

Policy on External Remunerated Professional Activity by Members of Staff of Maynooth University

Revision 011 Feb 2020

Policy Owner: VP Research

Active Policy: Approved by GA Feb 2020

INTRODUCTION

1. SCOPE OF POLICY

This policy applies to all *full-time* permanent and temporary Academic staff of the university. The policy applies to all *part-time* Academic staff but with pro-rata application of entailed commitments and supports.

For the purposes of this policy *Academic staff* are those whose contract of employment primarily entails both teaching (including postgraduate supervision) and independent research (including supervision of postdoctoral researchers and other research-dedicated staff).

This policy does not apply to other staff, including research-only (e.g postdoctoral researchers), teaching-only (e.g University tutors), professional, technical or administrative staff.

2. Definition

The term *external remunerated professional activity* means part-time service as a technical or professional consultant, adviser, practitioner, or educator, which involves the use of one's professional capabilities to further the objectives of a third party, is conducted outside the University in addition to the normal duties of university employment, and which attracts additional remuneration or financial gain.

This policy addresses external activities such as

- Normal External Academic Engagement including peer review and public intellectual activity and engaged, collaborative or partnership research.
- External Professional Activity which is conducted by a staff member in a *personal* capacity with no use of the University's resources and no use of the University's name.
- Directorships.

3. Principles

1. Normal academic work includes a significant component of external professional activity which is an important part of the academic role and does not attract significant additional remuneration. The University seeks to facilitate such work because of its individual, institutional and societal benefits. Nothing in this policy is intended to impede or inappropriately constrain such activity, or create an additional approval or reporting burden.

2. The focus of this policy is *external remunerated professional activity*, where, for reasons of quality assurance and public accountability, the University is obliged to have appropriate mechanisms for monitoring and/or approval of relevant activity to ensure there is no conflict of commitment or negative impact on the primary employment commitment to the University, and that potential risks are appropriately mitigated or managed.
3. The University recognises that all members of staff are entitled to personal privacy, and to conduct purely private business affairs that are wholly unrelated to and outside the responsibilities of their university employment, and conducted outside normal working hours¹.
4. The University requires that staff engaged in external remunerated professional activity report the extent of such activity on an annual basis. Prior approval should be sought in circumstances where the external activity might be perceived to entail a conflict of interest or a conflict of commitment. The standard to be applied is that any activity that a reasonable person would see as relevant in these terms should be disclosed and prior approval sought. This would include, but is not limited to, activity that is of such a scale (in terms of hours worked) that it might be considered by a reasonable person to impact on the primary employment commitment to the university; or activity that a reasonable person would be concerned might present a risk to the reputation of the University.
5. Staff engaged in external professional activities outside the University but within the wider public sector in Ireland (including other higher education institutions, the civil and public service, and state bodies) should be aware of the 'one person one salary' principle, which means that it is not normally appropriate for a full-time employee of the university to accept additional remuneration from any Irish public sector body. Staff should not accept additional remuneration from within the Irish public sector without first confirming with the Human Resources Office that such remuneration is within the agreed exceptions to the 'one person one salary' principle.
6. The facilities and resources of the University should generally not be used for private business affairs, or for private financial gain.

4. NEED FOR POLICY

It is an intrinsic feature of academic employment that it encompasses a wide range of activities spanning teaching, scholarship, research, professional and diverse external engagement, and also that academic staff are permitted considerable freedom and flexibility in the scheduling of the non-timetabled activities that are part of their employment.

Maynooth University recognises that members of academic staff may benefit by engaging in external professional activities in order to expand and maintain their professional competence, keep abreast of developments and innovation in enterprise and the professions, and to support the Irish economy by sharing the university's academic knowledge with the external community, including business and the professions. Relevant activities are consistent with state policies that seek to promote innovation.

¹ For practical purposes, normal working hours are identified with core timetabled teaching hours, 9am-6pm Monday to Friday during term time.

However, while the University recognises this privilege, and the potential benefit of such activities, conflicts of commitment may arise when there are conflicting demands upon the time and energy of a member of staff arising from external activities which may interfere with the staff member's ability to meet his or her responsibilities to the University. The University as a public body, seeking to minimise the possibilities for conflicts of commitment to arise, has an obligation both to the body of scholars and to each individual member of academic staff, to clarify the terms under which external remunerated professional activities may take place.

In addition, as an institution in receipt of state funds, the University must be able to satisfy the public authorities that it has procedures in place to avoid or manage such conflicts.

Thus, in the interests of transparency and accountability, it is important that the University should be aware of the commercial and professional interests of its staff that relate to their scholarly or professional expertise, and which may give rise to a conflict of interest, even if undertaken outside normal working hours. In such cases, formal approval must be given in advance for remunerated external activities such as private consultancy and directorships.

