



UMEÅ UNIVERSITET

INSTRUCTIONS – SECONDARY EMPLOYMENT

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Table of contents

1.	Description.....	1
2.	Background.....	1
3.	Basic requirements for secondary employment.....	1
4.	What is and what is not secondary employment?	2
4.1	What is not secondary employment?.....	3
5.	Who should report secondary employment?.....	3
6.	Which secondary employment must be reported?.....	4
6.1	Employees covered by the Manager Agreement.....	4
6.2	Teaching staff	4
6.2.1	Secondary employment of adjunct teaching staff and guest lecturers	4
7.	What is a research and development secondary employment?.....	5
8.	Normally permitted secondary employment.....	5
9.	Unauthorised secondary employment.....	6
9.1	General	6
9.2	Secondary employment that undermines confidence.....	6
9.2.1	Assessment of whether secondary employment undermines confidence in the University	7
9.2.2	Conflicts of interest.....	8
9.2.3	Secondary employment and constitutional rights and freedoms	8
9.3	Secondary employment that prevents performance of duties	9
9.3.1	Assessment of whether secondary employment prevents performance of duties	9
9.4	Competing secondary employment.....	9
9.4.1	Assessment of whether secondary employment competes with the main employer	10
10.	Decisions about secondary employment	10
10.1	Decisions about secondary employment.....	10
10.2	Secondary employment that undermines confidence.....	10
10.3	Secondary employment that prevents performance of duties and competes with the main employer.....	11

11.	Responsibility and sanctions	11
12.	Information and advice.....	11
12.1	Documentation requirements	12

1. Description

These instructions provide information about secondary employment and how it should be managed. The document is particularly intended for those who, according to the Higher Education Ordinance and the Manager Agreement, are required to report secondary employment but also for other employees. The instructions are also intended for managers who assess secondary employment of staff.

These instructions include information that Umeå University must provide to its employees in accordance with Chapter 4, Section 14 of the Higher Education Ordinance (1993:100) (HF) and Section 7a of the Public Employment Act (1994:260).

2. Background

Options for and requirements related to secondary employment are regulated in both statutes and collective agreements. Rules for reporting and assessing secondary employment are defined in Umeå University's "Rules for reporting secondary employment for teaching staff" and employees covered by the Manager Agreement.

In public operations in general and in the exercise of official authority in particular, it is important that the public have unwavering confidence in the University as a public authority and in individual members of staff.

Umeå University collaborates with companies, public authorities, organisations and other external actors where teachers within their respective areas of expertise take on assignments and are involved in activities outside of the University. Achieving real-world impact through collaboration must not undermine the public's confidence in the University and must comply with existing regulations.

The intention of these instructions is to provide detailed information and understanding of the regulations and to facilitate the assessment of secondary employment by staff.

3. Basic requirements for secondary employment

Staff should be aware of the following when having, or planning to have, secondary employment alongside their employment at Umeå University. These can also support managers when assessing secondary employment of staff.

- **Do not confuse your roles.** An employee with secondary employment must keep their other work clearly separate from their duties at Umeå University. Be careful to distinguish between what you do within your employment at the University and what you do in your secondary employment. If you do not clearly distinguish between the two, there is a risk that colleagues and others will not know what role you have or who you work for.
- **Do not use the University's resources.** You may not use the University's materials, brand, staff resources, email address or phone number to conduct work in your secondary employment or in your company. The same applies to the University's premises and equipment, such as computers, mobile phones, laboratories and machines. Any deviation from this requires drawing a special agreement regarding

the use of the University's infrastructure, see "Rules for research infrastructures at Umeå University".

