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Public Governance Department

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Employment relationship matters of public officials hospitality, gifts, benefits
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Hospitality, benefits and gifts

1. Purpose and scope of application of the guidelines

The purpose of these guidelines is to provide answers to questions that have arisen in practice as to the issues central government personnel should consider if they are offered benefits, gifts or hospitality in connection with stakeholder cooperation or other official business. At the same time, the guidelines attempt to define the boundaries between acceptable and forbidden behaviour, as far as is possible within the scope of general guidelines. The guidelines also give provisions on the use of government funds to show hospitality or courtesy.

The guidelines apply to personnel in public-service employment relationships and contractual employment relationships in government agencies and public bodies. Branches of government and government agencies and public bodies may, if necessary, issue more detailed instructions for their own personnel. It may also be necessary to issue more detailed instructions for certain agencies and public bodies and groups of public officials. The Ministry of Finance recommends that the guidelines also be taken into account in other central government organisations where liability for acts in office has been laid down in law. The Ministry of Finance asks the other ministries to see to the distribution of the guidelines to such organisations in their branch of government.

These guidelines are also intended for discussion during personnel induction in agencies and public bodies and for inclusion in the induction material. They are also recommended for use in other staff training in agencies and public bodies, as necessary. It is also expedient to inform private sector partners of agencies and public bodies of these guidelines, so that they are familiar with the practices

observed in central government. This makes it easier for an individual public official to decline an offered benefit and prevent awkward situations from arising with partners.

These guidelines replace the previous Ministry of Finance guidelines on hospitality, benefits and gifts (VN/12079/2021). The main principles for accepting and providing hospitality are the same as in the previous guidelines. In Chapter 4, the text on the use of central government funds for hospitality purposes has been made more specific and a reference has been added to the State Treasury's order on the handling of hospitality costs and costs arising from personnel events in the financial rules of accounting offices.

2. General principles

The impartiality and independence of public officials lay the foundation for the activities of public authorities. Public officials must take particular care that their activities are impartial, and they must also be seen to be impartial from the outside.

Under section 15 of the Act on Public Officials in Central Government (750/1994), public officials must not request, accept or receive a financial or other benefit that might compromise trust in them or in the public authority they are serving. The impartiality of official activities is safeguarded in particular by the penal provisions in chapters 16 and 40 of the Criminal Code of Finland (39/1889), which concern giving and accepting bribes and bribery violations, as well as the other provisions of chapter 40 of the Criminal Code concerning offences in office. These provisions of the Criminal Code also concern government personnel with an employment contract.

Receiving customary and reasonable hospitality is not generally considered to endanger trust in the proper performance of official duties. Contacts between public officials and society at large are important, and frequently contribute to the successful performance of official duties. Giving or receiving a gift or benefit constitutes a punishable act due to the possibility of influencing those in a service relationship.

Everyone should inform their supervisor of situations where impartiality may be compromised. The supervisor will consider the matter and make a case-by-case decision on whether the circumstances undermine trust in the performance of official duties in the manner referred to in the Act on Public Officials in Central Government or the Criminal Code of Finland. However, the supervisor's decision does not discharge the individual public official from criminal liability; public officials must also always use their own judgment. In unclear cases, one should refrain from accepting a benefit. For example, meetings with partners can focus on work-related matters and you can pay for your meal yourself.

The provisions on secondary jobs and disqualification contribute to ensuring the independence of official activities. In fact, due to potentially compromised impartiality, accepting a lawful benefit may result in disqualification from official duties concerning the party giving the benefit.

3. Receiving hospitality

3.1. Case law

Defining the boundaries between permissible and forbidden benefits is not unequivocal, and public officials are primarily expected to exercise restraint. For many public officials, cooperation involves daily contacts and events involving negotiations related to their sphere of functions or to the development of that sphere. Factors that may undermine confidence rarely arise from the customary benefits offered in collaboration with another government agency or public body, European Union institutions, or between public authorities.

Case law has drawn attention to the following when considering the circumstances in individual cases:

- matters concerning the party offering the benefit pending with the public authority
- potential influence of the beneficiary
- goals of the party offering the benefit
- whether or not the benefit is customary
- importance of the official role
- position of the public official.

It is also significant whether the benefit is offered at a function to a larger number of public officials or to an individual public official.

The Court of Appeal held (in case HelHO 2013:1681) that a director of technical services was guilty of a bribery violation, because construction companies and a lobbying organisation for the construction industry had paid for the director's work trips to Lapland in 2004–2008. There had been a total of nine trips, and the director's spouse had taken part in some of them. According to the Court of Appeal, the benefits accepted by the director were conducive to undermining confidence in the impartiality of the official activities. The director was ordered to pay 60 unit fines and to forfeit to the State the financial benefit in question, which was EUR 7,590.

