

The RESPONSibility rests with me

Code of Conduct to Prevent Corruption

Preface

Austria and its public service have a very good record as far as corruption is concerned. International comparisons and studies by independent organisations such as Transparency International (an international NGO that engaged in fighting corruption) confirm what we have all known for a long time anyway. Public servants in Austria are basically not corrupt and perform their duties impartially and in an objective manner. However, in recent years Austria has signed several international agreements that commit us to taking further action to prevent corruption and subject our efforts to a regular evaluation.

The UN Convention against Corruption and the pertinent Council of Europe conventions provide for, among other things, the drawing up of a code of conduct that should provide public servants with a standard for their daily professional activities. We have therefore taken this opportunity to draw up a code of conduct for civil servants applicable across all government departments and local authorities. Responsibility for drawing up this code was entrusted to a special working group comprising experts from all ministries, the provinces (*Länder*), towns and cities and the Public Service Union and the Union of Municipal Employees. A list of the members of this working group can be found in the appendix to this brochure.

The working group regards the Code of Conduct primarily as an instrument for preventing corruption and not for directly fighting it. It is not a control instrument, but is intended to raise awareness of the fact that even legally unproblematic actions can become a problem.

It should also challenge taboos and encourage us to openly address the issue of corruption so that we can find the right answers to these questions.

In this spirit: Let's talk about it!

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The RESPONSibility rests with me	1
Preface	1
Preamble	3
Living AND communicating objectivity	4
A matter of freedom or gifts - NO THANK YOU	6
Total dedication to Austria and its citizens – no secondary employment if this is likely to result in a conflict of interest	8
As transparent as possible – as discreet as necessary	11
I accept responsibility – I entrust responsibility	12
We shape our organisational framework – no chance for corruption	13
Appendix	14

Preamble

Corruption, maladministration and self-seeking behaviour using a position in the public sector for personal gain harms the reputation of the Austrian administration and Austria's reputation as a safe business location. Furthermore, they also diminish public confidence in the reliability and objectivity of the public service.

Why should I as an individual have to deal with these issues? Shouldn't that be the task of those "up there"?

Definitely NOT - the conduct of each and every one of us shapes the image of both the organisation and of my colleagues. This applies equally to my manager, all members of staff and myself. For my daily conduct provides the answer as to whether arbitrariness, the abuse of power and corruption are the order of the day in the Austrian public sector. Or whether my actions are guided by my special responsibility toward the public and in particular by values such as integrity, transparency, objectivity and fairness.

I am aware that I have a responsibility to my fellow human beings and therefore undertake to optimise my personal ethical compass by continuously and critically questioning the principles that govern my actions.

I also have strong confidence in the ability of my colleagues to act with integrity, transparency, objectivity and fairness. To all those who do not behave in this way, I would like to say quite clearly: I will not allow my good work and my reputation to be destroyed by a small number of individuals. I will act decisively against all and any form of corruption. I will not give corruption a chance.

Because the responsibility rests with me.

Living AND communicating objectivity

We are human just like everyone else

We public servants have personal opinions, attitudes and values just like everybody else. We are not emotionless robots, each one of us has their own history and feelings. We are not perfect and are not super-humans who can do the impossible. We experience sympathy and antipathy.

My actions are governed by many different factors and I can only act objectively if I am aware of this. Situations can always arise – both in my personal and professional life – in which I am unable to judge objectively or others do not believe that I can. This is a fact and it cannot be denied. When I cannot approach a matter with complete impartiality and even-handedness or even if I give the impression that I cannot, I am no longer objective, but biased. It suffices if I harbour doubts about whether in a specific instance I will proceed solely according to objective criteria or whether, due to external circumstances, others might gain this impression.

Objectivity requires attention

The public expects that we act impartially, give regular and careful consideration to this issue and uphold this attitude by reflecting upon our actions. Basically, everybody knows where the limits are. Many of my activities are carried out in a routine that enables me to work efficiently. But even in this routine I always have to be on my guard so that I can recognise early on if and when I am in danger of losing my objectivity.

I avoid conflicts of duty

In the performance of my duties I regularly ask myself whether there is anything that could cast doubt on my complete impartiality. I ask myself whether a conflict could arise between my official, family, personal, political or social responsibilities or with any political activities. I should be able to render account – to myself and to others – about everything I do. Given the nature of my specific professional activities I proactively try to identify (both in and outside my job) any potential conflict of interest. I act in a manner that prevents any mixing of my professional and other activities.