- **Prioritise work at Umeå University.** The work you do in your secondary employment is to be done outside of your University working hours. You are not permitted to have such extensive secondary employment that you do not have the time or energy to fulfil all of your responsibilities at the University or that you negatively impact the ability of other staff members to perform their work at the University.
- **Be aware of conflicts of interest.** For example, this means that you may not decide on or be involved in administering a matter that concerns your secondary employment. Additionally, you may not independently decide on purchasing goods or services from your own company or decide that your company should use the University's premises or equipment. You are not permitted to approve or authorise payment of invoices from your company. Remember that it could be a conflict of interest if you decide on or are involved in administering a matter that concerns a close relative or friend or their company. Avoid inappropriate conflicts of interest that could negatively undermine public confidence in research.
- **You are not allowed to receive compensation or to charge consulting fees from the University.** Secondary employment should not normally result in business transactions between you or your company and the University. All work you do for the University is done within the framework of your employment and is compensated in the form of a salary. This means, for example, that the teaching you conduct for a department other than your own is done so within your employment at Umeå University. If, due to exceptional reasons, a transaction must still occur between you and the University, this must first be approved by the university director.
- **The University's research and education is conducted by the University.** You may not compete with the University by privately undertaking a research or teaching assignment that is to be conducted by the University. You are also not allowed to assign or work to assign parts of the University's research or other assignments to your own company.
- **Report secondary employment.** Teachers are required to report secondary employment in the University's personnel administration system, Pass, by the last day of February each year. Similarly, staff covered by the Manager Agreement report their secondary employment no later than 30 March. The report is to describe the content of each secondary employment so that the head of department or equivalent can assess whether the secondary employment needs to be reviewed further. "Appointments procedure for teachers at Umeå University" defines which roles are teaching posts at the University. The local manager agreement defines which roles and positions are covered by the Manager Agreement.

4. What is and what is not secondary employment?

In principle, any other employment or activity that an employee has in addition to their university employment and that is not related to the employee's private life is secondary

employment. This applies regardless of whether the secondary employment is temporary or permanent. It does not matter whether the secondary employment provides financial compensation or whether the company to which the secondary employment is connected is dormant.

This means that employment, assignments or commitments that an employee has or fulfils with another employer or contractor or as part of their own company is considered secondary employment.

However, not all secondary employment need be reported. Read more about which secondary employment and groups must self-report secondary employment under “Which secondary employment must be reported?”.

4.1 What is not secondary employment?

Activities typically belonging to an employee’s private life are not considered secondary employment. For example, pursuing a hobby or leisure activity or looking after one’s and the family’s property and private affairs are not secondary employment. Nor is holding a board position in your local housing association or having responsibilities in your children’s sports club.

For university lecturers, academic assignments where compensation is paid, such as external reviewer and external expert, serving as a member of examining committees, and less extensive assignments for research councils and scientific journals, are also not considered secondary employment because this is work within the framework of employment at the University. The same applies to assignments from the Vice-Chancellor, dean or head of department, where the employee is appointed to be the University’s representative on, for example, an external board or foundation or in an industry organisation.

Clinical practice associated with joint and combined positions at a healthcare unit are also not considered secondary employment.

5. Who should report secondary employment?

Each year, teachers and staff covered by the Manager Agreement are to self-report the secondary employment they have at the time of reporting and any secondary employment they plan to have in the coming year. If the situation changes, the change must be reported during the year.

Technical and administrative staff are not required to self-report secondary employment annually, but a manager may request and assess the secondary employment of such staff if given reason to.

6. Which secondary employment must be reported?

6.1 Employees covered by the Manager Agreement

Employees who are covered by the Manager Agreement are required to report all secondary employment, both subject-related and non-subject-related.

6.2 Teaching staff

Teaching staff are to report secondary employment related to their employment's subject area and that is external to their employment at Umeå University. This means secondary employment related to the subject area that takes place at another employer or contractor or is part of their own company.

This can include subject-related secondary employment like:

- o teaching assignments or participation in teaching;
- o research or development assignments or clinical activities;
- o business operations or board assignments;
- o other types of secondary employment.