In case KKO:2002:51, a detective chief superintendent in the Police Department of the Ministry of the Interior had entered into cooperation and advertising agreements in the name of the Police rally driving association with a company supplying IT equipment to the National Police Board. In accordance with the practices of the association, the detective chief superintendent was allowed to use the money paid by the company to cover the detective chief superintendent's

costs arising from rally activities. Accepting this money fulfilled the criteria of a bribery violation and was deemed to be unlawful.

Case law has deemed as illegal benefits such as accepting payment of a restaurant bill (KKO 2000:40; called the Water Court case) and participation in an opera festival at a client's expense in a case where imputed charges against the Director General of KELA were dropped. Matters concerning the party offering these benefits were or had been pending, and there was a possibility of influencing these matters.

In case KKO 2000:40, the question was whether or not the members of the Water Court had been guilty of negligent breach of official duty in accepting hospitality offered by a power company. The Supreme Court deemed that the divisional chair and two members of the Water Court were guilty of negligent breach of official duty, after accepting hospitality from the company during several familiarisation and inspection visits. The Supreme Court sentenced the divisional chair to a caution and deferred sentence on the members. In the case of the chair, some of the considerations were the fact that the imputed practice comprised several occasions and the overall nature of the deeds, as well as his responsible position as chair. For the members, considerations included the minor form taken by the hospitality and their position as rank and file members of the Court. The case also concerned hospitality that had taken place during a holiday period and offered to a public official's spouse.

In case KKO 1997:33, the ministry had correctly issued a public official a travel order, but the official was still sentenced for acceptance of a bribe and a bribery offence. In this case, a departmental manager at the Ministry of Education was, by virtue of their position, potentially able to influence the discretionary government grants for sports organisations being processed in their department. The manager had participated in trips to overseas sporting events paid for by a sports organisation receiving discretionary government grants. The manager was found guilty of acceptance of a bribe and of a bribery violation and sentenced to a fine.

The Chancellor of Justice has urged all public officials to ask themselves the following questions in situations where hospitality is offered:

- Why am I being offered this benefit?
- What are my motives for accepting this offer?
- How would it look in the media?

As a rule, in the following positions, it would be advisable to refrain from accepting practically all benefits offered:

- performance of a monitoring or inspection task
- preparing a procurement decision

- making a decision on organising services (for example, keeping a branch of a certain agency or public body within a municipality, and the municipality offering something to the official preparing the matter).

3.2. The importance of a public official's position

The duties of the most senior public officials in particular include handling public relations and attending functions as representatives of the authorities. The most senior public officials in central government include at least the public officials referred to in section 26 of the Act on Public Officials in Central Government, with the exception of special advisers to the ministers. Due to the nature of these duties, the requirements of trust set for their activities are greater than usual.

The principles applied to accepting and offering hospitality relating to handling public relations and attending functions as a representative of the authorities was expressed by the Supreme Court (KKO 2006:37) in a decision concerning a director general of the Defence Command as follows: "...duties may include handling the public relations of the agency, public body or administrative sector or other representational roles, for example in relation to the interest groups of the sector in question. [...] For example, in long-term personal relations and partnerships, reciprocal hospitality in different forms is customary. [...] provided that moderation is observed." In these situations, the principles guiding the consideration are the appropriate, customary and moderate nature of the hospitality, in accordance with the guidelines provided by the Supreme Court.

In this case, a commander acting as director general of the Defence Command, who was responsible for its procurement of office supplies, had, over a period of over two years, accepted benefits in the form of gifts from a company that had during the same period marketed office supplies to the Defence Command, by attending an opera festival on two occasions as a guest of the company, as well as a number of golfing events. The commander was found guilty of a bribery violation as a soldier. The Supreme Court's reasoning provides perspectives on where the boundaries of moderation lie for public officials whose official duties include handling public relations and attending functions as representatives of the authorities. The key feature in these situations is that participation in such events must have a reason derived from the public authority's need. (Defensor Legis, 4/2008, 501–515)

3.3. Guidelines for conduct in certain situations

3.3.1. Meals paid for by outsiders

As a rule, it is acceptable to participate in a customary and moderate working lunch paid for by a partner operating in the public, private or civic sector. If the agency or public body has a matter pending concerning the partner and an outsider may believe that the official is in a position to exert influence in the

matter, the official should not attend the lunch. In any event, the number of lunches should be limited to a few a year at most for each partner.

When representatives of the agency or public body make visits, for example, to improve their professional competence, it is permissible for them to take part in a shared customary and moderate meal provided to the whole visiting party. Likewise, a lecturer may partake of a customary and moderate meal at an educational or training event.

3.3.2. Special functions of partners, cultural events, sporting events and other similar occasions

It is justifiable and a matter of courtesy to attend special functions related to a partner's operations that representatives of stakeholders have been invited to. Examples of such functions are those organised to celebrate an anniversary of operations or the opening of new premises.

