Regulations on secondary employment

Background
The general rule is that employees control their own spare time, and that secondary employment is allowed. However, legislation and collective agreements include provisions that prohibit secondary employment that damages credibility, interferes with work duties or competes with the University’s activities.

To provide better and more accessible support in the form of clear guidelines as to what requires special attention with regard to secondary employment Human Resources and the Legal Services office have reviewed the University’s rules and memoranda on secondary employment and made revisions.

Negotiations in accordance with Chapter 11 of the Employment (Co-Determination in the Workplace) Act took place on 8 September 2015.

Decision
Lund University decides that the following regulations and memorandum shall enter into force 1 October 2015 and replace the previous regulations decided on 15 November 2012, reg. no PE 2012/620.

The decision in this matter was made by the undersigned Vice-Chancellor in the presence of the Head of Administration Susanne Kristensson after a presentation by Human Resources Consultant Viktoria Järnegren. Assistant Head of Human Resources Kristine Widlund, General Counsel Annette Nilsson and Legal Counsel Henrik Wiebe also participated in the processing of the matter.

Torbjörn von Schantz
Viktoria Järnegren
(Human Resources)

Copy to
All faculties
All divisions
Specialised centres, Max IV, LUKOM
Lund University Libraries
Internal Audit Office
Rules and regulations
Regulations on secondary employment

Decided by the Vice-Chancellor on 24 September 2015

Background
The general rule is that employees control their own spare time, and that secondary employment is allowed. However, legislation and collective agreements include provisions that prohibit secondary employment that damages credibility, interferes with work duties or competes with regular activities. University teaching staff are covered by special rules that allow secondary employment within research and development in their own subjects. These rules were introduced to increase the ability of academics to collaborate with wider society for the benefit of the public. However, secondary employment may not adversely affect the credibility, scope or quality of the University’s activities. Permissible secondary employment is always to be kept clearly separate from the regular work duties of teaching staff.

Regulations
Overall responsibilities
Human Resources together with the Legal Services and Records Management division are responsible for ensuring that there is support material for the assessment of secondary employment. Human Resources is also responsible for ensuring that information on the obligation to report secondary employment is included in the information attached to appointment decisions, as well as on the Lund University website. Instructions on how to report secondary employment in the relevant administrative system are to be available. An annual reminder of the obligation to report secondary employment is to be issued by Human Resources to designated contact persons.

Information
In connection with an appointment, the line manager is to inform the new employee of the rules on secondary employment. An annual reminder of the obligation to report is to be issued, preferably in connection with the staff appraisal. Human Resources shall also remind employees of the obligation to report secondary employment through newsletters/equivalent.

Reporting
All teaching staff and local managers are to report any secondary employment in the relevant administrative system. Secondary employment must be described in such a way that it enables a decision on whether to permit it or not. A report is to be made as soon as the employee intends to undertake/undertakes new secondary employment or when the extent or nature of reported and approved secondary employment changes.
Other staff than teaching staff are to report secondary employment when requested to do so by their manager. The request must be justified, either with regard to the employee’s performance of their work duties, or in cases where objectivity and impartiality are crucial requirements for performing their duties. This may include procurements which involve close collaboration with other parties. It should be noted that the employee is responsible for ensuring that their secondary employment does not damage the credibility of the University.

Assessment
All assessments of secondary employment must include a justification. The following functions are responsible for the assessment of secondary employment.

Faculties: Head of department in consultation with the dean. The dean assesses secondary employment of the head of department and the staff of the faculty office.

University’s specialised centres (USV), LUKOM and MAX IV:
Director/equivalent in consultation with the chair of the board.

Central administration: Heads of division/equivalent in consultation with the director of Human Resources. The head of University administration assesses any secondary employment reported by the heads of divisions who are not part of the University management.

The Vice-Chancellor assesses secondary employment reported by the heads/managers who are part of the University management.

Secondary employment reported by directors/equivalent at USV, LUKOM and MAX IV are assessed by the person within the University management responsible for these organisations.

The assessment of secondary employment is to protect the integrity of the employee, which means that employees are only to be requested to submit information necessary for assessing the secondary employment. However, the information provided must be sufficient for making an assessment.

Follow-up of responsibilities and contact persons
Each unit is responsible for the required follow-up of secondary employment. They are also responsible for appointing contact persons to assist managers in the processing of secondary employment. Human Resources are to be notified of who the contact persons are.

Decision on the termination of secondary employment
In the cases where secondary employment is deemed to damage the credibility of the University or is impermissible on the grounds that it interferes with the performance of duties or competes with the University’s activities, and the employee has not heeded the call to discontinue their secondary employment, the authorised manager\(^1\) is to issue a written decision that the employee must terminate their secondary employment. If the manager finds that the secondary employment interferes or competes with regular duties, the planned decision must be preceded

\(^{1}\) See Rules on the allocation of decision-making powers at Lund University.
by negotiations in accordance with Chapter 11 of the Employment (Co-Determination in the Workplace) Act.

