1. Introduction

1.1 The purpose of this document is to set out the policy, principles and procedures governing consultancy services undertaken by members of staff at UCA. Whilst the Policy is directed primarily at academic staff, it does not exclude other staff.

1.2 UCA seeks to support and encourage knowledge transfer activities and encourages staff to undertake reasonable amounts of consultancy where appropriate to the discipline and where it does not interfere with the primary purpose of the department.

1.3 The direct benefits arising from consultancy are considered to be as follows:

i. to build links between UCA and outside bodies which may subsequently help UCA to gain research funding, place students for project work, recruit students etc

ii. to increase the expertise and experience of UCA staff

iii. to generate additional funds for the staff involved, for the department and for UCA; and

iv. to enhance staff training and career development.

1.4 This Policy should also be read in conjunction with other related policies and procedures including the Commercialisation of Intellectual Property (IP) Policy, Commercial Agreement and Confidentiality Agreement. Copies of these documents can be obtained in the Consultancy Register.

2. Definition

2.1 For the purpose of this Policy “Consultancy” is defined as:

‘Paid work undertaken in a professional capacity by a member of staff for a third party. This encompasses any external activity utilising the academic and professional knowledge or technical expertise for which the member of staff has been primarily employed by UCA and which may involve using UCA facilities.’

2.2 Consultancy projects covered by this policy will normally exclude research funded by UK Research Councils, charities or through European research awards, where the main aim is to conduct research, and certain activities conventionally undertaken by academics as part of their normal work but which are often the subject of a contract, including external examining, quality assurance work for other institutions, commissions and authorship. Our Policy currently remains that the entire fee for the above activities is retained by the member of staff (with suitable accounting to the Inland Revenue).
2.3 In the interests of research and scholarly activity the following activities have been excluded from this definition:

i. external examining
ii. writing, editing, reviewing and refereeing books, articles, etc
iii. commission of artworks for public dissemination
iv. occasional lecturing and broadcasts
v. membership of professional or discipline-based committees; and
vi. Not-for-profit research funded by UK Research Councils, charities or through European research awards.

2.4 Executive Deans and Heads of Department should however be advised of these activities as they may well add to UCA’s reputation in the Research Assessment Exercise and other submissions.

2.5 In addition, there is a differentiation in this definition between consultancy conducted in the name of UCA and that carried out in a private capacity.

3. UCA Consultancy Work

3.1 UCA consultancy is work carried out by members of staff acting as our employees. The work carried out may be additional to normal duties or for full time staff may be part of normal duties subject of a previous agreement with the Executive Dean or Line Manager. For consultancy projects will be additional payment which may be made over and above the normal salary and will vary according the scenarios described in the item 8.3 in this policy. This form of consultancy normally falls outside UCA’s statutory purposes due to our charitable status and is considered to be ‘commercial’ activity.

3.2 Staff conducting UCA consultancy activities in this way benefit from:

i. cover under UCA’s Professional Indemnity Insurance Policy;
ii. assistance in creating administrative and legal documents i.e. contracts, etc.;
iii. advice on financial arrangements;
iv. help with invoicing and debt collection;
v. use of UCA’s name to support perceived quality; and
vi. help with IPR and exploitation.

4. Principles Governing UCA Consultancy

4.1 UCA attaches considerable importance to consultancy for the reasons given in section 1 above, and wishes to encourage staff to be involved in this activity. The key issues are:

i. UCA consultancy can only be conducted with the prior formal approval of the relevant Executive Dean/Head of Department and the Director of Research & Enterprise;
ii. consultancy contracts and quotations need to be administered through the Research & Enterprise department;
iii. staff commitments to consultancy will normally be limited to a maximum of 20 days per year for a full member of staff;
iv. Distribution of income must be agreed in advance according to the Income Distribution table on the Annex A of this policy to recognise and reward staff with a fair and equitable contribution to the Department/Faculty and UCA;  

v. Records of all consultancy contracts, requests and approvals must be logged centrally on the External Contracts Register by the Research & Enterprise department for auditing purposes; and  

vi. Private consultancy is entirely the responsibility of the individual concerned and any unauthorised or unjustified use of UCA facilities will result in disciplinary proceedings.

4.2 Support and guidance in all matters relating to consultancy, including financial, contractual, and legal matters is provided to staff through the Research & Enterprise department, who will liaise closely with both the Finance and Human Resources departments. Templates can be obtained in the Consultancy Register.

4.3 The Research & Enterprise department will provide advice and guidance on costing, review the terms and conditions of consultancy contracts in accordance with the UCA’s standard terms of agreement, and negotiate exploitation of intellectual property rights.