For example, "related to their employment's subject area" means that a teacher who owns forest or agricultural property must report their holding as secondary employment if the teacher works at the University with a subject area related to forestry or agriculture. The opposite applies when there is no connection to the main employment's subject area. In that case, ownership of forest or agricultural property is not reported as secondary employment.

If reasons exist, the employer can also require reporting and assess secondary employment which teaching staff are not normally required to report as above. The employee is then obliged to report this secondary employment.

6.2.1 Secondary employment of adjunct teaching staff and guest lecturers

Adjunct teaching staff and guest lecturers have their main employment with an employer other than Umeå University. This means that their employment at Umeå University would normally be secondary employment to the teacher's main employment with the other employer, and conversely, the main employment constitutes secondary employment at Umeå University.

When hiring adjunct teachers or guest lecturers, the University needs to ensure that the individual's main employment does not risk undermining confidence in the work done at the University and that the two positions together can be performed without a situation arising that would prevent performance of duties.

Reportable secondary employment is any other secondary employment within the subject area, that is to say secondary employment *outside* the main employment and the employment at Umeå University. Such secondary employment must be reported to ensure that there are no other unauthorised secondary employment outside the adjunct teacher's or guest teacher's main employment.

7. What is a research and development secondary employment?

University lecturers have expanded options to conduct subject-related R&D secondary employment. As per Chapter 3, Section 7 of the Higher Education Act (1992:1434), a university lecturer may, beyond their employment as a teacher at the higher education institution, have employment or assignments or conduct activities regarded as research or development work within the employee's subject area.

However, such secondary employment may not undermine the public's confidence in Umeå University. The secondary employment should be kept clearly separate from the teacher's work in their position at Umeå University. Nor may it prevent performance of the teacher's regular duties or compete with the University's contract services.

This rule should be viewed in a positive light. It gives teachers the right to have secondary employment within the subject area of their employment in a way that is not permitted for other public employees. The intention is to leverage the qualified and specialised expertise of teaching staff. Teachers are encouraged to actively share their knowledge for the benefit of society. Conversely, teachers and the University gain experience from the external activity.

The employee categories defined as teachers at the University are specified in the "Appointments procedure for teachers at Umeå University".

Examples of permitted R&D secondary employment:

- Advice on scientific questions or other comparable consulting assignments within the teacher's subject area;
- The teacher's production based on the teacher's own inventions or on production methods developed by the teacher;
- Board member of a company whose operations are connected with the teaching staff member's subject area.

Examples of secondary employment not considered to be based on the teacher's highly qualified and specialised expertise and therefore *not* considered R&D secondary employment include:

- Assignments that the teacher receives because of their general expertise and less for their subject-specific expertise.
- Purely teaching assignments, regardless of whether the assignment relates to the teacher's subject area or not.

8. Normally permitted secondary employment

Below are examples of normally allowed secondary employment.

- Political elected positions and other state or municipal assignments;
- Elected positions within union organisations;
- Elected positions within other non-profit organisations and associations unrelated to the individual's employment.

Even the above noted secondary employments are to be reported as specified in the University's rules for secondary employment, "Rules for reporting secondary employment for teaching staff and employees covered by the Manager Agreement". This means that teaching staff are to report the secondary employment related to their employment's subject area and that is external to their employment at Umeå University. Employees covered by the Manager Agreement are to report all secondary employment.

9. Unauthorised secondary employment

9.1 General

As a public employee, it is prohibited to have certain types of secondary employment. These restrictions are regulated in legislation and collective agreements. Unauthorised secondary employment involve:

- Secondary employment that undermines confidence in the main employer – Section 7 of the Public Employment Act;
- Secondary employment that prevents performance of duties – Chapter 13, Section 10 of the General Agreements on Pay and Benefits;
- Secondary employment that competes with the main employer – Chapter 13, Section 11 of the General Agreements on Pay and Benefits.

