



Guidelines regarding secondary employment at KTH

This document is a translation. In case of a discrepancy between the Swedish original (V-2020-0189) and the English version of the decision, the Swedish version will prevail.

These guidelines set out the regulations on secondary employment that apply to KTH employees. Under Chapter 1 Section 2 of the Higher Education Act, in addition to research and education, a central task of higher education institutions is interaction with the surrounding community (third-stream activities) and the provision of information about such activities. KTH encourages its employees to participate in public debate and is positive to researchers and members of teaching staff sharing their experiences with industry and society in general, for example, through exchanges with schools, companies or other authorities.

General information on secondary employment

Some forms of employment that public sector employees may have alongside their regular employment are not permitted. According to the Swedish Constitution, authorities must observe the equality of all people before the law and be objective in relation to all citizens. Thus, high demands are placed on public sector employees' integrity. They must not engage in any secondary employment that undermines trust, i.e. activities alongside their regular work that could undermine trust in their impartiality or damage the authority's reputation. In addition, public authorities can prohibit secondary employment that interferes with work duties or represents competition.

The rules on secondary employment that undermines trust are stated in the Public Employment Act. For teaching staff at higher education institutions, there are also special rules in the Higher Education Act (1992:1434) and the Higher Education Ordinance (1993:100) which constitute an extended right for teachers to engage in secondary employment linked to research and development (R&D secondary employment), and also a duty to report subject-related secondary employment to the employer.

Reporting secondary employment

Upon request, an employee shall report any secondary employment and provide the information necessary for KTH to be able to assess the secondary employment.¹

In addition, teachers² and managers³, must report, *on their own initiative*, any new secondary employment or change in circumstances that could have an impact on the permissibility of already permitted secondary employment. KTH must also be informed if the secondary employment implies a risk of conflict of interest.

Secondary employment is reported using a special form; see the form archive.

¹ Section 7 b (1994:260) Public Employment Act

² See Chapter 3 Section 7 Higher Education Act (1992:1434)

³ Refers to employees covered by the manager agreement

Guidance

In case of uncertainty about whether or not a form of secondary employment is permitted, the employee shall consult with his/her immediate superior, the HR manager at the school or the HR department at GVS.

Definition of secondary employment

Secondary employment is, in principle, any occupation which is carried out alongside one's regular work and which does not relate to one's private life. Extra work for KTH or another authority may also be considered as secondary employment. Secondary employment could also be an employee's own business or leisure activities. The definition of secondary employment applies irrespective of the scope or duration of the secondary employment or whether or not financial remuneration is received.

Examples of private activities that are not counted as secondary employment could be the management of one's own property or private family matters such as the drawing-up of a probate.

Academic activities that are linked to an employee's employment at KTH and which are carried out within the framework of that position are not counted as secondary employment, e.g. assignments as an external examiner, external expert, member of an examining committee, assignments for a research council or assignments as a lecturer at other authorities/universities.

Assessment of secondary employment at KTH

An overall assessment of whether the secondary employment is permitted is always carried out for each individual case on the basis of all the relevant circumstances.

The permissibility of secondary employment is normally assessed on the basis of the employee's current position at KTH. The prohibition on secondary employment that undermines trust or represents competition applies even when the employee is on full-time or part-time leave.⁴

Secondary employment that undermines trust

An employee at KTH may not have any employment, assignment or carry out any kind of activity that may undermine trust in the employee's own or any other employee's impartiality at work or that may damage the university's reputation⁵. The prohibition on secondary employment that undermines trust applies to all employees regardless of their position. This regulation means, for example, that an employee may not take on secondary employment which causes a *conflict of interest* in the employee's regular work.

It should be noted that the provision of secondary employment that undermines trust does not require the actual undermining of trust, only that such a situation *could* arise. It is the risk of trust being undermined that is the crucial part of the assessment of the permissibility of the secondary employment⁶. When the risk of trust being undermined is examined, an *overall assessment* is made of

⁴ Cf. Bill 2000/01:147

⁵ See Sections 7 – 7 d (1994:260) Public Employment Act

⁶ This is expressed as follows in the "*Public sector employees' secondary employment*" inquiry: "It is not required that the employee has actually been or may be feared to be biased regarding a particular matter or that the general public's trust in the employee or the authority has actually been undermined.

the circumstances which may affect the general public's trust⁷. The assessment will be based mainly on the following:

