



Content matter
Civil servants' employment issues Gifts Benefits
Regulations on which issue of orders/guidelines is based
Government Code of Practice, section 17
Target groups
Ministries, government offices and agencies
Period of validity
25.8.2010 - until further notice
Overturns the Order/Directive (date no.)

HOSPITALITY, BENEFITS AND GIFTS

1 INTRODUCTION

The Ministry of Finance Department for Government Personnel Management, i.e. the Office for the Government as Employer, is responsible for developing legislation concerning civil servants and, in its sector, for furthering civil service ethics and high civil service morality in central government. One of the issues is fostering such practices as to ensure that citizens' confidence in the activities of government officials and civil servants is preserved, especially in their integrity and impartiality.

From the mid-1990s, the Ministry of Finance has carried out determined work to promote a high civil service code of ethics and morality. Among measures taken to this end is a survey of the state of civil servants' ethics and needs for development in central government. In addition, methods have been developed to render both the values shared throughout central government and those of individual offices and agencies a visible part of daily activities. These publications provide further information on the issues related to safeguarding the trustworthiness of civil service. The Ministry of Finance guidelines on secondary employment are updated in conjunction with these guidelines. A list of previous publications and guidelines is attached to the end of these guidelines.

The Ministry of Finance participates in the anti-corruption cooperation network operating under the auspices of the Ministry of Justice. The network has also discussed these guidelines at the drafting stage.

2 PURPOSE AND APPLICATIONS OF THE GUIDELINES

The purpose of these guidelines is to provide answers to questions arisen in practice as to the issues leading central government officials and personnel should consider if they are offered benefits, gifts or hospitality in interest group cooperation or

other official business. At the same time, an attempt is made to define the boundaries between the acceptable and forbidden, as far as is possible within the scope of general guidelines.

These guidelines are intended for discussion during personnel induction in offices and agencies and for inclusion in the induction material. They are also recommended for use in other staff training in the offices and agencies, as necessary. The same applies to the guidelines on secondary jobs, updated alongside these guidelines (VM/1591/00.00.00/2010).

The guidelines concern all civil servants and, as applicable, also government employees. Administrative sectors, offices and agencies may, if necessary, issue more detailed directions for their own personnel. In cases of certain offices and civil servant groups, it may be necessary to issue more detailed guidelines than those provided here. It is recommended that the offices and agencies consider whether or not provision of such more precise directions is necessary, if they have not yet been drawn up.

The National Bureau of Investigation guidelines on hospitality, benefits and gifts (665/000/09, 1.9.2009) have been used as the basis for these guidelines. These guidelines concern a civil servant's private life only in relation to general principles and secondary jobs.

The provisions on bribery offences (section 16) of the Criminal Code (1889/39) define receiving or giving a gift or other benefit as offences under certain circumstances. The nature or value of the gift or benefit are not specified. In addition to actual gifts, these guidelines also cover benefits and hospitality.

It is also expedient to inform private sector cooperation partners of the office or agency of the guidelines, so that they are aware of the practices observed in central government. This makes it easier for an individual civil servant to decline an offered benefit and prevent awkward situations from arising with regular partners.

3 GENERAL PRINCIPLES

Objectivity and the official's impartiality form the foundation of the operation of public authorities. Officials must take particular care that their activities are impartial, and they must also be seen to be impartial from the perspective of interest groups and citizens.

Under section 15 of the State Civil Servants' Act, a civil servant is not permitted to demand, accept or receive a benefit, if it could undermine trust or confidence in the civil servant or authority. In the Criminal Code, impartiality of the work of public authorities is particularly safeguarded by the penal provisions in sections 16 and 40 concerning giving and receiving bribes and bribery offences, as well as the other provisions of the Criminal Code, section 40, concerning malfeasance. These provisions of the Criminal Code also concern government personnel with a contract of employment.

