

La Trobe Consulting Policy

Section 1 - Background and Purpose

- (1) To provide a framework for La Trobe staff undertaking consultancies through La Trobe Consulting.
- (2) La Trobe University:
 - a. considers it desirable that the special experience and skills of staff members should be available to external organisations
 - b. encourages staff members to maintain and improve their expertise by becoming involved in consultancies
 - c. seeks to expand the volume of consultancies to the mutual benefit of staff members and the University
 - d. recognises the benefits for the University, the staff member, and external organisations in the conduct of consultancies
- (3) Consultancies should be negotiated and approved in accordance with clear principles and consistent criteria.
- (4) As the conduct of consultancies affects the University's interests, the University regulates the consultancies undertaken by its staff members.
- (5) These Procedures are to assist:
 - a. staff members in planning consultancy proposals, costing, pricing and seeking approvals;
 - b. delegates in ensuring that necessary resources are available to perform the work and costs have been fully identified;
 - c. delegates in certifying consultancy proposals.
- (6) Consultancies delivered through the University to be performed by a staff member must be approved by an authorised officer of the University (a delegate).
- (7) Consultancies are work performed by a staff member for an external organisation or individual on behalf of the University on a commercial basis for an agreed cost through La Trobe Consulting, administered by the University Research Office and are over and above the staff member's workload allocation and/or University duties unless the express written permission of the Deputy Vice-Chancellor (Research and Industry Engagement) and the Head of School is provided.
- (8) Consultancy does not include matters that are part of a staff member's substantive role.

Section 2 - Scope

- (9) Applies to:
 - a. consultancies through La Trobe Consulting other than Research contracts;
 - b. all La Trobe University campuses and external research locations;
 - c. all La Trobe University staff members.

Section 3 - Policy Statement

(10) Consultancies are work performed by a staff member through La Trobe Consulting and is over and above the staff member's workload allocation and/or University duties unless otherwise agreed.

(11) Consultancy does not include work that is part of a staff member's substantive role.

(12) This policy does not cover research (covered under Research Contracts and Research Grants Policy), outside work (covered under Outside Work Policy) or other work performed by the staff member as part of the staff member's workload allocation and/or University duties.

(13) Consultancy work must:

- a. be limited to the Paid External Work Cap or be approved by the Deputy Vice-Chancellor (Research and Industry Engagement) for days exceeding the cap;
- b. fall within the expertise and capabilities of the staff member proposing to undertake it;
- c. be appropriate to a University and unlikely to infringe the general freedom of enquiry of the University;
- d. not place the interests of the staff member above that of the University;
- e. include management of any potential conflicts of interest;
- f. identify financial contributions and the use of University space and facilities;
- g. use competitive neutrality principles;
- h. not be aimed at or likely to result in harm to the life or wellbeing of any person;
- i. not involve students, except in fulfilment of an approved course requirement or otherwise only with voluntary consent and for fair payment and not compromising their studies and subject to appropriate documentation and agreement.

(14) Staff members undertaking approved consultancies through La Trobe Consulting benefit by:

- a. coverage under the University's professional indemnity and public liability insurance; the staff member will be defended by the University in the event of a claim against the staff member undertaking a consultancy, provided that the claim is not as a result of fraudulent, dishonest, criminal, wilful or malicious acts by the staff member and provided that the staff member has acted in accordance with University policies and procedures
- b. access to the University's finance system to invoice the external organisation for funding, expend project costs and distribute any surplus;
- c. access to University resources, such as technical and secretarial staff, equipment, administration and telecommunications, if approved by the delegate;
- d. entitlement to use the University's name, providing it is not brought into disrepute;
- e. entitlement to make reference to their University position and title in connection with the work;
- f. entitlement to share in the surplus of their consultancy in accordance with Part F of the Procedure.

(15) Consultancy Agreements must abide by the [Competition and Consumer Law Compliance Policy](#).

(16) Any legal conditions must either accord with the University's standard form Consultancy agreement or be reviewed and approved by Legal Services before submission and execution.

(17) The distribution of surpluses from consultancies is as determined by the Consulting Budget Calculator, noting that balances of any surplus will remain with the University upon termination or departure from the University by the staff member.