In relation to external professional activities, the conditions under which such activity may be undertaken are governed by the following principles, which should be read in the context of the general academic contract and terms and conditions of employment.

- Academic staff are permitted significant freedom in scheduling their activities with the understanding that their external activities will enhance the quality of their direct contribution to the University.
- All staff owe their primary professional commitment to the University, and any potential conflicts of commitment must be dealt with in a way that honours that primary commitment.
- All staff should ensure that the nature of any outside work, or other external activity undertaken, and the way in which it is undertaken, should in no way detract from the reputation of the University or their own professional standing.

5. Benefits

Benefits for a member of academic staff engaging in external professional activity may include:

- Contacts, knowledge and reputation enhancement
- Development of new skills and experience
- Information and examples that contribute to teaching and learning
- Initiation of new research projects
- Developing new external opportunities for collaboration

6. Risks

The following are some of the risks to staff inherent in external professional activity:

- Professional risks— examples include loss of reputation (perhaps from engaging in activity or entering into commitments which take them outside their area of competence)
- Exposure to legal liabilities (professional liability)
- Incurring additional personal tax liabilities

- Conflicts of interest

Maynooth University recognises three distinct types of external activity, each of which has particular limitations and responsibilities.

7. Normal External Academic Engagement

Academic staff ordinarily engage in a number of external activities that require the use of their university affiliation, as well as potential resources, and indemnity insurance.

The following activities are examples of normal external academic engagement:

- Occasional giving of lectures elsewhere
- Writing for the press or other media
- External examining in other institutions
- Membership of interview boards in other institutions
- Editorship of journals
- Acting on organising committees for conferences
- EU reviewing activities
- Professional Society activities
- University research and contract activity on behalf of the University with external partners

The last of these must in all cases be supported by a contract that is effected by the Research Development Office or Commercialisation Office, and will be subject to the financial management and oversight of the University.

In some cases, e.g. EU reviewing, remuneration may be made to an individual, and will be the sole responsibility of the individual.

For Normal External Academic Engagement activities no specific approval is generally required, provided that the activities are not in conflict with the normal workload allocation process of the department. In any such case, the approval of the Head of Department is all that is required.

8. Private External Professional Activity

Private External Professional Activity refers to that which is conducted by a staff member in a *personal* capacity with no use of the University's resources, no use of the University's name or brand, no University Insurance coverage, and no liability on the University. University staff performing work in a private capacity do so entirely at their own risk and must make a clear distinction between private work and their university duties.

The following considerations automatically apply to a staff member engaging in Private External Professional Activity:

- He/she is operating as a private individual and not as an agent or employee of the university.
- A private address of the member of staff must be used for all correspondence. The use of university email, letterheads or other printed stationery or similar is not permitted.
- It is not permitted to carry out private external professional activities from university premises or during normal working hours without the express permission of the relevant Faculty Dean or Vice-President. In order to satisfy the requirements of accountability for its use of public funds, any staff member who wishes to carry out private external work from university premises or during normal working hours, must seek permission in advance from his/her Faculty Dean or relevant Vice-President, on the recommendation of his/her Head of Department. This

permission will normally be granted provided the external activity does not exceed, on average, one day per five-day week in a full calendar year, and does not interfere with the primary professional commitment to the University. The private work must not draw on University resources in any way other than the use of office space and personal computers. The use of classrooms, laboratories and other general university space for private work is not permitted. An acknowledgement is required from the staff member of the terms under which private external activity may be undertaken.

- Any approvals granted will be strictly time limited, and will not endure, in the absence of a valid annual declaration, for more than 12 months.
- In some circumstances university facilities that have been established as a Designated Commercial Facility² may be used for external professional activity, provided the full value of the facilities use is paid to the university on a basis agreed with the appropriate Head of Department and the commercial management office. University facilities or equipment that have not been established as a commercial facility may not be used in any circumstances.
- The University will have no responsibility for the work and this must be made clear to the client by the staff member. (Members of staff may wish to take out personal professional indemnity insurance to cover their individual liabilities.)
- There must be no implied association with the university for any private external professional activity.
- The staff member is individually responsible for his/her own declarations of income from external remunerated activity for tax purposes.
- Consideration must be given as to whether a potential conflict of interest exists, and in any such case the University policy will apply.

Engaging in private remunerated professional work without appropriate consent, where it could be seen as entailing a reputational risk for the University, even if it is outside normal working hours, is a breach of discipline and may render the member of staff liable to disciplinary action in accordance with the University's statutes.

The approving Dean or Vice-President may revoke or amend permission for private remunerated external work at any stage where, in their opinion, an external commitment is not consistent with the approval granted, or with the standard contractual duties of a member of staff.

