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Guidelines on taking and offering bribes

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1. Introduction

Luleå University of Technology conducts an activity of such a nature that employees and contractors in their performance of their duties may be exposed to influence by other actors. At the same time, high demands must be placed on the university and its employees. It is therefore important that the interaction with other actors takes place in a formal manner and that the provisions of the Swedish Penal Code on the taking and offering of bribes that apply to both the public and private sectors are followed.

2. Purpose of the Guidelines

The guidelines aim to establish the university's view of employees' attitudes in matters relating to the taking and offering of bribes, to report on applicable rules and to provide guidance and support to the university's employees. The guidance focuses on highlighting risks that arise in connection with offers of gifts and benefits from actors and parties, for example in connection with case management and decision-making, procurements, teaching, secondary occupations or externally funded research projects. In addition to this, responsibility and handling issues are also highlighted.

3. Restrictive approach

All employees and contractors at the university have a joint responsibility to maintain the public's and client's confidence in the university's activities, which must be characterized by objectivity and impartiality. A restrictive and cautious approach to offers that may be perceived or risk being perceived as undue influence is required. It is therefore important that employees and contractors at the university:

- does not act in such a way that it may risk damaging the trust of those around them in the university. It should not even be possible to suspect that representatives of the university allow themselves to be influenced by irrelevant wishes in the performance of their duties
- does not accept gifts or benefits from either internal or external parties if this is done with the intention of or can be assumed to influence the employee's performance of duties
- does not give or offer gifts or benefits to internal or external actors if this is done with the intention or can be assumed to affect the performance of their duties
- must pay attention to and think carefully before offers of gifts, wills, discounts, commissions, meals, travel, conferences, leisure offers, services, credits, etc

4. On taking and offering bribes

4.1 Applicable rules

Employees or contractors who, for themselves or for others, accept, accept a promise of or request an improper advantage for the performance of the employment or assignment shall be convicted of taking a bribe.[1] The same applies if the employee committed the act before they received the employment or after they left it.

A person who gives, promises or offers, to an employee or contractor, for that person or for another person, an undue benefit is convicted of offering a bribe.[2] Accepting a request from an official or elected representative to receive an undue benefit is also not acceptable.

A person who is guilty of trading in influence is sentenced who, in a case other than that described above,

1. receives, accepts a promise of, or requests an undue advantage to influence another person's decision or action in the exercise of public authority or public procurement, or
2. gives, promises or offers someone an undue benefit to influence another person's decision or action in the exercise of public authority or public procurement.[3]

A trader who provides money or other assets to someone who represents the trader in a particular matter and thereby through gross negligence promotes the offering of bribes, aggravated offering of bribes or trading in influence can be convicted of negligent financing of bribery.[4]

4.2 Receiver

For bribery to occur, the recipient must be an employee or contractor of the university. A contractor can be a member of, for example, the university board or a faculty board, an actor who carries out assignments that are regulated by statute, etc. It is sufficient that the recipient in their employment or in their assignment can exert an actual influence in a way that promotes the donor's interest. Thus, it is not only decision-makers who can be considered.

[1] Chapter 10, Section 5a, Penal Code.
[2] Chapter 10, Section 5b, Penal Code.
[3] Chapter 10, Section 5d, Penal Code.
[4] Chapter 10, Section 5e, Penal Code.

4.3 Improper or appropriate

The line between what is an "improper" or "appropriate" reward or benefit is difficult to draw and can vary depending on the field of activity and the time. Case law shows that particularly high demands are placed on employees in the public sector. An employee or contractor in the public sector should consider all benefits to be improper if they can be suspected of affecting the performance of their duties. A benefit is improper if it is objectively likely to affect someone's performance of their duties.

A benefit, on the other hand, may be appropriate if it is a natural and useful part of the recipient's performance of services, such as work lunches or study trips that take place for legitimate purposes.

4.4 Openness and moderation

A benefit must be assessed based on criteria such as openness and moderation. All the relevant circumstances of the individual case must be considered. It is not legitimizing for the recipient of the gift to show afterwards that the recipient has not been influenced by the benefit.

The requirement for ***transparency*** means that a benefit should normally be directed directly to the university and not be personal. To the extent that the benefit is directly aimed at a specific person, it must be linked to this person as the university's representative.

The requirement of ***moderation*** means that the benefit must not appear to be behavioral to the recipient. The financial or personal value of the benefit must be set in relation to the employee's sensitivity to integrity and personal influence, whereby factors such as position, duties, age and experience may form part of the overall assessment to be made (proportionality).

