



ROYAL NORWEGIAN
MINISTRY OF DEFENCE

Guidelines

Ethical guidelines regarding business contacts for the defence sector

April 2007



ROYAL NORWEGIAN
MINISTRY OF DEFENCE

Guidelines

Ethical guidelines regarding business contacts for the defence sector

April 2007

Table of contents

Ethical ground rules for the defence sector.....	4
1. GENERAL.....	5
1.1 Background.....	5
1.2 Purpose.....	5
1.3 Scope and limitations.....	5
1.4 Definitions.....	5
1.5 Special responsibility of supervisors.....	6
1.6 The individual's responsibility.....	6
1.7 Acceptable and unacceptable conduct.....	6
1.8 Ethical judgement and grey areas.....	7
2. GUIDELINES.....	8
2.1 Main rule.....	8
2.2 Specification and clarification of conduct through use of traffic lights.....	8
3. OVERVIEW OF CURRENT LAWS AND GUIDELINES.....	12
3.1 Ethical guidelines for agencies in the defence sector.....	12
3.2 Armed Forces Procurement Regulations (ARF).....	12
3.3 Ethical ground rules for the defence sector.....	12
3.4 Ethical Guidelines for the Public Service.....	12
3.5 Civil Service Act.....	13
3.6 Act relating to military disciplinary authority.....	13
3.7 Public Administration Act.....	13
3.8 General Civil Penal Code.....	14
4. CONSEQUENCES OF INFRACTIONS.....	15
4.1 Introduction.....	15
4.2 Career consequences.....	15

4.3 Sanctions pursuant to the Civil Service Act	15
4.4 Criminal sanctions	16
4.5 Criteria for considering forms of reaction.....	16
4.6 Responsibility for following up infractions of rules and standards of conduct	17
5. ENTRY INTO FORCE	18

Preface

This booklet contains important guidelines that clarify issues pertaining to contact between defence sector employees and the business world. These guidelines do not introduce any new provisions, but provide an overview of current rules. At the same time they serve as a reminder of the serious consequences that an infraction of the current standards of conduct may have. The preparation of these guidelines is part of the follow-up of the action plan for attitudes, ethics and leadership that was issued by the Ministry of Defence in September 2006.

Everyone needs guidance in areas involving interpersonal relations. This pertains especially in the area of contact with the business sector, which usually involves large, complex issues. These guidelines are meant to help employees navigate safely through current laws and regulations.

An open and pleasant working environment is essential in many contexts. This also holds true with regard to developing and maintaining orderly and correct relations with external partners. Such openness will also encourage reflection on and discussion of dilemmas and difficult situations, which in turn will be educational. For that reason a good working environment will serve as ample quality assurance to prevent undesirable attitudes and acts developing in the workplace.

In the interest of the defence sector's reputation in society and the general trust of the population on which we rely it is essential that these guidelines be complied with.



Anne-Grete Strøm-Erichsen
Minister of Defence

Ethical ground rules for the defence sector

REPUTATION AND CREDIBILITY

All employees are obliged to perform their tasks and interact with others in an ethically proper manner so as to make a positive contribution to the defence sector's reputation and credibility in society.

OPENNESS

Everyone has a shared responsibility to create a good working environment and develop a culture characterised by openness and integrity. A working environment characterised by openness is a key precondition for proper ethical conduct.

Administration shall be open and transparent, enabling the general public to be apprised of the defence sector's activities. Employees shall provide correct information to other authorities, companies, organisations or citizens.

FREEDOM OF EXPRESSION

Like everyone else, employees have a fundamental right to participate in public discussions, even about the activities of the defence sector. Individuals are responsible for their utterances not coming into conflict with obligations of loyalty and duties of confidentiality.

Duties of confidentiality remain in force also after the persons in question have concluded their service or left their positions.

LOYALTY

Employees are obliged to study and comply with current legal rules and ethical guidelines.

A part of an employee's obligation of loyalty is exercising proper professional discretion in performing his or her service.

Employees are responsible for familiarising themselves with political and military policy decisions and guidelines and other decisions and guidelines in their professional areas and shall perform their work tasks in line with them.

Employees also have the right to speak up about improprieties without suffering negative consequences.

The duty to follow instructions and orders does not entail the duty to do anything illegal or unethical.

