



Heriot-Watt University

POLICY STATEMENT ON RESEARCH GRANTS AND CONTRACTS, CONSULTANCY AND COMMERCIAL ACTIVITIES

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To be Read in Conjunction with:

Delegation of Financial Authorities
Guidelines on the Appointment of Directors
Guidelines and Procedures for the Formation of Spin out Companies
Guidelines for the Rental of Facilities
University Strategy
University Research Strategy
Conflict of Interest
Code of Conduct for Research
Ethical Review process and Guidelines
Procedures for Investigating and Resolving Allegations of Misconduct in Academic Research
Intellectual Property Regulations
RES/HR Web Pages
General Web Pages

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Table of Contents

Commonly Used Abbreviations	5
Introduction	6
1 Principles	7
1.1 Responsibility for Projects	7
1.2 Income Generation	7
2 Specific Principles	7
2.1 Reward Mechanisms: General Issues	7
2.2 Forms of Personal Income paid through salary	8
2.3 Indirect Cost Distribution: Standard University Formula	8
2.4 Personal Payments from Research Awards	8
2.5 Consultancy Work Income	9
2.6 Intellectual Property Income Distribution	9
2.7 Record of Project “Ownership”	10
3 Contractual Requirements: Externally Funded Activities	10
3.1 Externally Funded Activities	10
3.2 External income	11
3.3 Use of University Name	11
3.4 Standard Terms and Conditions	12
3.5 Variation of Standard Terms and Conditions	12
3.6 Signing of Agreements	12
3.7 Approval of Funding Arrangements	13
3.8 Insurance Arrangements: Standard Cover and Exclusions	13
3.9 Insurance Cover for Commercial Studies	13
3.10 Non-Permitted Sources of Funds	13
3.11 “Holding” of Grants and Contracts	13
3.12 Secondment of University Staff	13
4 Contractual Requirements: Consultancies	14
4.1 General Policy	14
4.2 Definition of ‘Consultancy’	14
4.3 Activities not defined as ‘Consultancy’	14
4.4 Requirement to Register Consultancy Activity	14
4.5 Approval of Consultancy	14
4.6 Distribution of Income	15
4.7 Arrangements for Schedule D Payments	15
4.8 Prohibition of “Private” Arrangements	15
4.9 Insurance Cover	15
5 Contractual Requirements: Payments and Directorships	15
5.1 Personal Payments	15
5.2 Executive Directorships: Disbarring of Senior Staff	16
5.3 Non-Executive Directorships	16
5.4 Liabilities of Directors	16

6 Conferences and Other Activities	16
6.1 Academic Conferences	16
6.2 Conference Organisation and the Edinburgh Conference Centre/ Heriot-Watt Services	17
6.3 Conferences: Costing and Pricing	17
6.4 Continuing Professional development and Other Training Courses	17
7 Costing and Pricing	17
7.1 Costing and Pricing: General Environment	17
7.2 Definition of Cost and Price	18
7.3 Direct and Indirect Costs	18
7.4 Pricing	18
7.5 Government Support of Research Costs	19
7.6 Identifying and Apportioning of Costs	19
7.7 Setting the Price for Research	19
8 Intellectual Property	20
8.1 Exploitation of Intellectual Property	20
8.2 Development of Intellectual Property	20
8.3 Ownership of Intellectual Property Rights	20
8.4 Student Ownership of Intellectual Property	20
8.5 Ownership of “Background” Intellectual Property	20
8.6 Protection and Exploitation of Intellectual Property	20
8.7 Commercialisation through Spin-Out Companies	21
8.8 Spin-Out Companies: Equity Held by the University	21
8.9 Investment in Spin-Out Companies	21
8.10 Company Directorships	21
9 Related Policies	22
Appendix I: Definitions	23
Appendix II: RES Agreement Signatories	25
Appendix III: Donations Accounts	26

Commonly Used Abbreviations

CI	Co-investigator
CPD	Continuous Professional Development
IP	Intellectual Property
IPR	Intellectual Property Rights
PI	Principal Investigator
PME	Planning & Management Executive
RES	Research & Enterprise Services

RESEARCH GRANTS AND CONTRACTS, CONSULTANCIES AND COMMERCIAL ACTIVITIES: POLICIES

INTRODUCTION

Why does the University need formal policies to cover research grants and contracts, personal consultancies and other commercial activities?

The role of universities as centres of learning and of research has changed significantly in recent years. Governments have come to see the universities as playing a significant role in the development and nurturing of enterprise. Heriot-Watt has always been an enterprising institution with close connections through its teaching and its research to the industrial and business community. Current Government policy is to expect research-led universities such as Heriot-Watt to contribute both to national economic development and to play an increasing role in local and regional economic regeneration and investment.

Knowledge transfer is rapidly becoming a core activity alongside teaching and research, underpinning the commercial exploitation and economic development activities. These activities include the commercialisation of research (contract income, licences and spin-out companies) and teaching and learning (Continuing Professional Development - CPD, other training courses, teaching/learning materials) as well as consultancy and other services.

What activities are covered by the policies?