4.4 The consultancy project documents have to be sent to the Research & Enterprise department for record and management purposes.

4.5 This Policy will be monitored through the Research & Enterprise Committee and may be updated from time to time.

5. Responsibilities

5.1 It is the ultimate responsibility of the Executive Dean (Teaching, Learning & Research) to take an overview of UCA’s consultancy activities, in accordance with the University’s Strategic Vision and Plan.

5.2 It is the individual member of staff’s responsibility to adhere to the authorisation process and the procedure as laid out in the Policy.

5.3 However, the responsibility and authority for prioritising consultancy within a department’s range of activities must be with the Executive Dean/Head of Department where the availability of resources and expertise is best known, and where strategic and operational objectives (through balance of duties) are set. Likewise, the Executive Dean/Head of Department is in a position to respond directly to issues of quality assurance.

5.4 Therefore consultancy contracts should only be undertaken with the formal approval of both the Director of Research & Enterprise and the relevant Executive Dean/Head of Department or their Deputy and will be subject to UCA’s authorised signatory limits (see Authorised Signatory Limits for Budgetary Control in the document store – Finance Folder):

- any amount up to £20,000 can be approved by an Executive Dean of Faculty or Director of Department (£10,000 for their Deputy);
- any amount from £20,000 to £99,999 must have approval from the Director of Finance;
any amount from £100,000 to £499,999 must have approval from the Vice-Chancellor or Deputy Vice-Chancellor (Corporate Resources); or any amount over £500,000 must have approval from the Employment & Finance Committee.

5.5 In providing approval, consideration will be given to ensure that the amount of consultancy is not so great that teaching and research suffer or that colleagues are put under undue pressure to cover the work of those involved.

5.6 Approval may also be denied for other reasons such as lack of financial viability, potential to bring the UCA into disrepute, or a conflict of interest.

6. Authorisation Process

6.1 Staff intending to engage in consultancy must enter their profiles in the Consultancy Register. The profile will be subject to review and approval by the Executive Dean/Head of Department or adequate Line Manager and by Research & Enterprise department.

6.2 To start a consultancy project staff must discuss and obtain the agreement of their Executive Dean/Head of Department using standard pro formas (Consultancy Project Form and Consultancy Budget) which should then be submitted to the Director of Research & Enterprise’s Office for UCA authorisation. This will include information relating to:

i. the nature of the consultancy to be undertaken;
ii. the names of any additional member(s) of staff that will be involved;
iii. the name of external organisation placing the consultancy contract;
iv. the proposed location of consultancy project i.e. UCA or at the premises of the external organisation;
v. an estimate of the period for which the consultancy project will be active, and the estimated time to be spent on the project by the staff (i.e. hours/days per staff member);
vii. an estimate of UCA’s resources required in order to perform consultancy; and
viii. a detailed schedule of work for staff dedicated to the project.

7. Procedure for UCA Consultancy

7.1 Contracts for UCA consultancy are official UCA contracts. As such, and in accordance with UCA Financial Regulations, they can only be entered into by specified individuals. The consequences of poor or potentially illegal contract terms are serious. For this reason it is required all consultancy to be administered in accordance with the procedure laid out below.

7.2 The consultancy contract must refer to financial arrangements, the time scale, deliverables and ownership of output including any potential Intellectual Property (see section 15).
7.3 Consultancy contracts should be priced with consideration to the competition and market conditions in the sector involved. Advice on this is available from the Research & Enterprise department. Tables with current consultancy market prices by specialism will be available in the Consultancy Register.

7.4 Other UCA staff involved in the project should be accounted for as part of the project planning and included in the Consultancy Project Form and the Consultancy Budget with the adequate signatures. Copies of these documents can be obtained in the Consultancy Register.

7.5 The use of UCA facilities/equipment has to be included in the costs.

7.6 Consultancy work is subject to VAT, which must be added to the current rate.

7.7 To conform with VAT regulations concerning Charitable versus Commercial income, projects in excess of £10,000 will be processed through UCA Enterprises Ltd. The day to day management will continue to be at project level. Disbursements and reporting will continue to be co-ordinated by the Research & Enterprise department in accordance with the Consultancy Policy, see sections 9, item 4.4, item 10.6 and Annex A. UCA Enterprises will gift aid back the income at 100% less VAT to allow for the disbursement in accordance with the Consultancy Policy Annex A. Annex B list details of UCA Enterprise Ltd structure and directorship, details of the gift aid process and VAT.

