

CODES OF CONDUCT IN DEFENCE MINISTRIES AND ARMED FORCES

WHAT MAKES A GOOD CODE
OF CONDUCT?

A multi-country study



Transparency International (TI) is the civil society organisation leading the global fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, Germany, TI raises awareness of the damaging effects of corruption, and works with partners in government, business and civil society to develop and implement effective measures to tackle it.

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Transparency International's international Defence and Security Programme (TI-DSP) helps to build integrity and reduce corruption in defence and security establishments worldwide through supporting counter-corruption reform in nations, raising integrity in arms transfers and influencing policy in defence and security. To achieve this, the TI-DSP team works with governments, defence companies, multilateral organisations and civil society. TI-DSP is led by Transparency International UK on behalf of the TI movement. Information on TI's work in the defence and security sector to date, including background, overviews of current and past projects, and publications, is available on TI's Defence Against Corruption website, www.defenceagainstcorruption.org.

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While acknowledging the debt TI-UK owes to all those who have contributed to and collaborated in the preparation of this publication, we should make clear that TI-UK alone is responsible for the content of the document. Every effort has been made to verify the accuracy of the information contained in this report.

All information was believed to be correct as of March 2011. Nevertheless, TI-UK cannot accept responsibility for the consequences of its use for other purposes or in other contexts. While believed to be accurate at the time, the publication should not be relied on as a full or detailed statement of the subject matter.

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Preface

Transparency International UK (TI-UK) works with governments, defence companies and civil society organisations to reduce the risks of corruption in defence and security. Our approach is non-partisan, neutral and focused on constructive ways of addressing the issue of corruption.

Defence officials and senior military officers are themselves very clear why they care about corruption risk in defence and security establishments. The three main reasons are that:

- corruption wastes scarce resources
- it reduces operational effectiveness
- it reduces public trust in the armed forces and the security services.

Part of the solution to these risks is clear guidance on the behaviour expected of senior officers and officials, and strong application of those standards of behaviour.

Previous research by TI-UK in 2009 across 32 participating countries showed that these standards vary greatly from one country to another, and that there are wide variations in the effectiveness of their application.

This work met with much interest from nations. However, it was limited in the amount of detail it was able to cover, and we had not entered into review and discussion with the participating nations. Accordingly, in order to develop more detailed guidance and to be able to quote more examples of good practice, we invited nations to collaborate with us in a second, more detailed review of current practices.

This report presents the conclusions arising from this second multi-country study of 12 nations: Argentina, Australia, Croatia, Denmark, Germany, Kenya, Lithuania, Norway, Saudi Arabia, Spain, Sweden and Ukraine. Ten of these nations had also participated in Phase 1; two of them – Argentina and Saudi Arabia – were participating for the first time.

ACKNOWLEDGEMENTS

TI-UK thanks all the participating countries for their openness and for disclosing the information requested. We would in particular like to thank the officials who were the points of contact in each nation for their time in compiling the material in response to our research questions and for reviewing drafts of this report.

The report itself is the work of TI-UK.

I hope you find this report useful. We welcome your feedback and further engagement.



Mark Pyman

Programme Director,
International Defence and Security Programme
Transparency International UK
May 2011

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Executive Summary

THIS REPORT HAS A SIMPLE PURPOSE:

to show defence officials and military officers how they can strengthen their organisations and reduce the risks of corruption in defence through improving their codes of conduct – the standards and norms that govern the ethical behaviour of people in defence and the armed forces.

Part of the solution to these risks is clear guidance on the behaviour expected of senior officers and officials, and strong application of those standards of behaviour.

This report presents the conclusions from an analysis of the written codes of conduct and related documents from 12 participating nations: Argentina, Australia, Croatia, Denmark, Germany, Kenya, Lithuania, Norway, Saudi Arabia, Spain, Sweden and Ukraine. It builds on an earlier study of the same subject among 32 nations. Ten of the nations in the current study also participated in the first round; the other nations were Albania, Bulgaria, Canada, Chile, Colombia, Finland, Georgia, Ireland, Latvia, New Zealand, Nigeria, Pakistan, Poland, Portugal, Romania, Russia, Serbia, South Africa, Tanzania, Uganda, UK and USA.

The key finding of the study is that although all the countries surveyed have in place a legal framework to regulate business conduct, this is usually not placed within the wider framework of acceptable ethical behaviour.

- Codes of conduct are in general not used to simplify regulations for defence personnel and aid ethical decision-making.
- There is often insufficient attention to corruption issues, especially to the particular risks faced by defence personnel.
- A majority of regimes are ‘compliance-based’ – i.e. rather legalistic in nature.

This means that the presentation and readability of reference documents is commonly poor, which is a significant obstacle to ensuring that regimes are fully understood and that they reach key audiences.

The study closely examines four functional areas of business conduct: bribery, gifts and hospitality, conflicts of interest and post-separation requirements. The main conclusion is that there is rarely practical guidance for officers and officials on how to act if confronted by a particular ethical dilemma. It is also evident that there are different levels of attention paid to each issue. For example, while all countries have guidelines on gifts, a minority look at the ‘grey area’ of hospitality. Regulations on conflicts of interest are generally thorough, but these are rarely extended to personnel after leaving service. In order to illustrate our findings we offer examples of what works for each functional area, and in some cases what doesn’t, in order to facilitate cross-country learning and sharing of experiences. The report also describes some excellent examples from fully integrated ethics systems.

From analysis of the documents from the twelve nations, we present a template containing what we believe constitutes good practice. This is presented on the following page. We hope this template will serve as a foundation for countries seeking to improve their own standards in ethics and business conduct.

Template of Good Practice

The principal output of this study is the identification of those aspects of defence business conduct regimes that represent current best practice in the sector. The following template provides a guideline to those practices which TI judges to be sound, reasonable and most likely to be effective.