The policy statements are designed to provide a framework within which certain activities are to be encouraged namely:

Research Grants	Consultancy
Research Contracts	Training Courses
Research Donations	Licences
Services	Spin-out and start-up companies

What is the role of the University's Research & Enterprise Services unit?

Research & Enterprise Services (RES) exists to support the activities listed above by providing professional services and expert advice to individuals, groups and School/Institute throughout the University. The Director of Research & Enterprise Services reports directly to the Deputy Principal for Research and works on a day-to-day basis with other senior officers, including the Principal. The work of RES is shaped by the strategic framework developed by the Research Coordination Board which in turn is informed by School/Institute strategies and supports the shaping of the University strategy.

What if I disagree with Research & Enterprise Services?

Disagreements may arise over decisions taken by RES or over its activities. Such disagreements should be resolved informally and at local level by the Director of RES but disputes on operational or on the interpretation of policies may be referred to the Deputy Principal for Research.

STATEMENT OF POLICY

1 GENERAL PRINCIPLES

1.1 Responsibility for Projects

All grants and contracts are agreed between the external funders and the University. Primary responsibility for the management of the project is then delegated, within the terms and budget of the grant, contract or other agreement, to the Principal Investigator(s). Projects must be managed in accord with the Financial Regulations and the broader frameworks established by the University and the particular School/Institute.

1.2 Income Generation

Income generation targets and priorities for the University are agreed by the Court on the advice of the Planning & Management Executive, following discussions with individual Heads of School/Institutes and the RES Board during the planning rounds. Such mutually agreed targets and priorities are set in accordance with the University's overall strategic and financial plans. RES works in partnership to support the School/Institutes in delivering these targets.

2 SPECIFIC PRINCIPLES

2.1 Reward Mechanisms: General Issues

Reward and incentive mechanisms operate both directly and indirectly at University and School/Institute levels. At School/Institute level those incentives under the control of the Head of School/Institute include the following:

- workload distribution
- a means of allocating support staff, space, budget and equipment which reflects the individual School/Institutes' strategy and the performance and, in the case of new or younger staff, the potential of individual researchers or research groups;
- the provision of support in various forms for postgraduate research students;
- opportunities for research leave or secondment;
- Personal payments or payments to research groups.

At University level, the principal reward and incentive mechanisms are the promotion process and the distribution of income. The standard University model for IP rights provides for some net income generated as a consequence of research outputs to be returned to the individual(s) and School/Institute(s) concerned; see IP regulations quoted on the intranet.

In addition, members of staff may undertake University consultancy activities and share in the income, as well as earning personal fees on certain types of contract (more detail is included in Sections 4.6 and 5.1).

The University actively encourages staff to join relevant committees of public and government bodies, as this involvement helps to promote the visibility and position of the University as well as providing beneficial contacts and exposure for the staff concerned. Any honorarium associated with such activities may be retained in full by staff.

Aside from these mechanisms, other schemes may form part of the contract of employment for an individual member of staff.

2.2 Forms of Personal Income paid through salary

Income attributable to the individual can be generated from various sources linked within the research environment. With specific regard to Heriot-Watt University the following are areas of interest:

- successful grant/contract applications
- consultancy work
- exploitation of IP
- continuous professional development (CPD)

The following sections summarise how such income is distributed.

2.3 Indirect Cost Distribution

All income from research is recognised as income to the School/Institute. Recovered indirect costs are returned fully to the School/Institute. The portion of central costs associated with research are also allocated to the School/Institute in proportion to these activities. Allocation of funds in support of individual researchers or research groups is the responsibility of the School/Institute management as part of their budgeting processes.

2.4 Personal Payments from Research Awards

Personal payments, which are costed (in advance) into applications for research awards only, will be paid once all attributable direct and indirect costs have been met in accordance with the full economic cost (fEC) model. All employers' costs will be taken from the element of the award allocated for personal payments. Alternatively, employees may instead choose to donate funds that are due to them to the University through a mandate agreement. Such funds will be held in Donations Accounts (see Appendix III).

All awards should be reviewed before they terminate to ensure that expenditure equals the initial projections and that the award is not in "surplus" as a result of attributable costs not having been met. Any costs which are being met by the School/Institute should be deducted from such a "surplus" before any personal payments are considered. Such "surplus" funds can only be used for personal payments that were indicated in the initial expenditure projections.

Where there is a surplus on a research grant or contract which is to remain with the University this will be recognised as net income for the year and credited to the relevant School or Institute. As with all other recognised research and consultancy income, it will not be carried forward across the year end. Schools/Institutes are expected to manage any expectations to spend, arising from previously generated surpluses, within the annual processes of planning and budgeting.

2.5 Consultancy Work Income

Income generated by university consultancy must reflect the principles of full economic costing and may be required to cover costs attributable to the project such as personal insurance or professional indemnity over and above that provided normally by the University. All specific costs incurred, including hire of equipment or facilities, must also be itemised as and when required and should not form part of the indirect costs. Fees which are costed into consultancy activities will be paid only after all attributable direct and indirect costs have been met in accordance with the full economic cost (fEC) model. Rates of charge for consultants, and additional required manpower, are available from School/Institute and RES offices and are subject to yearly review and/or assessment of what the market will bear.

