Edinburgh Napier
UNIVERSITY

Consultancy and Commercial Activity Framework Guidance

Full guidance for the development of consultancy and commercial activity and requesting associated incentives

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1. Introduction

The new Consultancy and Commercial Activity Framework has been developed to encourage and incentivise staff to undertake consultancy and non-credit bearing open and bespoke CPD activities in support of knowledge exchange and external collaboration. Undertaking projects with all organisations is encouraged including those from the private, public and third (voluntary, charity, social enterprise) sectors. These activities have career and reputational benefits for the staff member as well as support the delivery of the University's strategic objectives, including:

This guidance document must be read alongside the Framework and provides more details and information in relation to the governance and processes for the management of activities. It seeks to further outline the benefits, whilst minimising risks and protecting the interests of both the University and staff. A full process flow in relation to how Research, Innovation and Enterprise (RIE) will support colleagues can be found in Appendix 1.

Application of this Framework offers substantial benefits to staff members who are supported by RIE with accurate costing, pricing, contractual negotiation and insurance. The University will also take on the risk of securing payment from clients. Thus, if a client is delayed in making payment or does not pay at all, then the staff member will still be eligible for the additional payment, on condition that they have completed the work as expected in accordance with the signed contract. The risk of non-payment will be mitigated through undertaking of due diligence on all new clients and staff will be advised where work should not proceed with a particular client due to failed due diligence. All activities will be relevant for promotional purposes, in line with the Academic Framework.

Who Can Help?

The RIE team will provide support and advice with the application of the Framework and associated guidance. School BDRMs are the first point of contact to support engagements with external organisations and for post award financial management please contact your External Project Officer (EPO) - contact details can be found here. For queries relating the payment of fees, please contact Payroll - payroll@napier.ac.uk. Should anything require escalation, your BDRM will escalate to RIE's Senior Leadership Team accordingly.

2. Eligibility

All staff across the institution (academic and professional services) are supported by this framework ***excluding*** honorary staff, associate staff, research students and staff who perform any of these activities as a major part of their role (e.g., RMP). When the activity is agreed and undertaken out with the workload allocation model (WAM), all eligible staff will be rewarded with an additional payment, on condition that relevant process has been followed appropriately.

3. Activities Within Scope of Framework

The following activities, as defined below, are within scope of the Framework on condition that the work is undertaken out with workload allocation model (WAM) and the relevant process has been followed:

Consultancy is defined as the undertaking of work within or related to the staff member's professional field through which their expertise is exchanged with an external organisation for a fee, but which does not involve original research work or creation of new knowledge. This activity will normally be short-term in nature.

Examples of Consultancy projects include, but are not limited to:

- Offering expert analysis and opinion/advice on a social science, scientific or medical question
- Expert analysis of corporate literature
- Stakeholder engagement (via interview or surveys) and analysis of findings
- Carrying out testing or analysis on behalf of an organisation for a new/existing product or service
- Advisory services on technical issues

Non-credit Bearing Open and Bespoke CPD Courses are defined as training programmes for learners already in work, who are undertaking the course for purposes of professional development whereby the bespoke provision is tailored specifically to an organisation's workforce and skills development needs or for a professional body's membership. Normally, the employer pays the fees for employees to enrol as learners.

In accordance with the definitions above, all activity that arises naturally from, and is related to employment at the University, should be carried out through the Framework. Activity must be approved in accordance with the required approvals and governed by a contract signed off by RIE with the external organisation, whereby due diligence has been undertaken and which ensures appropriate insurance covers applies.

Please see Appendix 2 for a list of activities that are out with scope of the Framework.

4. Costing and Pricing of Activities

All activity must be costed and priced (at market rate) in conjunction with RIE and approved by either the Dean of School, Director of Service or Delegate Approver in advance of a final quote being submitted to the client. Indicative client quick quotes can be provided in advance of a final quote, however these are not legally binding. For indicative day rates, please see Appendix 3.