STRUCTURE AND APPROACH

1. The organisation should provide easily accessible reference material to persons in the defence ministry, security ministry and armed forces, outlining their obligations in ethics and business conduct. Defence officials and members of the armed forces should follow the same regulations, which should be presented in a single Code of Conduct document.
2. The material should comprise three core components: the legal framework, the code of conduct and a statement of values.
3. The **legal framework** should be supported by clear ethical guidance. This guidance should be designed to help shape and contextualise decision-making for individual officials. Clear and comprehensible guidance should be used to ensure that a legalistic approach is effective.
4. Organisations should have a **code of conduct** that condenses all material relevant to business conduct into a single document. This document should give a clear sense of the organisation's main goals, and practical guidance in the key areas of corruption risk. The code of conduct should have clear aims, such as:
 - Government business should be conducted pursuant to the highest ethical standards, maintaining the public trust, and in a manner commensurate with the public interest at all times.
 - The defence ministry and armed forces shall prohibit bribery and corruption in any form, whether direct or indirect.
 - The defence ministry and armed forces shall commit to this as part of the implementation of a wider programme to counter bribery. This wider programme should rely on a system of internal controls, with a clear chain of accountability and information on ethical programmes (including relevant laws, codes of conduct and policy) accessible centrally and transparently. In the final instance, there should be recourse to external bodies should officials feel cause to bypass the internal control system.
5. There should be details of the appropriate authorities in corruption-related matters, such as: superiors in management or the chain of command; ethics officers; dedicated anti-corruption agencies within the organisation; external authorities and, if applicable, anonymous hotlines. The code should state commitments to accurate record-keeping, adherence to established procedures of accounting, and reporting of actions.
6. A **statement of values** should be in place, providing a structure in which to frame the code of conduct. This should be an independent statement, distinct from more detailed ethical guidance.
7. The ministry and the armed forces should ensure that training of officials and armed forces personnel at all levels includes **integrated education** in proper business behaviour and the avoidance of bribery and corruption.

PRESENTATION AND READABILITY OF DOCUMENTS

8. Material should be condensed into a single, accessible reference document.

9. A simple layout should be used to aid the readability of documents. Use graphics, colour or illustrations to communicate the organisation's principal messages, and text boxes of key points or case studies to help break down heavy legal text.
10. Guidance should be written in a simple style that is easily understood.
11. Comprehensive and thorough information on legal rules should be provided to ensure that officials have fully understood what constitutes proper behaviour.
12. Use 'signposts' to deliver key messages effectively.
19. Regulations should include procedures for the proper disposal of gifts. Registers of all offers of gifts, whether accepted or refused, should be kept and routinely updated.
20. Officials should be prohibited from accepting hospitality from persons in industry, except under very clearly defined conditions.

FUNCTIONAL AREAS

Bribery

13. Officials should be prohibited from arranging or accepting bribes from customers, contractors, suppliers or employees of any party, for the official's benefit or that of the official's family, friends, associates or acquaintances.
14. There should be clear instructions for officials in place so they know how to act and who to contact if offered a bribe.
15. The organisation should ensure there are procedures in place for official reports of bribery to be investigated and to notify external prosecutors.

Gifts and Hospitality

16. Officials should be prohibited from the receipt of gifts from persons in industry. It is acceptable for exceptions to be made for gifts of trivial value, which should be clearly defined. The organisation should set, in the local currency, a low threshold of value below which gifts may be accepted.
17. These rules should be accompanied by practical guidance for officials, using real-life examples to aid individual decision-making.
18. The organisation should outline a clear procedure for officials to follow when confronted with an ethical dilemma; this should include a readily identifiable chain of command.

Conflicts of Interest

21. Officials and officers should be prohibited from performing official work on any matter where a person, family or close relationship is liable to raise doubts about their impartiality.
22. Officials and officers should be prohibited from having any financial interest or involvement in organisations relevant to their defence work.
23. The organisation should include clear guidance for officials so that they can judge whether a conflict exists.
24. Officials should be asked to disclose potential conflicts of interest.
25. A clear procedure should be in place to resolve conflicts of interest: there should be a defined chain of command to refer to, details on documentation to be completed and a timeframe within which officials are obliged to act.

Post-Separation Requirements

26. Countries should elaborate on the corruption risk of post-separation requirements, explain the rationale for this and give examples.
27. For a period of two to five years, officials should be obliged to request formal permission from their previous employer to accept offers of employment.
28. Officers and officials should be prohibited from receiving gifts, hospitality and payments not related to official employment from prohibited sources for a period of two years after leaving office, and should remain bound to report all such offers to the appropriate authorities.

Introduction

BACKGROUND AND PURPOSE OF THIS STUDY

This work developed out of our experience of the abundance of press and media reports of corrupt or allegedly corrupt incidents involving senior defence officials across the world. This clearly indicated that globally there is either a significant lack of comprehensive guidelines on how defence officials should conduct themselves, or that in many countries the guidelines in place are not being implemented. In discussions with officials from defence ministries of various countries, it became evident that there was often no clear guidance to officials and senior officers on how they should conduct themselves in their relationships with third parties. Guidance always existed, but was often buried in detailed regulations, recruitment letters or legal regulations.

The principal interest of this study is to promote best practice in the regulation of conduct for defence ministry officials and military officers in their relations with business, through elaborating current practice in this field in a comparative study.

More concretely, the report aims to show defence officials and military officers how they can strengthen their organisations and reduce the risks of corruption in defence through improving their codes of conduct – the standards and norms that govern the behaviour of people in defence and the armed forces.

Following a first-phase study in 2008 (see below), Transparency International UK (TI-UK) decided to look in more detail at the codes and guidance governing the behaviour of officers and defence officials. Because the first study had been at a relatively high level across a wide range of nations, it did not look in detail at any one country, or engage with officials from the nations themselves. TI's objectives for this second phase were threefold:

- to check the main findings of the first phase at a greater level of detail
- to develop a simple way of codifying the quality of the key documents
- to extract examples of good practice that defence officials and military officers from all nations can use in their own material.

The report is structured in four parts:

The **first part** presents the **template of good practice** that evolved from the material reviewed (see page 6).

The **second part** provides a **comparative overview** of the documentation received and classifies the codes of conduct received according to their overarching approach. It then goes on to analyse presentation and style, and finally considers the potential wider impact of the programmes. The analysis is accompanied by examples of good practice from participating nations.

The **third part** of the report focuses on **functional aspects of key corruption areas**, through four sub-sections, on bribery, gifts and hospitality, conflicts of interest and post-separation requirements. Again, the approach is comparative, contrasting different country positions for each area listed and comparing them with good practice. Examples of current practice are included to support the analysis and give closer insight

Part four concludes the review by considering how appropriate behaviours and conduct might be strengthened. It poses key questions about how **momentum for change** can be gained and realised (see page 46).

THE 2008 CODES OF CONDUCT STUDY

In 2008 TI-UK carried out a first review of current international practice in codes of conduct in defence and security. Based on material from 32 nations, the study revealed wide variations in the standards and quality of systems and practices. The countries in the first phase review were:

Europe: Albania, Bulgaria, Croatia, Denmark, Finland, Georgia, Germany, Ireland, Latvia, Lithuania, Norway, Poland, Portugal, Romania, Russia, Serbia, Spain, Sweden, Ukraine, UK

Africa: Kenya, Nigeria, South Africa, Tanzania, Uganda

Americas: Chile, Canada, Colombia, USA

Asia/Pacific: Australia, New Zealand, Pakistan

While the study identified several countries with well-developed programmes, it reported major deficiencies in key areas¹. One key finding was that although a clear majority of countries could point to a legal framework to regulate conduct, these regulations were rarely supplemented with practical guidance for officials to help resolve ethical dilemmas. Few countries sought to contextualise legal regulations in a wider programme of ethics.