2.6 Intellectual Property Income Distribution

Income generated from the exploitation of the University's Intellectual Property (IP) may take various forms, including royalty payments, shares in third party companies, whether public or private, and shares in University-owned companies. Income may also be generated from other commercial businesses.

All such income will be distributed when it is realised among relevant parties according to the formula set out below, except where exceptional circumstances apply and a special agreement accordingly made. Income will be distributed net of any costs such as legal bills or patent registrations or repayments of loans from the University or elsewhere. Where income is received in relation to inventions, inventors will be identified by the declaration made in the relevant Patent application.

The Regulations on IP can be accessed on the University intranet.

The costs of obtaining formal intellectual property protection and of any subsequent exploitation will be borne by the University or its appointed agent in the first instance unless there is a separate agreement to the contrary that is in force. However if the University relinquishes ownership then any further costs of protection will pass to the new owners (if any) and the University will no longer be responsible for any costs incurred in gaining or maintaining protection.

Any Net Income – after recovery of IP/legal and similar costs - arising directly from or as a consequence of any Intellectual Property or Intellectual Property Rights owned or exploited by The University under this policy or from the sale of any equity in any company to whom the University has licensed or assigned any Intellectual Property or Intellectual Property Rights shall be disbursed in the following manner:

Licence Income:

Creator	50%
School/Institute	40%
RES Patent Budget	10%

Sale of University Equity:

School/Institute	100%
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Save that where there is more than one Creator involved in the creation of a particular piece of Intellectual Property or a particular Intellectual Property Right the share normally due to a single Creator shall be split equally amongst them unless otherwise specified.

Where income is in the form of shares in a company, the allocation will be agreed with all the parties but with access to the income being dependent on any conditions attached to the shareholding(s) in question. Share disposal, for example, may be governed by the original agreement on the form of income. Any such agreement will legally take precedence over other arrangements. The following guidelines represent current working practice. It should be noted that they may well be subject to review and revision as part of the development of a more formal investment management strategy.

For shares in a University spin-out company

- the inventor(s) will receive shares in their own name(s) and will therefore be able to decide how to manage the shareholding, whether that be full or partial disposal or retention;
- the remaining shares will be held in the name of Heriot-Watt University. Decisions about the sale or retention of any such shareholdings will be made by the Planning & Management Executive acting on advice which it seeks from the RES and/or its Innovation Exploitation Board.

For dividend income from shareholdings

- dividend income will be distributed according to the same formula(e) used for the distribution of royalty income. Where inventor(s) have shareholdings in their own name(s) in publicly quoted companies, any dividend income accruing directly to them from such a shareholding will be taken into account when dividend income is more generally distributed.

2.7 Record of Project “Ownership”

Because of the need to record “credit” for recovered income for statistical and reporting purposes, a record is kept in the research and consultancy systems of the agreed breakdown of ownership in percentage terms. Where there is more than one investigator on a project, this breakdown should be agreed and recorded on the internal costing form before the project begins. This method of recording “credit” is used both for financial reporting (in the Annual Accounts and other management accounting reports) and in data returned to SHEFC both for its annual funding allocations and for the Research Assessment Exercise.

3 CONTRACTUAL REQUIREMENTS: EXTERNALLY FUNDED ACTIVITIES

3.1 Externally Funded Activities

The University recognises that its staff are free to pursue their own interests in their own time. This can include private research or consultancy activities provided they make absolutely no use of University resources. Externally-funded activities carried out on University premises, using University facilities/resources, or which derive from employment by the University should be regarded as being University activities – governed by this Policy Document. All such activities should be undertaken under the aegis of agreements or arrangements which are sanctioned by the University. Income and expenditure associated with such activity should be processed and

managed using the University's financial systems and accounts. For staff with joint appointments, the University and the other employer(s) should agree on the detail of the process to be used in handling such income and expenditure.

The development of contacts, leading to larger-scale relationships, is an important activity, and one which the University wishes to encourage. These may span both private and University activities, and each School/Institute should determine their appropriate levels, according to the nature (and normal cost) of activities in their School/Institutes. Staff and School/Institutes should be aware of the transition from informal contact into consultancy or contracting, and manage the process accordingly. Staff should also be aware of the potential need for confidentiality agreements as discussions progress.

Any questions about what constitutes "activity deriving from employment" should be addressed to the Head of the relevant School/Institute and the Director of RES in the first instance.

The Court has agreed this condition for the following reasons:

- the University is liable for the actions of its employees even if the actions or activities are not covered by an agreement explicitly involving the University;
- the University needs to be able to recover the costs involved in work undertaken by its staff using its facilities and resources, including staff time;
- the University benefits through increased SHEFC Research Grant from increases in the value and volume of research consultancy and other Knowledge Transfer activities which means that comprehensive and accurate data requires to be returned to SHEFC.

3.2 External Income

The types of external income accruing to staff, which are exempted from the above requirement are:

- honoraria for serving on public, governmental and charitable bodies;
- honoraria for journal editorships;
- honoraria for external examination duties;
- honoraria for invited lecturers;
- fees for book contracts and any royalties arising from sales; with any fees above £10,000 per annum being subject to the same conditions as fees for consultancy, (see Section 4.6):
- fees for non-executive directorships of companies or for membership of bodies advising companies where the member of staff has been appointed on an individual basis and not as a representative of the University (in the latter case fees should either be waived or included in University general income).