(18) It is at the discretion of the Deputy Vice-Chancellor (Research and Industry Engagement) to veto Consultancy

Agreements that are primarily funded by individuals or organisations involved in inappropriate activities; for example, individuals or organisations involved in the tobacco industry.

Section 4 - Procedures

Part A - Consultancy Submissions

(19) Prior to proposing a consultancy to a prospective client, staff members must seek approval from their delegate by presenting them with a submission (draft proposal). Consultancy proposals may not be approved by a person other than the delegate.

(20) A consultancy submission to a delegate must be accompanied by a Consulting Contract Cover Card (see intranet.latrobe.edu.au/research/consulting/tools-and-resources). If the staff member answers 'no' to any of the questions on the Consulting Contract Cover Card, approval for the consultancy must be sought from the Deputy Vice-Chancellor (Research and Industry Engagement).

(21) All resources required to undertake the proposed project must be identified in the submission and costed using the Consulting Budget Calculator (see intranet.latrobe.edu.au/research/consulting/tools-and-resources).

Part B - Costing Consultancy Proposals

(22) Proper costing in accordance with the Consulting Budget Calculator must include:

- a. direct costs;
- b. staff member time;
- c. consumables.

(23) Facilities and external personnel must include allowances for indirect costs.

(24) Three types of agreements are applicable to consultancies at La Trobe:

- a. short-form consulting contracts (consultancies up to \$50,000 in value);
- b. long-form consulting contracts (consultancies over \$50,000 in value);
- c. non-standard agreements where the client proposes their own terms.

(25) All long-form contracts, non-standard agreements and changes to any terms in the short-form contract require prior approval from Legal Services.

(26) All costings must be fully identified and declared in order to obtain approval by the relevant delegate.

Part C - Pricing Consultancy Proposals

(27) In some circumstances, a staff member may wish to charge less than the full cost for a consultancy. In these cases, the staff member may either:

- a. subsidise the consultancy from their Outside Earnings Account;
- b. provide a justification based on specific benefits to the University, which may include commercial benefits or academic or reputational benefits.

(28) Staff members are encouraged to charge more than the base cost for a consultancy, particularly where market rates allow for this. The Consulting Budget Calculator provides for these circumstances.

(29) In all circumstances, the pricing decision must comply with competitive neutrality requirements, where applicable, in accordance with the Consulting Budget Calculator.

(30) Such pricing proposals must be approved by the staff member's delegate.

Part D - Approval of Consultancy Proposals

(31) Consultancy proposals will not be approved unless the declaration on the Consulting Contract Cover Card is completed and signed by the prospective staff member confirming that:

- a. the project fee was derived using the Consulting Budget Calculator, inclusive of all direct and indirect costs;
- b. ownership of or licence to use knowledge and materials is in place;
- c. staff are available with the necessary skills and experience to complete the project;
- d. ethics and biosafety approval has been obtained, where necessary;
- e. safety issues have been considered;
- f. legal requirements have been adhered to;
- g. all appropriate University policies and procedures have been followed.

(32) All consultancy proposals will be reviewed and approved by the relevant University delegate.

(33) The delegate must certify in all consultancy proposals that a consultancy:

- a. will be conducted in accordance with La Trobe University's statutes, regulations and procedures;
- b. will be conducted by available and appropriately knowledgeable, skilled and experienced staff members;
- c. is costed in accordance with the Consulting Budget Calculator;
- d. includes appropriate budget monitoring and accountability processes.

(34) The School/Area will be responsible for any over-expenditure.

(35) The delegate must have written evidence that:

- a. relevant clearances from ethics committees have been or will be obtained at the time that is necessary for conduct of the consultancy;
- b. the staff member has followed all relevant policies and procedures, on costing, pricing and recovery of infrastructure costs;
- c. any possible conflict of interest will be managed in accordance with the Conflict of Interest Procedure; and
- d. Intellectual Property rights (if any) are managed in accordance with the [Intellectual Property Policy](#).