The use of formal codes to regulate ethics and business conduct was much lower than expected. More than a third of respondents were unable to refer to a code of conduct to guide relations between defence officials and officers, and the private sector. Of those organisations that used a code of conduct, far fewer were able to cite a unified single reference source. Fewer than half the countries made reference to a statement of values, which clarifies the organisation's key ethical principles.

The original study assessed regulations in four principal areas of corruption risk: bribery, gifts and hospitality, conflicts of interest and post-separation activities. The findings for each of these areas are summarised in Figure 1, and highlight some points of weakness in current national standards. In addition, the study examined provisions for training, communication, and dissemination of ethical programmes, and found that these areas were weak and under-developed.

The first report concluded with a working statement of best practice, setting out a potential template for a comprehensive ethics and business conduct regime. This working statement has been validated in this second study and has been reviewed and updated.

FIGURE 1: KEY FINDINGS OF THE FIRST STUDY ON CODES OF CONDUCT IN DEFENCE (TRANSPARENCY INTERNATIONAL, 2008)

BRIBERY

- Bribery regulations were generally poorly developed
- In nearly all cases, soliciting or receiving bribes was illegal
- Few countries directed officials in how to proceed if offered a bribe, or if they suspected a bribe was being offered

GIFTS AND HOSPITALITY

- Most countries included regulations for officials, with many adopting a blanket rule prohibiting the receipt of gifts and hospitality
- Procedures for recording offers and disposing of gifts were generally absent
- Some countries' reliance on a general principle not to accept gifts was considered inadequate

CONFLICTS OF INTEREST

- Grossly insufficient attention was paid to conflict-of-interest regulations
- Most countries relied on vague requirements that conflicts were to be avoided, without properly defining the concept

POST-SEPARATION ACTIVITIES

- This was a corruption risk area not adequately addressed
- Many countries focused on the issue of commercial sensitivity, without recognising the corruption risk evident in movements between the public and private sectors

TRAINING

- Training and dissemination of ethical programmes was weak. Formal courses were apparently not widely utilised, with most dissemination carried out through presentation of materials to new recruits

1. Magahy, Ben and Pyman, Mark, *Ethics and Business Conduct in Defence Establishments – the Improvement of National Standards* (2009) Available at www.defenceagainstcorruption.org/publications

METHODOLOGY AND STRUCTURE OF THE CURRENT REPORT

Engaging participating countries:

TI-UK sent formal requests for information to all countries which had participated in the first study, together with a number of new countries. Senior civil servants (at the level of Permanent Secretary or equivalent) and heads of armed forces (Chiefs of Staff or equivalent) were sent requests for the following:

- Documents that oblige officers and officials to abide by a certain standard of behaviour
- Formal codes of conduct and guidance for officers and officials in relation to business practice (such as conflicts of interest, bribery, acceptance of gifts, hospitality, guidance for meetings with current and potential contractors, statements of personal wealth, etc.)
- Documents that constitute a formal part of training practices for building integrity and values in defence establishments
- Other resources that the ministry considers relevant to the development of integrity standards in the nation's armed forces, defence or security ministry and related agencies.

In total, 12 countries volunteered to participate in this second study: Argentina, Australia, Croatia, Denmark, Germany, Kenya, Lithuania, Norway, Saudi Arabia, Spain, Sweden and Ukraine. Ten of these had participated in the first phase study, and were joined by Argentina and Saudi Arabia.

TI-UK asked each country to nominate a point of contact to supply the main reference documents and answer more detailed questions about its defence integrity regime. It subsequently reviewed all material, analysing each country's ethics regime. A direct comparison of these analyses provides the basis of this report, including examples of good practice.

TI-UK is greatly indebted to the 12 countries that supplied documents on their codes of conduct. Their input provides the information needed to develop a greater understanding of ethics and business conduct

regimes, and formulate a template of best practice. The intention of this project is not to criticise countries' regimes or actions thus far, or advise them on individual cases; indeed, their cooperation indicates a willingness to examine and analyse the corruption risks they face and potential weaknesses in their regimes. TI-UK has therefore decided to specify countries' names only when giving positive examples of their practices or methods.

Ratings: For the areas of practice reviewed, the report categorises each nation's regime into a simple qualitative ranking: strong, moderate and weak. These results are shown in Annex One (page 58). These categories are broad and it is recognised that they are subjective. However, by classifying the countries in this way, the intention is to give a clearer impression of standards across each area of practice.

For tables 1–5 in Annex One, these rankings simply represent the extent to which nations align with the good practice bullet points. A weak regime neglects all or most of these points, while a strong regime is considered to have most of these components in place. For each area, one point is attributed to the respective answer.

For the key corruption risk areas (tables 6–8), the report defines the rankings as follows:

Weak: Full or partial neglect of the area of corruption risk. If regulations are in place, they are limited and insufficient. In some cases regulations are confusing and may increase corruption risk.

Moderate: Recognition of corruption risks. Guidelines and procedures exist to resolve issues. However, these lack detail and are more limited in scope than in a strong regime.

Strong: Full and detailed coverage of the issue. Clear procedures and practical guidance are available to officers and officials to help resolve ethical dilemmas.

CAVEATS AND LIMITATIONS OF THIS STUDY:

This report compares primary sources from 12 countries. The following caveats apply:

1. The material provided has been assessed only as it is presented in its written form. Hence this comparison is an assessment of the ethics and business conduct programmes in their formal structure, not necessarily in their implementation.
2. The accuracy of conclusions is dependent on how comprehensively nations responded to research questions and requests for information. There is no guarantee that in all cases TI-UK was provided with the full spectrum of material available within countries. All participants received a draft report to which they could respond in order to correct any inaccuracies, and were given the opportunity to add further documentation they considered relevant to the study.
3. It was beyond the scope of this study to evaluate the quality of education and training in values, required behaviours and codes of conduct. This is clearly a crucial part of the successful application of required standards across officers and defence officials. However, this is a much wider task than reviewing documents.
4. The 12 countries participating in this study are not representative of the regulation of codes of conduct across the globe. They do, however, demonstrate current thinking and practices in this area.

Comparative Overview

This section examines approaches in countries' codes of conduct, with respect to the overarching approach, core components of guidance, presentation and style of documents, readability and impact.

COMPARATIVE OVERVIEW

1.1 OVERARCHING APPROACH

Countries take markedly different approaches to the regulation of business conduct, varying from those which present only the regulations through to those which also give ethical guidance to officials, for example, to help them shape their own actions

in difficult circumstances. In order to categorise the regimes evaluated, TI-UK developed a ‘compliance-ethics spectrum’ in its 2008 study, i.e. a framework demonstrating the range of compliance mechanisms, from legal base regulation to ethical guidance:



Figure 3 below shows the spectrum and how the 12 countries participating in the current study were classified.