3.3 Use of the University Name

Requests for the use of the University name by third parties in endorsing research work in progress

being funded by the third party or any output or outcomes from that research should be referred to the Director of RES in the first instance for advice on whether the request may be agreed. While it is unlikely that any such request will unreasonably be turned down, the potential for misuse of the University's name in endorsing unproven products requires such an intervention by RES. Brand guidelines developed by the Marketing Strategy group will be applied in all instances.

3.4 Standard Terms and Conditions

The University has adopted streamlined standard contract terms and conditions for reasons of simplicity and efficiency. However, it is recognised by the Court that these terms and conditions may require to be varied from time to time. Authority for such variation (which includes cost/price) has been delegated by the Court through the University Secretary to the Director of RES and other staff in that office.

The significant elements of the standard contract terms and conditions are:

- Ability to publish results of work, with limited restrictions on time scale to enable sponsor to protect the results;
- Time-limited confidentiality of the results, except where they are used for standard educational purposes;
- No warranty for the results of the work nor their uses;
- Sponsor to indemnify the University for loss, liability or damage, except for University negligence or wilful misconduct;
- Partial payments in advance;
- University ownership of IP generated from the activity, with a time-limited option for the sponsor to license where appropriate.

3.5 Variation of Standard Terms and Conditions

This position may be varied by RES following discussions with the relevant School/Institute(s) and researcher(s), based on judgements about the market position, the value of the work and of the IP, and an assessment of the risk involved. For a number of funders (in particular Government bodies), the University has agreed to accept their standard terms and conditions. These terms will be reviewed on a regular basis by RES to ensure that any variations are identified and addressed if required.

3.6 Signing of Agreements

Agreements on externally-funded research, service and related grants and contracts require to be signed on behalf of the University by the Court and its specified delegated representatives in order to make them legally binding. The Court has delegated authority to RES to be responsible for signing, or having signed, all relevant agreements. The agreed delegations for RES are set out in Appendix II. Other individuals signing agreements may be personally liable in any default conditions and any such agreement will not be binding on the University or other members or staff of the University.

3.7 Approval of Funding Arrangements

Before applications are submitted or before awards, contracts and research donations are accepted, the funding arrangements require the approval of the Head of School/Institute in order to ensure that the activity is consistent with strategy, can be physically accommodated and has been properly costed. Where the application is being made solely or jointly by a Head of School/Institute or Dean as an investigator, the Deputy Principal for Research should be asked to countersign it. It is for each School/Institute to determine how it wishes to operate the approval procedure, subject to each School/Institute being asked to bear in mind the increasing trend towards applications being made to research councils and other bodies by electronic rather than paper means. Schools/Institutes and RES are also encouraged to establish clear and agreed channels of communication in order to ensure open dialogue.

3.8 Insurance Arrangements: Standard Cover and Exclusions

Work undertaken through the University under agreed terms will normally be covered by the University's insurance policies (e.g. Professional Indemnity, Public/Products Liability, and Employers Liability and Personal Accident). These policies provide security against liability at law for claims made against individual researchers by third parties. Where the activity is explicitly excluded by the terms of the insurance, additional cover should be sought, with the additional costs being met by the project concerned. The insurance cover changes over time, but detail of the areas which are currently explicitly excluded or need to be referred are available from the Finance Office.

3.9 Insurance Cover for Commercial Studies

For commercial studies, the sponsor of the trial will provide adequate indemnity and insurance cover. Trials sponsored by Government bodies need particular attention, as they are not permitted to provide an indemnity.

3.10 Non-Permitted Sources of Funds

The University's policy is actively to discourage acceptance of funds from the following sources:

Tobacco companies:

This prohibition is in line with the Court's overall policy on "socially responsible investment".

3.11 "Holding" of Grants and Contracts

Grants and contracts may be "held" by any member of staff (salaried or honorary) of the University, regardless of the length or nature of their contract, provided that their term of engagement lasts at least as long as that of the project. However, eligibility rules of the relevant funding organisation may be more restrictive and should be observed. Specific arrangements can be made to accommodate grants and contracts awarded to emeritus staff.

3.12 Secondment of University Staff

Secondments of University staff to other organisations, whether full or part time, will normally be

subject to the approval of the Principal and Deans committee for academic staff and the Support Services Board for other staff provided the Head of School/Institute/unit and the receiving organisation are in agreement. This will apply where the other organisation is independent of the University. It will normally apply where a company is partially or wholly-owned by the University. The University has a standard contract for these purposes. Aside from other contractual issues, Health and Safety responsibility should be defined, in order to protect the individual.

4 CONTRACTUAL REQUIREMENTS : CONSULTANCIES

4.1 General Policy

All academic and academic-related University employees are permitted to undertake consultancy activity subject to agreement by their Head of School/Institute/unit. The aims and benefits of consultancy activity are:

- Building and maintaining commercial relationships;
- Creating the potential for future research funding;
- Opening up possibilities for student projects;
- Creating links for graduate employment;
- Staff motivation;
- Feed back into research and teaching;
- Awareness of industry developments and technological innovation;
- Personal and University income.