**Validity and transitional provisions**
These regulations enter into force 1 October 2015 and replace the previous regulations (reg. no PE 2012/620).
Memorandum on secondary employment

1. Preliminaries

The general rule is that employees control their own spare time, and that secondary employment is allowed.

There are certain restrictions, however. This memorandum describes the rules that restrict the right of government employees to take on secondary employment. Such restrictions apply to three types of secondary employment:

- Secondary employment that damages credibility
- Secondary employment that interferes with the performance of duties
- Secondary employment that competes with the University’s activities

The main reason for the regulation of government employees’ right to undertake secondary employment is the public’s interest with regard to objectivity and impartiality in the exercise of public service, so that the credibility of the government authority and its employees is maintained. Furthermore, the rules with regard to conflict of interest are intended to ensure objectivity and impartiality within the public sector and are closely linked to the rules on secondary employment. In the interest of the government and ultimately the general public, government employees are not to have secondary employment that adversely affects their regular duties or the government authority’s activities.

The rules on secondary employment for higher education institutions are stated in the Public Employment Act, the Employment Ordinance, the Higher Education Act and the Higher Education Ordinance. In addition, there are relevant rules in the collective agreements on salaries and benefits for government employees (Villkorsavtal/Villkorsavtal-T), the agreement for managers (Chefsavtalet) and the local agreement for professors (Lokalt professorsavtal).

In accordance with the Public Employment Act, the employer is obliged to inform their employees of the circumstances that may prohibit secondary employment. The employee, in turn, is obliged to inform the employer of their secondary employment when asked to do so.

To facilitate collaboration between higher education institutions and wider society there are specific rules on secondary employment for teaching staff at higher education institutions. This means that teaching staff\(^1\) have an extended right to

\(^1\) ‘Teaching staff’ is defined in the Lund University Appointment Rules.
pursue secondary employment related to research and development (R&D) within the subject area of their employment. This right entails an obligation to report secondary employment.

It is worth noting that employees whose employment is financed by US federal funding may have a more extensive obligation to report secondary employment. More information on this can be obtained from Research Services.

2. Rules for all employees

Secondary employment is basically any temporary or permanent employment that an employee is engaged in on the side of their regular employment, and which is not part of their private life, regardless of the extent of the employment or any remuneration involved. Remuneration may, however, be important in the assessment of whether the activity is permissible or not. Extra work for Lund University or another government authority can also be considered secondary employment.

Activities that are typically part of one’s private life and not considered secondary employment include hobbies, or personal family matters.

The assessment of what constitutes permissible and impermissible secondary employment must always be made from a holistic perspective. Attention is then to be paid to the extent of the secondary employment, the financial remuneration involved, the links to the University’s area of operations, the employee’s role at the University and in the secondary employment, etc.

Examples of generally permissible secondary employment are

- elected office as a member of a political party
- elected office as a member of an employee organisation
- assignments within academic associations
- elected office in not-for-profit organisation unrelated to the university appointment (e.g. sports clubs or housing associations)
- occasional appearances in the press, radio and television
- minor assignments (e.g. proofreading)

Permissible secondary employment is always to be kept clearly separate from the work at the University and must be performed entirely outside the duties at the University, in terms of both content and time.

Impermissible secondary employment is divided into three categories: secondary employment that damages credibility, interferes with the performance of duties and competes with the University’s activities. Secondary employment that damages credibility is prohibited by law. The prohibition of other types of

2 See the Swedish Labour Court (AD) 1985 no 69.
3 Section 7 of the Public Employment Act.
secondary employment is regulated by collective agreements. The three categories are explained in detail in sections 3, 5 and 6.

All employees are required to report their secondary employment when requested to do so by their manager. The request must be justified, either with regard to the employee’s performance of their work duties, or in cases where objectivity and impartiality are crucial requirements for performing their duties. This may include procurements which involve close collaboration with other parties.

It is mandatory for teaching staff to report all secondary employment, see section 4.

3. Secondary employment that damages credibility

Section 7 Public Employment Act:
An employee may not have any employment or any appointment or exercise any activities that may adversely affect confidence in his or any other employee’s impartiality in the work or that may harm the reputation of the authority.

The prohibition against secondary employments that damages credibility focuses on the relationship between government authorities and the public and is regulated in Section 7 of the Public Employment Act. The prohibition is based on the integrity, objectivity and impartiality that the public is entitled to require of public service.

When assessing the permissibility of secondary employment, it is particularly important to note whether it will cause the employee’s impartiality to be questioned when he or she participates in the processing of matters or decisions by the government authority. If there is a risk of a conflict of interest, there is an increased risk that the secondary employment will damage the credibility. Consequently, the rules on conflict of interest under the Administrative Procedure Act must be taken into account. Even if a specific situation of conflict of interest can be resolved, however, the secondary employment can still be considered impermissible.