The findings presented above reveal genuine diversity in current international practice in regulating business conduct. Countries are split evenly between those that rely principally on a legal framework, and those that supplement this with ethical guidance.

Of the 12 countries surveyed, three take an exclusively legalistic approach. In these regimes, anti-corruption rules are located within core military penal documents alongside a broad range of other disciplinary offences and activities prohibited to officials and officers. Such an approach need not be an indication of a poor quality regime, and can be effective provided that the rules are clear and comprehensive, and that officials are fully aware of the legal requirements relating to a particular risk area.

Four country regimes rely largely on a legal framework, but do offer more information on the organisation's expectations of officials in business conduct. In these cases, this takes the form of a code of conduct covering a broad range of military issues, among which corruption is given a fairly low priority. The documentation did, however, include more specific literature on particular areas such as conflict of interest, treating this as an issue apart from other disciplinary offences.

Three countries pursue an ethics compliance regime. In these cases, guidance is much more substantial than in the former categories, with corruption prevention appearing as a main concern. The approach is less rigid, with more confidence placed in the individual official to ensure that their behaviour parallels the organisation's ethical expectations. It is expected that officials should act in a manner that upholds

confidence and trust in the objectivity of the public administration. As such, the dominant purpose of the regime is to clarify rules and contextualise decision-making for officials.

Finally, two countries were considered to have a fully integrated ethics regime. The two countries are distinctive because of the high quality of their ethical guidance, which provides the maximum support to individual decision-making. These guidelines are rooted in a strong legal framework. Furthermore, corruption prevention represents a major focus of the ministries, and both have a well-developed programme for enhancing the influence of the ethics regime.

CONCLUSIONS ON GOOD PRACTICE

- **A legalistic approach can be effective provided rules are clear and comprehensive, and are easily accessible to officials, so that they are fully aware of legal requirements.**
- **The most advanced integrity regimes are those where a legal framework is supported by clear ethical guidance.**
- **This guidance should be designed to help shape and contextualise decision-making for individual officials.**

COMPARATIVE OVERVIEW

1.2 CORE COMPONENTS OF GUIDANCE

Guidance on appropriate conduct by officers and officials can be separated into three core components:

- i. a legal framework
- ii. the code of conduct
- iii. a statement of values.

The **legal framework**, composed of an array of legal statutes, civil service acts, and disciplinary and penal codes, forms the foundation of all ethics systems. However, implementation is more effective when organisations additionally employ a code of conduct and a statement of values in order to gain full understanding and acceptance by officials.

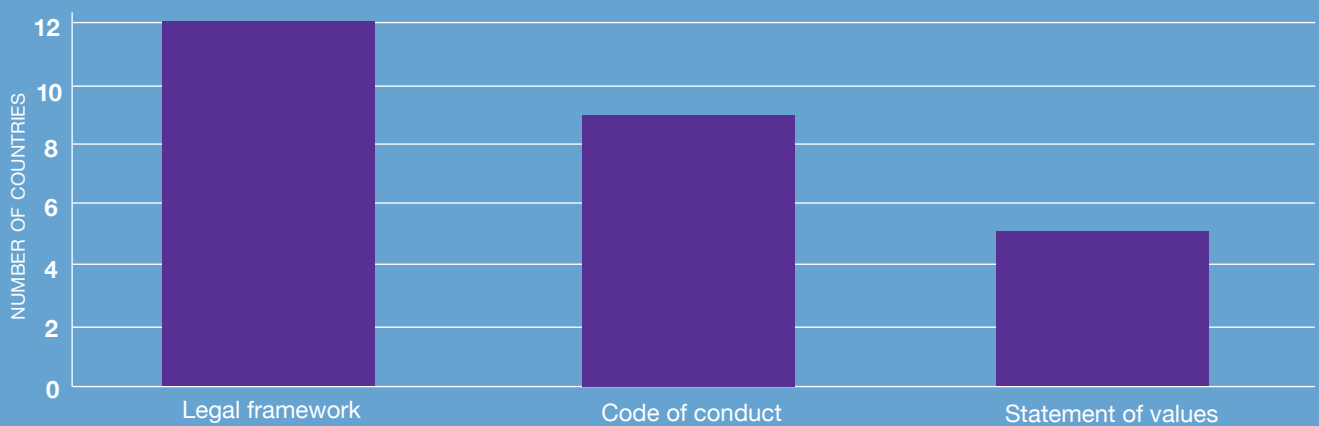
A **code of conduct** is a simple tool through which an organisation defines behavioural norms and common values. It should summarise all information relevant to business conduct, including a clear statement of

the organisation's main goals, a statement of ethical principles and values, practical guidance in areas of corruption risk (see Part 2), details of internal and external bodies for reporting corruption, and updates on initiatives taken by the organisation to promote ethical behaviour.

In addition, a **statement of values** spells out the principles through which all other guidelines can be put into context. This is an independent, distinct statement that articulates the organisation's overarching ethical principles.

Figure 4 below shows the number of countries that have incorporated each of the three elements in their own approach. All of them have the legal framework, nine have a code of conduct and five also have a statement of values.

FIGURE 4: USE OF THE THREE CORE COMPONENTS BY PARTICIPATING NATIONS



Code of Conduct

A large majority of those surveyed point to a code of conduct, however there is considerable variation in the quality and comprehensiveness of these documents. For some countries, it is evident that the document takes a central role within a wider programme of ethics, while for others it is unclear how important the code is to an anti-corruption strategy.

A major weakness of some codes is that they are too general to provide meaningful information regarding corruption risks in the defence sector. Concepts of transparency and integrity are often lost among traditional military principles such as patriotism, protecting the country's honour, respect for civilians and other disciplinary issues. Corruption warrants special attention and must be treated as a subject apart from other military issues. Thus in many cases, what is termed a code of conduct is insufficiently corruption-oriented, indicating that corruption is often not a major focus of defence organisations.

Similarly, several defence ministries supplied generic codes of conduct for civil servants in answer to TI's research questions. Although these clearly form a template for all public employees, they should be supplemented with a code which recognises the particular risks facing those working in the defence

sector. Personnel working in defence are highly vulnerable to corrupt incentives for many reasons, including their close working relationship with the defence industry, the widespread use of agents, the lack of public accountability and secrecy surrounding contracts, and the high-pressure environment in which they operate. Countries should therefore provide more information to their officers and defence officials on how these general national codes should be applied within defence establishments.

In TI's observation, only three of the participating countries provide codes which are fully relevant to work in the defence sector and meet all the criteria for a comprehensive code of conduct. One code provided is an excellent document in terms of style and key messages, however its detail is insufficient for some corruption risk areas.