4.2 Definition of 'Consultancy'

Consultancy is normally characterised as an activity where an individual is required to provide the benefit of their personal knowledge or experience in a particular field, usually on a sole basis. It will typically be a small number of days, and make limited use of facilities (fully paid where appropriate).

4.3 Activities Not Defined as 'Consultancy'

Activities not included in this definition of consultancy, which do not need to meet the conditions of full economic costing and from which an individual may retain all of the honoraria, are: service on committees of public sector and charitable bodies; external examiner duties; articles for learned journals or editing of journals; royalties from the publication of books; lecture tours and conference presentations or attendance.

4.4 Requirement to Register Consultancy Activity

Staff must register all proposed consultancy activity with the School/Institute/unit and, once approved, all relevant legal agreements with third parties must be passed through the Head of School/Institute/unit to RES.

4.5 Approval of Consultancy

The decision process of whether an individual is permitted to undertake a consultancy programme and whether the activity is consultancy is handled at local level (School/Institute). RES will provide advice where necessary to Heads of School/Institute in reaching a decision about the classification

of a particular piece of work.

Where possible, consultancy activity should be undertaken under University-sanctioned agreements; however, for low value, low risk activity, sponsor-defined agreements can be used; flexibility in this respect can be agreed on a School/Institute basis with RES.

All consultancy work should be costed in accordance with the University guidelines on cost recovery, that is, full economic costing. A schedule of cost ranges is published internally each year by RES for guidance.

4.6 Distribution of Income

See paragraph 2.5 above. Income will be paid to individuals through salary, with the University deducting employer's costs.

In exceptional circumstances, the proportion paid to the individual may be varied by the individual's Head of School/Institute in agreement with the Director of Finance.

4.7 Arrangements for Schedule D Payments

Where a member of staff has registered with the Inland Revenue for self-employed Schedule D status, provided that a specific authorisation has been given by the relevant tax inspector, the University will make payments to the staff member without tax and NI deductions.

4.8 Prohibition of "Private" Arrangements

Staff should not enter into private consultancy arrangements directly with sponsors where such consultancy falls into the externally funded University activities defined in Section 3.1.

4.9 Insurance Cover

Staff will normally be covered by the relevant University insurance, depending on the precise nature of activity being undertaken.

5 CONTRACTUAL REQUIREMENTS: PAYMENTS AND DIRECTORSHIPS

See Guidelines for Appointment of Directors on the University intranet

5.1 Personal Payments

Personal payments can be made from contracts funded by commercial organisations where they are:

agreed in advance with the Head of School/Institute or, for members of the Planning and Management Executive, with the Principal.

The funds available for the personal payment should cover the cost of the employer's National Insurance and Superannuation.

5.2 Executive Directorships: Disbarring of Senior Staff

Executive directorships in a company in which the University has a direct shareholding normally should not be held by members of staff in senior positions in an individual capacity, e.g. Heads of School/Institute, Planning & Management Executive, in order to avoid conflicts of interest. Inventors are not subject to this but RES must ensure when approving the arrangements that provision is made to avoid potential conflicts of interest and the approval of the Principal should be obtained. Other members of staff require the agreement of their Head of School/Institute in consultation with RES. See Conflict of Interest Policy available on intranet and from RES or HR.

5.3 Non-Executive Directorships

Non-executive directorships of third party organisations and companies can be held, subject to agreement of the Head of School/Institutes in consultation with RES (to avoid potential conflicts of interest). Heads of School/Institute, Deans and Heads of Administrative units require the agreement of the Deputy Principal for Research, Deputy and Vice-Principals require the Principal's agreement, and the Principal requires the agreement of Chairman of Court.

Non-executive directorships of University-owned or partially owned companies, as a representative of the University, can be held. In this instance, where a management fee is involved, it will be credited to the individual's School/Institute (via a budget allocation), to reflect time away from normal duties.

5.4 Liabilities of Directors

Holding directorships (of any kind) involves personal legal responsibilities and liabilities and all employees should seek advice from RES before taking on such responsibilities. If any employee feels that such a role or any company share ownership is leading to a conflict of interest, they should seek advice from RES. Where a member of staff is a Director, they should not be directly involved in the University decision-making processes regarding investment for disposal for that particular company.

Staff are required to register their Directorship with the Register of Interests, which is mandatory for senior staff (for details see *Conflicts of Interest policy* on the University's intranet).

6 CONFERENCES AND OTHER ACTIVITIES

6.1 Academic Conferences

The University encourages the organisation and hosting of academic conferences, especially where they have an international profile. The Edinburgh Conference Centre participates in the Edinburgh Ambassadors programme and provides support by way of administrative assistance to Ambassadors in Bid Preparation, Budgeting and the Social programming for the event.

ECC will also provide in conjunction with the Edinburgh Conference Bureau and similar bodies introductions to local agencies who may be able to provide funding or Financial Backing

ECC does not provide direct financial backing, underwriting nor subsidies for the event, may be able to provide some financial support or underwriting for prestigious conferences. It may also be able to liaise with the City's Convention Bureau and be able to negotiate reduced hotel rates, etc.