IMPARTIALITY

Employees shall act in a manner that does not raise doubts about their impartiality.

Employees shall not place themselves in situations liable to influence their official actions. Employees must not take part in discussions and decisions on cases in which they themselves or close relatives have special personal or financial interests.

LEADERSHIP AND RESPONSIBILITY

It is the individual's responsibility to comply with these ethical ground rules. Supervisors have a special responsibility as culture bearers and role models. Supervisors are also responsible for individual employees being familiar with the specific ethical guidelines in the agencies and for reacting to infractions of these guidelines.

1. GENERAL

1.1 Background

It is natural and necessary for employees to have contact with representatives of business and industry. It is equally important that this contact take place in a manner that is orderly for both parties and does not present opportunities for undesirable influence on official actions or that may appear improper from the outside.

1.2 Purpose

The main purpose of this document is to spell out in a practical way the conduct that is accepted and expected of all employees in the defence sector with regard to business contacts. Another equally important purpose is to clarify the conduct that is not accepted and the consequences that infractions of current standards of conduct may entail. The aim is not to come up with new rules but rather to clarify and raise awareness of the existing ones.

1.3 Scope and limitations

This document deals only with guidelines and consequences for anything having to do with defence sector contact with business and industry. Relations between states (contact with other nations in official contexts) are not covered by these guidelines. The same applies to matters involving military ethics and other aspects of ethics pertaining to the public service.

1.4 Definitions

Business contact means the contact an employee in the defence sector has with one or more representatives of business and industry in an official context or in a context related to the employee's role as a representative of the Norwegian Armed Forces as a customer of an existing or potential vendor. For example, this may be in connection with the purchase of goods and services, contract negotiations, calls for tender, use of consultants and implementation of projects. Likewise, the term business contact will also cover situations where the employee represents the Armed Forces as a supplier.

1.5 Special responsibility of supervisors

Supervisors at all levels have a particular responsibility for following up these guidelines. The emphasis on ethics is a responsibility of leadership. First, because leaders have a major influence through their words, actions and leadership style on the culture and standards of conduct in the organisation. This applies not least to how supervisors deal with infractions of the guidelines. In difficult situations, the overall supervisor, or the Ministry of Defence, if necessary, should be consulted. It is a supervisor's responsibility to have a knowledge and understanding of the guidelines, both in the event of new hires and in other respects. It is essential in this context to foster a working environment that encourages openness and reflection and encourages employees to bring up matters they regard as contravening laws and regulations or otherwise perceive as improper.

1.6 The individual's responsibility

Individual employees are obliged to familiarise themselves with these guidelines, as well as other provisions, guidelines and instructions that pertain to their position at any given time, and to be personally responsible for following them carefully. As an employee one also has a shared responsibility for a working environment where collegial vigilance on ethical matters serves as support and quality assurance of day-to-day service. Employees are obliged to notify their employer of improprieties that may result in damage or loss. If an employee is in doubt as to whether an action or situation is within acceptable limits, he or she must take this up with his or her immediate supervisor. If this is perceived as difficult, it is possible to bring up the issue through a special whistleblowing channel, also anonymously.

1.7 Acceptable and unacceptable conduct

A fundamental standard of ethics in the public service is that public employees shall not allow themselves to be led by personal sympathies or antipathies or by considerations of their own or a close relative's financial gain. It follows from this that what is acceptable conduct must be within a framework that excludes such influence or avoids the appearance or suspicion of such influence. For that reason, in all business contact, an employee must keep this in mind and exercise caution. Good questions to ask oneself are: Does the association or relationship "tolerate the light of

day” such as being reported in the media or as open knowledge internally in the organisation? Is the choice or action well-justified?

Typical unacceptable conduct would be accepting gifts or services clearly intended and liable to influence recommendations or decisions in an improper manner. Whether or not one is influenced in actual fact by a gift is immaterial in determining whether the conduct is unacceptable.

1.8 Ethical judgement and grey areas

In this area grey areas exist where it is not obvious what is right and what is wrong. The purpose of a gift or its actual value is not always easy to ascertain. Increased awareness, trust and openness regarding grey areas will help to make choices easier and provide a firmer foundation for ethical judgements.