Noteworthy exceptions to this are Australia's handbook *Ethics Matters* and Norway's *Ethical Guidelines regarding Business Conduct in the Defence Sector*, which are both strong models for a fully integrated code of conduct. The Norwegian document is included as an example of good practice (see Figure 5), because it successfully condenses all relevant information into a single, well-structured resource.

FIGURE 5: STRUCTURE OF THE NORWEGIAN CODE OF CONDUCT

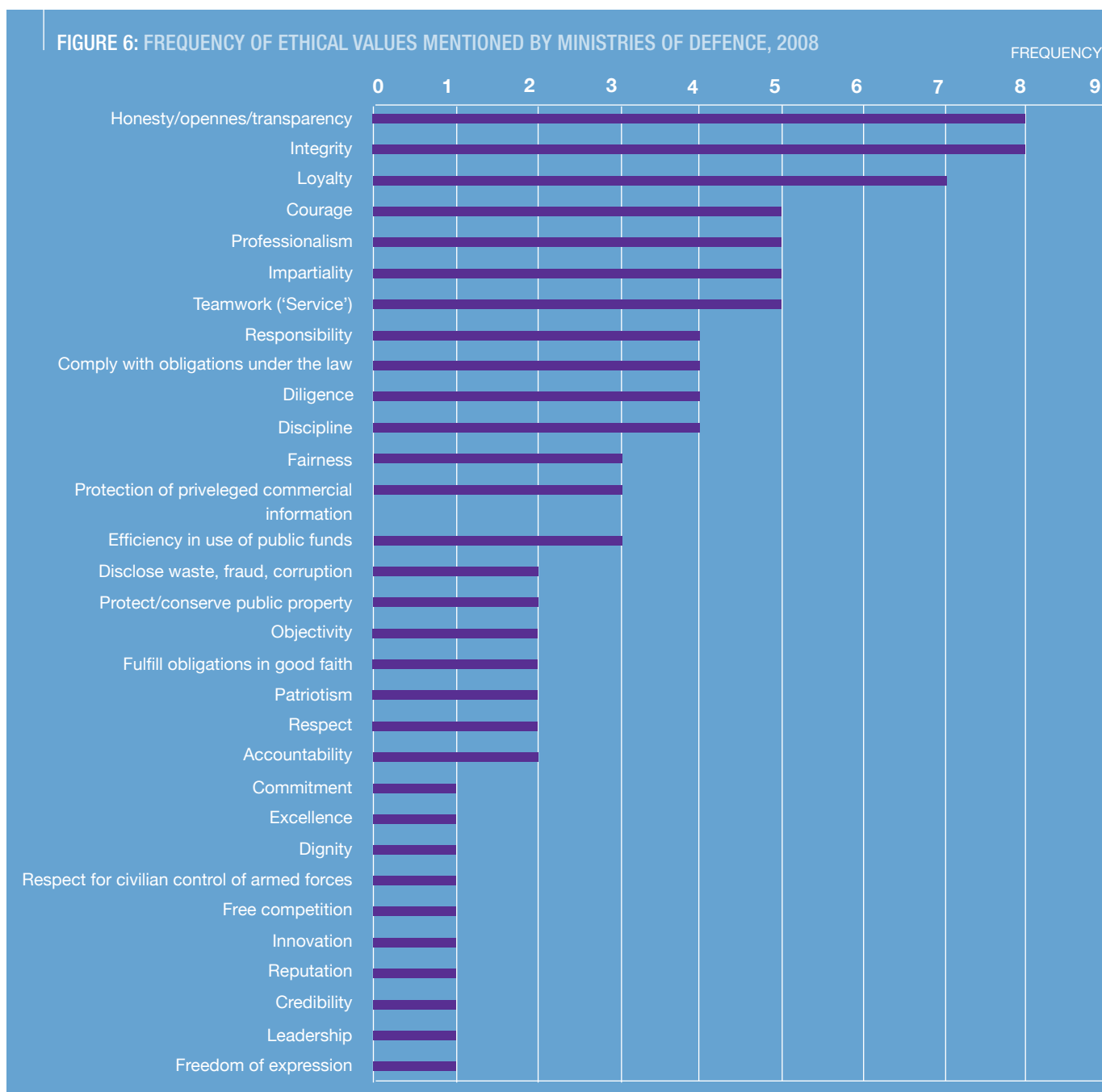
GENERAL	<ul style="list-style-type: none"> Ethical ground rules for the defence sector (statement of values) The special responsibility of supervisors 	<ul style="list-style-type: none"> The individual's responsibility Acceptable and unacceptable conduct
GUIDELINES	<ul style="list-style-type: none"> Specification and clarification of conduct through traffic lights (see page X) Gifts 	<ul style="list-style-type: none"> Hospitality, travel and entertainment Conflicts of Interest
OVERVIEW OF CURRENT LAWS AND GUIDELINES	<ul style="list-style-type: none"> Armed Forces Procurement Regulations (short summary) Ethical guidelines for public service 	<ul style="list-style-type: none"> Civil Service Act Public Administration Act General Civil Penal Code
CONSEQUENCES OF INFRACTIONS	<ul style="list-style-type: none"> Career consequences Sanctions pursuant to the Civil Service Act Criminal sanctions 	<ul style="list-style-type: none"> Criteria for considering forms of reaction Responsibility for following up infractions of rules

Total 18 pages; Source: Royal Norwegian Ministry of Defence, *Ethical Guidelines regarding Business Contacts for the Defence Sector* (April 2007)

Statement of Values

The results from the 2008 study were quite striking – there was no strong evidence of values being seen as key for officers and defence officials; indeed only

eight of the 32 countries referred to honesty, openness or transparency (see Figure 6 below, from the 2008 study):



Overall, in the current study, nations also seemed to underuse statements of values. It was found that while all 12 countries did continually refer to their organisations’ key values throughout the documentation, only in five cases was this elaborated in a distinct and accessible way.

In three countries, the statement of values is included among broader civil service statutes. In two, it constitutes an entirely separate document, which is

easily accessible and circulated within organisations. The statement of values works best as a separate, succinct, easily accessible document. Spain and Sweden’s statements of values (Figures 7 and 8) are short and succinct, and also mention broader ethical principles as guidance for officials.

The value statements analysed vary in length, presenting between four and 15 key values. In one case, 35 principles are conveyed, which might dilute

the document's main message. The most common values articulated in the statements are impartiality, integrity, loyalty, transparency and openness. Other frequently cited values are professionalism, leadership,

honesty and teamwork. In each case, the statement is accompanied by a short note to further clarify the meaning of each value.