8. Payment to staff

8.1 For each piece of consultancy work carried out through or on behalf of UCA, the Executive Dean/Head of Department concerned will agree in advance with the member(s) of staff involved:

i. whether the consultancy will be undertaken as part of, or in addition to, a normal workload; and

ii. the percentage to be paid to staff member(s) carrying out the consultancy.

8.2 UCA consultancies’ payments to individual members of staff will be made through UCA payroll and will be subject to income tax and National Insurance as appropriate – detailed advice can be obtained from the Human Resources Department on issues of PAYE, whilst the Finance Department can advise concerning issues of VAT. Please refer to the Consultancy Budget and its Income Distribution Annex for details.

8.3 The payment structure will be different according to the time dedicated and current situation of employment of the staff member:

- Scenario 1. A full member of staff member undertakes consultancy on behalf of UCA within his/her normal UCA working hours e.g. on a Wednesday when not teaching. Staff payment regarding consultancy projects are not subject to pension contributions.

If the consultancy is in over and above normal workload and undertaken IN UCA normal working hours an agreement with the Executive Dean/ Head of the Department and the fee payable to the member of staff will be agreed prior to
commencement of the consultancy in accordance with the rules described below:
If the work undertaken is within the normal working week the consultants fee will be minus the equivalent rate paid to the member of staff as part of their normal job e.g. £100 per hour (consultancy rate) - £30 (normal staff pay). Therefore the consultancy rate over and above normal pay is £70.00.

- Scenario 2. A full time member of staff undertakes consultancy on behalf of UCA outside his/hers normal UCA working hours e.g. on an evening or weekend.
As consultancy is undertaken outside of the normal working hours but on behalf of UCA the full consultancy rate is payable. To comply with EU working time regulations staff should not exceed the average of 48hrs per week over a 12 weeks reference period.

- Scenario 3. A part-time member of staff undertakes consultancy on behalf of UCA outside his/hers normal UCA working hours.
As consultancy is undertaken outside of the normal working hours but on behalf of UCA the full consultancy rate is payable.

- Scenario 4. A sessional member of staff undertakes consultancy on behalf of UCA outside his/hers normal UCA working hours.
As consultancy is undertaken outside of the normal sessional working hours but on behalf of UCA the full consultancy rate is payable. This will not be the sessional teaching rate but negotiated dependant on market rates.

8.4 In the case of a team consultancy the percentage of the net income due to the consultants in the income distribution process will be shared between the consultants involved and the payroll rules by each individual will be regulated according the item 8.3 above.

8.5 Staff undertaking UCA consultancy projects will be paid by payroll subject to regulations as follow:

i. Staff working conditions are regulated by the scenarios stated on the item 8.3 of this policy which include rules for staff undertaking consultancy in and out of normal UCA working hours;

ii. Staff share in the UCA consultancy project will be regulated by the income distribution table. Please refer to Annex A in this policy;

iii. Staff time consultancy payment will be paid through payroll;

iv. Reimbursement of expenses should be claimed using the staff Expenses Claim Form.

8.6 In case of lengthy projects stage payments can be negotiated.

9. Distribution of Income

9.1 UCA recognises the key role of the principal consultant when securing consultancy contracts, which are usually won on the basis of three strengths:

i. the reputation and expertise of the individual member of staff and their effort in acquiring the work;

ii. the reputation of UCA brand;
iii. the reputation and facilities of the department; and
iv. the reputation of UCA facilities and equipment.

9.2 The distribution of income derived from UCA consultancy will be negotiated on a case
by case basis in accordance with UCA Consultancy Policy (Annex A income distribution
table) and Commercialisation of IP Policy when adequate. However, the distribution of
income will need to be agreed in advance of each case and must take into account:

i. the contribution of the principal consultant(s) in securing the work;
ii. the indirect costs of UCA i.e. for central resources and administration;
iii. the indirect costs of the department i.e. NI; and
iv. the use of facilities, equipment and resources within the department.

9.3 For guidance on the distribution of income please refer to Annex A which provides
UCA’s income distribution table.

9.4 The distribution of fees will not be allocated until accounts have been settled in full.
Necessary expenses, such as travel and consumables, will be approved as they occur
provided that written confirmation on the work has been received.

10. Quotations and Confirmation of Work

10.1 Once the costing and pricing of the work has been calculated using the Project Budget
Form with appropriate signatures, the Consultant should input the final agreed price in
the Consultancy Project Form and obtain the appropriate authorisation. Copies of these
documents can be obtained in the Consultancy Register.