6.2 Conference Organisation and the Edinburgh Conference Centre/Heriot-Watt Services

Conference activity should be registered with the Edinburgh Conference Centre or Heriot-Watt Services, preferably at an early stage, in order to establish the facilities required and their availability. The Edinburgh Conference Centre or Heriot-Watt Services will then work with the Conference organisers to determine the costs involved, the cost recovery required, the level of the attendance fees to be charged, and the most appropriate financial management arrangements (given the potential use of external organisers).

6.3 Conferences: Costing and Pricing

Depending on the nature of a particular conference or meeting, the cost recovery required will vary. Full costs should be recovered where there is no business case for discounting.

Conference activity should have Head of School/Institute approval, as there may be significant, unrecovered, actual and opportunity costs involved on the part of both the organisers and other members of the School/Institutes. Where the University is acting as the agent of an external organisation (e.g. a professional society), the organiser should ensure that the financial risk is borne by that organisation. Where the University is acting on its own behalf, the Head of School/Institute is accepting the financial risk in authorising the conference.

6.4 Continuing Professional Development and Other Training Courses

The University encourages the provision of Training activities, in particular the provision of high quality Continuing Professional Development (CPD) courses. The policies and procedures for CPD are given in the regulations for outside work, available on the intranet.

7 COSTING AND PRICING

7.1 Costing and Pricing: General Environment

The Government's 1998 Spending Review granted additional funds for higher education, but required transparent costing (TRAC) at institutional level to ensure, and assure government of, the sustainability of research activity and the robustness of the costing process.

The data from initial implementation of TRAC showed that all research was under-funded when full economic costs were calculated. It also showed that there were significant problems with the investment in HE infrastructure that were not apparent from institutional published accounts, as these reflected expenditure and not the costs of activities.

Treasury broadly accepted these conclusions, and the evidence base behind them was refined in national studies of university infrastructure undertaken during 2001.

In subsequent Spending Reviews additional funds have been allocated to address the research funding gap and a process of Dual Support Reform has been initiated.

Higher Education Institutions are now required to identify the **full economic cost** of undertaking their various activities. In addition to the direct costs, this process includes the apportionment of staff time, buildings costs, institutional management costs, and the need to re-invest on a regular basis to establish a full economic costing model. HEI's are required to understand these costs for all activities and to know how these are being covered.

7.2 Definition of Cost and of Price

It is always important to recognise the distinction between cost and price. The cost of carrying out a project should be identified in full prior to agreeing any contract. The price we can charge depends on free-market factors, such as supply and demand and hence what the market will bear, together with constraints imposed by funding organisations, government regulations and our own strategic aims. The University is developing techniques to improve both its costing and its pricing methods, and hence to improve the levels of net income received.

7.3 Direct and Indirect Costs

The costs of undertaking any work will include a variety of direct and indirect costs. All universities are required to follow the TRAC guidelines in determining the costs of research and consultancy projects. Volume III of the Guidance Manual specifies direct costs as covering, academic investigator time, contract researchers, equipment, travel and consumables, academic staff time, the costs of School/Institute technicians working directly on the project and all premises/facility costs. Indirect costs include those costs associated with the activity but which cannot always be precisely identified, such as School/Institute support, library, staff amenities, University administrative costs, insurance and financing costs. Both direct and indirect costs are now captured in the University's **full economic costing** model which should be applied to all proposed work to ascertain the true costs before a price is agreed.

7.4 Pricing

The price that should be set for research projects depends strongly on the body funding sponsoring the work.

Industry/commercial the price should be set **at least** at the level of the full economic cost. (See 7.7, below)

Other Government Departments This refers to non-Research-Council government support of research. These Departments have been instructed to pay 100% of full economic costs to universities, although this can depend on issues of competition, tendering processes, etc. Research services should always be offered, in the first instance, at a price equalling the full economic costs.

Research Councils Prices in this case are set according to government policy through the Dual Support mechanism. Section 7.5 gives further details.

Charities These bodies generally will fund only what they see as direct costs. It is important to note that the Estates Charges (calculated following the TRAC Manual) should be included under the *direct costs* heading. Charities research is seen as coming under the umbrella of *Dual Support* (see 7.5 below) and consequently prices can be reduced by putting some costs against the SHEFC QR funding stream.

European Commission For the time being, under Framework 6, prices remain restricted to marginal costs, plus 20%. A significant campaign is being mounted at senior government levels to shift the Commission towards a more sustainable approach to EU research funding within Framework 7.

Own-funded All academics should be conscious of the full costs of their research and the sources of funding upon which they are relying to carry it out. Projects with no external income are dependent on SHEFC QR funding and other less direct sources of income. Schools and Institutes should be able to identify what funds are being deployed in support of "own-funded" research.

7.5 Government Support of Research Costs

The current Government funds research activities within HEIs through the Dual Support System. They provide direct funding, for specific projects, through the Research Councils and Other Government Departments. More general research support comes indirectly, via the Funding Councils' quality research (QR) grants, which are based on RAE performance.

