

# PAID OUTSIDE WORK PROCEDURE

## SCOPE

This procedure applies to all full time and part time staff at Monash University's Australian campuses, herein collectively referred to as 'you' for the purpose of this procedure, except for joint appointees (also known as conjoint appointees), adjuncts, clinical academics, professors of practice and industry fellows.

Where joint appointees (also known as conjoint appointees), adjuncts, clinical academics, professors of practice and industry fellows undertake private paid outside work, the [Conflict of Interest Procedure](#) continues to apply.

In this procedure the Enterprise Agreement means the [Monash University Enterprise Agreement \(Academic & Professional Staff\) 2019](#) or the [Trades and Services staff \(Building and Metal Trades staff\) 2009](#) or [Trades and Services staff \(Catering and Retail, Cleaning and Caretaking, and Miscellaneous services staff\) 2005](#) as applicable to you in accordance with your contract of employment. Links to relevant clauses are included in the definitions of this procedure.

## PROCEDURE STATEMENT

The University strives to build enduring partnerships with industry, government and other organisations to enrich its ability to innovate, develop enterprising capabilities and provide opportunities for the application of its research to make a significant impact on the betterment of our community.

This procedure specifies the requirements for the undertaking of approved paid outside work (POW) and seeks to achieve a balance between encouraging staff to be enterprising through opportunities to engage in outside professional development activities for remuneration and the University's need to minimise its exposure to legal, financial and operational risks that may arise.

A staff member may undertake POW by either contracting directly with an external party ('private POW') or the University ('us', 'our' or 'we') can contract with the external party on the staff member's behalf ('University POW'). Both of these options have particular conditions that must be satisfied before approval will be granted. Failure to comply with this procedure could lead to possible disciplinary action being taken.

### 1. University paid outside work

- 1.1 If you wish to engage in POW, we can contract with the external party on your behalf. Some of the benefits of contracting through us are as follows:
  - You are usually covered by our professional indemnity insurance policies, subject to the conditions of those policies.
  - Additional revenue can be generated for discretionary use within your organisational unit.
  - We will invoice the client or recipient of the POW on your behalf.
  - We can provide assistance with administrative tasks including costing, pricing and contract negotiations.
- 1.2 If you are a part-time staff member engaging in POW where we are party to the contract, you may wish to discuss the possibility of an increase in your work time fraction or, for casual or sessional staff members, additional working hours for the period in which the work is to be undertaken.
- 1.3 Where the POW is with a University-controlled entity, you may be seconded to a University-controlled entity to undertake that work.
- 1.4 You are required to follow the protocols in relation to our accounts, which can be viewed at ['Manage your project finances'](#) subsection 'University accounts'.

#### Application process to undertake University POW

- 1.5 If you are interested in undertaking University POW, you should contact our [Contracts Management Office](#) for further information on contract development.
- 1.6 Where you are undertaking University POW and there is agreement that you will be paid for the work completed, a [University Paid Outside Work form \[online\]](#) must be completed. Ensure the relevant approvals are obtained and a copy of the POW agreement is attached prior to sending to Monash HR.

## 2. Private paid outside work

2.1 You may apply to undertake private POW and engage directly with an external party.

### Conditions of paid outside work

2.2 You must satisfy the following conditions if you wish to contract directly with an external party:

- Avoid any implication that you are performing work on behalf of us by ensuring that you do not use your University title or position (for example, Professor)\*, or our name, brand, address, stationary, email, telephone or premises for meetings when seeking to attract, or when performing private POW.
- Continue to comply with your obligations as a staff member of the University with respect to our [intellectual property](#), conflict of interest, conflict of commitment and confidentiality of University information procedures.
- Obtain full professional indemnity insurance (with a limit of indemnity commensurate to the complexity and/or value of the private POW), external party liability insurance (where relevant) and any other appropriate insurance for private POW including run-off insurance to cover any claims which may be made after the private POW has been completed.
- Comply with your obligations under Australian taxation law including any obligation to register for and pay Goods and Services Tax (GST) and/or Pay As You Go (PAYG) tax.
- Not use our resources for private POW without obtaining written permission in advance and reimbursing us for the use of those resources at the rate agreed.
- Ensure that the external entity for which you are performing private POW signs the relevant declaration section of the [Private Paid Outside Work Disclosure & Approval Form](#) to indicate their understanding that they are contracting with you and not with us and that we have no responsibility or liability for work conducted by you.
- Not use our accounts to receive or hold funds that are raised through private POW activities.
- Ensure that you obtain approval for private POW from your Head of Unit.