10.2 Once the item 10.1 is finished the consultant will be responsible for presenting and
agreeing the Consultancy Project Form with the client and obtain the client signature
authorising UCA to produce the contract for the consultancy project (See commercial
agreement and confidentiality agreement in the item 1.4 above). Copies of these
documents can be obtained in the Consultancy Register.

10.3 Upon approval of the quotation specified in the item 10.2 the consultant will send the
signed Consultancy Project Form to the Research & Enterprise department in order that
a project budget code can be set-up.

10.4 Day to day administration of consultancy projects will be the responsibility of the
consultant department delivering the consultancy. Any changes to the agreed
income/expenditure profile requiring authorisation by the Executive Dean/Head of
Department and the Director of Research & Enterprise.

10.5 Any expenditure incurred on the consultancy project (such as travel and subsistence)
will be the responsibility of the consultant who will claim it back through the staff
Expenses Claim Form.

10.6 The Research & Enterprise department will be responsible for monitoring and filing the
consultancy project documents.

11. Changes to the Contract and End of Contract
11.1 It is the responsibility of the member of staff to inform the Research & Enterprise department of any changes to the contract and/or any problems encountered. Any contact bears the risks that the client may be dissatisfied or that the advice given may create a liability through alleged negligence. If the clients are dissatisfied, they may not merely refuse to pay, but may also sue the consultant and UCA for damages.

11.2 The Research & Enterprise department will be available to represent the member of staff in the event of disagreements with a client and may negotiate suitable alternatives if required. However, in accordance with normal terms and condition of contracts, disciplinary action may ensue in the event of negligence and misconduct.

11.3 Any further commitment to undertaken work as a result of the original consultancy will require prior written approval by the Director of Research & Enterprise and the respective Executive Dean/Head of Department.

11.4 On completion of the consultancy, the member of staff undertaking the consultancy should seek written confirmation that the work has been completed through the Completion of Work Template and also ask the client to complete the Feedback Form to allow UCA to monitor client satisfaction to inform future projects and the procedures surrounding them. Copies of these documents can be obtained in the Consultancy Register.

11.5 On the completion of consultancy the consultant will complete the Debtor Invoice Request and send it to the Finance department to raise and invoice.

11.6 The Finance department will be responsible to invoice and chase payment of the client.

12. Procedure for Private Consultancy

12.1 UCA definition (see section 4 above) describes consultancy which is carried out independently of UCA but by a member of UCA’s staff. It does not go through UCA channels and the consultant takes 100% of the fee and must declare it on their tax return.

12.2 Whilst some Universities prohibit private consultancy, this is not the stance UCA wish to take. However, private consultancy will be treated differently from UCA consultancy, as there is no benefit to UCA or the department and insurance risks are significant.

12.3 Private consultancy may only be carried out by UCA staff when the following conditions are met:

   i. the work is entirely private, with no use of UCA time or facilities, in particular use of premises, letterhead or telephones and can have no adverse effect on the performance of UCA duties;
   ii. the member of staff must make it clear to the client in writing at the outset that the work is carried out in a personal capacity and that no liability will attach to UCA for the work. (N.B. An indemnity form may be required);
   iii. the member of staff is responsible for personal taxation requirements; and
   iv. the member of staff must ensure that full legal and financial responsibility for the activity is accounted for, including all insurance cover that might be required.
13. Private Consultancy

13.1 Private consultancy is carried out by members of staff entirely independently of UCA. Such work is undertaken exclusively in the consultant's own time and makes no use of UCA's resources and has no impact on UCA's activities. We accept no liability or responsibility whatsoever for activities for private consultancy.

13.2 UCA has adopted the following definition:

'Private consultancy is external work done by a member of staff, which makes no other demands on UCA, and for which UCA claims, and in fact has, no liability or responsibility.'

13.3 It is a requirement that the Executive Dean of Faculty/Head of Department is informed of any external work deemed to be 'private consultancy'. For further information, see section 14 below on authorisation for private consultancy.

14. Authorisation of Private Consultancy

14.1 Before entering into an obligation to undertake private consultancy, a staff member must inform his/her Executive Dean/Head of Department using the standard form. Please refer to the Authorisation for Private Consultancy Form available in the Consultancy Register. Activities excluded from the definition of UCA consultancy (see section 2 above) do not require completion of this form.

14.2 On receipt of the form, the Executive Dean/Head of Department in liaison with the Director of Research & Enterprise will decide within 10 working days (or a longer period as agreed with the member of staff), whether the work will interfere with the performance of the member of staff, their duties or compete or conflict with the interests of UCA. In either case UCA may require the staff member not to undertake the work.