Also in situations where the impartiality of other employees can be questioned due to the secondary employment of one employee, it is to be deemed to damage credibility. This could be the case when a head of department, through a business affiliation, damages the credibility of the other employees.

The rules on conflict of interest are included in Sections 11–12 of the Administrative Procedure Act, and aims to ensure that the impartiality of the government authority cannot be questioned. These rules not only apply to decisions, but to the entire processing of a matter, for example when negotiating

---

4 Chapter 13, Section 10–11 Villkorsavtal/Villkorsavtal-T.
5 Please note that the word ‘matter’ is used broadly and not exclusively with reference to the exercise of public authority. The rules on conflict of interest apply also to commercial
an agreement or when preparing supporting documentation for a decision. Leaving a meeting when a decision is to be made, or asking another official to sign an agreement, is not sufficient. To avoid a conflict of interest, the employee must therefore completely refrain from processing the matter.

The types of conflict of interest under the Administrative Procedure Act of greatest relevance for secondary employment of university employees are

- if the matter can lead to extraordinary profit, benefit or detriment for the employee or his or her relatives, for example through an agreement with the University that will be financially or in other ways advantageous to the employee or relative.

- when the outcome of a matter can lead to extraordinary advantage or detriment to someone represented by the employee or someone closely related to him or her for example by being a CEO or chair.

- if there is some other special circumstance that is likely to undermine confidence in the impartiality of the employee in a matter. This could include situations when someone is clearly a friend of or on bad terms with a party or stakeholder of a matter, or when one of the situations above is in itself not sufficiently strong. If there is another circumstance (e.g. a different type of conflict of interest which is also not sufficiently strong in itself), they can together constitute a conflict of interest.

Those who decide and process a case have a duty to ensure that they are impartial in their handling of a matter they can affect. All employees have a responsibility to report and voluntarily make known any situation that may involve a conflict of interest. It is important to note that it is not the employee’s personal perception of their objectivity that will determine whether or not there is a conflict of interest.

It can be difficult to assess whether secondary employment damages credibility or not. Generally, a risk that the confidence in the government authority or its employees’ impartiality can be questioned by the public is enough for secondary employment to be considered damaging to credibility. It should be especially noted that the risk of damaging the reputation of the authority is not necessarily due only to a specific occurrence. It is enough if the very existence of the secondary employment could damage the reputation. This could be the case when it appears to the public that the secondary employment is actually carried out by the University, or is given unfair advantage because of its link to the University. Other examples are when it appears to the public that the University’s activities are managed in a certain way based on reasons that benefit or are justified by external interests, for example because of an employee’s secondary employment.

The question whether secondary employment damages credibility or not is to be determined on the basis of a holistic assessment of the circumstances of the individual case. The assessment must especially consider if the secondary employment involves a large financial commitment of the employee. If the employee has a decisive influence in an organisation that operates in the matters and to matters that do not lead to a binding decision. One example of this is consultation paper responses.
employee’s discipline, there is a risk that the credibility/reputation of the government authority will be significantly damaged.

The more qualified the secondary employment is and the closer it relates to the duties carried out at the government authority, the more likely it is to be considered damaging to credibility, and therefore impermissible. The same applies if the activity involves personal advantages. The risk of damaging credibility increases if the employee’s position at the University involves influence on what activities are to be conducted, and which decisions are to be made by the authority. Simply the fact that the employee’s duties involve the exercise of public authority increases the risk of damaging credibility. If the secondary employment serves a strong commitment to volunteer work or societal interest, an increased risk of damaging credibility may be accepted. Examples include duties involving community work, appointments resulting from court orders under the Parental Code or similar government or municipal assignments.

Below are some examples of decisions made and statements with regard to secondary employment that damages credibility.

Example 1: A research institute was to promote a certain research and development initiative and conduct measuring and registration activities. Research engineer Q worked at the institute as a technical project manager, among other roles. Q also had his own business, partly working with manufacturing and sales of computers and related equipment, and partly as a consultant in the field of electronics and computer technology. Furthermore, Q was the sole board member of a company with his wife as a substitute and owned shares in another company which later declared bankruptcy. Based on the connection between Q’s work duties and the activities performed on the side of his employment, the government assessed that Q’s secondary employment was impermissible under the Public Employment Act, and argued that this decision could be made without the credibility of the authority actually having been damaged or a special occurrence which could jeopardise the public’s confidence.