\* If you are engaged in private POW and it involves an appointment of distinction and carries minimal risk for us, you may apply in writing to the Chief Human Resources Officer for approval to use your academic title while engaged in private POW. An example where approval would be given is where an academic staff member is requested to participate in a formal Board of Inquiry.

### Insurance for private paid outside work

2.3 Private POW is not covered by our insurance and is always engaged in entirely at your own risk.

2.4 Our insurance for professional liability, WorkCover and public risk does not cover this form of activity. We do not take any responsibility for, warrant or indemnify in any way the activities of staff member involved in private POW, even where our resources have been used with permission.

2.5 You should obtain your own legal and financial advice with respect to obtaining your own insurance to cover all private POW.

### Application process to undertake private POW

2.6 You are expected to devote your working time to the service of the University, in accordance with the terms and conditions of your appointment and your agreed performance plan. Prior written approval is required before you may undertake POW in accordance with this approval process.

2.7 If you propose to engage in private POW, with the exception of a private POW that meets the definition of minor miscellaneous income or royalties or University POW, you must complete the following:

- Step 1: Completion of the private paid outside work disclosure & approval form ('the form')
  - You must familiarise yourself with the conditions and exclusions for undertaking private POW outlined in this procedure prior to submitting the form for approval.
  - Complete the staff personal details, details of POW, details of conflict of interest (where relevant) and the declaration.
- Step 2: External entity declaration
  - Your external client must sign the relevant section of the form to certify that they have noted that you, and not us, will undertake the work and that we have no responsibility or liability for the work being undertaken.
  - You obtain the external entity declaration and submit to the Head of Unit for review.
- Step 3: Head of Unit review
  - The Head of Unit reviews the application.
  - The Head of Unit should discuss with you; details of the proposed private POW; any possible, actual, perceived or potential conflict of interest and a plan for managing or avoiding any conflict (if applicable); whether the conditions to undertake private POW have been satisfied; and whether any circumstances apply that would exclude you from undertaking private POW.
  - If satisfied, the Head of Unit endorses your request to undertake private POW.
  - The Head of Unit forwards the form to the Dean or Executive Director.

- Step 4: Dean or Executive Director review
  - The Dean or Executive Director when considering a request to undertake private POW will consider the pre-conditions for approval outlined above and the exclusions for private POW outlined below.
  - The Dean or Executive Director reverts to the Head of Unit with their decision and details of any supplementary conditions.
- Step 5: Supplementary conditions (where conflict of interest declared)
  - Should supplementary conditions have been added to the application by either the Head of Unit or Dean or Executive Director, the Head of Unit discusses these supplementary conditions with you.
  - You review the supplementary conditions and complete the declaration on the form.
  - Where no conflict of interest exists, the Head of Unit forwards the form to Monash HR.
  - Where a conflict of interest is declared, the Head of Unit forwards the form to the Chief Human Resources Officer.
- Step 6: Chief Human Resources Officer review
  - If a conflict of interest is declared, the Chief Human Resources Officer (in their capacity as Conflict of Interest Advisory Officer) will assess the form to ensure that the proposed conflict of interest management plan is appropriate.
  - If you have declared a conflict of interest, you must not commence private POW until notified that the request has been approved by the Chief Human Resources Officer.
  - Approval/Endorsement: the Chief Human Resources Officer forwards form to Monash HR copying Head of Unit and Dean or Executive Director. The Head of Unit provides copy to you and performance supervisor to ensure recording in myPlan and monitoring (performance development plan)
  - Not Approved/Not Endorsed: the Chief Human Resources Officer returns the form to the Head of Unit for action.

### 3. Annual declaration

- 3.1 You are expected to make a full disclosure of any proposed private POW commitments for the coming year and obtain permission to engage in continuing private POW (such as a continuing consultancy). All approved private and University POW arrangements are to be incorporated into your performance plan and reviewed annually by your performance supervisor and the Head of Unit.
- 3.2 For Private POW, a copy of the [Private Paid Outside Work Disclosure & Approval form](#) should be included in your performance development portfolio for reference at performance review discussions (refer to the [Performance development process: academic staff procedure](#) and the [Performance development process: professional staff procedure](#)).