14.3 Such a requirement will not be made unreasonably and will be subject to full consultation with the member of staff, who will be given written reasons for refusal. If refused, the member of staff may ask for the matter to be referred to the Deputy Vice-Chancellor for a final decision.

14.4 Staff undertaking private consultancy is not covered by UCA's policies whilst working in a private capacity and must not hold themselves to be working for or on behalf of UCA. Since staff members are not covered by UCA insurance in these circumstances, it is recommended that they take out personal insurance.

15. Intellectual Property Rights (IPR) Issues

15.1 For the purpose of the Policy 'Intellectual Property' (IP) means inventions, inventive ideas, patents and patent applications, copyrights, trade marks and names, discoveries, improvements, designs and design rights (registered and unregistered), written work (including computer software) and know-how and all rights of a similar nature.
15.2 'Intellectual Property Rights' (IPR) means ownership and a right to exploit the IP including transfer to another owner.

15.3 ‘Background IP’ is IP which existed prior to an activity.

15.4 ‘Foreground IP’ is IP which has resulted from an activity.

15.5 In accordance with the Patents Act 1977 and the Copyright, Designs & Patents Act 1988, Intellectual Property generated through the course of employment legally belongs to the employer.

15.6 UCA acknowledges the rights of employees to retain ownership of IP and obtain benefit from all personal works and/or publications arising from activities undertaken outside employment duties.

15.7 In first instance and in accordance with legislation, subject to exclusions in the definition of consultancy activity in Section 2, UCA claims the ownership of IP generated in the course of employment.

15.8 Otherwise, unlike research, it is not normally an aim of consultancy and other external activities to generate new intellectual property for the institution. Intellectual property will, however, sometimes be generated by consultancy. This is normally the property of the client, and the consultancy rates charged should reflect this fact.

15.9 Before entering any consultancy contract, the consultant should consider the likelihood of the work leading to new IP or to publishable results. UCA staff should be careful not to inadvertently give away existing intellectual property to consultancy clients without having considered the issues, obtained approval, and received appropriate remuneration.

15.10 It is critical to ensure that carrying out a contract does not result in infringement of Intellectual Property Rights by third parties. Such risks will be managed in the following ways:

i. use of a UCA contract, administered by the Research & Enterprise department, with the client that specify the deliverables, limit the risk and limit the maximum amount of damages;

ii. cover through UCA’s Professional Indemnity Insurance;

iii. advice and guidance, through the Research & Enterprise Department, on exploitation of potential IPR before information is given to a third party; and

iv. exchange of a confidentiality agreement before discussions with third party potential partners take place.

15.11 For more information on our Policy concerning the exploitation of IP, please refer to the Commercialisation of Intellectual Property Policy. For any other advice regarding IP or IP agreement templates please contact the Research & Enterprise Department.
Annex A

Typical distribution of income sharing relationship

The allocation of income between the consultant, the department and central funds shall follow the general formula below which may be varied according to circumstances and the amount of Net Income secured.

The distribution of income will be negotiated on a case by case basis and shall be agreed in consultation with the Director of Research & Enterprise and the relevant Executive Dean/Head of Department.

INCOME LEVEL & NET INCOME SHARING RELATIONSHIP

<table>
<thead>
<tr>
<th>TOTAL NET INCOME</th>
<th>CENTRAL FUNDS</th>
<th>CONSULTANT'S SHARE</th>
<th>DEPARTMENT SHARE*</th>
</tr>
</thead>
<tbody>
<tr>
<td>£1 - 20K</td>
<td>20%</td>
<td>57%</td>
<td>23%</td>
</tr>
<tr>
<td>+ £21 - 30K</td>
<td>25%</td>
<td>47%</td>
<td>28%</td>
</tr>
<tr>
<td>+ £31 - 60K</td>
<td>30%</td>
<td>37%</td>
<td>33%</td>
</tr>
<tr>
<td>+ £80K &amp; above</td>
<td>35%</td>
<td>27%</td>
<td>38%</td>
</tr>
</tbody>
</table>
Annex B

Invoice, tax, disbursement of income and payment flow chart

To conform with VAT regulations concerning Charitable versus Commercial income projects in excess of £10,000 will be processed through UCA Enterprises Ltd subject to a gift aid back the income at 100% less VAT. Disbursements and reporting will continue to be co-ordinated by the Research & Enterprise department in accordance with the Consultancy Policy, see item 7.7, sections 9, item 4.4, item 10.6 and Annex A. The flow chart below describes details of the invoice, tax, disbursement of income and payment flow chart.

Approved at Audit Committee 12 November 2009
Updated for Name change March 2011