Example 2: A later decision by the National Agency for Higher Education demonstrates how a case should be argued. The case involved a lecturer’s work for a company (secondary employment) to teach professionally active teachers free of charge how to use a particular technical aid. The lecturer had written books published by the company about the technical aid that was produced by the company. The technical aid had also been purchased by the department. The assessment made by the National Agency for Higher Education stated the following: In order to prohibit secondary employment as damaging to credibility, it is enough that there is a risk that the public will question objectivity; furthermore, consideration is to be given to the extent of the secondary employment, and whether it affects the government authority’s activities. The University was asked to acknowledge the risks from a credibility perspective. The National Agency for Higher Education found that the secondary employment – the “marketing” (the teaching of the technical aid which could be used in ordinary teaching and which was also purchased by the department) – entailed a risk that credibility could be damaged.6

6 Decision by the National Agency for Higher Education (Högskoleverket) 21 March 2007, Reg. no 31-3124-06.
Other typical examples of secondary employment as damaging to credibility are cases in which the employee performs business activities that relate to the activities of the government authority, and where the authority is a customer. There is then a risk that the public will question the impartiality of the government authority.

Even if the secondary employment is not to be considered damaging to credibility, it must also be assessed with reference to the potential interference or competition with the University’s activities.

The rules on secondary employment that damages credibility also apply when an employee is on leave.

4. Special rules for teaching staff

Chapter 3, Section 7 of the Higher Education Act:

In parallel with their teaching posts, teachers at higher education institutions may undertake employment or assignments or pursue activities relating to research and development work within the subject area of their posts, if in doing so they do not undermine the confidence of the general public in the higher education institution. Such secondary occupations shall be kept clearly separate from the tasks assigned to them within their posts.


Teaching staff within higher education have to a certain extent the right to pursue secondary employment related to their subject, also known as secondary employment in research and development (R&D secondary employment). With this right comes an extended obligation to report secondary employment, see Section 9 below. In this context, “teaching staff” refers only to those categories of teachers defined in the Lund University Appointment Rules. Staff employed as researchers or doctoral students, etc., are not covered. Accordingly, these positions do not include an extended right to pursue R&D secondary employment.

R&D secondary employment is specifically regulated in the Higher Education Act, which stipulates that teaching staff at higher education institutions may, in addition to their regular employment, have another employment or do work related to research or development within the subject area. However, the rule only covers research and development work, and not pure teaching assignments or other commitments.

For a secondary employment to qualify as a permissible R&D secondary employment it must not, as any other secondary employment, interfere or compete with the University’s activities. As for other secondary employment, it needs to be kept clearly separate from the work at the University, and all secondary employment is to be performed completely outside the work at the University.
That the right to R&D secondary employment is extensive compared to other categories of work means that the threshold for what is considered damaging to credibility is higher. Unlike other cases, the assessment is only to take into account if the teaching staff, through their secondary employment, has a damaging effect on the public’s confidence in the University, and not whether the secondary employment could undermine confidence in the staff member’s or another employee’s impartiality when performing their duties. The assessment of the damage to credibility of R&D secondary employment is to take into account the aspects set out in Section 3 above, about secondary employment that damages credibility.

Examples of secondary employment that should normally be permissible within the framework of the extended right to R&D secondary employment, provided that they are within the discipline of the employment, are:

- advice on research matters;
- production or other personal commercialisation of the teacher’s own inventions or production methods; and
- board membership in a company whose activities relate to the discipline of the teaching staff member.

It should be noted that the above examples, although they are permissible as R&D secondary employment, may be considered impermissible because they interfere with the performance of duties or compete with the University’s activities.

Examples of when a secondary employment cannot be considered permissible R&D secondary employment can involve substantial business transactions between the University and a company where the employee works or owns significant shares. This involves great risks of a conflict of interest and could affect the public’s confidence in the University. The examples below illustrate this. Please note that Example 3 is fictional and not an authentic example.

**Example 3**: A senior lecturer leads a research team that conducts research in an area that may eventually become very interesting commercially. A number of years ago, the senior lecturer made a couple of very interesting, patentable inventions. He placed these inventions in a company, Corp. X. The activities at Corp. X have evolved, but the company has yet to show any profit. The senior lecturer has therefore been forced to bring in external funders who today own large shares of Corp. X. The senior lecturer owns about ten per cent of the company. In addition to the employment at the University, he also has a part-time position as research director at Corp. X. Much of the senior lecturer’s and his colleagues’ research at the University are dependent on having access to the inventions of Corp. X. As for Corp. X, the company is planning on being listed on the Stockholm Stock Exchange (NASDAQ/OMX), which may increase the value of the senior lecturer’s shares substantially. Prior to listing the company on the stock exchange, the senior lecturer wants to establish a more formal collaboration with the University, through an agreement regulating how the patent is to be transferred from the senior lecturer’s research team to Corp. X.

**Example 4**: At one of the departments at the University, research was conducted on ventilation. The person in charge of the experiments within this research was Z,
who also owned half of the shares of a company that produced and sold ventilation parts. Other companies in the ventilation industry had questioned the department’s objectivity and integrity. Both the University Board and the government found that Z’s activities at the company were damaging to the public’s confidence, and therefore impermissible.