Receiving customary and reasonable hospitality is not generally deemed to jeopardise confidence in the appropriate discharge of official duties. It is important for civil servants to maintain contacts with surrounding society, often furthering successful performance of official tasks. Giving and receiving a gift or benefit constitute a punishable act due to the possibility of influencing those in a service relationship.

Everyone should inform their superior of potential situations where impartiality may be compromised. The superiors decide, after consideration of the individual case, whether or not the circumstances are likely to undermine confidence in the activities

of the public authority in the way intended by the Criminal Code or the State Civil Servants' Act. However, the superior's decision does not discharge the individual civil servant from criminal liability, but he must always also use his own judgment. In unclear cases, one should refrain from accepting the benefit.

A civil servant can always refuse an offered benefit. For example, one can pay for one's own lunch, and it is usually possible to arrange a more workaday meeting in place of a partial pleasure trip.

The provisions on secondary jobs and disqualification contribute to ensuring the independence of public authorities. In fact, due to potentially compromised impartiality, accepting a legitimate benefit may result in disqualification from official duties concerning the giver of the benefit.

4 RECOMMENDED PRACTICES: RECEIVING HOSPITALITY

4.1 General

Defining the boundaries between accepting permissible and forbidden benefits is not unequivocal, so that the primary approach should be one of restraint. For many officials, cooperation involves daily contact and occasions involving negotiations related to the operational sector or its development. Factors that may undermine confidence rarely arise in the customary benefits offered in collaboration with another government office or agency, European Union institutions, or between public authorities.

In judicial custom, attention has been paid to the following when considering the circumstances in individual cases:

- necessity and usefulness of the benefit in performing the official duties
- matters concerning the giver of 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 official.

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

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

In the 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 under circumstances described in the decision of the Supreme Court. The Supreme Court deemed that the divisional chairman 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 chairman to a caution and deferred sentence on the members. In the case of the chairman, 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 chairman. For the members, considerations included the minor forms taken by the hospitality and their position as rank and file members of the Court. The case also concerned hos-

pitality that had taken place during a holiday period and offered to the civil servant's spouse.

Another case worthy of mention is one where the ministry had correctly issued an official a travel order, but the person was still sentenced for receiving a bribe and a bribery offence. In this case, a departmental manager at the Ministry of Education was, by virtue of the position, potentially able to influence the government subsidies for sports organisations being processed in the department. The official had taken part in trips to sporting events abroad paid for by a sport association receiving government aid and belonging to sports organisations, and a company owned by an association supporting such a sporting association. The person was deemed to have been guilty of accepting a bribe and a bribery offence and sentenced to a fine (KKO 1997:33).

The Chancellor of Justice has urged all civil servants to ask themselves the following in situations where hospitality is offered:

- Why am I being offered such a benefit?
- What are my motives for accepting the offer?
- What would the matter look like in public?

On the importance of a civil servant's position

In the main, civil servants in leading positions are obliged to foster social and representational relations more extensively than other personnel. Such leading civil servants are deemed to be at least those referred to in section 26 of the State Civil Servants' Act (with the exception of a ministerial special adviser). On the other hand, the requirements of trust set on their activities are greater than usual.

The principle applied to leading civil servants was expressed in the decision KKO 2006:37 concerning a departmental manager of the Defence Command as follows: "...duties may include nurturing the social relations of the office or administrative sector or other representational roles, for example in relation to the interest groups of the sector in question. [...] For example, when it is a question of long-term personal or cooperation relationships, it is customary to offer reciprocal hospitality in various forms. [...] ...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 addition, Professor Pekka Viljanen has drawn attention to the boundaries of customary activity: DL 4/2008 pp. 501–515. On pages 510–512, he analyses the Supreme Court's decision 2006:37. In this case, a commander acting as departmental manager of the Defence Command, who was responsible for its office equipment purchases, had, over a period of a good two years, accepted benefits in the nature of gifts from a company that had at the same time marketed office equipment 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 deemed to have been guilty of a bribery offence in his role as a soldier. The Supreme Court's statement of the reasons was very detailed, and they, as well as Viljanen's analysis, provide views of where the boundaries of moderation lie for civil servants whose official duties include nurturing various social relations and attending functions as representatives of the organisation. The key feature in these situations is that participation in such events must have a reason derived from the public authority's need.

