1. Tilburg University's view of work for third parties

Performing work for third parties can stimulate the performance of employees in general and add value to the way in which primary duties are carried out. In addition, work for third parties by employees contributes to Tilburg University's social commitment (Understanding Society). Moreover, it can be conducive to networks that are important for the university and contribute to an attractive working environment in which employees have scope for broad development and knowledge can be converted into business activities with other organizations (valorization).

For these reasons, performing work for third parties is allowed, unless it could have an adverse impact on Tilburg University's interests. Allowing employees to do work for third parties also presents potential risks and problems for Tilburg University, such as conflict of interests, academic integrity, availability of employees, and income.

The risks referred to may arise if employees conduct work for third parties which, among other things, is incompatible with their academic position, harms Tilburg University's academic or business interests, leads to undesirable competition, jeopardizes the qualitative or quantitative execution of primary tasks because insufficient time remains for their completion or because employees are harder to reach. For this purpose, criteria have been elaborated in section 2.3.

The Tilburg University Work for Third Parties Guidelines, which implement Article 1.14 of the Collective Labour Agreement of Dutch Universities (CLA), are also in line with the Netherlands Code of Conduct for Scientific Practice.¹

2. Definitions and criteria

There is a distinction between Tilburg University employees and scholars affiliated to Tilburg University. The CLA and the Tilburg University Work for Third Parties Guidelines apply in full to the first category, but not to the second. Still, this latter category is subject to rules concerning any work for third parties. These rules are discussed separately below.

2.1 Definition

Having regard to Article 1.14, third paragraph, of the Collective Labour Agreement of Dutch Universities and the Netherlands Code of Conduct for Scientific Practice, the following definitions apply in the Work for Third Parties Guidelines.

(a) Work for third parties: work for third parties as referred to in the Collective Labour Agreement of Dutch Universities, i.e., all paid and unpaid activities for third parties, including work as an independent entrepreneur or professional, as well as positions as a supervisory board member, director, governor, or partner of corporations, partnerships, foundations, or associations and the resulting activities, with the exception of:
- functional activities for third parties (see definition under b);
- private activities (see definition under c);
- participation in a trade union.

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¹ For the full text of the Netherlands Code of Conduct for Scientific Practice, see link at http://www.vsnu.nl/scientific-integrity-en.html.
The competent authorities assess the notification of work for third parties on the basis of the following criteria.

(a) **The work for third parties does not interfere with job performance.**

The point of departure is that the employee can (continue to) fully dedicate himself to his work for Tilburg University. This means that work for third parties does not place such demands on time, attention, and energy that they negatively affect the employee’s
functioning. Accessibility must be sufficiently guaranteed (for example, the night porter, who has a full-time job at Tilburg University in the daytime).

(b) The work for third parties does not harm Tilburg University's interests.
Work for third parties in fields in which Tilburg University is active may harm Tilburg University's academic and commercial interests (competitive disadvantage). Moreover, work for third parties may conceivably impact Tilburg University's image and reputation in a negative way (for example, a professor who conducts contract research as part of his own private company).

(c) The work for third parties is consistent with the image of the employee's position.
Work for third parties that, in the perception of stakeholders, raises an unwanted image may negatively impact the functioning of the employee as well as of others in a similar position (e.g., a Tilburg Law School employee who, via his own private company, agrees to act as legal counsel to criminals).

(d) Any appearance of a conflict of interests is avoided
In dealing with and performing work for third parties, a clear distinction must be made between a person's private position and that as a Tilburg University employee. Failure to do so, consciously or otherwise, might constitute misuse of position. Work for third parties with which Tilburg University has a commercial relationship (provider-client) is only permitted if and to the extent that a mingling of interests is precluded beforehand. It cannot be allowed that employees who, by virtue of their position, are involved in concluding contracts between Tilburg University and third parties perform work for these third parties.

In principle, performing work for third parties whereby Tilburg University is the purchaser is not allowed, e.g., Tilburg University employees who have an employment contract with Tilburg University and, in addition, do other or similar work or projects for Tilburg University through their private company or as self-employed persons. This is expressly not allowed. Another example is a Tilburg University employee who is a board member of professional soccer club and is commissioned to do research at the university into match fixing in professional soccer.

(e) The use of the university's infrastructure for work for third parties is allowed only if written permission has been granted
When performing work for third parties, Tilburg University facilities and manpower may be used if clear and verifiable agreements have been made beforehand. As a matter of principle, all costs will be passed on. Example: an employee who, as part of his work for third parties, uses Tilburg University facilities (room, projector, laptop) without agreement: not allowed; with written agreements and all costs being passed on: allowed.