The examples above demonstrate when a secondary employment involves such major conflicts of interest and business transactions with the University that it cannot be considered permissible because it damages the public’s confidence in the University, even when taking the regulations on R&D secondary employment into account.

5. Secondary employment that interferes with the performance of duty

Secondary employment interferes with the performance of duty if it, by nature or extent, has a negative impact on the employee’s work based on what can reasonably be required of him or her by the employer. This does not only involve aspects of time, but other impacts on the employer’s ability to manage and distribute work.

The secondary employment and the work at the University are to be kept clearly separate, and all secondary employment is to be performed completely outside the work at the University. This means that secondary employment can never be performed during working hours. If an employee refers to secondary employment for limiting their presence in the workplace, or for turning down certain tasks, the general rule is that the secondary employment interferes with the performance of duty, and is therefore impermissible. Secondary employment is generally not a valid reason for reducing the extent of employment.

It is impossible to draw a general line for when the number of hours spent on the secondary employment in addition to the regular working hours is to be considered to interfere with the performance of duty, although this is sometimes argued. Each case must be individually assessed. Depending on the circumstances of the individual case, even secondary employment that only amounts to a few hours per year can be considered to interfere with the performance of duty. Several different secondary employments may be collectively considered to interfere with the performance of duty, even if they individually would be considered permissible. It is for the employer to determine when the secondary employment interferes with the performance of duty. Such assessment shall also take into account that an employee in certain situations is obliged to work a certain amount of overtime.
Working environment aspects are also to be considered when assessing whether secondary employment interferes with the performance of duty.

The following examples of secondary employment that interferes with the performance of duty are fictional and not authentic examples:

Example 5: Anna is employed as a professor at a university department. She has been asked to serve as an expert on community development issues for a municipality in mid-Sweden. The assignment is expected to amount to approximately 10 hours a month plus travel. The subject area is within Anna’s field of research, and she is happy to accept the assignment. The municipality asks Anna where her fee is to be sent, and Anna suggests her personal bank account as she considers that the assignment will be carried out by her as a private individual. The assignment means that Anna is not able to teach during the days of the month when she is serving as an expert, so adjustments must be made to the timetable for the current semester.

Example 6: Göran is employed as an IT technician at a university. He runs a private business where he rents out farming equipment to farmers in Skåne. The business is starting to take up more and more of Göran’s time. When a new and mission-critical system is to be implemented at the university, and the workload at the department increases, Göran’s manager discovers that, some days a week, Göran is not at his workplace after 15:00, and that his flexitime balance shows a minus a of 50 hours.

The prohibition on secondary employments that interferes with the performance of duty is regulated in the state-wide collective agreement on salaries and benefits (Villkorsavtal/Villkorsavtal-T). As the prohibition is regulated by agreements rather than law, the employer may permit secondary employment that interferes with the performance of duty. However, the employer must take the work environment into account when giving such consent. It should also be noted that if the secondary employment also damages credibility, as mentioned in Section 3, it cannot be permitted through the consent of the employer.

It is important to note that the extended right of teaching staff to conduct R&D secondary employment does not entail a more generous assessment of whether or not a secondary employment interferes with the performance of duty. R&D secondary employment is described in more detail in Section 4 above.

In addition the cases mentioned above, employees covered by the collective agreements for medical doctors (Annex 8 of Villkorsavtal/Villkorsavtal-T) may not engage in private medical practice, within the private or public healthcare sector.

6. Secondary employment that competes with the University’s activities

Chapter 13, Section 11 Villkorsavtal/Villkorsavtal-T

Employees of government authorities who conduct business or other activities may not be employed by or do work for companies in this area of operations. The employee may also not personally or through someone else run such a company, nor engage on behalf of someone else in activities that relate to this area of operations.

The first paragraph does not apply if the employer agrees to something else. If such consent has been given, the employee is obliged, on request, to inform the employer about the nature and extent of the secondary employment that competes with the University’s activities.
Secondary employment that competes with the University’s activities is impermissible. The prohibition is aimed at the part of the University that conducts contract research and contract education.

This means that, in addition to their regular employment at the University, employees may not be employed by or do work for a company that operates in an area related to the University’s contract research or contract education. The employee may not personally, or through someone else, run a business that operates within an area that relates to the University’s contract research or contract education, for example by offering services through their own or a relative’s company within these areas.

It can be enough that the secondary employment relates to the University’s contract activities for it to be impermissible. It does not need to be identical to the University’s work for an external party.

The following example of secondary employment that competes with the University’s activities is fictional, and not an authentic example:

Example 7: Senior lecturer Ulla is employed at a university where she teaches in the field of environmental science. Ulla and her husband have a company through which Ulla does work for various adult education associations by giving popular lectures on, for example, organic gardening, weeds and pesticides. Ulla has now received an offer to give the same lectures to the employees of a county council. Ulla is pleased to accept because she has become acquainted with the people within the county council through her work at the university. The department where she works offers contract education for county councils and municipalities within the field of environmental science.