- **The scope and nature of the secondary employment** ⁸: Extensive secondary employment is more difficult to assess and can therefore be considered as posing a greater risk. Secondary employment that involves advanced duties often poses a higher risk of trust being undermined, even if the secondary employment is linked to the university's areas of activity (note there are special rules for teachers with R&D secondary employment).
- **The employee's position and duties at KTH**: If the employee's duties involve the exercising of public authority, only a low level of risk can be accepted. The exercising of public authority means the exercise of power or law enforcement, supervision, administration of public property or procurement. *Examination*, for example, is a form of exercise of public authority⁹. The risk of secondary employment being assessed as undermining trust increases even if the employee holds a managerial/senior academic position, has extensive delegation to take decisions, responsibility for a budget, or if the employee otherwise has extensive possibilities of influencing KTH's activities.
- **Regarding financial remuneration for secondary employment** ¹⁰: Secondary employment can undermine trust even if no remuneration is paid. However, if a large amount of financial remuneration is paid, that may be a factor that contributes to the secondary employment being assessed as undermining trust.

Secondary employment that represents competition¹¹

Secondary employment that competes with research, education, development work, contract research, contract education or contract-based development work at KTH is not permitted.

Secondary employment that interferes with duties

Secondary employment is assessed as interfering with duties if it has a negative impact on the employee's ability to perform his/her work duties. If secondary employment is believed to have a negative effect on the employee's performance at work or cause recurrent/extensive absence, KTH may prohibit the secondary employment. The scope of the secondary employment should not exceed 20 % of full-time.

Other restrictions for all secondary employment at KTH

Permitted secondary employment must be kept clearly separate from the employee's work, which means the secondary employment may not be carried out during working hours and KTH's human and material resources, such as staff, machinery, premises and consumables, may not be used for the secondary employment unless a specific agreement has been reached with the Vice-Chancellor.

It is sufficient that there has been reason for the general public to question the objectivity of the authority or an employee." SOU 2000:80, p. 88.

⁷ Cf. AD 2014 No 45

⁸ A Bill p. 75 f.

⁹ A SOU a s, SOU 2000:80 p. 89, AD 1989 No 23

¹⁰ SOU 1969:6 p. 79

¹¹ See Terms and conditions agreement/Terms and conditions agreement-T

Moreover, secondary employment may not be carried out in such a way so it is marketed as part of KTH's activities without the Vice-Chancellor's written approval. This includes the use of KTH's logo, postal address, email address, telephone number, websites and data networks.

Teaching

Secondary employment that involves teaching on KTH's behalf and then invoicing KTH via a sole proprietorship business or a company of which the employee or a relative of the employee is a member of the board or an owner is not permitted. Forms of secondary employment that are usually permitted

The following forms of secondary employment are permitted in most cases:

- Political and trade union positions of trust¹²
- Assignments on account of a court order
- Government or municipal assignments in general
- Board assignments for non-profit organisations, housing cooperatives, community associations and the like.

Special rules for university teaching staff's subject-related research and development secondary employment (R&D secondary employment)

Teaching staff¹³ at KTH have an extended right to undertake certain forms of secondary employment related to research and development *within the same subject area*¹⁴ as their regular employment. This is known as R&D secondary employment.

The extended right of teaching staff to engage in R&D secondary employment implies a higher degree of tolerance regarding secondary employment that is linked to their regular employment duties and of a more advanced nature than is normally the case for public sector employees.

Examples of permitted forms of R&D secondary employment at KTH:

- Advice on scholarly matters within the subject area of the teacher's employment
- Board assignments within the subject area of the teacher's employment
- Consultancy assignments within the subject area of the teacher's employment
- Assignments based on an invention/product/method developed by the teacher within the subject area of the employment.

However, the following are *not permitted*:

- Teaching does not count as subject-related R&D secondary employment. Teachers at KTH are not allowed to do teaching that represents competition with KTH contract education.¹⁵

¹² Cf. AD 2011 No 83

¹³ Teaching staff refers to professors, visiting professors, adjunct professors, associate professors, assistant professors and lecturers. Researchers and doctoral students are not defined as teaching staff. Cf KTH's appointments procedure.

¹⁴ The Head of School defines the boundaries of the teacher's specific subject competence in relation to the secondary employment in question.

¹⁵ The Head of School decides whether KTH is conducting contract education

- Secondary employment in the form of research or development work that a teacher undertakes on the basis of general knowledge rather than subject-specific competence is not to be considered as R&D secondary employment.