9. Directorships

Holding a directorship of a company (unless that company is owned or controlled by the University) including publicly owned companies and private companies (including spin out companies) is a form of private external professional activity and the criteria and procedures for private external professional activity apply equally to them.

A member of staff who is involved in the ownership or control of a private company must disclose to the Vice President for Research the extent of his/her involvement and the nature and volume of any transactions between the University and the company. This does not apply to simple investment shareholdings, or similar, and is in order to avoid potential conflict of interest. The Research and Commercialisation Conflict of Interest Policy applies.

² A Designated Commercial Facility is a facility that has been made specifically available for use by external companies or organisations, and is being managed for that purpose.

Approval in advance will be required to hold a directorship or take a shareholding in a spin-out company. The approval requirements are set out in the University's Intellectual Property Management and Exploitation policy.

10. PROCESS

10.1. Request for approval to undertake Private External Professional activities.

All members of staff are required to discuss their plans for private external professional activity that may be undertaken within normal working hours, or which may require use of university facilities, with their Head of Department or equivalent prior to engaging in any such activity. The purpose of such discussion will be to identify that the activity may be undertaken in a way that is consistent with the workplan for the department and does not conflict with the performance of the staff member's core University duties or the use of other departmental or University resources.

For private external professional activity during normal working hours, or for private external professional activity outside normal working hours that might reasonably be perceived to entail a conflict of interest or commitment, the approval of the relevant Faculty Dean or Vice-President is required, on the recommendation of the Head of Department or School.

Approval for private external professional activity by members of academic staff will not be unreasonably withheld provided that:

- External activities do not exceed, on average, one day per five-day week in a full calendar year, up to 45 days per year, and do not interfere with the primary professional commitment to the University.
- External activities do not interfere with the performance of normal academic duties (research, teaching and service) and are recommended for approval by the Head of Department or School.
- External activities do not give rise to any conflict of interest for the individual member of staff or for the university. If a conflict of interest is identified it should be dealt with under the terms of the University's Research and Commercialisation Conflict of Interest policy.
- The university acquires no vicarious liability, and no other detrimental consequence is identified.

All staff members are required to complete a 'Request for Approval to undertake External Remunerated Professional Activity Form' before undertaking the activities and submit to their Head of Department or equivalent for first stage approval.

Assuming the Head of Department grants first stage approval, the completed forms should then be submitted by the Head of Department to the relevant Faculty Dean or Vice-President for final approval. If approved, the signed-off approval forms should be forwarded by the approving officer (Dean, VP) to the Office of the Vice President for Research and Innovation, who will keep the formal record of approved external remunerated professional activities.

If there is a disagreement between a staff member and his/her Head of Department, the decision may be appealed by the staff member to the relevant Dean or Vice President for final decision.

10.2. Request for approval to hold a directorship in a spin-out company

Under the University's Intellectual Property Management and Exploitation policy, which encompasses spin out company formation, the Bursar must approve any proposal for a member of

staff to hold a directorship in a spin out company of the University. The Bursar will consider proposals presented by the Vice-President for Research.

11. Annual Return

All University staff must submit to the Office of the Vice President for Research and Innovation an annual declaration of any private or other external remunerated professional activity undertaken during the year. This will not include normal external academic engagement activities, or any private activities of the staff member where the activities or interests could not materially influence the staff member in, or in relation to, the performance of his or her university duties. The standard to be applied is that any activity that a reasonable person would see as relevant should be disclosed. This would include, but is not limited to, activity that is of such a scale (in terms of hours worked) that it might be considered by a reasonable person to impact on the primary employment commitment to the university; or activity that a reasonable person would be concerned might present a risk to the reputation of the University.

For example, someone regularly carrying out external professional activities for twenty hours per week wholly outside normal working hours, could not reasonably argue that this commitment would not be relevant to his/her university employment. It should therefore be disclosed.

If a reasonable person might perceive a conflict of interest or commitment, then approval for the activity should be sought in advance.

A 'nil' return should be submitted if the staff member has not been involved in any such activity.

[Note: It is envisaged that a new development will be undertaken so that a 'nil' return may be made by ticking a box in Employee Self Service on the HR portal. If there is not a 'nil' return then details must be submitted on the relevant form. In any event, the policy requirement should not depend on the process specifics.]

This information will be held in accordance with the terms and conditions of all relevant legislation and applicable data protection regulations. While all information held by the University is subject to Freedom of Information legislation, information relating to an individual's private activities outside their university employment would not normally be subject to disclosure.

Failure to comply with University Policy and to submit an annual return may render the member of staff liable to disciplinary action in accordance with the University's statutes.

The Vice President for Research and Innovation will make an annual report to the President on the involvement of academic staff in external remunerated professional activities.

Appendix 1: Summary of approvals required (refer to text for details)