FIGURE 7: ETHICAL PRINCIPLES, SPANISH MINISTRY OF DEFENCE

VALUES EMPHASISED:

Objectivity, integrity, neutrality, responsibility, impartiality, transparency and honesty

SELECTED ETHICAL PRINCIPLES:

- Any factor, whether personal, family, corporate or client-based, must not conflict with the public interest
- Abstain from any matters which involve personal interest, such as any private activity which could lead to a conflict of interest with your public position
- Avoid economic obligations, intervening in financial matters, patrimonial obligations or judicial affairs with people or bodies that may lead to a conflict of interest
- Do not accept any personal favours and avoid situations which could engender unfair privilege or advantages from people or private entities
- Abstain from any activity which might compromise your neutrality.

Source: Spain, Civil Service Statute

FIGURE 8: ETHICAL GUIDELINES, SWEDISH MINISTRY OF DEFENCE

ETHICAL CORNERSTONES:

The modus operandi in government offices is based on four fundamental ideas:

- Openness
- Judgement
- Integrity
- Impartiality.

The following general principles should apply in situations where an ethical standpoint is needed:

- Ensure a continuous discussion among staff of what is appropriate and inappropriate in order to develop confidence and a common stance on ethical questions
- Show good judgment
- Keep a clear distance from the unacceptable and understand that an action, although not explicitly forbidden, may still be inappropriate
- Show integrity and impartiality
- Ensure that you maintain good margins from behaviour that could be considered undue exploitation of your employment.

Source: Sweden, The Government Offices' Ethical Guidelines

CONCLUSIONS ON GOOD PRACTICE

- **Guidance on appropriate conduct by officers and officials should include the legal framework, the code of conduct and a statement of values.**
- **Organisations should refer to a code of conduct for defence that condenses into a single document all material relevant to the conduct of military and civilian defence personnel.**

- **This document should give a clear sense of the organisation's key goals and practical guidance in the main areas of corruption risk.**
- **A statement of values should provide a structure in which to contextualise subsequent codes of conduct. The statement of values should be an independent statement, distinct from more detailed ethical guidance.**

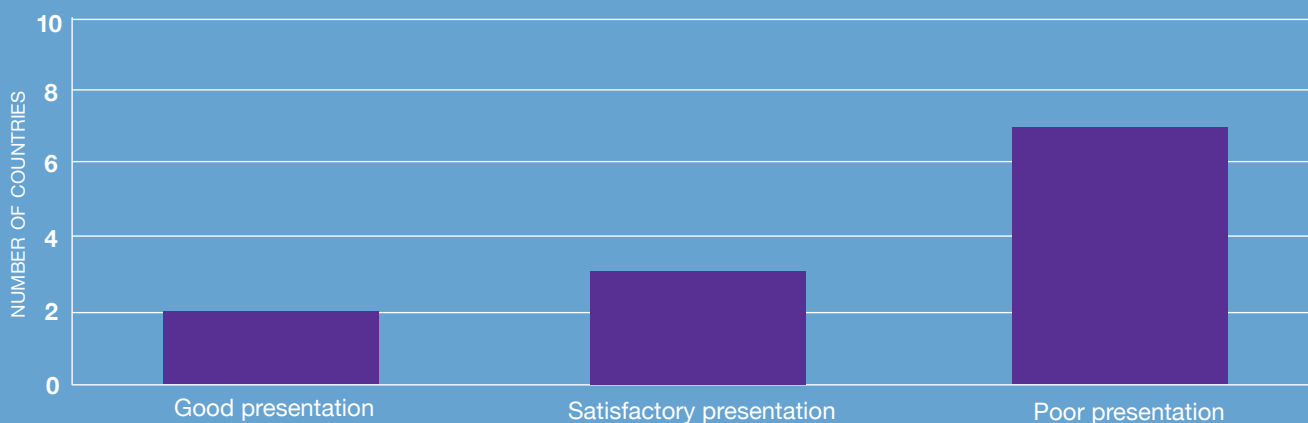
1.3 PRESENTATION AND STYLE OF DOCUMENTS

The presentation of key guidance documents is critical to the effective communication of the organisation’s message. Appearance will play a large role in determining the acceptance and reach of guidance among officials; poor presentation can undermine the impact of an otherwise strong anti-corruption regime.

In assessing presentation standards, the research took several factors into account: the length of documents,

whether guidelines were located in a single document or in multiple sources, the quality of layout, and the use of graphics, illustrations or text boxes. While the evaluation of presentation is necessarily subjective and different layouts will appeal to different audiences, good presentation for this study encompasses all of the aforementioned factors. Moderate presentation includes some of these factors and poor presentation includes none or only one of them.

FIGURE 9: PRESENTATION OF THE CODES OF CONDUCT BY PARTICIPATING COUNTRIES



As Figure 9 illustrates, presentation is an area where standards are often weak and improvement is needed. Systems relying on a compliance-based, legalistic approach are particularly prone to weak presentation. Legal documents are lengthy – in some cases hundreds of pages – repetitive and by their very nature quite monotonous. This makes it extremely difficult for a reader to reference information quickly or pick out relevant rules for a particular issue. Such heavy and lengthy text is likely to discourage personnel from even attempting to do so. It is more effective to have a shorter, condensed document or brochure of relevant information, which contains clear references to legal texts where necessary.

Regulations are also often found across multiple source documents. Only four of the 12 countries point to a single document that summarises all the main guidelines for ethics and business conduct. For the remainder, the number of source documents made it difficult to locate rules for specific risk areas. The principal advantage of having a single source document is that it makes the subject more accessible for officials and can be easily distributed.

Strong regimes in this area are easy to spot. A simple layout and structure are essential to maintaining the reader’s interest and attention. Good use of colour and graphics make the literature engaging. Similarly, text boxes covering case studies or summarising key

points, as well as embedded quotations, can help break up long sections of text. The use of cartoons in the Australian documents is an excellent example of a fresh and appealing approach (see Figure 10 below).

The benefit of having a well-presented regime is to make what can be a dry subject much more manageable for officials. For minimal effort, this can have a maximum impact in delivering the organisation's key messages.

FIGURE 10: CARTOON USED BY AUSTRALIAN MINISTRY OF DEFENCE



Source: Australia Department of Defence, *Ethics Matters* (2002) p.24

CONCLUSIONS ON GOOD PRACTICE

- **Material should be condensed into a single, accessible reference document.**
- **A simple lay-out can greatly aid the readability of documents.**
- **Using graphics, colour or illustrations is an excellent way to communicate the organisation's principal messages.**
- **Text boxes of key points or case studies can help break down heavy legal text.**

COMPARATIVE OVERVIEW

1.4 READABILITY

Along with presentation, a closely related issue to ensuring effectiveness is the readability of material. What is meant by this is the extent to which the material is fully comprehensible to the reader; whether the writing is successful in communicating the organisation's key messages. After reading the documentation an individual should have a clear sense of the line between acceptable and unacceptable behaviour, the boundaries of their personal responsibility and how the organisation would expect them to react in any given situation.