2. GUIDELINES

2.1 Main rule¹

Employees of the defence sector shall not, either for themselves or for others, accept or facilitate the acceptance of gifts, travel, hotel accommodation, hospitality, discounts, loans or other benefits or favours that are liable to, or that are intended by the giver to, influence their official actions.

Employees of the defence sector must not use their positions to obtain for themselves or others improper benefits. This also applies in cases where such benefits will not influence their official actions.

Employees of the defence sector shall not, as part of the performance of their duties, give or offer gifts or other favours that are liable or intended to influence the recipient's official actions.

2.2 Specification and clarification of conduct through use of traffic lights

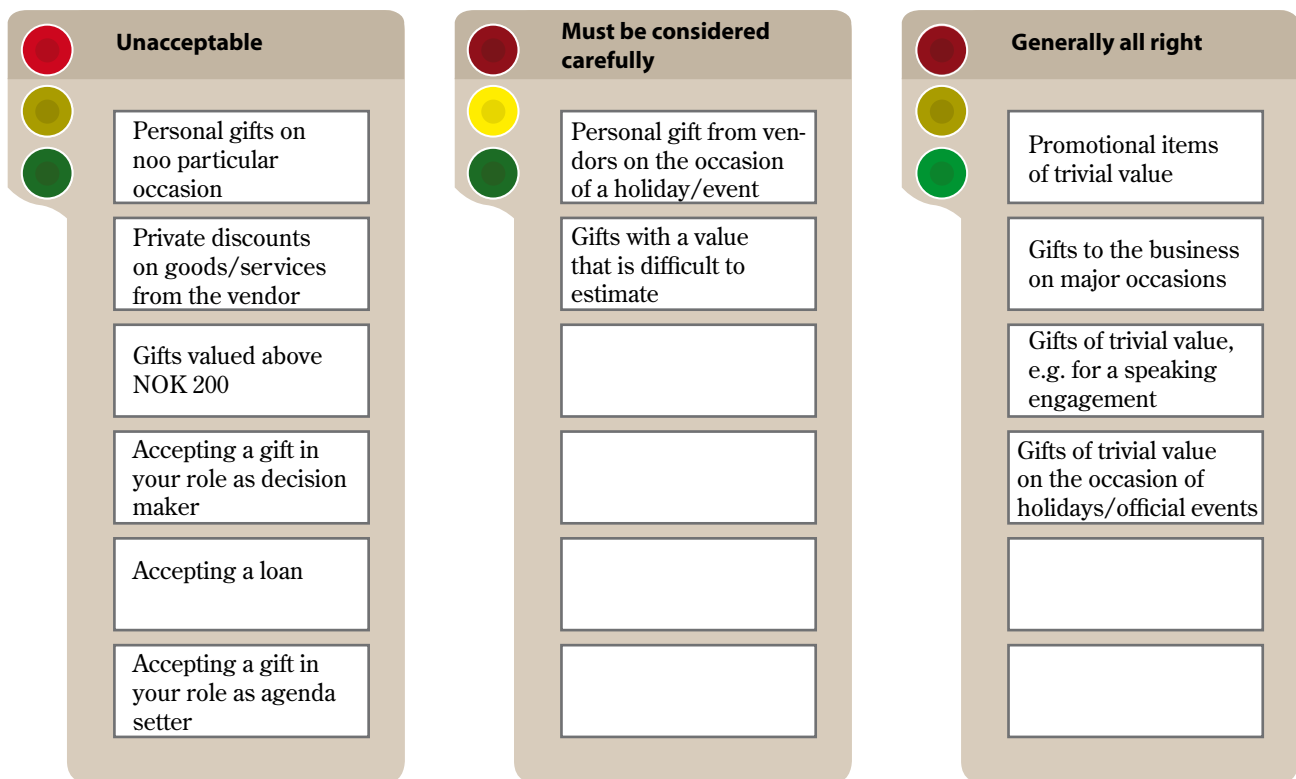
In the following there are a number of situations described through the use of “traffic lights”, where a red light is unacceptable, a yellow light must be considered carefully and a green light is generally all right. The examples are considered relevant for dealings with business contacts, but in no way cover all situations. It is neither desirable nor possible to micromanage individual conduct in every context. Thus, the guidelines are meant to provide instructions in making the assessments the Ministry wants defence sector employees to make regarding ethical issues that they will face in performing their official duties. If a situation arises which an employee is unsure how to deal with, it should be discussed with a colleague or supervisor. In many cases, openness is the most important way of avoiding suspicion of an improper mingling of private and professional interests.

