

GUIDELINES FOR MINISTERS AND THEIR ADVISERS TO AVOID CONFLICTS OF INTEREST

Introduction

Ministers and their advisers are senior officials entrusted with the shaping of state policy. The ministers have been provided with the functions of the executive branch of government, including the appointment and supervision of persons for key positions in the state. Therefore, it is vital to set high ethical standards for the ministers and those who advise them directly, and to prevent corruption with the aid of rules for the prevention of conflicts of interest. Officials as persons exercising official authority are subject to a code of ethics, on which the Council of Ethics of Officials formulates opinions. The purpose of these guidelines is to establish similar standards for senior officials.

Definitions

Conflict of interest – a conflict between the official’s duties and private interests, where the latter may affect the performance of these duties.

Adviser to the minister (political adviser) – performs the functions of assisting or advising the prime minister or another minister until the end of the term of office of the latter. The purpose of the position of the adviser to the minister is to provide the minister with the necessary information for policy-making in their area of government, to review in advance and analyse the legislation and documents of the ministry to be discussed at government sessions and cabinet meetings, to prepare the speeches and statements of the minister, to arrange daily administration, and to respond the requests for information and written questions of the members of the Riigikogu.

Principles of avoiding conflicts of interest

1. The **minister exercises** power fairly and lawfully, and is committed, inclusive, honest, and exemplary in performing duties before the public sector.

In an Estonian–Danish comparative corruption survey (2016), entrepreneurs found that the personal example of top managers is the most effective anti-corruption measure. The most important factor in promoting ethical behaviour and preventing corruption is the personal example of the top manager, which determines the values of the wider public sector. Involvement and honesty are core values inherent in the public sector.

Consistent with the guidelines

In their activities, the minister follows high ethical principles and takes into account the opinions of as many stakeholders and others as possible in their work.

Not consistent with the guidelines

The minister systematically gives priority to the goals and wishes of a certain group of stakeholders.

2. When recruiting an adviser, the **minister assesses** their potential risk of conflict of interest, as well as their compliance with the ethical and professional standards of civil service, and obliges them to follow the principles set out in these guidelines.

Fixed-term employment contracts are concluded with political advisers today and they are not subject to the Civil Service Code of Ethics and other criteria applicable to officials (section 51 of the Civil Service Act) even though they are influencers of important state decisions. The suitability and compliance of political advisers with ethical criteria should be assessed at the time of recruitment before taking office, and this should be done by the minister themselves, asking for the assistance of a contact person on corruption or an internal auditor if necessary. In addition to the already established practice of registering ancillary activities in ministries, the minister should also assess the economic interests of their adviser before

concluding an employment contract. The minister can be aware of the respective risks when recruiting and thus ensure greater transparency. In addition, the employment contract with the adviser should include a clause obliging the adviser to comply with the rules of ethics of the civil service and these guidelines.

Consistent with the guidelines

The minister speaks to the adviser on previous unprofessional posts made on social media, explains the values of the public sector to the adviser, and includes a clause in the employment contract that obliges the adviser to follow the rules of ethics of the public service and these guidelines.

Not consistent with the guidelines

The minister recruits an adviser who has direct business interests in the ministry's administrative field.

3. The **minister reports** on their activities to the public and the Parliament in an understandable manner.

One of the objectives of the Estonian Public Information Act is to protect an open society and create opportunities for public control over the performance of public tasks, an integral part of which is explaining the activities of public authorities and justifying decisions, including sharing information in Parliament and the public.

Consistent with the guidelines

The minister gives substantial answers to the questions of journalists concerning the activities of the company related to them (e.g. tax behaviour, etc.).

Not consistent with the guidelines

Without good reason, the minister fails to appear at a sitting of a committee of the Riigikogu where they have been invited to discuss an unethical case related to their company.

4. The **minister ensures** the implementation of anti-corruption policy in their area of government by, inter alia, collaborating with the contact person for preventing corruption and/or the internal auditor. The minister, in cooperation with the secretary general, ensures that people in their area of government are aware of anti-corruption rules, avoid conflicts of interest, and any cases are discussed openly and impartially.

Creating an anti-corruption environment is the task of the organisation's top management. Above all, it means training people, transparent administration, and other factors which are typical of an open organisational culture, where trust and awareness of corruption are more important than control.

Consistent with the guidelines

Conflicts of interest and ethics are regularly discussed at meetings of the ministry's management, and the risks of corruption in office and procedures are regularly assessed.

Not consistent with the guidelines

No corruption risk assessments or audits are performed in the ministry or its administrative field.

5. The **minister ensures** the implementation of the procedure for reporting incidents of misconduct and the impartial investigation of allegations in their area of government, as well as the protection of persons who report incidents.

In most cases, employees are the first to report internal misconduct, but it often takes years before they are publicly reported, and the damage to the organisation as a whole is many times greater compared to what would have happened if the incident were reported immediately. Although a law to protect whistleblowers and the corresponding internal procedures are still being established in Estonia, it is already possible to create an environment and procedures today that facilitate the reporting of corruption and other cases and their impartial investigation. As the field of whistleblower protection is new in Estonia, the support and initiative of top management is needed for its implementation.

Consistent with the guidelines

Not consistent with the guidelines

An external complaint has been received regarding a member of the management of the ministry. The minister asks the internal auditor to investigate the case and provides information about the case to the public.

The minister receives several indications of a potential conflict of interest of one employee of the ministry. However, as the employee gets along well with the minister, the minister does not follow the usual rules of procedure and does not investigate the matter further.