The assessment of whether secondary employment is permitted is made based on an overall assessment of all the circumstances in each individual case. Secondary employment may be allowed for one person but not allowed for another.

The prohibition on secondary employment that undermines confidence and that competes with the main employer also applies when the employee is on leave from employment.

The prohibition on secondary employment that undermines confidence, prevents performance of duties, and competes with the main employer applies to all employees at the University, regardless of type of employment. The prohibition includes teachers and those covered by the Manager Agreement as well as technical and administrative staff.

9.2 Secondary employment that undermines confidence

The prohibition on secondary employment that undermines confidence is based on the special demands for integrity that come with being a public employee. The ban on secondary employment that undermines confidence refers to the relationship between the public authority and the public.

Section 7 of the Public Employment Act states that an employee may not have any employment or any assignment or conduct any activities that may adversely affect confidence in their or any other employee's impartiality in their work or that may harm the reputation of the authority. This means that an employee may not take on secondary employment that risks leading to conflicts of interest or other situations where the employee's impartiality and objectivity can be challenged.

Simply having a reason for the public to question the objectivity of the authority or an employee is sufficient to classify secondary employment as undermining confidence. A

potential risk of damaging the reputation of the University because of the existence of secondary employment is also sufficient.

9.2.1 Assessment of whether secondary employment undermines confidence in the University

An overall assessment must be made of the circumstances that may be significant for maintaining public confidence in Umeå University, for the employee's impartiality or the impartiality of any other employee at the University. This assesses the level of risk that the secondary employment will impact confidence in the current matter and what risk can be accepted.

When assessing the risk of undermined confidence, consideration is given both to the extent of the secondary employment and how the secondary employment relates to Umeå University's area of activity.

Secondary employment that undermines confidence in the University is considered to exist when:

- the secondary employment causes the employee to risk having a conflict of interest when performing their duties at the University;
- the secondary employment risks impacting the public's confidence in the University's educational and the research activities;
- holding secondary employment gives the impression that the University is involved in or endorses the secondary employment.

Factors and situations that may affect the assessment

Below are examples of factors and situations that may affect the assessment of whether secondary employment undermines confidence or not:

- **The scope of the secondary employment** – is the secondary employment so extensive or does it occur for such a long time that the employee's loyalty can be questioned?
- **The financial scope** – does the secondary employment result in such extensive financial benefits that the employee's loyalty can be questioned?
- **Job duties** – do the employee's job duties at the University place special demands on unwavering confidence? For example, exercising authority, administrative duties, procurement or supervisory duties.
- **The employee's position at the University** – does the employee have a position such that the secondary employment could be assumed to undermine confidence in the University's operations? Higher expectations may be placed on individuals in leading positions, such as the Vice-Chancellor, deans, heads of department.
- **The duties of the secondary employment** – does the secondary employment involve basic or qualified duties? More qualified duties – greater risk of undermining confidence.
- **Position in the company** – does the employee have such a position in the company where the secondary employment is conducted that their loyalty to the University can be questioned?
- **Shared secondary employment** – do multiple employees at the same department have joint financial interests in a specific secondary employment? This may cause suspicion that the external interest may impact the direction of activities conducted at the department.

9.2.2 Conflicts of interest

The conflict of interest rules are defined in Sections 16-18 of the Administrative Procedure Act (2017:900) and regulate who is considered to have a conflict of interest when administering matters and decisions. The purpose of the rules is to guarantee impartiality and objectivity in decisions and that the public has confidence in how matters and decisions are administered.

Decision-makers and administrative officers have an obligation to ensure that they are objective in how they administer the matters that they can influence. All employees thus have an obligation to report and self-report any incident where a conflict of interest may exist.

There is no requirement of lack of impartiality or that the individual acts in a specific way to be considered to have a conflict of interest. A conflict of interest exists as soon as there is a risk that the public could believe that the individual or someone else involved in the matter is not acting impartially.