Equality is a task

It is my aim to treat others as I would wish to be treated myself in a similar situation. I therefore avoid any actions that could create the impression that I might favour or discriminate against anybody. Such actions include partisanship, excessive language and impertinent personal remarks as well as discriminatory statements and blanket judgements.

Furthermore, I do not issue impermissible instructions. I reject interventions and protectionism aiming at persuading me to engage in unequal treatment or improper conduct of my office. I also refuse to grant favours out of a false understanding of helpfulness.

Conflicts of interest require a reaction

I immediately notify my employer or supervisor of any conflict of interest. I only carry out necessary official acts that cannot be delayed and ensure that a substitute is found for me as quickly as possible. However, I do not use conflicts of interest as a pretext for avoiding my responsibility.

I am responsible for my own actions

I am responsible for avoiding, recognising and reporting conflicts of interest. I am therefore also responsible for the consequences arising from improper actions. I must, like all my colleagues, answer for my conduct and cannot shunt responsibility off onto them, my manager or my department. Everyone must act in accordance with their own conscience. Even if others are not so scrupulous, I assume responsibility for my own actions. I start with myself, remain faithful to myself, set a good example and encourage my colleagues to act with integrity and to continue to do so. I take pride in this.

A matter of freedom or gifts - NO THANK YOU

- In many cases, corruption starts with the acceptance of gifts. I remain unconstrained by conflicts of interest - I do not accept any gifts.
- Being free from conflicts of interest and preserving my integrity are worth a great deal to me – much more than any gift.
- Only a strict separation of personal and official interests can ensure decision-making freedom - gifts violate this separation.

In the performance of my duties I accept no gifts or other benefits.

When confronted with gifts, I therefore ask myself the following questions:

- Would I also want to accept this gift in the presence of witnesses?
- What impression would acceptance make on third parties? Would I accept this gift if I were to read about it in the newspaper the next day?
- Would accepting the gift diminish public confidence in the objectivity of the public service?
- What is the reason for giving me the gift?
- Does my behaviour create the impression that I am receptive for gifts?
- Could I be committing a criminal offense?

What exactly are “gifts or other benefits”?

This term not only covers non-monetary gifts and gratuities, it also includes vouchers, holidays, invitations to events and meals. However, excessive discounts, the offer to perform services (also of a sexual nature), job offers or even support for (job) applications also constitute inappropriate benefits, as does being allowed to use vehicles or accommodation free of charge. It is not necessarily the value of the gift in monetary terms that counts. The Legislator has not laid down any absolute limits for the value of gifts in either civil service law or criminal law.

I emphatically refuse gifts offered to me in the expectation of favours

By drawing attention to my official duties and the code of conduct I place on record that I am familiar with them and, above all, that I am committed to them. Furthermore, I immediately call upon my manager or a colleague to join the discussion to ensure that all further procedures are as transparent as possible.

I am also critical of “small courtesy gifts”

If small courtesy gifts start to mount up, I of course refuse to accept them and point out that they are problematic. Furthermore, I report such incidents to my manager.

Exercise care even with gifts that do not pose any risk of criminal liability

There are cases in which accepting gifts does not expose the recipient to any risk of criminal liability, e.g. symbolic gifts of only nominal value that are given only once. However, even in such cases, acceptance must be made transparent and the relevant manager informed. There are situations in which it is not really possible to refuse gifts, either because to do so would be impolite or because refusing the gift would be detrimental to the image of my department. I may only accept such expressions of esteem in the name of the department that I represent. I will immediately hand over the gift to my employer.

Sponsored by.... or independent of... where do I draw the line?

While contributions by citizens and companies to improving public services demonstrate civic-mindedness, dependence upon sponsorship destroys the cornerstones of public administration.

Sponsorship is understood as the rendering of services and return of services. On the basis of a written agreement, the public sector receives cash or goods in kind and in exchange the sponsor receives publicity designed to enhance its reputation (e.g. flyers, posters, advertisements,....).

There can be no sponsorship where there is no commensurate publicity; in order to safeguard objectivity sovereign tasks are to be financed exclusively by state funds.