¹ Ethical Guidelines for the Public Service, 7 September 2005

Gifts²

Goods, services, money

The main rule is that such gifts are not to be accepted. Even so, there are situations in which one may accept gifts of trivial value. Trivial value means up to NOK 200. In the same vein one should show caution about giving gifts. It might be regarded as corruption to accept or offer gifts or benefits by virtue of one's position.



Think particularly about:

The purpose of the gift. Be extremely careful if the gift is personal, there is not full openness or you are the decision maker or agenda setter.

Take up any cases of doubt with your supervisor.










² The "traffic light" diagrams were developed by the Confederation of Norwegian Enterprise (NHO) as part of its booklet ... over streken? (... over the line?). The content of the diagrams determined set by the Ministry of Defence.



Hospitality, travel and entertainment

Catering, business entertaining, courses and customer events

The main rule is that employers themselves are to cover the costs of employees' participation in travel, courses, events, etc. Nevertheless, in certain situations it may be acceptable for others to cover these costs within frugal limits. Remember that whatever you are treated to must tolerate the light of day.

 Unacceptable	 Must be considered carefully	 Generally all right
  Professional/non-professional trips/events paid for by others	  Attendance of companion	  Simple working lunch or working dinner
Hospitality etc. liable to influence in a bidding situation	Cultivating relationships at social events	Professional events where one's own employer covers travel/accommodation
Sexual services	Meals in excess of what must be regarded as a working lunch/dinner	
Free alcohol in excess of what is served at an ordinary meal	Socialising privately with vendors/customers	
Attendance at private events on the company's premises	Several invitations to working dinners in connection with the same project	
Tickets to concerts, sporting events or the like		

Think particularly about:

In the relationship between public administration and business, certain industry contact etc. is natural. Caution must be exercised in these dealings, to avoid placing oneself in a situation that casts doubt on one's integrity. That is why you should think about the scope of invitations, dinners etc. If you are in doubt, take it up with your supervisor.

Conflicts of interest

Impartiality - Integrity

We have conflict of interest rules in the Public Administration Act, the purpose of which is to ensure trust in the public administration. It is important to be consciously aware of them when our own interests come into conflict with our employer's.

The image displays three vertical panels, each with a header and a list of items. Each panel has three colored circles (red, yellow, green) on the left side, corresponding to the header's category.

- Unacceptable** (Red, Yellow, Green circles):
 - Considering cases involving family/close friends
 - Having directorships/secondary occupations that may harm the employer's interests
 - Evaluating offers from a vendor in which you have a large ownership interest
 - Considering cases from a vendor where you are a Board member
 - Non-documentable and non-traceable administrative procedure
- Must be considered carefully** (Red, Yellow, Green circles):
 - Using employer's suppliers for private purposes
 - Socialising privately with vendors
 - Involvement of former employees/recruitment from a customer
 - Using of a vendor who has hired your own former employees
 - Purchasing of real and other property from your own employer
 - Evaluating offers from a vendor in which you have an ownership interest
- Generally all right** (Red, Yellow, Green circles):
 - Public office
 - Exercising your freedom of expression
 - Directorships/secondary occupations where there is no conflict of interest
 - (Empty box)
 - (Empty box)
 - (Empty box)

Think particularly about:

How a matter will be perceived from outside. The interest of the general public in connection with private purchases from an employer. In case of doubt, confer with your supervisor.

3. OVERVIEW OF CURRENT LAWS AND GUIDELINES

3.1 Ethical guidelines for agencies in the defence sector

All agencies in the defence sector have their own guidelines or similar that also deal with contact with business and industry.

3.2 Armed Forces Procurement Regulations (ARF)

Section 1.8 of the Armed Forces Procurement Regulations contains a separate chapter on ethical guidelines and general requirements for administrative procedure. In general it states that the Norwegian Armed Forces are to act in accordance with good business ethics and ensure high standards of business ethics in internal operations in all phases of the procurement process (cf. Section 5 of the Public Procurement Act). There are inter alia strict requirements for impartiality and objectivity in the service. Inherent in this are also requirements for documentation. Employees able to influence or make decisions on behalf of the Norwegian Armed Forces must therefore not take part in discussing or deciding on any questions in which they or close friends or family have particular personal or financial interests. This chapter has a separate subsection on gifts and other benefits (1.8.11), on travel (1.8.12), and on the duty to attach the information document “Varsomhet, taushetsplikt og habilitet” (Caution, duty of confidentiality and impartiality) to the tender documentation sent to potential vendors in connection with all procurements in the Norwegian Armed Forces (1.8.5).