The full project cost quoted to the client will include:

- **Directly Incurred Costs: Costs which are explicitly identifiable as arising from the conduct of a project:** Consumables, Travel and subsistence, Equipment and software, Marketing costs for open CPD, Any other identifiable direct costs (e.g. administration costs, research and technical assistant costs (non-academic staff), professional services)

- **Directly allocated costs: Costs of resources used by a project that are shared by other activities:** Staff time, including on-costs (employer's national insurance and pension contributions)

- **Estate and Indirect Costs (including any profit uplift): Non-specific core institutional costs charged across all projects.**

5. Division of Fees

On condition that the relevant processes have been followed and approvals are sought in advance of the project starting, staff members will be entitled to submit a claim for the majority of their staff cost and surplus. Given the University will manage the risk associated with conducting the projects, the staff member will still be entitled to receive their additional payment, even if there is non-payment from the client. All non-payment will be handled by ENU's Credit Control and Finance processes. After the deduction of any directly incurred costs (including any associated Estate and Indirect costs related to Directly Incurred staff), employer's national insurance and potential pension contributions, the distribution of income will be made as follows for relevant activities:

Consultancy and Open / Bespoke CPD (NCB) under £10,000:

- **100% to Staff Member**
- **0% to University**

Consultancy and Open / Bespoke CPD (NCB) over £10,000:

- **75% to Staff Member**
- **25% to University**

Please note, the above splits are applied on a per project basis.

Once the activity has been concluded and the invoice has been issued (for consultancy or bespoke CPD) or break-even point reached, fees collected and provision delivered (for open CPD), the additional payment will be made. This will be either via Payroll (PAYE) or transferred to a PRA. It can only be transferred to a PRA if a fee-waiver has been requested and approved, prior to activity commencing.

It is the staff member's responsibility to check with the External Project Officer their claimable amount and to raise a payment claim through HR Connect or request a transfer into a PRA. This must be within two months of the completion of the work. If no claim is submitted within two months, the staff member forfeits the opportunity for an additional payment as relevant budget codes will be closed. The payment will be subject to tax and national insurance deductions in the normal way if paid via PAYE. If more than one staff member is involved in a project, the fee and surplus split will be relative to the time spent on project as approved by relevant line managers and on Worktribe.

If payment is into a PRA, this income belongs to the University and is kept in trust so that account holders can pursue relevant RKE activities. Funds should be spent in an efficient manner and activity should align with ENU's strategic ambitions. PRA expense claims will be approved by Head of Research or delegated approver and should be made via SCSS and Agresso in-line with University and School processes and expense policy.

If a staff member leaves the University, then under no circumstances can any remaining PRA money be transferred to a new organisation. It will remain at the University and not move with the account holder.

Only expenditure relating to the following activities are eligible to be covered by PRA funds. All spend needs to adhere to institutional processes (including HR and procurement) and it is the staff member's responsibility to engage relevant departments for support. All equipment needs to be procured in the normal way – IT equipment via IS and other equipment in line with procurement processes. No personal purchases of IT and equipment will be approved or reimbursed:

- **Conference Attendance:** including registration fees, travel, subsistence and miscellaneous costs (e.g. materials (books and printing)).
- **Conference and Event Facilitation:** including guest speaker expenses - fees, travel, and subsistence, catering, venue hire and miscellaneous costs (e.g. materials (books and printing)).
- **Personal Capacity Building:** individual CPD, training costs and event attendance to support RKE ambitions including delegate fees, travel, subsistence and miscellaneous costs (for example materials (books and printing)).
- **Research Assistance and Interns:** to support RKE outputs and income generation.
- **RKE Project Support:** to support RKE projects including travel, subsistence, support services (for example transcription, proof-reading, bid writing), subscriptions, memberships, materials (for example books and printing), and equipment.

6. Approvals

Approval for activities must be obtained in advance of the final quote being submitted to the client. This must be through Worktribe and include a Consultancy and Commercial Activity email approval from the staff member's line manager. Other relevant departments such as School Support Service, HR and IS should also be informed if relevant support is required and if any University resources or facilities are required.

Details of the Worktribe inputs must include the following:

- Project description of the proposed activity, Project start and end dates
- Funder (request for new funder to be added if client not listed)
- Relevant directly incurred costs, staff costs (number of days for project) and surplus (based on market rates) (via budget tab and through advice from RIE BDRM)
- Project proposal for consultancy and/or Business Case for CPD (via documents tab)
- Checklist (via checklist tab)
- PDF evidence of CPD Provision Quality Approval from CME (via documents tab)
- Line Manager's Consultancy and Commercial Activity approval email and fee waiver form, if relevant (via documents tab)
- How the activity will achieve strategic objectives for the School/University (via benefits tab)
- Data Management Plan or Declaration of No Data Form, whichever is relevant (via templates)

RIE will manage all the contractual and financial requirements for the project.