5. Guidance

It is not forbidden to show appreciation, maintain good relations and show gratitude to the university's stakeholders. On the contrary, in many contexts it may be appropriate and reasonable for some form of gift or similar benefit to be exchanged. However, the question should be asked – ***where is the limit for bribery?***

It is not entirely easy for the individual to decide in all contexts whether an offer is acceptable or not. As a guide, a summary is provided in sections 5.1-5.3 below. ***Note, however, that the individual must make their own, well-considered decision in each individual case.***

5.1 Acceptable gifts and benefits

Examples of acceptable gifts and benefits include:

- work meals of an everyday nature in a relevant context,
- congratulations on anniversaries that can be considered moderate,
- small samples of insignificant market value,
- ornaments with a negligible market value, and
- moderate memorial gifts at anniversaries, for example.

5.2 Unacceptable gifts and benefits

Examples of unacceptable gifts and benefits include:

- study trips and conferences with little or no connection to the performance of the duties,
- travel and holiday stays that are fully or partially paid for by, for example, a supplier,
- purchase discounts or commission and bonus arrangements made to specific persons within the university,
- disposal of vehicles or holiday homes in private contexts,
- inviting relatives or friends to activities paid for by the supplier,
- monetary gifts in cash or other forms such as securities,
- loans with particularly favorable terms,
- guarantee commitments or debt coverage,
- remission of purchase price or receivable, amortization or interest.

5.3 Special care should be taken

Examples of when special care should be taken:

- if the benefit has a high value or is offered frequently,
- if the employee or contractor is offered goods or services that can be used privately,
- if the benefit coincides in time with business negotiations with the recipient,
- if the benefit is not known to the recipient's manager,
- if the recipient of the benefit has duties that involve the exercise of public authority or public procurement,
- if the benefit is not clearly linked to the recipient's work or assignment,
- if the employee or contractor is invited to an event with a private party,
- if the benefit is aimed at specially selected persons (an event aimed at a wider range of people, useful in the service of the participant and is not otherwise extravagant is normally permitted),
- if the benefit is not provided openly,
- if the benefit is disproportionate to the purpose of the benefit,

- if the benefit deviates from accepted forms of contact between the university and, for example, the business community,
- if the benefit is initiated by the recipient.
- donations requiring reciprocal services, such as honorary doctorates,[5]
- receipt of external funding for collaboration, contract research and equipment.[6]

5.4 Risk groups where extra caution is required

Examples of groups where extra caution is required:

- employees who work with the exercise of public authority, such as examinations,
- employees with management assignments,
- experts,
- members of various committees and boards,
- procurers and others involved in the procurement process,
- employees who manage purchases and could influence purchases,
- employees who collaborate with commercial companies.

In addition to this, it is noted that the Rules for representation and gifts at Luleå University of Technology are applicable to all entertainment based at the university.

6. Liability issues

6.1 The manager's responsibility

The heads of department, the head of administrative support and the area managers within the administrative support are responsible for ensuring that the university's employees and contractors are familiar with the applicable rules and current guidelines on bribery and to have supervision of these issues.

It is also the responsibility of the immediate manager to support individual employees in assessing which offers are acceptable or not.

[5] See The Association of Swedish Higher Education Institution's (SUHF) document Ethical guidelines for the receipt of donations to Swedish universities and university colleges.

[6] See SUHF's letter Ethical guidelines for the handling of external research grants at Swedish universities and university colleges.

6.2 Responsibility of the employee and the contractor

The question of complying with the rules on taking and offering bribes constitutes a personal responsibility for the individual executive. In case of uncertainty about the nature of the offer, the matter should be raised with the immediate manager. However, with a manager's approval, an improper gift can never be redefined as a proper gift.

6.3 Handling of bribery cases

Violation of the university's guidelines and the rules of the Penal Code on taking and offering bribes may lead to disciplinary and criminal sanctions.

If bribery is suspected, the immediate manager must be informed. It is then the manager's responsibility to report the offence to the head of administrative support, who will decide on the initiation of an investigation. It is also possible, where necessary, to contact a legal advisor at the university's legal department directly in the event of suspicion of irregularities to request the necessary measures. The detailed forms for investigating in connection with suspicion of bribery are set out in the Guidelines regarding the handling of irregularity cases[7].

[7] LTU-4252- 2022