The written style of hard compliance regimes as defined in section 1.1 is often a major impediment to ensuring that rules are properly understood by officials. Regulations for business conduct tend to be inaccessible; they are often lost among blocks of difficult, dry text that encompass a wide range of general disciplinary offences. Furthermore, the wording of some rules is not always as precise as might be expected. A lack of detail on prohibited actions means that rules could be subject to mixed interpretation by officials.

FIGURE 11: READABILITY OF ETHICS DOCUMENTS AND CODES OF CONDUCTS



On the other hand, there are many examples of clear, engaging ethical guidance. After reading some well-developed documents, it is easy to identify several key points that the authors have chosen to stress. The most efficient way to deliver these messages is through 'signposting': the repetition of key ideas at strategic points throughout the text. Often the most useful guidance is also the most simplistic: key messages must be direct and unambiguous. A good illustration of this is the Australian Ministry of Defence's short note on *Solving ethical dilemmas*. The writing is grounded in very real terms, and provides an easy-to-follow step-by-step response to an ethical dilemma.

The signposting in the Norwegian document *Ethical Guidelines regarding Business Contacts for the Defence Sector* is exemplary. The core principles presented on the opening page in a statement of values are repeated and embedded strongly throughout the whole text. This is different to the German approach, which works equally well. The German Code of Conduct adopts a different tone in emphasising the detrimental effects of corruption in the workplace. Even though the messages of the Norwegian and the German guidelines differ, both approaches effectively outline the organisation's main principles.

FIGURE 12: KEY MESSAGES OF THE NORWEGIAN ETHICAL GUIDELINES

The values of openness and leadership, and the message that business conduct is inherently complex, are three points that are presented immediately in the Norwegian Ministry of Defence’s opening statement of values. These values are then repeated and reformulated at strategic points throughout the main text, reinforcing their importance.

OPENNESS	A working environment characterised by openness is a key precondition for proper ethical conduct	All employees have a shared responsibility for a working environment where communal vigilance on ethical matters serves as support and quality assurance of day-to-day service	Increased awareness, trust and openness regarding grey areas will help to make choices easier and provide a firmer foundation for ethical judgements	Openness is the most important way of avoiding suspicion of an improper mingling of private and professional interests
LEADERSHIP	Supervisors have a special responsibility as drivers of culture and role models	Leaders have a major influence through their words, actions and leadership style on the culture and standards of conduct within the organisation	In higher-ranking positions, high ethical standards are expected, because as role models, leaders will have substantial influence on the internal culture and behavioural norms of their organisation	The emphasis on ethics is a responsibility of leadership
THE COMPLEXITY OF BUSINESS CONDUCT	Everyone needs guidance, especially in contact with the business sector, which usually involves large, complex issues	These guidelines are meant to help employees navigate current laws and regulations safely	The aim is not to come up with new rules but rather to clarify and raise awareness of existing ones	It is neither desirable nor possible to micromanage individual conduct in every context

Source: Royal Norwegian Ministry of Defence, Ethical Guidelines regarding Business Contacts for the Defence Sector (April 2007)

FIGURE 13: ANTI-CORRUPTION CODE OF CONDUCT, GERMAN MINISTRY OF DEFENCE

A similar process can be seen in the example below. However the messages here are slightly different, and place more emphasis on the detrimental effects of corruption. Moreover, a strong warning about the criminal repercussions of corruption is put forward.

INDIVIDUAL RESPONSIBILITY	Set an example: show, through your behaviour, that you neither tolerate nor support corruption	Corruption can be prevented and combated only if everyone takes responsibility and all pursue the aim of a corruption-free workplace	Every employee has the task of acting in a way that sets an example for co-workers, supervisors and the public	Avoid any appearance of possible partiality. Make sure you do not give any appearance of being biased
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(CONTINUED ON PAGE 23)

FIGURE 13: (CONTINUED)

CORRUPTION HARMS THE PUBLIC ADMINISTRATION

Corruption damages the reputation of the state and the people who work for it

If you reject attempts at corruption and do not tell your supervisor, the same party will go to one of your co-workers and try to corrupt him or her

One black sheep hurts the entire flock

Your agency, and every citizen, is entitled to your fair, appropriate, impartial behaviour

CORRUPTION IS A CRIMINAL OFFENCE

Corruption is not a trivial offence; it leads directly to criminal liability

Corruption can cost you your job

Transparency in your record-keeping also helps you protect yourself

You might face public sanctions if you pursue a secondary activity that is subject to authorisation but has not been authorised

Source: Germany, Federal Ministry of the Interior, Anti-Corruption Code of Conduct (2004)

FIGURE 14: CODE OF CONDUCT, DENMARK

SELECTED CITATIONS

'It is important that employees have not only the necessary insight into general rules and principles, but also knowledge of the special conditions that apply at the individual employee's workplace.'

'Openness on the part of employees in relation to the surroundings may also contribute to increasing the general public's understanding of and confidence in the public sector.'

On guidelines for gifts: 'The objective is to prevent situations that might raise doubts about the impartiality of public employees. This is, consequently, a matter of protecting the individual employee himself'.

Source: Denmark, Code of Conduct in the Public Sector (2008)

CONCLUSIONS ON GOOD PRACTICE

- **Guidance should be written in a simple and comprehensible style.**
- **It is better to provide more information on legal rules to ensure that officials have fully understood what constitutes proper behaviour.**
- **Using 'signposts' is an effective way to deliver key messages.**

COMPARATIVE OVERVIEW

1.5 IMPACT

The previous four sections have provided an overview of the country regimes reviewed. This section aims to bring together some of the main arguments already put forward under the broader concept of **impact**, before turning to more technical aspects in Part 2 of this study. Impact is understood here as the extent to which a regime is perceived to be **reaching key audiences, clearly understood and internalised**.

The report has highlighted several important factors for a successful integrity regime. The regimes achieving the highest scores in this survey were those with the clearest and most comprehensible guidance. An emphasis on clarity did not necessarily lead to a trade-off in terms of comprehensiveness. The best guidance also contains a sufficient level of detail so that an individual facing an ethical dilemma is provided with clear answers.

However, having in place strong reference documents is only a first step. In order to influence internal norms, an integrity regime must be actively promoted by the organisation's leadership. Reference documents and the organisation's ethical principles need to be

endorsed and emphasised, so as to extend the reach of the regime to new audiences which might otherwise not be engaged with the subject. If individuals are aware of the importance of the project, they are much more likely to try to recognise what constitutes proper behaviour in a given situation.