The civil servant's duties and situation are significant, in addition to his formal position. As an example, in the following situations it would be expedient to refrain from accepting practically all benefits offered:

- performance of a monitoring or inspection task
- preparing for a purchase decision
- making a decision on organising services (for example in a case of keeping a branch of a certain office within the municipality, and the municipality offering something to the official preparing the matter).

Conversely, for example in a situation where a private employer is interested in recruiting the civil servant and for this reason invites him to lunch or an introductory visit, and it is clear to both parties that there is no intention of influencing the discharge of his official duties, the situation may be regarded more flexibly.

4.2 Guidelines for conduct concerning individual cases

4.2.1 Meals paid for by outsiders

It is acceptable to participate in a customary and moderate lunch paid for by a cooperation partner operating in the public, private or civic sector. If the participating civil servant knows that his office has a matter pending concerning the partner and that an outsider may believe that the official is in a position to exert influence in the matter, he should not attend the lunch. In any event, the number of lunches should be limited to a few a year at most for each cooperation party.

When representatives of the office or agency make visits, for example, to improve their professional competence or to benchmarking events, it is permissible for them to take part in a shared customary meal provided for the whole travel party. A lecturer may partake of a customary lunch at an educational or training event.

4.2.2 Special functions of partners in cooperation, 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 own operation, where representatives of interest groups have been invited. Examples of such functions are those organised to celebrate an anniversary of the operation or opening of a new building.

Civil servants must use careful discretion regarding participation 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 or similar event is a part of a cooperation event organised by a partner, perhaps 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 e.g. a meeting. In evaluating the issue, the price normally payable for entry to the event should also be considered, as well as the location (whether or not travel is necessary in order to attend the event).

4.2.3 Gifts

A member of government personnel always has the right and option of refusing a gift offered to him in his official role. In the main, only low-value advertising or other gifts should be accepted from private persons or individual companies. Commemorative objects or books commonly received as business gifts in connection with co-

operation visits are gifts primarily intended for the office. However, in practice such objects as ornaments, clothing accessories and dishes go to the official.

Occasions such as the civil servant's important birthday and retirement constitute situations where accepting a moderate gift may be approved because of its customary nature; indeed, acceptance is a matter of courtesy. As a consideration of moderation, the value of the gift may be compared, for example, to that of a customary gift given by the office or colleagues to each other in similar circumstances.

Acceptance of cash in return for an action in one's official capacity can always be deemed to be against the law. A gift voucher is comparable to cash.

4.2.4 Sponsorship

When seeking financial support for his own or family members' interest groups, such as sports clubs or civic organisations, the civil servant must be particularly careful with regard to his own position and matters pending in his office. A benefit accepted in the name of an association may also be unlawful if it benefits the civil servant directly.

5 CODES OF CONDUCT: EXTENDING HOSPITALITY

Customariness and moderation are the key concepts in hospitality provided to partners in cooperation. Hospitality may be extended and so-called business gifts proffered in similar situations and forms as those in which they may be accepted (see par. 4).

General regulations on representation costs and staff occasions are given in the general directives on applying the national budget and through them in the financial rules of the offices.

6 TRAVEL, REIMBURSEMENT OF EXPENSES AND SECONDARY JOBS

6.1 Travel and reimbursement of expenses

With regard to the principles applied to travel and the reimbursement of expenses, the Order/Directive of the Ministry of Finance (compensation for travelling expenses)(8/2007) and the Order/Directive of the Ministry of Finance (travel at the expense of parties outside the office) (10/2001), complementing the State's Travelling Regulations, are in force.

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

Acceptance of travel offered and funded by parties outside the office or agency may endanger the trust in official functions. Factors endangering such trust are rarely linked to travel related to another government office or agency, EU institutions, cooperation between 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.

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