7. Balancing Activities Out With WAM and University Role

Whilst the University acknowledges the benefits derived from these additional activities conducted out with WAM, a balance must be maintained to ensure that there is no impact on a staff member's wellbeing and their ability to perform their normal day to day role.

To support a healthy work life balance and to ensure sufficient time is allocated to other responsibilities and activities of the staff member, it is recommended that there is a maximum number of 30 days per financial year (1st August – 31st July) permitted for additional activity that is within scope of this Framework. Any exception to this would be agreed by either the Dean of School or Director of Service, an example of this may be where additional activity is in the interest of both parties to enable a more substantive external engagement.

8. Responsibilities

Employees	- Read and follow the Framework and ensure a full understanding of supporting guidance and associated policies. - Only undertake activity where the necessary approval and associated contractual documentation has been completed. - Submit claims for payments within two months of the activity concluding.
Managers	- Read and follow the Framework and ensure a full understanding of guidance documentation and associated policies. - Discuss the relevant activity and benefits for the staff member and University. - Consider fully and approve via the Consultancy and Commercial approval email, as appropriate and as outlined in the guidance, relevant activity.
RIE	- Provide guidance to all parties involved on the application of the Framework. - Support on the due diligence, costing, pricing, market analysis and contractual negotiation of the project. - Signpost staff members to other relevant departments as required.

9. Related Policies

This Framework should be read in conjunction with:

- Framework Document
- Intellectual Property (IP) Policy
- Contract of Terms and Conditions of Employment
- Financial Regulations (specifically Bribery Act Policy Statement)
- Disclosure of Other Interests (currently in development)
- CPD Process Document

Appendix 1a – Process for Academic Staff

Project Scoping: Initial conversation between ENU (staff member and / or RIE) and client. Staff member creates Worktribe (WT) project / CME record and informs RIE if client needs to be added as a new funder.

Line Manager Discussion / Approval: Staff member to discuss activity with Line Manager to determine if project is feasible within, or is out with, WAM and upload Consultancy and Commercial Activity approval email to WT and fee waiver form completed (for PRA). Raise awarness to key service leads of potential project and impact.

Project Development: Based on project scope, RIE will advise on due diligence, costs, market analysis, price and final quote. If required, RIE will generate indicative client quick quotes and signpost to other support departments.

Worktribe Approvals: Prior to issuing final quote to client, staff member must submit project for approval by the School via WT. For CPD, quality approval evidence, via CME, is required. Once approved, final quote submitted to client - incl. T&Cs.

Client Accepts Quote: RIE will issue an ENU contract to client and support negotiation, if required.

Project Set Up: RIE will issue project finance code (R-Code) and set up reporting and invoicing (milestones). For CPD, please consult CPD process. Staff member will be signposted to key contact points for project delivery.

Project Delivery: Staff member delivers project according to project scope delivers CPD (if break even point reached), keeping RIE informed of activity and uploading reports to Worktribe (via documents tab). RIE will invoice client in accordance with payment schedule.

Project Completion: Staff member will complete all final deliverables and inform RIE of successful completion. RIE will issue final invoice to client.

Incentive Payment Claimed: Once final invoice issued, if relevant, staff member must request additional payment via HR connect or by email (PRA) within two months of project completion. Payment is approved by Line Manager and paid via PAYE, subject to relevant deductions. Speak with EPO for confirmation of amount you can claim.

Project Scoping

Either the staff member or the BDRM will have an initial conversation with the potential client. If the project develops and is expected to proceed, at the earliest opportunity the staff member must create a Worktribe (WT) project. For CPD, a CME project record should be created at the same time. If the client is not on WT as a funder, then the academic needs to inform RIE, necessary financial due diligence will be carried out and the funder added to the system. All projects will be assessed against definitions to ensure accurate categorisation. If a project is deemed to be a research project, then it would be out with scope and will follow normal research application process.