(36) If the delegate has agreed that the consulting work is in accordance with the La Trobe Consulting Policy and does not negatively impact the staff member's substantive position, staff members may engage in consultancies up to the Paid External Work Cap.

Part E - University Consultancy Agreement Signing

(37) Consultancy Agreements may not be signed by any person except an officer authorised under the University's Consultancy Signing Delegation (see intranet.latrobe.edu.au/strategy-management/delegations).

Part F - Consultancy Income Proceeds

(38) Income under consultancies must be paid into the University's bank account and managed in accordance with the

University's business procedures and the guidelines incorporated in the Consulting Budget Calculator.

(39) Distribution of net proceeds following the recovery of University costs and overheads and external costs will follow the guidelines incorporated in the Consulting Budget Calculator.

(40) Balances of any surplus will be directed to that staff member's outside earnings account or paid through payroll (less standard government taxes and SGC superannuation). Any residual balance will remain with the University upon termination or departure from the University by the staff member.

Part G - Record Keeping

(41) Heads of School or Administrative Divisions are responsible for ensuring that all Consultancy Agreements are sent to Records and Archives Services or the Research Office.

(42) Where Consulting Agreements are sent to Legal Services for final approval and escalated to the Deputy Vice-Chancellor (Research and Industry Engagement) for approval, then Legal Services will forward contract copies directly to Records and Archives Services or the Research Office and return a copy to the relevant School or Administrative Division.

Section 5 - Definitions

(43) For the purpose of this Policy and Procedure:

- a. consultancy: services or duties performed by a staff member through La Trobe Consulting. Consultancy work is over and above the staff member's workload allocation and/or University duties unless otherwise agreed but does not include research;
- b. Consultancy Agreement: any legal contract made by the University in which a legal obligation to an external organisation or individual for performance of consultancy work by a staff member falls on the University;
- c. consultancy signing delegation: the Instrument of Delegation No. 5 of 2014, approved by Council (see intranet.latrobe.edu.au/strategy-management/delegations) or as amended or replaced from time to time;
- d. Consulting Budget Calculator: the approved University budget calculator to determine consultancy rates for all staff members, incorporating fixed costs and providing financial distribution of funds to all parties involved in a consultancy project (see intranet.latrobe.edu.au/research/consulting/tools-and-resources);
- e. delegate: Head of School or Administrative Division of the staff member, or a person to whom they have delegated a responsibility under this policy in writing;
- f. La Trobe Consulting: an administrative function of the Consulting and Contracts Team in the University Research Office, through which a staff member may perform work with the consent of the University for an external organisation or individual on behalf of the University on a commercial basis for an agreed cost;
- g. outside work: is work performed by a staff member in their personal capacity outside their contract of employment with the University;
- h. paid External Work Cap: entailing in aggregate a maximum time commitment of five (5) working days in any month or 48 working days in any calendar year;
- i. research: as defined in the Commonwealth's Higher Education Research Data Collection specifications as amended from time to time;
- j. staff member: any employee of the University;
- k. University service: University service forms part of a staff member's workload allocation and requires approval from the staff member's Supervisor as part of Career Success. It therefore does not require prior approval by a Delegate and may include the following activities or types of activities:
 - i. committee participation;

- ii. organising and/or attending meetings, forums, seminars etc;
- iii. consultancy;
- iv. community service;
- v. industry liaison and grant funding applications;
- vi. leadership;
- vii. management and administration;
- viii. internal and external professional work;
- ix. occasional lectures for other institutions (but not courses of lectures);
- x. examining higher degree thesis;
- xi. reviewing papers or books;
- xii. editorial work for an academic journal;
- xiii. participating in or organising academic conferences;
- xiv. assessing grant applications;
- xv. service of up to the equivalent of ten days per year on boards or committees (other than boards or committees of companies);
- xvi. occasional newspaper articles or other media contributions;
- xvii. writing scholarly works, whether commissioned or non-commissioned.

Section 6 - Stakeholders

Responsibility for implementation - Deputy Vice-Chancellor (Research and Industry Engagement); Research Office.

Responsibility for monitoring implementation and compliance - Research Office.

Status and Details

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Responsible Policy Officer	Alistair Duncan Executive Director, Research Office
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