Following introduction of the TRAC guidelines for calculating full economic costs, all HEIs are expected to have a complete understanding of their research costs by the start of 2005 and, where these are not being met fully, to have a clear strategy as to the source of and reasoning behind cross-subsidies.

The Dual Support reforms being introduced in 2005 will result in Research Councils initially paying roughly 70% of full economic costs. Heriot-Watt University will be able to cover the remaining 30% in support of its Research Council portfolio from SHEFC QR funding in the short term. In the longer term, the government has expressed its intention to move the Research Councils close to 100% funding by the start of the next decade.

This is a brief and simplified description of what is a complex subject. Further information and guidance is available from Finance Office and RES.

7.6 Identification and Apportioning of Costs

All relevant costs should be identified when costing a piece of work, including both direct and indirect costs, regardless of whether they will or will not be met fully by the external funder. To assist this process the University's Research Proposal Costing form (RPC) has been developed to cover all aspects of full economic costing. Investigators are required to complete this form as the first step towards preparing a formal research proposal. Approval for submission of a research proposal will require this form to be completed satisfactorily.

Further information regarding the RPC is available from RES and School/Institute Financial Controllers or Administrators.

7.7 Setting the Price for Research

For commercial activities (i.e. any interaction with a commercial organisation), price setting should take account of market conditions, the academic value of the work, and whether IP is retained or not. This may lead to a price which is significantly higher than the full cost (e.g. if the University has a unique offering), or that is less than the full cost (e.g. if future earnings from retained IP is a realistic possibility and hence are factored into the price). This price setting should be undertaken by RES (in discussion with the researcher and the School/Institute) as part of the negotiation process. For non-commercial activities, the price offered to the funder will normally depend on the specific rules of the funding organisation, as noted above.

In certain circumstances, the Head of School/Institute or RES will agree minimum daily rates and pricing mechanisms for a particular unit or area of activity, so that quotations for work can be delivered quickly by the unit concerned. These would be subject to regular review. See for example the Guidelines on Rental of Facilities.

The project price should be agreed with and signed off by the Head of School/Institute, or other designated person, as appropriate to the particular School/Institute. In signing off the project, the

School/Institute signifies that there will be no further institutional costs. This is to ensure that all relevant issues have been considered, and hence to safeguard and protect the project.

8 INTELLECTUAL PROPERTY

8.1 Exploitation of Intellectual Property

The University wishes to encourage the development and exploitation of its IP, through whichever means is most appropriate, to the benefit of the University, to its staff, and as part of its contribution to economic development. The University is open-minded about the route for exploitation, but is acutely aware of the need for speed to market when successfully commercialising research outputs.

8.2 Development of Intellectual Property

The University may provide funding for the development of IP. Members of staff are encouraged to apply for Proof of Concept awards from Scottish Enterprise or to consult RES about funding sources. RES will decide on the appropriate funding route.

8.3 Ownership of Intellectual Property Rights

IP is defined in Appendix I below. In accordance with the Patents Act 1977 and the Copyright, Designs & Patents Act 1988, IP generated through the course of employment legally belongs to the employer. Unless specifically agreed otherwise, the University does not claim its rights of copyright in books written by members of staff or in articles for learned journals. For staff with joint appointments, agreement about ownership of IP should be reached at time of appointment by the University (through RES) and the other institution(s) concerned. Inventors will be identified by their declaration in the relevant Invention Disclosure Document.

8.4 Student Ownership of Intellectual Property

The policy on IP states that undergraduates own their own IP but postgraduate research students are asked to assign their rights at matriculation – for which they will be regarded as staff in the allocation of any benefits arising from the exploitation of the IP. In many instances, sponsors' regulations will have determined where ownership of IP lies - guidance should be sought from RES.

8.5 Ownership of “Background” Intellectual Property

A project may make use of Background IP owned by someone other than the University. In this case (and where appropriate), relevant contractual arrangements should be put in place with the owner. Where a member of staff was involved in the creation of the IP whilst with a previous employer, that employer should be contacted to make these arrangements – RES will assist

8.6 Protection and Exploitation of Intellectual Property

RES, liaising with the inventor(s) and the School/Institute(s), will agree the appropriate strategy for the protection and exploitation of the University's IP, following an examination of the opportunities for and prospects of the case in point. Inventor(s) should contact RES as early as possible to discuss IP protection and exploitation.

The timescale for exploitation of any given set of IP depends significantly on market conditions as

well as the state of development of the IP. The discussions between RES, the inventor and the School/Institutes should agree a reasonable initial timetable, with regular review points. All parties involved have responsibilities in achieving successful exploitation, and need to be aware that circumstances will change as the process develops.

If the University has taken no action to exploit particular IP within a period of 12 months from receipt of a completed Invention Disclosure Form, the inventor may request that the IP be released to another party. Such requests will be considered by the Director of RES.

8.7 Commercialisation through Spin-Out Companies

Where the commercialisation route is through the creation of a spin-out or start-up company or through an existing company, RES will agree the management/holding structure and sign off the business plan in relation to the interests of the University. The legal/administrative formation of the company will be the responsibility of RES.

A spin-out company is any company formed as a consequence of University activity or know-how, regardless of whether registered IP is involved. A start-up company is any company created externally to the University in which the University is invited to participate at time of creation.