Line Manager Discussion and Approval

If a project is proceeding, the staff member must discuss activity with their line manager, or in the absence of the line manager, with their Head of Subject Group or Dean of School / Director. In this discussion, it is advised that the project scope is reviewed and there is consideration given to confirm that the activity is relevant to the work required. For example – an academic must charge for an adequate amount of days to cover the activity. In this discussion the line manager must also determine if a project is feasible within, or is out with, WAM. In accordance with the email template in Appendix 4 and the Fee Waiver Form in Appendix 5 – the Line Manager must send a Consultancy and Commercial Activity approval email and the staff member or RIE must upload to WT documents tab.

Project Development

Based on project scope and information provided by the academic regarding resources required, RIE will advise on costing, market analysis and confirmation of price. Once the price has been determined, this will be utilised for preparation of the final quote. RIE will also advise on any outcomes from the due diligence. If required, RIE will support on generating indicative client quick quotes, please see Appendix 3 for an overview of indicative costs.

Consideration should also be given to any data management, data sharing and data governance. Further information can be found on RIE's Data Management Page.

During project development, if it is expected that other professional service departments will be required to support in delivery of the project, then appropriate advice and signposting can be given. For example, an academic might need support from HR (for recruitment and advice on the Staffing Authorisation Form (SAF) process), School Support Service (for purchasing, booking travel and supporting CPD delivery), technical staff (for testing) and IS (for IT equipment purchases).

Worktribe Approvals

Prior to issuing the final quote to the client, the staff member must submit the project for approval by the School via WT. Please ensure that the line manager's Consultancy and Commercial Activity email approval has been attached (via the documents tab). This should include fee waiver form if relevant. Once approved, the final quote can issued by RIE or the academic to the client and this will include the University's standard T&Cs. The default position is that the client should be accepting the University's standard T&Cs which will allow a much quicker turnaround in terms of commencing the project as the University will not have to review the client's terms or negotiate.

Client Accepts Quote

Once the client has confirmed in writing that the quote has been accepted, RIE will issue an agreed contract (including the University's standard T&Cs) to client for signing. If the client provides their own contract, RIE will support negotiation but please note, this may delay the project start date.

Project Set-Up

Once the contract has been signed off, RIE will issue a project finance code (R-Code) and set up reporting and invoicing (milestones), to ensure that all financial aspects of the project are managed on behalf of the academic. The staff member will be reminded by RIE of contacts in other relevant professional services who will support on project delivery.

Project Delivery

The staff member will deliver the project in accordance with project scope and the requirements of the client, maintain good communication and ensure that there is no project 'scope creep'. If the client is expecting additional work to be undertaken, over and above what have been agreed in the contract, RIE can support in negotiating a project supplement and contract amendment. The academic must keep RIE informed of activity and upload reports to Worktribe (via documents tab). RIE will invoice client in accordance with payment schedule.

For Open CPD provisions, please follow the CPD process. To be eligible for an additional payment for Open CPD, break-even point has to be reached in accordance with the figures outlined in the business case. If break-even point has not been reached four weeks before the delivery date, the School need to make a decision (based on enrolments) if they continue to market the course with the expectation that break-even will be reached, postpone to allow a longer marketing time, cancel and reconsider. The project lead must closely monitor sign-ups via moodle community.

Project Completion

The staff member will complete all project deliverables and inform RIE of successful completion of the project. If relevant, the final project report must be uploaded to WT (via documents tab) and the project will be marked as complete on WT. RIE will issue the final invoice to client or for Open CPD, ensure all income is realised against the R-code.

Additional Payment Claim

Once the final invoice has been issued to the client, if relevant, the staff member must request incentive payment, via the HR connect system, within two months of project completion. In the description field in HR Connect, please indicate 'Consultancy Framework' so payroll are aware of the purpose of the payment. The additional payment will need to be approved by your Line Manager (Line Manager Managing Online Payment Guidance here) and will be processed by payroll and paid via PAYE, it will be subject to relevant deductions and appear in your monthly salary. If no request is made within two months, the staff member forfeits the opportunity for additional payment as the budget codes will be closed. Please speak with External Project Officers for the confirmation of the amount you can claim.

Appendix 1b – Process for Professional Services

If a non-academic staff member is undertaking consultancy or commercial activity they are not required to do a Worktribe record but please get in touch with RIE via externalprojects@napier.ac.uk who will send the Professional Services Project Proposal Form and further information.