Public officials must use careful discretion when it comes to participating at the expense of private persons, companies or organisations in cultural events, sporting events or other similar occasions, to which one would normally have to purchase a ticket. For example, one's own activity in the sporting organisation offering the benefit, or a recreational event offered to the families of its employees by a spouse's employer, may be acceptable justifications for taking part.

In some situations, a cultural event, for example, may be part of a work meeting organised by a partner, with the cultural event taking place between meetings or after them. In such cases, taking part in the event is more acceptable compared to a situation where the occasion is not linked to a work meeting. In evaluating the issue, the price normally payable for entry to the event should also be considered, as well as the location and whether or not travel is necessary in order to attend the event.

3.3.3. Gifts and benefits

Government employees always have the right and option of refusing a gift offered to them in their official role. As a rule, only low-value advertising or other gifts or benefits should be accepted from private persons or individual companies. Commemorative objects or books commonly received as business gifts in connection with cooperation visits are gifts primarily intended for the agency or public body.

Occasions such as a public official's important birthday and retirement constitute situations where accepting a moderate gift may be acceptable because of its customary nature; indeed, acceptance is a matter of courtesy. When considering whether the gift is moderate, the value of the gift may be compared, for example, to that of a customary gift given by the agency or public body to its officials or by colleagues to each other in similar circumstances. However, even in such

situations, the independence and impartiality of the public official must not be compromised. Instead of giving a personal gift to a public official, partners may make a donation to non-profit causes.

Acceptance of cash in return for an action in one's official capacity can always be deemed to be against the law. Gift vouchers are comparable to cash.

3.3.4. Sponsorship

When seeking financial support for their own or family members' stakeholders, such as sports clubs or civic organisations, public officials must be particularly careful with regard to their own position and matters pending in their agency or public body. A benefit accepted in the name of an association may also be unlawful if it benefits the public official directly.

4. Extending hospitality

Central government funds can only be used for hospitality purposes in order to display customary cordiality and courtesy to the agency's or public body's stakeholders. Hospitality may be extended to the agency's or public body's own personnel only in connection with educational events, special events or other similar events. Hospitality may be extended and business gifts given in similar situations and forms as those in which they may be accepted (see Chapter 3).

Regulations on use of appropriations other than those intended for an agency's or public body's actual operations for hospitality purposes are set forth in the general directives on applying the budget and in the financial rules of the agencies or public bodies based on the general directives. The State Treasury has issued an order (VK/67595/00.00.00.01/2021) on the handling of hospitality costs and costs arising from personnel events in the financial rules of accounting offices.

5. Travel and reimbursement of expenses

The Ministry of Finance issues an order on official journeys and the principles for their reimbursement, which is updated regularly. The Ministry has also issued an order on travel at the expense of parties outside an agency or public body (10/2001)

As a general rule, the agency or public body is responsible for travel expenses if the travel is deemed to be necessary, for example, for cooperation or a public official's education and training. In some cases, it is possible to accept reimbursement of expenses by an external party without compromising confidence in the performance of official duties.

It is customary for organisers of training events to offer to reimburse the travel expenses of visiting trainers. An offer of reimbursement of travel or

accommodation expenses is only acceptable if the standard of travel does not exceed that used on official journeys. Reimbursements for expenses covered by external funds must be appropriately recorded in the travel plan and expenses form entered in the travel management system.

Acceptance of travel offered and funded by parties outside the agency or public body may endanger trust in official activities. Factors endangering such trust are rarely linked to travel related to another government agency or public body, or to cooperation between EU institutions and authorities, trips to conferences and seminars of international organisations, and trips for which the costs are charged to an external party under the legislation on criteria for charges payable to the state.

Previous publications and guidelines on this subject:

- Instructions for accepting and handling gifts, benefits and hospitality directed to members of the Government. (in Finnish) 28 October 2020 (VN/23634/2020)
- The long-term policy and future of public-service ethical standards. (in Finnish) Policy review (1/2018)
- Non-compete agreements and the arrangement of duties at the beginning and end of the employment relationship. (in Finnish) 30 May 2022 (VN/16225/2022)
- Secondary occupations of public officials (in Finnish) 29 March 2017 (VM/561/00.00.00/2017)
- The state of civil servants' ethics and morals - citizens' survey results Ministry of Finance (2/2017)
- State of civil service ethics - a survey of the values and ethics of central government employees Ministry of Finance (38/2016)
- Report of the Committee on civil service ethics. (in Finnish) Ministry of Finance (3/2014)
- Guidelines on travel at the expense of parties outside the office. (in Finnish) Ministry of Finance guidelines. 23 May 2001 (10/2001)
- National Bureau of Investigation guidelines on hospitality, benefits and gifts. (in Finnish) (665/000/09, 1 September 2009)

Juha Majanen, Permanent Secretary

Juha Sarkio, Director-General

Distribution

Ministries, government agencies and public bodies