors, secretarial costs, technician costs, procurement costs, leasing of supplies, consumables, and fees for use of University resources including any bench fees.

4.1.3 The remainder will be paid to the Staff member.

4.2. Payment of fees to Staff Members may, at the Staff Member's option, be made:

4.2.1. electronically through the University's central payroll system subject to appropriate PAYE and National Insurance deductions (both the employee and the employer contribution – the cost of the employer's contribution should be included in the fee for the Consultancy);

4.2.2. into a named University account to be used for any bona fide University activity (e.g. attendance at conferences, acquisition of equipment) but with the provision that expenditure from the account will be determined through the College's or Non-College Based department's business plan.

4.3 This provision 4 will not apply to staff excluded under the exemptions in clause 1.3 of this policy.

5. PRIVATE CONSULTANCY

5.1. All private consultancies must be reported to, and approved by, the Authoriser and the Director, to ensure compliance with this Clause 6.

5.2. Unless authorised pursuant to Clause 3.7 or 3.8, a Staff Member may only perform Private Consultancy in areas outside his or her academic, research or administrative expertise for which he or she is employed by the University.

5.3. In all cases the Staff Member must obtain the approval of the Authoriser and the Director. Such approval shall be given only if all of the following conditions have been met:

5.3.1. The Authoriser has determined that that the Private Consultancy can be undertaken without detriment to the Staff Member's academic, research or administrative duties, and that the Consultancy will not adversely affect the workload of other Staff Members.

5.3.2. The services of the Private Consultancy do not fall within the academic, research or administrative expertise of the Staff Member for which he or she is employed by the University, or the Director has given approval for the consultancy to be conducted as Private Consultancy.

- 5.3.3.** The Staff Member informs the client, and the client agrees in writing at the outset, that the work is to be carried out in a personal capacity and that no liability will attach to the University for the work. An indemnity form, disclaiming the involvement of the University or any financial liability of the University, must be signed by the Staff Member and the client. The indemnity form will be in the form prescribed by the Commercial Office.
- 5.3.4.** Other than on the indemnity form, the University's name will not be used or be present on any document (such as stationery, or on email, web pages or other electronic media) in connection with the Private Consultancy and there must be no implication, oral or written statement that the University is sponsoring the consultancy.
- 5.3.5.** University resources, such as laboratories, meeting rooms, IT equipment, software, databases or email, will not be used in the Private Consultancy except that such resources can be made available on a commercial basis to those undertaking Private Consultancy
- 5.3.6.** The Staff Member assumes full legal and financial responsibility for the activity, including insurance requirements, all tax and similar payments due on his or her earnings, and any insurance requirements. The University will not provide professional indemnification or other insurance for a Private Consultancy.
- 5.3.7.** Private Consultancy activities will be undertaken outside of the University's normal working hours.
- 5.4.** The prohibitions expressed in this clause and the provisions under which Private Consultancy may be performed are essential to protect the University from liability, to protect the University's intellectual property, and to ensure compliance with Conflicts of Interest Policy. Accordingly, violation of this prohibition may grounds for a disciplinary action.

6. OUTSIDE SERVICES NOT COVERED BY THIS POLICY

- 6.1.** Outside Services as defined in Clause 2.8 are not covered by this Policy and the income from such Outside Services is not subject to the rules on allocation of income between the University and the Staff Member.
- 6.2.** The development of teaching and academic materials and other publications (books and articles) in a Consultancy shall be subject to the University's Policy on Intellectual Property.
- 6.3.** Provision 4 of this Policy does not apply to University Consultancy performed by or on behalf of the University or its Colleges or Non-College Based departments.

For the avoidance of doubt, the following activities are examples excluded from the terms of this policy:

- Royalties or other proceeds from authorship of books, media work, performances or other creative works.
- Proceeds from articles published in journals
- Fees for examination, validation, review

- Fees or honoraria for occasional public or private lectures and conferences
- Refereeing of manuscripts and articles in learned journals
- Editing of academic journals
- Book reviews (Reviewing book proposals or manuscripts for publishers or advising on publication)
- Honoraria for service on public sector organisations, government agencies or related committees
- Peer reviewing research proposals for Research Councils and other research sponsors
- Occasional contributions to press, TV and other media

7. POLICY CONTEXT

This policy shall be interpreted and delivered in line with other University policies and in particular those policies relating to Research Integrity, Ethics, Intellectual Property and Conflicts of Interest. Due note of the requirements relating to those policies will be considered in the relevant authorization processes.

8. REPORTING

Staff Members must report their Consultancy and Outside Services to their Authoriser annually, and to the extent required, make disclosures required by the Conflicts of Interest Policy or Declaration of Outside Interests. The participation of staff in consultancy activities will form part of the annual process for Performance and Development review process, which will consider Consultancy in a broad context of achievement and workload management.

9. IMPLEMENTATION AND PROCEDURES

- 9.1.** The responsibility for the implementation of this Policy shall lie with the Vice Chancellor who may delegate that responsibility to another person.
- 9.2.** Procedures which are consistent with this Policy will be adopted by the University's services teams.
- 9.3.** The Director and the Commercial Office shall have wide authority and discretion, within the confines of (1) the University's Charter and any Regulations, Ordinances or other provisions made by Council, (2) this Policy, and (3) any directions given by or on behalf of the Vice-Chancellor to adopt administrative processes, guidance, forms and interpretations necessary to effectively implement this Policy and any procedures enacted.
- 9.4.** The Staff member and the Authoriser will ensure that the implementation of this policy takes due consideration of the obligations under the Working Time Regulations (1998) and supports the University in fulfilling its obligations under the Regulations.

10. DISPUTE RESOLUTION

- 10.1.** Any issues, dispute, claims or any clarification required as to any provision of this Policy should in the first instance be referred to the Director of the Commercial Office at the University who will liaise with the relevant Authoriser or their nominee in considering the matter.

- 10.2.** If a decision is not mutually agreed within a reasonable amount of time then the dispute can be referred to the **Pro-Vice Chancellor for Research** who will make a determination.
- 10.3.** If the parties seek outside advice in such a dispute, the costs of such advice will be borne by the party seeking it. The decision will be final and binding on all parties involved.

11. COMPLIANCE

Any breach of this policy may be treated as a serious matter by the University and may result in action in accordance with each University's own disciplinary procedures.

12. IMPLEMENTATION

This Policy shall not have retrospective effect. This Policy shall come into effect on *[Insert Date]* and shall replace all previous policies relating to the provision of consultancy services.

13. REVISION HISTORY

This policy will be managed by the Commercial Office and approved by **the Executive in consultation with the Aber-Bangor Strategic Alliance Planning Board**. It will be subject to periodic revision in consultation with the appropriate University bodies.

ENDSⁱ

ⁱ This Policy was approved by the University Executive in April 2014