8.8 Spin-Out Companies: Equity Held by the University

Where a spin-out company is formed, the University will retain an appropriate portion of the equity to reflect the University's input to the formation and operation of the company. See Regulations and Procedures for the Formation of Spin-out Companies available on the intranet or from RES.

8.9 Investment in Spin-Out Companies

Investment decisions will be taken by the University Court, advised by the Director of RES (with other relevant advice taken as necessary including the Head of School/Institute in respect of any other resources required to undertake the project). The relevant School/Institute will be informed of any awards.

8.10 Company Directorships

University staff are permitted to accept appointment to directorships in third party and University companies, subject to the conditions in Section 5.3; see guidelines on the Appointment of Directors on the intranet

9 RELATED POLICIES

The following policies are either directly referenced in these statements, or are relevant to the area. The responsible offices are also identified.

Delegation of Financial Authorities

Guidelines on the Appointment of Directors

Guidelines and Procedures for the Formation of Spin out Companies

Guidelines for the Rental of Facilities

University Strategy

University Research Strategy

Conflict of Interest

Code of Conduct for Research

Ethical Review process and Guidelines

Procedures for Investigating and Resolving Allegations of Misconduct in Academic Research

Intellectual Property

Appendix I: Definitions

A. Types of Work

There are three broad categories of work, which are reflected in the accounts structure of the University:

Research This is broadly activity which involves the generation of new knowledge. There are a number of specific definitions of research. The following is the one used in the 1996 RAE, and which is likely to be used in the 2001 exercise.

“‘Research’ for the purpose of the RAE is to be understood as original investigation undertaken in order to gain knowledge and understanding. It includes work of direct relevance to the needs of commerce and industry, as well as to the public and voluntary sectors; scholarship*; the invention and generation of ideas, images, performances and artefacts including design, where these lead to new or substantially improved insights; and the use of existing knowledge in experimental development to produce new or substantially improved materials, devices, products and processes, including design and construction. It excludes routine testing and analysis of materials, components and processes, e.g. for the maintenance of national standards, as distinct from the development of new analytical techniques. It also excludes the development of teaching materials that do not embody original research.

*Scholarship for the RAE is defined as the creation, development and maintenance of the intellectual infrastructure of subjects and disciplines, in forms such as dictionaries, scholarly editions, catalogues and contributions to major research databases.”

Other Services Rendered Activities which provide a service to an external organisation, where the activity does not meet the definition of research, and where it is not educational or funding from a Funding Council. Other Services Rendered includes the provision of service (e.g. routine testing), consultancy, training, and conferences.

Other Academic Income This covers agreements for educational projects and for projects funded by the Funding Councils (even where they are to undertake or support research as encompassed by the above definition, such as Research Development Grants).

B. Types of Award

There are a range of award types, but they can be grouped into three main categories:

Grant An award from a sponsor under standard terms and conditions acceptable to the University. Typically, this includes research awards from Research Councils, UK charities, the European Commission, and UK Government departments and agencies. Variations in standard terms may be negotiated (by RES) on a project by project basis, but are more likely to be discussed as part of a broader exercise, possibly in conjunction with other universities. Grants normally include fellowships, non-commercially-sponsored studentships, and sponsored posts.

Commercial Contracts A contract with a commercial or other organisation, under terms negotiated with that organisation. Also includes agreements with UK and overseas Government departments or agencies where the University is providing a competitive service (even where that can be defined as “Research” in the above terms). Contracts might be for research, service provision, consultancy, training, secondments or industrially sponsored studentships.

Earmarked Donations These are payments made by external bodies or individuals with no specific terms or conditions attached, except to the extent that they request that the funds be used to support research or a particular area of research. In some cases it would be acceptable to provide minimal reports on progress and outcomes to the donor, but this should only be of non-confidential, publicly available information. (See also Appendix III).

C. Intellectual Property

IP covers inventions, inventive ideas, designs, patents and patent applications, discoveries, improvements, trade marks, designs and design rights (registered and unregistered), written work (including computer software) and know-how devised, developed and/or written by members of staff in the course of their employment.

Background IP is IP which exists before an activity takes place.

Foreground IP is IP which is generated during the activity.

Appendix II: RES Agreement Signatories

The following are acceptable signatories for any agreed documentation covering the areas of Research Grants, Consultancy, Intellectual Property and Continuous Professional Development

Derek Brown
Tony Weir
Gillian McFadzean

with the primary contact as Derek Brown.

Appendix III: Donations Accounts

Where an individual wishes to forego a personal payment, which they are eligible to receive from a grant or contract, they can mandate this sum to the University. This can be treated as a donation for a specified broadly-based purpose. Provided certain conditions are met, the donor will not be liable for tax on the earnings concerned.

The key condition for this mandated sum to be treated as an un-taxed donation is that the purpose to which it is set cannot be related to the individual making the donation. Thus, regardless of the use specified for it to be put, the balance on a Donations Account **cannot under any circumstances** be treated as a discretionary fund for the personal use of the donor. However, the donation **can** be identified in support of, for example, a broad category of research within an individual School. As such expenditure would come under the authority of the Head of School.