3.3 Ethical ground rules for the defence sector

The ethical ground rules are a foundation that the other ethical guidelines are built on. In this regard we should point out the obligation of loyalty that all employees have, which implies inter alia a responsibility for studying and acting in accordance with current laws, rules and collective agreements in our sector.

3.4 Ethical Guidelines for the Public Service

In 2005 the Ministry of Modernisation (now: the Ministry of Government Administration and Reform) issued ethical guidelines applying to everyone in central government service. The guidelines emphasised that the trust of

the citizenry in the public service requires that services be provided and authority exercised in an ethical manner. Each employee bears an independent responsibility for helping to preserve the trust and good name of his or her organisation. Public employees shall not allow their own interests to influence the way they deal with cases or work in other respects, nor shall they allow considerations of their own or their organisation's convenience or prestige to influence their actions or decisions.

3.5 Civil Service Act

Section 20 of the Civil Service Act contains a prohibition of gifts in the service etc.: No senior civil servant or civil servant may on behalf of himself or others accept a gift, commission, service or other payment which is likely, or which by the donor is intended, to influence his official actions, or which regulations forbid the acceptance of.

3.6 Act relating to military disciplinary authority

Officers in the military who violate or neglect duties in military service pursuant to law, rules, instructions, directives, regulations or lawful orders, may be subject to disciplinary sanctions.

3.7 Public Administration Act

Public employees shall not act in a manner that is liable to impair confidence in their impartiality. The Public Administration Act contains a number of administrative procedural rules that touch on ethics. Section 6, for example, contains provisions on requirements as to impartiality. Here it states that a public official is disqualified from preparing the basis for a decision or making a decision in an administrative case, inter alia when he or she personally or his or her family is a party to a case or when he or she is a guardian or agent of a party to a case. It is especially important to be aware that a public official is disqualified if there are any other special circumstances which are apt to impair confidence in his impartiality. Here due regard shall inter alia be paid to whether the decision in the case may entail any special advantage, loss or inconvenience for him personally or for anyone with whom he has a close personal association.

3.8 General Civil Penal Code

In 2003 stiffer rules on corruption and trading in influence (Sections 276 a, b and c) were added to the General Civil Penal Code. Any person who i) for himself or others requests or receives an improper advantage or accepts an offer thereof in connection with a position, office or assignment or ii) gives or offers any person an improper advantage in connection with an office or assignment shall be liable to a penalty for corruption. The penalty for corruption is fines or imprisonment for a term not exceeding three years. Gross corruption is punishable with imprisonment for a term not exceeding ten years. In deciding whether the corruption is gross, importance shall be attached, inter alia, to whether the act has been committed by or in relation to a public official. Otherwise, Chapter 11 of the General Civil Penal Code contains rules on “Felonies in the public service”.

4. CONSEQUENCES OF INFRACTIONS

4.1 Introduction

In the event of infractions of the rules mentioned in Chapters 2 and 3, a reaction by the employer may be expected. The sanctions vary widely, from an official reprimand or disciplinary penalty to criminal prosecution with a possible prison sentence and dismissal as the outcome. Of course, the seriousness of the breach of trust will determine the reaction. This chapter will illustrate the consequences various infractions can have. The purpose is to increase predictability and more equal treatment in the type of reaction for infractions of rules in the area of business contact.

4.2 Career consequences

Infractions against the standards of conduct pertaining to the area of business contact may have consequences for the violator's career. It should be noted that a violation of the law is not a necessary condition for such consequences. It may be sufficient for such a reaction that there is an infraction of the standards of acceptable conduct set by these guidelines. In higher-ranking positions a high ethical standard is expected, because as role models, leaders will have a substantial influence on the internal culture and behavioural norms in their organisations. This means somewhat more than just sticking within the confines of the law. If by his or her conduct a person at his or her level shows an inability or unwillingness to live up to the ethical standards required, he or she does not have the qualification or personal characteristics needed to fill a high-ranking position. In certain cases a civil servant can also be temporarily or permanently demoted to a lower grade for violations of the Civil Service Act.

