Conflict of Interest-Outside Work Guidance for Managers

1. Introduction

This guidance should be read in conjunction with the [Conflict of Interest - Outside Work policy](#), the purpose of which is to provide a framework within which to manage the risks and impact of any outside work on the University.

This guidance outlines the Head of School and School / Section Manager's responsibility around outside work and the ongoing process to follow when dealing with outside work requests.

Note: The university will from time to time run Audits of the Conflict of Interest-Outside Work declarations. Staff will be contacted appropriately, and managers will be asked to review returns

2. Outside work requiring permission

Not all types of outside work require permission, but ALL outside work requires a declaration. Please refer to the Conflict of Interest-Outside Work policy for details of circumstances in which prior permission in required.

The member of staff must complete an online declaration form in MyERP.

This form can be found by selecting 'Forms' in the menu option on the left, and then choosing **Conflict of Interest - Outside Work Request**. The guidance on how to complete this form, including a video 'Show Me', can be found on the MyERP Support Site - [Declaring outside work/Conflict of Interest](#). If you have any issues, you can also find contacts on the right hand side of this support page.

This form captures:
- Outside work requiring declaration and permissions
- Outside Work requiring declaration only
- Nothing to declare Returns

Note: The purpose of seeking permission is to enable potential conflicts to be identified, considered and, where possible, resolved before any commitment to undertake the work is entered.

3. Reviewing the Outside Work request

In most cases it would be helpful to meet with the individual to explore the proposed activity further and clarify any areas of concern before reaching a decision.

There are various factors to consider on reviewing an outside work request. The key considerations are that the proposed activity must not breach any of the central principles outlined in the Outside Work policy:

1. It must not impair the member of staff's work at the University
2. It must not bring the University into disrepute
3. It must not put the University at financial risk
4. It must not involve any other actual or perceived [conflict of interest](#)
5. **It must not breach any statutory provision or other rights (such as [The Working Time Regulations](#) and/or national security laws and regulations)**

When reviewing details of the request, it may be useful to answer the following questions in the

checklist below, to highlight any risks and assess if these can be resolved.

Outside Work Approval Checklist	
Is it appropriate to be undertaking the outside work?	
Will the outside work impact on the individual's University commitments?	
Will the outside work impact on the individual's quality of work?	
Will the outside work breach any statutory provision or other rights (such as The Working Time Regulations – see Appendix A): and/or national security laws and regulations	
Does the relationship have the potential to put the University at financial risk?	
Will the relationship potentially bring the University into disrepute?	

Does the individual have any financial dealings whereby it might be reasonable for another party to take the view that financial benefits might affect their actions e.g.
   A. payments for goods or services.
   B. equity interests (e.g., stocks, stock options or other ownership interests).
   C. resources and assets, including equipment, technical staff, and facilities	

Does the individual or anyone connected to the individual have any equity ownership in a company that could give the appearance of conflict and/or that involves a material level of control over that company (e.g., ownership of more than 10% of the value of the business?)	
On considering the facts, in your opinion does a conflict of interest exist?	
Is there potential for statutory working rights to be breached when both the University hours and any additional outside hours are worked in combination?	
Are university resources being used and should a services rendered contract be established to ensure effective use of resources?	

4. Use of University resources

It is important that it is clear to the external party that the outside work activity is not in any way associated to the staff member's work with the University.

University resources and facilities, including telephones, headed stationery, e-mail addresses and signatures etc, must not be used for personal activity. This could otherwise imply that the individual is working as an agent or representative of the University, thus potentially leaving the University liable for any problems that may arise because of the work. Such a situation would be a disciplinary matter for the individual concerned.

5. Examples of Conflict of Interest

Below are some examples of perceived or actual conflict of interests;

Example 1

An academic member of staff sets up a spin-out company which is closely related to their area of research. They make extensive use of their PhD students for their own company work which conflicts with their research progress and the terms of the research funding.

Example 2

An academic wish to use a geographical surveying company on a particular research project. They are a non-executive director and 25% shareholder of a Bristol based company specialising in geographical surveying. They should declare a conflict of interest and not be involved in the decision or tendering process. A colleague should initiate a tendering exercise via procurement to ensure the best value for money.

Example 3

An academic member of staff has obtained a lucrative consultancy contract in Hong Kong. They often must rearrange seminars and their administrative duties are having to be picked up at short notice by colleagues.

Example 4

A member of staff, while serving as a consultant to an external organisation has access to privileged information from a colleague. The staff member wishes to supply that information to the external organisation in the belief that it has commercial value. This would be a breach of data protection act as well as a conflict of interest.