Situations with conflicts of interest in decision-making can also create inappropriate conflicts of interest in research situations that do not in themselves involve administering the actual matter and decision-making but where public confidence in the University's operations and research results can be undermined.

Examples of such matters can include:

- X collaborates in their research project with a company in which X is also a board member;
- X is the supervisor of a doctoral student who is employed in a company in which X is also a partner;
- X is a partner in a company that is a party to an externally funded research project where the University is the fund manager and project funds are to be paid from the University to the company.

For more information about conflicts of interest, refer to the "Policy against corruption" and the University's information on "Conflicts of interest, bribery and corruption" on the intranet. Contact a legal officer if you are unsure about how to assess a situation.

9.2.3 Secondary employment and constitutional rights and freedoms

When assessing whether secondary employment undermines trust, in some cases the employee's constitutional rights and freedoms may limit options for responding to the secondary employment.

The National Labour Court's judgment AD 2003 no. 51 states that if an employee has exercised their constitutional rights and freedoms, as a rule an authority cannot intervene against the employee of the authority, even if the employee has caused disruptions to operations or undermined the authority's reputation and the public's confidence in the authority. However, if it were an employee with a distinct position of trust and direct responsibility for the authority's decisions or in other extreme situations, the situation could be different. There is also scope for taking measures due to serious difficulties in cooperation, even if such difficulties in cooperation may ultimately to some extent be due to an employee exercising their constitutional rights and freedoms. Of course, an authority should also be able to intervene against an employee who does not perform their duties properly.

Contact a legal officer in situations where questions arise about whether the employee's constitutional rights and freedoms are related to the current secondary employment.

9.3 Secondary employment that prevents performance of duties

Secondary employment that prevents performance of duties is regulated in Chapter 13, Section 10 of the state General Agreements on Pay and Benefits. The agreements specify that an employee may not have secondary employment that can prevent the performance of their duties at their main employment.

This rule is intended to prevent an employee's secondary employment from impacting their work negatively. This includes impact on time, such as duties that cannot be completed within specified timeframes, and if the secondary employment in any other way impacts the employer's ability to lead and assign work.

9.3.1 Assessment of whether secondary employment prevents performance of duties

When assessing whether secondary employment is permitted, factors such as high absenteeism, unsatisfactory work performance or an employee taking a long time to complete a task may be signs that the secondary employment prevents performance of duties.

Secondary employment that prevents performance of duties is considered to exist:

- when an employee has secondary employment that is of such scope or is planned in such a way that the employee cannot fully perform their duties at Umeå University;
- when the scope of the employee's secondary employment results in the employee not reserving time for necessary daily and weekly rest for the work conducted at the University.

The risk that secondary employment will be deemed to prevent performance of duties is reduced if the individual has taken a leave of absence to the same extent and period of time as the secondary employment. Taking holiday to perform the secondary employment may be an option if this only involves a few days. The secondary employment must not impact the employee's need for rest and relaxation.

9.4 Competing secondary employment

Competing secondary employment is regulated in Chapter 13, Section 11 of the state General Agreements on Pay and Benefits. The employee may not be employed or assigned to a company that conducts operations in an area where the authority provides contract services. The employee may also not participate in or independently conduct contracted work in a company that competes with Umeå University's contract services.

Competing secondary employment also poses a great risk of undermining confidence. The general rule is that competing secondary employment is not permitted.

9.4.1 Assessment of whether secondary employment competes with the main employer

Secondary employment that competes with the main employer is considered to exist:

- when a teacher holds a course in the same subject and specialisation conducted by or is considered to be conducted by Umeå University's contract education;
- when a teacher provides contract research in the same subject and specialisation conducted by or is considered to be conducted by Umeå University.

Employees considering performing work *that can and should normally be performed by Umeå University* as contact services must, before beginning the secondary employment, first check with the head of department or director to clarify whether the secondary employment may be competitive.