Total dedication to Austria and its citizens – no secondary employment if this is likely to result in a conflict of interest

Our job is to serve the community. Many workers in the public services work around the clock for the public. For many of us, our work in the public service is the focus of our professional lives. Generally speaking, activities outside the civil service make an important contribution to society.

I am aware that because of the responsibility I bear, such activities are subject to special rules. These ensure that no conflicts of interest arise and guarantee impartiality, objectivity and legality in the public service.

Secondary employment is defined as any activity outside the public service. This includes all forms of employment and self-employment as well as any paid or unpaid functions in companies or associations.

Secondary employment that

- prevents a civil servant from performing their official duties or
 - leads to suspicion that there is a conflict of interest or
 - poses a threat to other official interests
- are prohibited.

If there is a possibility of the public gaining the impression that I am unable to carry out my official duties with complete impartiality because of this other employment, this outside employment is impermissible. This should prevent me from getting into situations where I am unable to make impartial decisions due to this second job.

Furthermore, accepting secondary employment from individuals or companies with whom I have official contact may constitute pecuniary gain and thus the impermissible acceptance of a gift. Certain forms of secondary employment are also subject to reporting obligations. To ensure that I do not blunder into problematic situations in the first place, I adhere to the following basic rules:

I strictly separate my main profession from my private source of income

I am well aware of what is my occupational focus and think about whether my secondary employment might collide with my official duties. Personal relationships that arise as a result of my secondary employment must not be allowed to influence the performance of my duties in my main, official occupation.

If I have secondary employment I always ask myself whether there is any risk of me abusing my position for personal gain. If I am in any doubt I forego the secondary employment.

I also report positions in companies and associations

Any position on a management board, supervisory board or administrative board or on a governing body of any legal entity governed by private law (e.g. limited liability company, stock corporation) must be reported. There is usually no need to report voluntary activities at a non-profit organisation. Nevertheless, accepting such positions may lead to a conflict of interest if the official position relates or could relate

to the company or the association. In this case, I will not take on such secondary employment.

I take action in response to the mere impression of a conflict of interest

I do not process any files or cases involving individuals (customers/contractors) for whom I work, have worked or will work in secondary employment. If a conflict of interest should arise during the course of permissible secondary employment I immediately arrange for somebody to act in my place and seek the timely advice of my superior.

In my capacity as a manager I advise my staff before they take up secondary employment

In my capacity as a manager I advise members of staff with regard to potential incompatibilities that could arise in connection with secondary employment. Even the possibility that confidential information could be passed on can suffice to create the impression of a conflict of interest in secondary employment. In some cases, it may be necessary or expedient to release a member of staff from duties or to arrange for a transfer. The same applies in situations where conflicts of interest could arise due to activities of family members. In my capacity as a manager I enquire as to whether a member of staff holds a second job at the annual structured appraisal meeting.

I re-evaluate secondary employment in the event of changes in civil service status

If members of staff are engaged in permissible secondary employment, the question of compatibility with civil service employment must be re-evaluated in the light of changes to the latter such as transfers, promotions, career advancement etc. Previously permissible secondary employment may become impermissible as a result of changed responsibilities and/or any current decision-making influence.

I pay attention to warning signs in connection with secondary employment

Some forms of secondary employment can open the door to corruption. I pay attention if members of staff and customers/contractors cultivate off-duty contact with conspicuous frequency, the former hold second jobs, have contracts as consultants or experts or hold an equity stake in companies belonging to the latter.

Paid secondary employment that has not been reported is always an alarm signal. Action must be taken in cases where members of staff are engaged in secondary employment or members of their families are employed at companies which are also contractors of the relevant department or have filed applications to it. It can also be a warning sign if members of staff with "outside earnings" enjoy an expensive or unusually high standard of living.

I take these indicators seriously as a manager, but avoid jumping to premature conclusions or judgments. Instead I raise my specific concerns with the member of staff concerned and if necessary report to my manager or the head of the department or agency.

Where are the critical points of contact?

Critical points of contact in terms of civil service employment are, for example, the placement of orders and granting of subsidies, conclusion of contracts, performance control, monitoring of contracts, official tasks (approval procedures, supervisory and control tasks). An official expert may not, for example, at the same time serve as a planner/ or broker for companies in their own area of work.