Example 5

A member of staff works part time for the university 21 hours a week and undertakes private consultancy 40-50 hours a week. The individual regularly works more than 60 hours a week, which is having the following impacts;

- Working Time Regulations have been breached
- Quality of University work has deteriorated
- Attendance at important university steering groups has been 20% due to outside work commitments

Example 6

Once a month an academic attend a local city planning meeting as an expert in business & economics. Whilst at the meeting they are made aware of undisclosed plans to build a number of buildings in a

particular area with low business rates. They are also aware that the university intends to expand its physical campus and passes on the undisclosed information to key decision makers at the university

<u>Example 7</u>

A member of staff works full time for the University and wishes to take on another job outside of the University. Although these additional hours will be worked in their spare time, this may still pose potential issues such as;

- Breaching the Working Time Regulations' 48-hour week working limit
- Impact on their role at the University of Bristol
- Possible conflicts of interest, depending on the nature of the business and work involved

6. Permission granted under certain conditions

It may be appropriate for permission to be given, subject to fulfilment of certain conditions. Examples may include:

- The member of staff should submit to the scrutiny of the University any contract between him or her and an outside person or body (subject to any relevant legal considerations)
- The member of staff should provide evidence that they have satisfactorily addressed issues of insurance, liability, and disclaimers
- Specific action may be needed to deal with an existing or potential conflict of interest
- Advise should be sought from Research and Enterprise Development on ownership and exploitation of intellectual property
- A services rendered contract is established for use of the University's facilities or resources
- The member of staff should change or reduce their contracted hours of work

7. **Withholding permission**

Permission should not be unreasonably withheld, and requests should only be refused altogether where potential risks or conflicts cannot be resolved.

Reasons for withholding permission might be that:

- The activity or activities in question will impair performance of the member of staff's basic responsibilities, for example because of an unrealistic time commitment or because of absences from the University
- An unacceptable conflict of interest will result, for example, between the member of staff's responsibility to the University and their interest in a spin-out company. This policy should be read in conjunction with the conflict of interest regulations and it is the individual's responsibility to consider whether or not there is a perceived or actual conflict of interest and to discuss the matter with their Head of School or School / Section Manager
- The activity is likely to bring the University into disrepute

Executive directorships are likely to pose problems because of the time that will be involved and possible conflicts of interest.

8. Confirming an outcome:

There are three potential outcomes

Approved:

If there are no concerns with the information provided, complete the Head of School / School/Section Manager section of the request form. Please inform your member of staff as to your decision. They can also check their MyERP My Personal Details Outside Work tab for updates

Approved with conditions:
If the outside work request can be accommodated, subject to certain adjustments or conditions being met, complete the Head Of School/Section manager section of the request form. Please inform your member of staff as to your decision. They can also check their MyERP My Personal Details Outside Work tab for updates

Not approved:

If there are concerns such that the request cannot be accommodated, complete the Head of School / School/Section Manager section of the request form. Please inform your member of staff as to your decision. They can also check their MyERP My Personal Details Outside Work tab for updates

9. Annual review (Audit):

Annually, HR will run an audit and issue a report of outside work declarations. The Head of School or School/ Section manager will be responsible for confirming these are accurate and up to date and that approval is still valid. In reviewing arrangements, it may be useful to revisit the checklist questions considering any changes in circumstances and ensure that all approved outside work arrangements have been updated on the employees Outside Work tab on My ERP.

Should any concerns with the outside work arrangements arise, the Head of School or School/ Section manager should seek further advice from their Head of HR Business Partnering.

Appendix A

Working Time regulations considerations

<u>Background Summary</u>

Where the general provision of the 48-hour working week limit applies, a worker's average working time (including all overtime and time spent working for others) must not exceed 48 hours per week (regulation 4(1), WTR 1998). An employer must take all reasonable steps, in keeping with the need to protect health and safety, to ensure that this limit is complied with. Failure to do so is a criminal offence punishable with a potentially unlimited fine (regulations 4(2), 28(1) and 29(1) and (4)).

Workers can still work more than 48 hours in any one week, subject to contractual limits or health and safety considerations, provided the overall weekly average measured over the appropriate "reference period" (by default, 17 weeks) is 48 hours or less. They can, of course, opt out of the 48-hour-average-maximum. (Please talk to your HRBP if you receive a request to opt out of the 48-hour-average-maximum)

In addition to the working hours there are statutory requirements on rest breaks and working patterns and these must also be considered when, as a manager you grant authority for outside work; Rest breaks at work - GOV.UK (www.gov.uk).

<u>Guidance</u>

We may refuse an individual requests for, or if already given, withdraw authority to undertake outside work if we consider that doing so is a risk to the wellbeing or health and safety of the member of staff concerned, or will have a detrimental impact on their work for the University. This will be so, even if the time spent on outside work will amount to less than the 48-hours average per week permitted under the WTR. As a guide, we would not encourage outside work requests to exceed a total of, 45-hours a week on average. Additionally, if the proposals for outside work include failing to take relevant time off (rest breaks/rest days etc) then that would be a very good reason not to authorise the outside work request.

If, as a manager, you are concerned re your employee's wellbeing and health and safety with regards to the working time regulations you can suggest that the employee might consider reducing their UOB contracted hours. However, any reduction in contracted hours would need to be made by full agreement with the member of staff concerned because it would have an inevitable impact on pay/pension. If agreed, the variation should be recorded in writing and we would need to be clear whether this is a permanent contract variation or whether, if they reduced/stopped the outside work in the future, they would have the right to go back to their original contracted hours.

Managers, with the support of HR, need to monitor the level of outside work undertaken by those they have granted authority to do so, in order to maintain management of health and safety and working time etc.