10. Decisions about secondary employment

10.1 Decisions about secondary employment

Upon request by an employee, the employer must provide written notice of whether secondary employment, in the University's assessment, undermines confidence in the university, Chapter 4, Section 14, Paragraph 1 of the Higher Education Ordinance, cf. Section 7 of the Public Employment Act. These types of assessments are provided by the University Director.

10.2 Secondary employment that undermines confidence

According to Section 7c of the Public Employment Act, the employer has an obligation to prohibit secondary employment that are deemed to undermine confidence. The Vice-Chancellor determines whether to prohibit secondary employment that undermines confidence, and this determination applies to cases where the staff member is to end or not accept secondary employment. The employee is to be informed in writing of the decision, which must explain why the secondary employment is not permitted.

When assessing whether secondary employment undermines confidence in the University, the employer is to assess the risk of undermining confidence based on each individual case. The assessment is based on the circumstances that may be significant for maintaining public confidence in Umeå University. Circumstances, such as the nature of the secondary employment, its scope, the employee's personal interest in pursuing the secondary employment (for example, the financial scope), the employee's position at both the University and the company where the secondary employment occurs, and the points of contact with the employment at the University must be considered.

Decisions regarding undermining confidence are not negotiated based on the Co-Determination in the Workplace Act. Instead, the provisions of the Administrative Procedure Act (2017:900) regarding the right to be informed of the matter and the right to express an opinion apply. The employer's decision can be appealed to the National Labour Court.

10.3 Secondary employment that prevents performance of duties and competes with the main employer

If the University decides that secondary employment prevents the performance of duties or competes with the University's activities, the employee is first advised on their secondary employment. If this does not resolve the situation, the University may decide (with support of the General Agreements on Pay and Benefits and the Manager Agreement) that the employee is to completely or in part end the secondary employment that prevents performance of duties or that competes with the University.

A decision that an employee must cease secondary employment that competes with or prevents performance of duties at the University is made in accordance with the Vice-Chancellor's delegation procedure and is preceded by a negotiation as per Section 11 and Section 13 of the Act (1976:500) on Co-Determination in the Workplace (MBL).

The University's decision regarding secondary employment that prevents performance of duties or that competes with the University cannot be appealed but can be disputed as per the Labour Disputes (Judicial Procedure) Act. If the employee does not end an unauthorised secondary employment after a decision has been made, disciplinary action may be taken, in serious cases termination or dismissal.

11. Responsibility and sanctions

If an employee does not provide information when requested or provides incorrect or incomplete information, the employee may, in the same way as for other violations of employment obligations, be subject to customary labour law sanctions, such as disciplinary action or termination of employment.

If an employee, despite being asked to do so or after a decision has been made, does not comply with Umeå University's decision regarding unauthorised secondary employment, disciplinary action may be taken and, ultimately, termination of employment. This applies to all forms of unauthorised secondary employment, including those that undermine confidence, prevent performance of duties and compete with the University. Such a decision is made by the Staff Disciplinary Board (PAN) or the Government Disciplinary Board for Higher Officials (SAN).

12. Information and advice

As per Chapter 4, Section 14 of the Higher Education Ordinance and Chapter 7a of the Public Employment Act, an employer is to inform their staff about what secondary employment or types of secondary employment are not permitted. The intention of these instructions is to provide detailed information and an understanding of the regulations and to aid in the assessment of staff secondary employment.

Individual advice and information on matters regarding secondary employment are provided within the University primarily by the responsible manager and secondarily by a legal officer.

12.1 Documentation requirements

Chapter 4, Section 15 of the Higher Education Ordinance specifies that employers are responsible for documenting secondary employment by teachers that is linked to the position's subject area. Such documentation must be designed in a way that enables regular monitoring of secondary employment by teaching staff. This is done by reporting secondary employment, which each teacher and employee covered by the Manager Agreement is to do in PASS.