Critical points of contact are present if officials hold an equity stake in, collaborate with, serve as consultants or frequently lecture for companies with whom they have official contact. Although work by close family members at (contract) companies does not constitute secondary employment, it can, in individual cases, give rise to a conflict of interest.

As transparent as possible – as discreet as necessary

I work transparently and comprehensibly and because of my duty of disclosure inform individuals and the public about my professional actions.

However, it is also clear to me that, depending on my area of work, I am subject to various and specific obligations to maintain secrecy that limit my duty of disclosure. These also continue to apply after I have retired from or left public service.

Under certain circumstances, passing on information acquired solely in the course of my official duties may violate the justified interests of third parties. Such interests include, above all, particular public interests such as the maintenance of law, order and public security, foreign relations, national defence or the economic interests of public bodies. I may seek to be released from certain obligations to maintain secrecy. Of course, I also seek to protect the interests of individuals, in particular personal rights and their basic right to data protection.

If a member of the public approaches me with a request to pass on information I carefully balance his/her interest in receiving this information with those private or personal interests which could be violated by the passing on or even publication of the information. Above all, I endeavour to avoid compromising individuals.

In case of doubt, I seek the advice of my manager. I document the forwarding or refusal to forward the relevant information and also the reasons for my decision.

I accept responsibility – I entrust responsibility

As an executive I have a responsibility toward my organisation, my staff and the public. As an executive I am committed to the values integrity, transparency, objectivity and fairness, and seek to conscientiously carry out my responsibilities and serve as an example.

- I am committed to ethical values, act in accordance with them and expect the same from my staff.
- I lead my staff with a sense of social responsibility and treat them with respect.
- I trust in the abilities and expertise of my staff and entrust them with commensurate tasks.
- I further the development of my staff and provide them with support and instruction.
- Within the framework of my disciplinary and specialist supervision I also guarantee compliance with the applicable laws and regulations.
- I am committed to preventing and fighting corruption and actively raise awareness among my staff for this issue, especially within the framework of the structured appraisal meeting.
- Within the scope of my responsibility I implement suitable control measures designed to protect my staff as well as sanctions to protect the organisation.
- I promote staff identification with the goals of the organisation.
- I take care that my staff and I have correct and clear forms of communication and behaviour.
- I make transparent and comprehensible decisions.

We shape our organisational framework – no chance for corruption

A good and transparent organisation makes an important contribution to a public service free of corruption.

- We – those who hold positions of responsibility within the organisation – create clear competences and responsibilities.
- We develop preventative measures such as the rotation principle and mandatory dual control to prevent corruption in vulnerable areas.
- We install and respect internal control systems, not least of all to protect members of staff and the organisation.
- We develop binding regulations to govern sponsorship.
- We define information structures and communication channels, both within the administration and vis-à-vis the public and the media.
- We work together in a spirit of trust with control and auditing bodies.
- We organise advice and training to raise awareness of sources of danger and also offer opportunities for participation.
- In the exercise of powers of ownership in privatised legal entities we are guided solely by factual considerations.
- We actively speak out against - also to members of the public or business partners - against the culture of giving gifts.

Appendix

Members of the Code of Conduct Working Group

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	MR Dr. Elfriede Kotzailias
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Ministry of European and International Affairs	Botsch. Mag. Martin Falb
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Ministry of Justice	LStA Dr. Josef Bosina
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Ministry of Defence	MR Dr. Christian Mayer
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Ministry of Social Affairs and Consumer Protection	Mag. Irene Altendorfer
Ministry of Education, Art and Culture	HR Mag. Karl-Heinz Jirsa
Ministry of Transport, Innovation and Technology	Mag. Karin Grünauer
Ministry of Economic Affairs and Labour	Mag. Ralf Hagspiel
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Ministry of Science and Research	ADir Ernst Herrmann
National Audit Office	SC Mag. Wilhelm Kellner
Liaison Office of the Provinces (<i>Länder</i>)	Dr. Robert Gmeiner
Upper Austrian Audit Office	Dir. Dr. Helmut Brückner
League of Cities (Städtebund)	Obersenatsrat Dr. Paul Jauernig
League of Municipalities (Gemeindebund)	Herbert Maislinger
Public Service Union	Mag. Regina Bauer-Albrecht
	Erich Rudolph
Union of Municipal Employees	Mag. Monika Friedl