2.4. Work for third parties Advisory Commission
If necessary, the competent authorities can submit a case on work for third parties to an Advisory Commission, established for that purpose by the Executive Board. This Commission consists of the managing director of a School or Service, a researcher, the corporate HR director or coordinator, a lawyer from the Legal Affairs Department, the HR manager of a School/Service. This Commission will discuss, assess, and evaluate the case submitted. The Commission's advice will form the basis for a well-considered decision.

2.5. Permission by the employer

(a) The employee must inform the employer of his work for third parties, before the activities start or on commencing work for Tilburg University.
Work for third parties may only be performed with the permission of the employer.
The employer decides within a reasonable term on the employee’s request.
The employer grants permission for a period of four years and may attach conditions and restrictions to the permission. The employee’s approval of publication on his personal homepage on the employer’s website may be one condition for permission.
As regards work for third parties for which the employer has previously given permission, this permission is considered to have been granted for a maximum of four years from January 1, 2014. After this period, the employee has to apply for permission again.
At the employee’s request, the permission can be extended for a period of four years.
The employer can withdraw permission for work for third parties at all times, motivated on the basis of the above assessment criteria.

2.6. The application

The employee uses the work for third parties form to ask the employer’s permission, stating:
(a) the nature of the work for third parties;
(b) the organization for which the work for third parties is performed;
(c) the duration of the work for third parties;
(d) the scope of the work for third parties;
(e) the income for the work for third parties;
(f) whether and, if yes, the work for third parties is performed within or outside the employee’s normal working hours;
(g) whether use will be made of university facilities.

2.7. The ambit of the Work for Third Parties Guidelines

The Work for Third Parties Guidelines is based on Article 1.14 of the Collective Labour Agreement of Dutch Universities. These Guidelines therefore formally apply only to people employed by Tilburg University.

2.8. The ambit of the Netherlands Code of Conduct for Scientific Practice

Tilburg University agrees with the other Dutch universities in endorsing the Netherlands Code of Conduct for Scientific Practice. This Code applies to “[e]very scientific practitioner allied with a university”. This also includes the following persons.
(a) professors and researchers employed by KCS;
(b) professors with endowed chairs and external PhD students affiliated to Tilburg University but employed by other legal entities;
(c) other scholars employed by related parties of which Tilburg University has predominant control;
(d) scholars employed by third parties – for example, FOM (Foundation for Fundamental Research on Matter) – that are affiliated to Tilburg University and who work on research projects supervised by a Tilburg University professor.

When employees in this category of scholars are appointed, it is recommended to ask them to state in writing that they have read the Code of Conduct for Scientific Practice and commit to its contents. Since the Work for Third Parties Guidelines do not apply to this category, they cannot be used as a basis to enforce notification and/or permission as part of the employment contract if these employees perform work for third parties. However, the Code of Conduct does require them to provide a complete and up-to-date overview of relevant ancillary activities at or through the Tilburg University website. Work for third parties can also be stated on the personal homepage. In cases in which an employee is also a scholar/non-employee, the Work for Third Parties Guidelines apply.
2.9. Publication

(a) In compliance with agreements with the Minister of Education, Culture, and Science, work performed for third parties by every member of the academic staff for which permission has been granted will be published. Every member of the academic staff publishes a complete and up-to-date overview of his relevant ancillary activities and makes this information available via his personal homepage on the university’s website (www.tilburguniversity.edu/nl/webwijs).

(b) Publishing work for third parties only takes place if the employee has given written permission and unless compelling objections preclude this (e.g., risks concerning the employee’s safety). This seems to be in conflict with the publication requirement in the Code of Conduct for Scientific Practice. Distinguished in academic and non-academic staff.

(c) The work for third parties relevant to the employee’s position is also registered by the employer in the human resource management system. This information will not be published.

(d) The Netherlands Code of Conduct for Scientific Practice only applies to academic personnel. The support staff will therefore not be asked to publish their work for third parties. It will, however, be registered in Tilburg University’s human resource management system.

2.10. Changes

The employee immediately reports to the employer all changes in the data referred to in Section 2.5.

2.11. Monitoring work for third parties

(a) The School or Service where the employee (or one of the persons in the categories referred to in Section 2.5) works, ensures that each employee has completed and signed the work for third parties form and subsequently arranges for the form to be registered in the human resource management system.

(b) Any work performed for third parties is a fixed item during the annual R&O interview. Where applicable, the information in the human resource management system and on the researcher’s homepage will be checked for completeness and up-to-dateness.

2.12. Sanctions

If work for third parties is performed without permission, sanctions may be imposed in the context of the employment contract, the ultimate consequence being dismissal.