6. **The minister notifies** the government in writing of the business in which they are engaged and of their participation in the management or supervisory body of a legal person. Their engagement in business or in a legal person may not affect the impartiality of their ministerial position.

Subsection 4 (3) of the Government of the Republic Act allows a member of the government to engage in research and teaching as well as entrepreneurship, the latter of which must be notified in writing. The overarching principle of the Anti-corruption Act is to keep personal business interests and the public interests separate by withdrawing from decisions related to personal business interests. Withdrawal is not required, for example, when deciding on laws and regulations, or even when an official performs their official duties in a state-owned company or the like.

Consistent with the guidelines

The minister owns more than 10% of the shares of a listed company. The government meeting decides on the approval of the company's dividends. The minister withdraws from both substantive discussions and the formulation of a decision.

Not consistent with the guidelines

The minister formally withdraws from the business in which they operated before taking office and which is significantly affected by the amendments to the law in the field of the minister, but still essentially directs the course of business.

7. After leaving office, the **minister must not take up** a job as a member of the management or supervisory body of a company or foundation in their area of government for one year.

The restriction is only intended for membership of the management board and supervisory board of companies and foundations under the control of a specific minister and does not extend to companies and foundations in private ownership or under the control of other ministries. The minister may also take up other positions in a company and foundation in their area of government outside the management board and supervisory board. The restriction is analogous to the prohibition imposed on officials by the Public Service Act not to take up a position in the management board and control body of a legal person over which it has exercised direct or permanent supervision during the past year.

Consistent with the guidelines

When leaving their position, the Minister of Social Affairs will work as the head of the department/doctor at the North Estonia Medical Centre or as the head of a private hospital.

Not consistent with the guidelines

When leaving the position, the Minister of Social Affairs will become a member of the supervisory board of AS Eesti Vanglatööstus.

8. **The minister and their advisers use** public funds sparingly and follow the principle that it is intended to be used only in the public interest.

Public funds are the authority's budget, people, tools, and vehicles intended for the performance of official duties. Public funds may not normally be used for personal purposes, but reasonable exceptions are acceptable. In accordance with the Anti-corruption Act, the use of public funds can be considered corrupt if two conditions are met at the same time. Firstly, if an official has violated their official duties to use it – for example, they have disregarded internal procedures, job descriptions, etc. Secondly, an activity can be considered corrupt if it results in an unequal or unjustified advantage in terms of public interest.

Consistent with the guidelines

Not consistent with the guidelines

<i>The minister allows their child to do schoolwork, etc. with their work computer. The child has taken ill in kindergarten, but the minister has a meeting with a foreign delegation and, as an exception, asks the driver to take their child home from kindergarten.</i>	<i>The minister instructs the ministry's assistant adviser to buy a gift for their spouse, to organise a holiday trip for them, or to book a doctor's appointment for their children.</i>
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9. The **minister and their advisers follow** 'Good Practice in Communicating with Lobbyists'.

'Good Practice in Communicating with Lobbyists' complements these guidelines and sets out principles for more open communication with lobbyists. These are two separate guidelines, as 'Good Practice in Communicating with Lobbyists' is aimed at a wider audience than just ministers and their advisers.

10. The **minister and their advisers keep** their personal (including business) interests and the public interest separate.

<i>The primary purpose of the position of both the minister and their adviser is to perform public duties and, in the case of the minister, to exercise public authority as well. The target group of the policy decisions they make is the widest possible circle of people, which gives priority to the public interest in policy-making, leaving personal interests in the background.</i>	
Consistent with the guidelines	Not consistent with the guidelines
<i>The minister decides on the directions of support intended to compensate for the consequences of natural damage. The minister's company (connected person) operates in the same field, but is not the target group of the support. As the minister's company is not the target group of the support, the minister does not have to withdraw from the discussions and decision.</i>	<i>An adviser to the minister is in the committee, but does not withdraw in cases when the support of a company or NGO related to them is discussed and decided.</i>
	<i>The minister influences the head of a subdivision of a ministry to refrain from conducting supervision proceedings in the sector in which their son's company operates, although the subdivision's risk assessment indicates a need for more in-depth supervision of the sector.</i>

11. The **minister and their advisers respect** the impartiality and professionalism of the officials and other staff of the ministry and the area of government.

<i>Although the minister and their advisers have the right to make decisions based on their political and ideological understanding, taking into account that officials base their work in exercising public power primarily on the public interest and their professional knowledge.</i>	
Consistent with the guidelines	Not consistent with the guidelines
<i>The minister asks ministry officials to assess the possible effects of the policy change, but decides on the basis of their personal progress and party programme.</i>	<i>When advising on the effects of a draft, the minister's adviser asks the working group to point out only the effects that help to push through the draft, and not to point out the possible negative effects thereof.</i>

IMPLEMENTATION OF THE GUIDELINES

12. The **minister and their adviser read through** these guidelines upon taking office.

13. The **minister and their adviser preferably complete** the online course on conflicts of interest upon taking office¹.
14. The **minister and their adviser contact** the Government Office or the contact person for preventing corruption in their own ministry to receive (confidential) advice on ethics and the prevention of conflicts of interest. The ministers are advised by the ministries and the prime minister by the Government Office.

¹ <https://www.youtube.com/playlist?list=PL5JI001vz8bNUpuzEyFU8I1bjOAwqTkHV> or <https://moodle.hitsa.ee/course/view.php?id=26485>