### 4. Exclusions for private and University paid outside work

- 4.1 The following provides details of the circumstances where we will not give permission to undertake POW:
- the POW might reasonably be expected to impede the reasonable operations of the University or the discharge of your work, as recorded in your performance plan;
  - the POW might reasonably be expected to impede the general operations of the organisational unit, for example by disrupting teaching or research programs or unreasonably restricting access by students to you;
  - an unacceptable actual, perceived or potential conflict of interest or conflict of commitment (as defined) arises;
  - an unacceptable risk (as defined) is posed to us;
  - you propose to use our resources and an appropriate agreement about the use, and reimbursement to us, for those resources cannot reasonably be reached; and
  - the work is derived from a controlled entity of the University, unless we elect not to do this work.
- 4.2 This list is not exhaustive and there may be other grounds on which we refuse the request.

### 5. Minor miscellaneous income

- 5.1 You may receive minor miscellaneous income without prior permission and retain the income derived from that activity. The only exceptions are listed in this procedure.
- 5.2 In cases of doubt, you should seek approval from the Dean or Executive Director in accordance with these procedures. Conversely, the Dean or Executive Director may come to the view that the aggregate amount of your minor miscellaneous income is such that a limit needs to be discussed in the interests of the organisational unit, or that your activity can no longer be properly categorised as minor miscellaneous income.

## 6. Disciplinary issues

6.1 You may be subject to disciplinary action if you:

- represent (actively or by omission) to an external party that work is being conducted under the auspices of the University when it is not (i.e. it is private POW or POW that we have not approved);
- are performing work which places you in a position where there is an unacceptable actual or potential conflict of interest or conflict of commitment with your University responsibilities;
- create an actual or potential conflict of interest or conflict of commitment by competing commercially with us;
- undertake private or University POW that interferes with the proper execution of your work, without prior approved alternative arrangements having been made to cover these;
- make use of our resources for private or University paid outside work, for which prior approval has not been given and/or where no appropriate arrangements for reimbursement to us have been made;
- are employed by or contracted to another educational institution for activities that would otherwise have been undertaken by inter-institutional arrangements;
- receive payment for private tuition of students of the University;
- undertake private POW that was introduced through us, and that should be contracted to your work unit;
- undertake private or University POW without appropriate approval;
- breach any provision of this procedure; or
- collude with another staff member to bypass or breach the provisions contained in this procedure.

## 7. Grievance procedures

7.1 If you are aggrieved by the application of this procedure, you may utilise our normal grievance processes as specified in the relevant Enterprise Agreement.

## 8. Policy variations

8.1 The President and Vice-Chancellor may establish associated regulations and administrative procedures to enable appropriate administration of this procedure. This procedure will be regularly reviewed by Workplace Relations, Monash HR.

## 9. Breach of procedure

9.1 We treat any breach of our policies or procedures seriously. We encourage reporting of concerns about non-compliance and manage compliance in accordance with the applicable Enterprise Agreement or contract terms.

## DEFINITIONS

<b>Conflict of Commitment</b>	When one interest of a staff member, which may or may not be a private interest or non-university interest, may harm or interfere with the productivity or involvement of that staff member in aspects of university responsibilities. It may concern the staff member's distribution of efforts between employment obligations to the University and to outside activities. Conflicts of commitment can occur in research where the staff member's non-university activities harm or interfere with the staff member's research obligations.
<b>Conflict of Interest</b>	A situation where a conflict arises for an individual between two competing interests which are often, but not exclusively, interests of public duty versus private interests. Conflicts of interest may be reasonably perceived, potential or actual. Conflicts of interest can involve financial or non-financial interests of the staff member and the interests of a business partner or associate, family member, friend or person in, or has had a close personal relationship with the staff member. See <a href="#">Examples of Conflicts of Interest and Guidelines for Action</a> .
<b>Dean or Executive Director</b>	The Dean of Faculty or Director of the Division or their nominee in any case where the Dean or Divisional Director has formally nominated the person to act as their nominee. A person to whom a responsibility has been nominated is unable to approve their own POW.
<b>External party</b>	A company, association, person or organisation, other than Monash University and Monash-controlled entities.