Appendix 2 – Activities Out With Scope of Framework

Activities that are out with scope of this Framework are as follows:

- Teaching and other conventional academic activities including Research / Contract Research
- TNE activities that would otherwise be covered within the Workload allocation Framework
- Teaching and Research Quality Assessment activity including external examining, refereeing papers, publication peer review (e.g. journals and books)
- Authorship or royalties from publication of books
- Conference presentations and media appearances
- Any credit bearing CPD provisions, including provisions that are taught as non-credit bearing but have the option of a follow-on credit bearing assessment
- Professional practice activities (e.g. clinical activities of medical academic staff such as nursing or allied health professional activities)
- Board and Panel Membership
- IP and Commercialisation Projects (e.g. acting as a consultant in any capacity for a commercialisation opportunity that involves exploiting University -owned IP such as a spin out or a licensing deal or using University owned IP with the explicit intent to exploit it or as the main basis for the engagement)

These activities are governed by other relevant institutional processes and policies (please see Section 9 for related policies) as well as staff member's conditions of employment.

Please note: activities which are undertaken by a staff member in a personal capacity and completely independently of the University requires approval in accordance with relevant University policies. Staff members should always act in accordance with the institutional contractual Standard Terms of Employment in this regard, namely:

External Work (Paid or Unpaid) and Other Appointments: The University recognises and encourages the holding of appropriate external appointments/positions which may be of direct or indirect benefit to the University and/or the individual. However, it is expected that you will devote your whole working time to the work of the University and its interests. So you should always notify your Dean of School of any such appointments which will be permitted where:

(a) there is no conflict of interest; and

(b) ***the activity does not interfere with the proper performance of your duties***

Appendix 3 – Indicative Day Rates

Staff members may be asked for estimate costs for work or indicative day rates at short notice. In order to ensure a quick response time your Business Development & Relationship Manager will be able to advise you an estimate range to provide to the client.

VAT also needs to be charged at the prevailing rate in connection with the relevant activity. Your BDRM can help support on VAT status for the project.

Please contact your BDRM to provide these indicative rates before discussing with the client. These rates would only be estimates and do not constitute an official quotation of pricing.

Appendix 4 – Consultancy and Commercial Activity Email Approval from Line Manager

To be eligible for an additional payment, the staff member needs to have approval from their line manager (in advance of project starting and quote being issued) that the work is being undertaken out with WAM.

As part of this email, you must also provide justification about the proposed project and plan for delivery. This will help support your line manager in making a decision about whether this work can be conducted within or out with WAM. Please upload the line manager approval email response to the Worktribe project record, in the documents tab.

Please email the following brief questions to your line manager. If you are requesting for payment to be made in to a PRA, please copy and paste the below fee waiver form (appendix 5) in to the body of the email you send to your line manager for approval.

1. *Worktribe Reference for Project?* ***Staff member to complete***
2. *Short Justification and Delivery Plan for Project?* ***Staff member to complete***
3. *Does the staff member have capacity to undertake this work within WAM (Yes or No)?* ***Line Manager to Complete***
4. *Has it been discussed that the scope of work is deliverable within the amount of days proposed (Yes or No)?* ***Line Manager to Complete***
5. *Have you confirmed this project is within scope of the Commercial Activity framework (Yes or No)?* ***Line Manager to Complete***
6. *If a PRA payment has been requested, has a fee waiver form been included in this email (Yes or No or NA)?* ***Line Manager to Complete***
7. *Do you approve the staff member to undertake this project in their own time (i.e. out with WAM) (Yes or No)?* ***Line Manager to Complete***

By confirming that this work is conducted out with WAM, the staff will be eligible for additional payment.

Appendix 5 – Fee Waiver Form

To be eligible for an additional payment into a Personal Research Account (PRA), the staff member needs to ensure they have line manager approval (that the work is being done out with WAM) in the first instance, and then complete the fee waiver form below. This should be attached to the Worktribe record under the documents tab BEFORE approvals.

Name	
I confirm that I waive my income entitlement, in relation to the project and value as listed below, in favour of Edinburgh Napier University. *I acknowledge that this PRA money belongs to the University and is kept in trust so that I can pursue relevant RKE activities. I agree to spend the funds in an efficient manner, on activities that enhance my RKE activity and align with ENU's strategic ambitions and in accordance with University policies and processes.* *I acknowledge that if I leave the University, then under no circumstances can any remaining PRA money be transferred to my new organisation. It will remain at the University and not move with me.*	
Value to be waived in to PRA	
Date	