The prohibition of secondary employment that competes with the University’s activities is regulated in the state-wide collective agreements on salaries and benefits (Villkorsavtal/Villkorsavtal-T). As the prohibition is regulated by agreements rather than law, the employer may permit secondary employment that competes with the University’s activities. In this context, however, it must be emphasised that a secondary employment that competes with the University’s activities may also damage credibility, in which case it cannot be permitted through the consent of the employer.

It is important to note that the extended right of teaching staff to conduct R&D secondary employment does not mean a more generous assessment of whether or not a secondary employment competes with the University’s activities. R&D secondary employment is described in more detail in Section 4 above.

7. Other issues with regard to secondary employment

Even if secondary employment is permissible based on the applicable regulations, other circumstances surrounding the performance of the secondary employment could be prohibited.

The secondary employment and work at the University are to be kept clearly separate, and all secondary employment is to be performed completely outside the
work at the University. Examples of prohibited mixing of secondary employment and University employment are when an employee

- uses University resources for performing their secondary employment (telephone, computers, supplies, equipment, etc.)
- uses the University’s address as a business address of the secondary employment
- divides the work into “equipment” where the work is considered part of the departmental work, and “operations” where the work is considered part of the work carried out privately by the employee or their business, so that the department only receives compensation for the use of the equipment, while the remaining compensation goes to the employee or their business
- engages in the secondary employment at the workplace or during working hours by taking orders, giving advice, conducting investigations, constructions or repairs, etc.
- without special permission to advertise or market products or materials, uses the University’s name, logo, or other characteristics of the University which gives the impression that the University is involved in, approves of, or guarantees the content of the operations
- markets products, educational materials or other activities by providing addresses or links to websites on the University’s web pages
- has expert assignments or perform other duties in the context of their employment, for which compensations are not made out to the University

Business transactions
Business transactions between the University and its employees can create a variety of risks, as well as be linked to the rules on secondary employment. Therefore, the University has guidelines on the use of companies stating the rules that apply when the University enters into an agreement with a company in which an employee or their relatives are shareholders or in other ways have a strong business influence. The guidelines state that the University may not enter into an agreement with such a company, if the employee’s or their relative’s involvement in the company causes

- the employee to have a conflict of interest in performing their duties or in the handling of cases within the University and the duties cannot be performed by someone else, or
- the involvement to be regarded as a prohibited secondary employment through the agreement with the University, or
- the employee to be likely to breach a law, regulation or internal provision through their involvement.

8. The employer’s obligation to provide information

It is primarily the responsibility of the individual employee to make sure that the secondary employment is permissible. To enable employees to fulfil this obligation, the University is legally required to inform their employees in an appropriate way about which types of secondary employment are generally considered permissible or impermissible, see Section 7a of the Public Employment Act and Chapter 4, Section 14 of the Higher Education Ordinance. The present memorandum is a part of this required provision of information. Moreover, there is continuing professional development training available to managers and other
recruited staff which covers the rules on secondary employment. Furthermore, all new employees are informed of their obligation to read the University’s regulations on secondary employment in the appendix attached to their appointment decision.

The University is also obliged, upon request, to provide written notice if a secondary employment damages credibility, or (for teaching staff) if it is a case of impermissible R&D secondary employment, see Section 7c of the Public Employment Act and Chapter 4, Section 14 of the Higher Education Ordinance.

9. The employee’s obligation to report secondary employment

All employees
All employees have an obligation, on specific request, to report any secondary employment, and provide the information necessary for the employer to assess it.

The obligation to provide information about a secondary employment that could adversely affect the reputation of the government authority, that is, secondary employment that damages credibility, is regulated in the Public Employment Act (Section 7b).

The collective agreements on salaries and benefits (Villkorsavtal/Villkorsavtal-T, Chapter 13, Section 10) provides government employers with the right to demand information to assess whether or not secondary employment interferes with the performance of duty. The request must be justified, either with regard to the employee’s performance of duty, or with regard to objectivity and impartiality being particularly central for the performance of duty. Examples of when impartiality could be especially important are duties involving procurement, admission to the University, or activities that involve close collaboration with another legal entity.

The employee’s information on their secondary employment is necessary for the employer to make a decision on whether or not a secondary employment is permissible or impermissible under the Public Employment Act (Section 7c) or the collective agreements on salaries and benefits (Villkorsavtal/Villkorsavtal-T, Chapter 13, Section 10). It is therefore both in the employer’s and the employee’s interest that the information supporting the assessment is as complete as possible.

A decision to demand information about secondary employment must obviously be based on facts and take into account the individual’s integrity, and not involve more information than is needed to make an assessment.

If an employee has more than one employment at the University, he or she must report to all workplaces, to enable an assessment on the basis of the current, potentially different, conditions at the various workplaces.