Financial interest	Any employment, business activity or other right, claim, title or legal share in something that has a monetary, or equivalent value. Examples of financial interest include, but are not limited to, distributions from trusts, directorships of trusts, significant shareholding (more than 5% of issued capital) in a public or private company, shares, share options, dividends, and the right to receive remuneration or other benefits such as salaries, fees from company directorship or board membership, consulting fees, allowances and discounts. For the purpose of this procedure, this includes any substantial sources of income (more than \$10,000 per annum) other than from paid employment with the University.
Head of Unit	Head of an academic or organisational work unit, for example Head of School, Head of Department or where applicable, a person acting as their nominee.
Joint appointment	A staff member, usually in the Faculty of Medicine, Nursing and Health Sciences who is also engaged in clinical practice in a hospital, and who is employed and wholly paid by the hospital on hospital employment conditions, but by virtue of their engagement/appointment with Monash has the status of a member of academic staff in the University. A staff member who receives any remuneration from the University is not a conjoint appointee or clinical academic staff member engaged by hospitals, as defined.
Minor miscellaneous income	Income derived from work or an activity undertaken by a staff member which is connected with the work of the staff member and which might reasonably be construed as POW. However the work or activity either: <ul style="list-style-type: none"> <li>• is a "one-off" activity which takes no more than one day; or</li> <li>• in any given year: <ul style="list-style-type: none"> <li>- involves a total of no more than 40 hours of the staff member's time; and</li> <li>- generates remuneration for the staff member of no more than \$10,000.</li> </ul> </li> </ul>
Paid Outside Work (POW)	Work undertaken outside of an staff member's normal duties that may reasonably be construed as either university or private practice. Paid outside work requires prior written approval from the dean. It may only be included as part of university practice where the University is party to the contract under which the work is undertaken.
Part-time staff	For the purposes of this procedure, means fractional fixed-term and continuing staff and casual or sessional staff.
Enterprise Agreement	The relevant Enterprise Agreement that applies to a particular staff member. <ul style="list-style-type: none"> <li>• <a href="#">Monash University Enterprise Agreement (Academic &amp; Professional Staff) 2019</a></li> <li>• <a href="#">Monash University Enterprise Agreement (Trades &amp; Services Staff- Building &amp; Metal Trades Staff) 2009</a></li> <li>• <a href="#">Monash University Enterprise Agreement (Trades and Services Staff - Catering and Retail, Cleaning and Caretaking, and Miscellaneous Services Staff) 2005</a></li> </ul>
Risk	Exposure to the possibility of something happening that will have an impact on the University's organisational objectives. For the purposes of this procedure, "risk" includes, but is not limited to, risks to the University's reputation, finances, delivery of quality services, people, security, organisational culture, operations and legal liability. An unacceptable risk refers to an activity that contravenes this procedure.
Royalties	Income derived by a staff member of the University from their authorship or contribution to a written publication such as a textbook.
Unacceptable risk	A risk to an activity that contravenes this procedure.
University	The term University includes Monash controlled entities.
University-controlled entity	An entity where Monash University can control decision-making, directly or indirectly, in relation to the financial and operating policies so as to enable the entity to operate with it in pursuing the objectives of Monash University (e.g. Monash College).

## GOVERNANCE

Parent policy	<a href="#">Integrity and respect</a>
Supporting schedules	
Associated procedures	<ul style="list-style-type: none"> <li>• <a href="#">Conflict of Interest</a></li> </ul> <p><i>Procedure forms</i></p> <ul style="list-style-type: none"> <li>• <a href="#">Conflict of Interest Disclosure and Management Form</a></li> <li>• <a href="#">Paid Outside Work Disclosure and Approval Form</a></li> </ul>
Legislation mandating compliance	
Category	Human Resources
Approval	Chief Human Resources Officer as delegate of the Chief Operating Officer - 12 February 2020
Endorsement	Director, Workplace Relations – 12 February 2020
Procedure owner	Director, Workplace Relations
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Content enquiries	<a href="#">ask.monash</a> or phone Monash HR on (03) 990 20400