Other information regarding R&D secondary employment

Given the importance of the objectivity of research, a teacher should not, for example, have secondary employment in a company that has an interest in asserting a particular opinion regarding the teacher's area of science.

There may also be a risk of trust being undermined if the teacher has extensive influence in a company that operates within the subject area of his/her own group or if several teachers at a department have a joint financial commitment outside KTH through secondary employment.

Such a commitment is particularly serious if it can give rise to suspicion that it is affecting the department's activities or choice of collaboration partners or if the teachers are undertaking assignments through their private business that could have been undertaken by the university.

Special rules regarding secondary employment in conjunction with collaboration with research companies (research, utilisation, commercialisation)

The following applies to an employee who is engaged in secondary employment in collaboration with KTH and research companies in which the employee has an interest:

- Any circumstances that could entail a risk of conflict of interest, partiality or other undermining of trust between the research company, the employee/employee's research team and KTH must be clearly stated and reported to KTH in the application for research funding/project application and when the project agreement is drawn up.
- It must be made clear latest at the time of the drawing-up of the project agreement that the research company can fulfil its obligations under the project agreement with its own employees¹⁶.
- The employee concerned must not be the manager of the project and preferably not a member of the project's steering committee either. However, it is possible for the employee to be part of the steering committee if this is necessary for research purposes. In that case, KTH (Head of School) shall appoint one of the employee's superiors as the official representing KTH for all project decisions other than those only relating to everyday research activities¹⁷.
- The employee concerned must not be responsible for the results, the evaluation of the project, or collaboration with others.

¹⁶ This condition does not apply if the project results do not require that the work is carried out via the research company.

¹⁷ Examples of decisions that are not everyday research activities: changes in the project's research focus, changes in the project contract, procurement/purchasing, evaluation, budget/certification matters, employment matters.

Other information regarding secondary employment that is undertaken as collaboration between KTH and research companies in which the employee has an interest

KTH shall pay particular attention to the risk of trust being undermined in connection with collaboration with research companies in which several employees or an entire research team are stakeholders.

KTH and the employee shall take the necessary measures to avoid the risk of conflict of interest or undermining of trust with regard to KTH's objectivity and impartiality in the preparation and deciding of matters concerning the exercise of public authority, financial transactions, the handling of agreements and invoices, certification, academic issues and processes, research funding, etc.¹⁸

Decision on secondary employment and the review of such a decision

Decision on secondary employment

It is the responsibility of each head at KTH to ensure that his/her employees report secondary employment.

The Head of School, HR manager at the school, the employee's immediate superior and the head of human resources at KTH have the right to request on a case-by-case basis a secondary employment report from a specific employee. In addition, the head of human resources at KTH has the right to make a general request for a secondary employment report from all employees at KTH.

The employee's immediate superior makes an initial assessment of whether the circumstances are such that there are grounds for further investigation in order to assess whether or not the secondary employment is permitted.

For employees not covered by the manager agreement, it is the Head of School, after consultation with the head of human resources, who decides on the prohibition of secondary employment that has been assessed as not being permitted.

In the case of employees covered by the manager agreement, it is the Vice-Chancellor who decides on the prohibition of the secondary employment.

KTH gives notification in writing on the permissibility of the employment.

Review of a decision on secondary employment

Employees shall be given written notice of a prohibition of secondary employment and the letter of notice shall include a statement of reasons.

Under the rules stated in the Employment (Co-Determination in the Workplace) Act, a decision by KTH not to permit secondary employment that *undermines trust* shall not be subject to collaboration¹⁹. A decision by KTH not to permit secondary employment that *interferes with duties* or that *represents competition* shall be subject to collaboration according to KTH's collaboration agreement, if the employee is a member of a trade union with which KTH has an agreement.

¹⁸ Cf. conflict of interest rules in Sections 16-18 Administrative Procedure Act (2017:900)

¹⁹ The Employment (Co-Determination in the Workplace) Act (1976:580)

A decision by KTH not to permit secondary employment can be tried in a District Court and/or in the Labour Court²⁰.

Penalties for the pursuit of prohibited secondary employment

An employee who undertakes or continues to pursue prohibited secondary employment or fails to report secondary employment may face labour law sanctions such as disciplinary penalties under the Public Employment Act, termination of employment under the Employment Protection Act or indictment.²¹

²⁰ Labour Disputes (Judicial Procedure) Act (1974:371)

²¹ See Section 22 (1994:260) Public Employment Act