Teaching staff
Pursuant to Chapter 4, Section 15 of the Higher Education Ordinance, teaching staff are obliged to inform the higher education institution of any secondary employment which relates to the subject area of their employment (R&D).
Teaching staff are to report secondary employment related to their subject without being specifically requested to do so.

At Lund University, all teaching staff are to report all secondary employment (not only R&D). The report is to confirm that the employee has read the information and regulations on secondary employment.

Teaching staff who have secondary employments are to report them, and teaching staff who do not have any secondary employment are to confirm this. It is the individual’s responsibility to report any changes with regard to secondary employment, such as changes in the extent of the employment. As long as the information is still current, no new report is necessary.

**Managers covered by the local agreement for managers**

Employees who are covered by the local agreement for managers have a more extensive obligation to report all secondary employments.

### 10. The employer's assessment and decision on termination of secondary employment

The employer assesses and decides on secondary employment. The Regulations on Secondary Employment and the Rules on the Allocation of Decision-Making Powers at Lund University regulate who is to make the assessment, and decide on behalf of the employer.

Reported secondary employment is to be assessed individually and based on the aspects of confidence, performance of duty, and competition. It is important that those who assess secondary employment have sufficient information to be able to make an assessment. If essential information is missing in the report, there is an opportunity to ask additional questions, including via the University’s staff management system.

If an employee has more than one secondary employment, they are to be reported and assessed separately and together. The secondary employments may be collectively considered to interfere with the performance of duty, even if they individually are considered permissible.

If the employer determines that a secondary employment is permissible, the assessment is to be justified and recorded in the University’s staff management system.

If the employer finds that a secondary employment is at risk of being assessed as impermissible, the matter should primarily be solved through consultation and discussion with the employee. The conversation is to be recorded.

If the employer, following the conversation, assesses that the secondary employment is impermissible, the assessment is to be justified and recorded in the University’s staff management system.

---

7 For professors, this is regulated by the local agreement for professors.
The University shall, if necessary, make an individual decision that an employee is to terminate their secondary employment, or prohibit the employee from undertaking the secondary employment.

Before making the decision on termination or prohibition, the employer should consult with the designated contact person for secondary employment issues at the relevant faculty.

A decision by the employer that the employee must terminate their secondary employment can be re-examined in court in accordance with the Swedish Labour Disputes Act.

11. The employer’s obligation to negotiate

A decision requiring an employee to terminate a secondary employment that interferes with the performance of duty or competes with the University’s activities is to be preceded by a negotiation, in accordance with Sections 11 and 13 of the Employment (Co-Determination in the Workplace) Act. The Regulations on Secondary Employment and the Rules on the Allocation of Decision-Making Powers at Lund University regulate who is to represent the government authority in such a negotiation. There is no obligation to negotiate in situations of secondary employment that damages credibility.

12. Responsibilities and penalties for impermissible secondary employment

The employee is responsible for making sure that the secondary employment, on the side of their regular employment, does not damage credibility. Ignorance of the rules on secondary employment does not absolve him or her of this responsibility.

If the employee continues their secondary employment after having been requested to terminate it, they may be subject to disciplinary measures for professional misconduct, or be given notice. This applies to all forms of secondary employment, that is, also secondary employment that interferes with the performance of duty or competes with the University’s activities. Such a decision is made by the Staff Disciplinary Board at Lund University, or for professors, by the Swedish National Disciplinary Offence Board.

The penalty for having a prohibited secondary employment depends on whether or not the employer clearly informed the employee of the rules that apply for secondary employment. Furthermore, the line manager may have been aware of the secondary employment and its extent, but failed to take action. In such cases, the failure to take action may result in labour law consequences for the manager.
Current regulations on secondary employment

The Instrument of Government

Chapter 1, article 9
Courts of law, administrative authorities and others performing public administration functions shall pay regard in their work to the equality of all before the law and shall observe objectivity and impartiality.

The Swedish Administrative Procedure Act

Section 11
The person charged with handling a matter is disqualified:
1. if the matter concerns himself or his spouse, parents, children, brothers or sisters or someone else who is closely related to him, or if he or someone closely related to him can expect extraordinary advantage or detriment from the outcome of the matter,
2. if he, or anyone closely related to him is the legal representative of someone that the matter concerns or of anyone that can expect extraordinary advantage or detriment from the outcome of the matter,
3. if the matter has been brought before the authority by an appeal against or the subordination of the decision of another authority or by reason of the supervision of another authority and he had taken part earlier under the auspices of the subordinate authority in the final handling of a matter concerning the same material issue,
4. if he as regards the material issue has served someone as a representative or has assisted him for payment, or
5. if there is some other special circumstance that is likely to undermine confidence in his impartiality in the matter.
Disqualification shall be disregarded where the question of impartiality is obviously of no importance.