4.3 Sanctions pursuant to the Civil Service Act

Pursuant to Section 14 of the Civil Service Act, an employee may be subjected to a disciplinary penalty for inter alia infringement of official obligations or failure to fulfil official duties. An infringement of the prohibition of gifts will be affected by this provision. As a disciplinary penalty, the employee may be given a written reprimand or loss of one month's to two years' seniority. The disciplinary penalty is to go into the

permanent record or personnel file and will clearly have career consequences. An ordinary reprimand is not a disciplinary penalty.

If the employee has shown gross negligence in his or her service or is in gross breach of his or her official duties, or despite a written warning or reprimand has repeatedly breached his or her official duties, he or she may be summarily discharged pursuant to Section 15.

The following sanctions may be used as a disciplinary action: arrest, fines, restrictions of liberty and censure. An ordinary reprimand is not a disciplinary action.

4.4 Criminal sanctions

Pursuant to the provisions of Section 276 a and 276 b of the General Civil Penal Code, accepting or offering gifts or other favours, such as free travel, may be regarded as corruption, or even gross corruption. The penalty is fines or a prison term of up to three years, or up to ten years if the violation was gross corruption.

Likewise, a benefit that is solicited, received or accepted, given or offered, may be regarded as an improper advantage intended to influence the performance of a job and may therefore be classified as trading in influence pursuant to Section 276 c of the General Civil Penal Code. The penalty for trading in influence is also fines and up to three years' imprisonment.

So far there is little case law involving these new and stricter penal provisions from 2003. However, what case law exists sets strict standards, so that not much is needed to establish the existence of corruption, indeed, even of gross corruption.

Reactions pursuant to the Civil Service Act do not prevent the imposition of criminal sanctions in the same case. Furthermore, a demand for discharge may be included in a criminal case.

4.5 Criteria for considering forms of reaction

Accepting gifts or other benefits is usually called a "transfer of advantage". There are factors that apply in judging such transfers and thus the degree of seriousness if one has "crossed the line". Such factors may be e.g.:

- The nature and value of the advantage
- The time of the transfer
- The purpose of the transfer for the giver and recipient
- The context and occasion
- The recipient's place in the decision-making hierarchy or in the contractual relationship (greater responsibility in a position of a high level of trust)
- Relationship between the giver and recipient
- The scope of the transfer of advantage
- Absence of openness about the transfer of advantage
- Financial harm to the Norwegian Armed Forces
- Harm to the reputation of the Norwegian Armed Forces.

These factors will count in considerations of the choice of form of reaction to infractions of the rules. The Ministry of Defence and the military leadership are intent on these guidelines being followed and on there being adequate reactions to unacceptable conduct.

4.6 Responsibility for following up infractions of rules and standards of conduct

It will always be the individual supervisor and employer who will be responsible for initiating and/or undertaking reactions vis-à-vis an employee who has violated the current rules or standards of conduct. The case procedure and person who issues the decision will vary, depending on seriousness, choice of form of reaction, grade of position and place in the organisation. In cases pertaining to violations of the Civil Service Act, for example, the decision will be made by the appointment body (appointment committee). If the person in question is a Ministry employee, the minister makes the decision, normally after obtaining a statement from the appointment committee. In instances where a violation of the General Civil Penal Code is suspected, e.g. gross corruption, the employer is to consider on a case-by-case basis whether the matter should be reported to the police.

5. ENTRY INTO FORCE

These guidelines are operative in the defence sector from the date they are published. They are not intended to replace existing rules and thus do not supersede other rules or documents. However, the agencies need to ensure that their own ethical guidelines are harmonised with these, so that they correspond with the clarification provided in this document in relevant areas.

Published by:
Ministry of Defence

Additional copies may be ordered from:
Government Administration Services
www.publikasjoner.dep.no
E-mail: publikasjonsbestilling@dss.dep.no
Fax: + 47 22 24 27 86

Publication number: S-1001 E

Translation: Amesto

Printed by:
Government Administration Services - 08/2007 - 300