Section 12
A person who is disqualified may not handle the matter. He may, however, take those steps that cannot be made by someone else without an inconvenient delay. Anyone who knows of any circumstance that could constitute his disqualification is obliged to disclose it on his own motion.
If an issue of disqualification has been raised and the person in question has not been replaced, the authority shall decide the issue of disqualification as soon as possible. The challenged person may not take part in the consideration of the issue of his disqualification, unless the authority is not competent to act without him and there is no one available to replace him without an inconvenient delay.
A decision concerning an issue of disqualification may be appealed against just in conjunction with an appeal against the decision by which the authority determines the matter.


Section 7
An employee may not have any employment or any assignment or exercise any activities that may adversely affect confidence in his or any other employee’s impartiality in the work or that may harm the reputation of the authority.

Section 7a
The employer shall in an appropriate way inform the employees of which kinds of circumstances can constitute incidental employment that is not allowed under Section 7.

Section 7b
An employee shall at the request of the employer provide the information necessary for the employer to be able to assess the employee’s incidental employment.

Section 7c
An employer shall decide that an employee who has or intends to undertake incidental employment that is not compatible with Section 7 shall cease with or not undertake such incidental employment. This decision shall be in writing and include reasons.

Section 7d
A permanent judge and heads of authorities that report directly to the Government shall on their own initiative notify to the employer what kinds of incidental employment they have.

The Swedish Employment Ordinance (1994:373)

Section 11
Reporting of secondary employment in accordance with Section 7d of the Public Employment Act is to be in writing. Ordinance (2002:1041).

The Swedish Higher Education Act (1992:1434)

Chapter 3, Section 7
In parallel with their teaching posts, teachers at higher education institutions may undertake employment or assignments or pursue activities relating to research and development work within the subject area of their posts, if in doing so they do not undermine the confidence of the general public in the higher education institution. Such secondary occupations shall be kept clearly separate from the tasks assigned to them within their posts. Other issues relating to secondary occupations are subject to the provisions laid down in the Public Employment Act (1994:260). Ordinance (1997:797).

The Swedish Higher Education Ordinance (1993:100)

Chapter 4, Section 14
A higher education institution shall provide appropriate information to their teachers about secondary employment or types of secondary employment that contravene Section 7 of Chapter 3 of the Higher Education Act (1992:1434). A
higher education institution shall provide its teachers with advice in assessing whether a certain form of secondary employment complies with the provision. If a teacher so requires, the higher education institution shall issue a written response on an issue of this nature. Section 7a of the Public Employment Act (1994:260) lays down that a higher education institution shall provide its employees with appropriate information on the types of circumstances that could lead to secondary employment being incompatible with Section 7 of the Public Employment Act. Ordinance (2010:1064).

Chapter 4, Section 15
A teacher is obliged to keep the higher education institution informed of any secondary employment that he or she undertakes and that pertains to the subject area of his/her post. The higher education institution shall keep records of this information. These records shall be arranged to enable continuous monitoring of the secondary employment undertaken by each teacher.

Collective agreements on salaries and benefits
*Villkorsavtal/Villkorsavtal-T*

Chapter 13, Section 10
An employee is obliged, on request, to provide the employer with information about whether and to what extent they have undertaken secondary employment. However, the employer may only requests such information if they consider there to be just cause with regard to the employee’s performance of duty. The employer may require the employee to fully or partly terminate their secondary employment if the employer believes that it interferes with the performance of duty.

Annex 8
Special provisions for doctors (addition to Chapter13, Section 10
*Villkorsavtal/Villkorsavtal-T*)
Medical doctors may not engage in private medical practice, within the healthcare organisation or the authority.

Chapter 13, Section 11
Employees of government authorities who conduct business or other activities for the authority may not be employed by or work for companies in this area of operations. The employee may also not personally or through someone else run such a company, nor may they on behalf of someone else engage in such activities that relate to this area of operations (secondary employment that competes with the University’s activities). The first paragraph does not apply if the employer agrees to something else. If such consent has been given, the employee is obliged, on request, to inform the employer about the nature and extent of the secondary employment that competes with the University’s activities.

Agreement for managers (state-wide collective agreement)

Chapter 9, article 2
The employee has a duty to provide their employer with information about whether and to what extent he or she has or intends to undertake secondary
employment. The employer may require the employee to terminate all or part of their secondary employment, and not to undertake any secondary employment that may interfere with the performance of duty.

Note: In accordance with the local agreement on management at Lund University, ‘manager’ refers to the Deputy Vice-Chancellor, the Pro Vice-Chancellors, the Head of Administration, the Director of Human Resources, the Head of the Internal Auditing Office, and the faculty Deans.

Local agreement for professors (University-wide collective agreement)

Section 3, point 1
The employee has a duty to provide their employer with information about whether and to what extent he or she has or intends to undertake secondary employment. The employer may require the employee to terminate all or part of their secondary employment, and not to undertake any secondary employment that may interfere with the performance of duty.