Below are examples from Australia and Norway that show what has been done within their ministries in order to maximise impact. Both have implemented wide-ranging and innovative programmes of ethics which ensure that ethical behaviour is fully promoted within the organisation.

These examples are not intended as a generic prescription or simply as models to be imitated. Clearly, different measures will work in different circumstances and in different countries. These examples were chosen because they were perceived to have the most potential for impact within their own environment. A regime could be based around a completely different strategy or set of principles, provided that there is strong commitment and focus.

EXAMPLE: AUSTRALIA

In the Australian Department of Defence promoting ethical behaviour is the responsibility of an independent Inspector General. The regime is centred on two main documents, the *Ethics Matters Handbook* (2002) and *Defence and Industry: An Ethical Relationship* (updated in 2010). Both provide practical advice to personnel about ethical decision-making and managing the risk of fraud.

The reach of the regime is greatly enhanced through the organisation's *Ethics Matters* intranet site launched in 2004. This is a useful resource for all fraud and ethics information, providing updates, case studies and dilemma training for visitors. The site also provides an alternative way to report alleged misconduct confidentially.

Another method by which ethics information is disseminated throughout the organisation is through

an *Ethics Matters* newsletter published bi-annually and distributed at all levels in the department. This newsletter gives updates on the latest initiatives, helpful references to legal documents, case studies of recent frauds and a question and answer section (see figures 10 and 15).

These measures are supported by a comprehensive fraud and ethics training programme. There is a strong *Ethics Matters* brand that helps gain attention and traction within the organisation, which in turn makes the initiative more likely to be successful.

Included in Figure 15 is an extract from the Australian defence handbook *Ethics Matters*, which provides an excellent example of clear ethical advice, guiding individual decision-making on a step-by-step basis.

FIGURE 15: EXTRACT FROM THE AUSTRALIAN DEFENCE HANDBOOK *ETHICS MATTERS*

Solving ethical dilemmas

Sometimes we are faced with conflicting choices that can lead to an ethical dilemma. Such situations can be difficult and complex. They can involve two or more right courses of action, two or more optional courses of action, or two or more values that cannot both be equally well served.

So let's look at some general steps to follow whenever you are uncertain about what is the right thing to do to resolve an ethical dilemma:

1. Determine whether you actually have the authority or responsibility to address the issue.
2. Identify and explore all the options. This is a crucial step. Many people get into strife because they leap in and do the first thing that occurs to them — especially if they are under some pressure to act. You owe it to yourself to make sure you have identified all the options open to you. You will often find that, no matter how difficult a situation may appear at first, there is an acceptable way to deal with the problem.
3. Discuss the matter and be prepared to accept advice. Most people have had to deal with ethical dilemmas at some time. Talk to someone — partner, workmate, boss — who may be able to give you advice: even if it's a lesson in how not to go about actions. (Who you talk to must, of course, be subject to normal security considerations.) The transparency that comes from sharing a problem with others is a good defence against any misunderstanding of your motives or any misperception of your behaviour.
4. Recognise the consequences of your decision. Even if you feel justified in making a certain choice, ask yourself who or what will be affected by your decision, and whether any harm will be done. Is there a way to avoid or at least to minimise harmful consequences while enabling you to achieve your objectives?
5. Own the decision once it is made. Accept that the decision has your name on it, and don't try to pass it off as the result of some sort of automatic bureaucratic process. Be aware of your responsibility, particularly when exercising delegations.
6. Be prepared to justify your decision. You may have to answer questions about your decision from a superior, an auditor or Parliament.

Source: Australia Department of Defence, *Ethics Matters* (2002) p.15

EXAMPLE: NORWAY

The Norwegian Ministry of Defence has in the same way set the promotion of ethical behaviour as one of its foremost objectives and concerns. The three-year Attitudes, Ethics and Management Action Plan (2009-2012) demonstrates a long-term commitment to building integrity.

The plan sets an overall objective that ethical attitudes are to be integrated into the day-to-day work of all employees. Within this overarching objective the document outlines a series of supporting goals, for example, building knowledge and competence; the measures taken to achieve them and future ideas.

Many measures have been implemented to promote ethical behaviour, including:

- The development of an e-learning programme about ethics and management
- Training programmes updated with the latest issues and scenarios
- A special whistleblowing channel, established in 2007.

The action plan, along with the main brochure *Ethical Guidelines regarding Business Contacts for the Defence Sector* (2007), is distributed throughout agencies. These are complemented by a thorough dilemma training programme.

Key Corruption Risk Areas

There are four key areas of corruption risk that should be covered by ethical guidance: bribery, gifts and hospitality, conflicts of interest and post-separation requirements. This section draws conclusions on good practice for each of these areas and provides examples from participating nations.

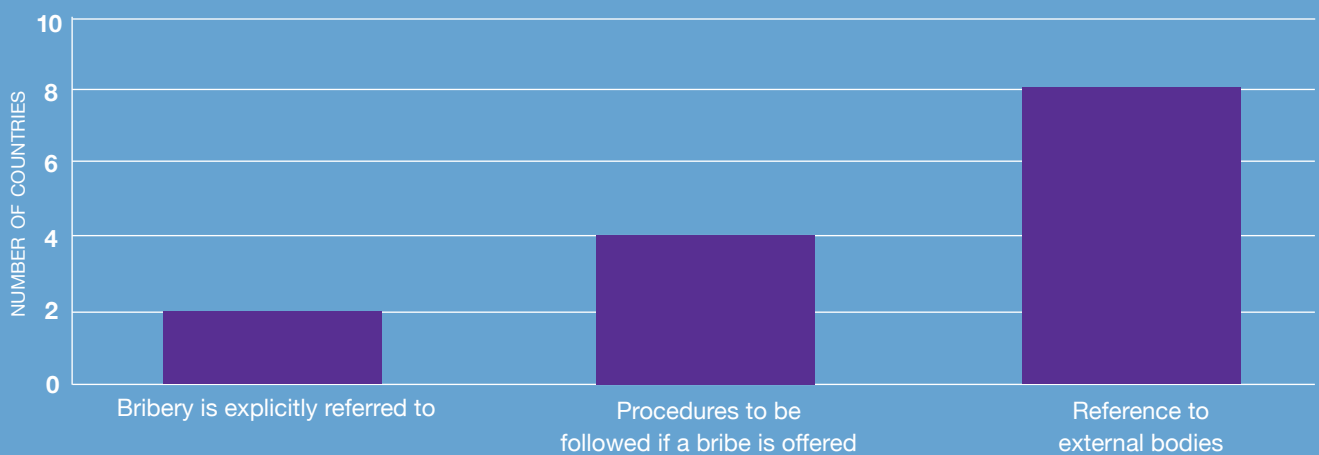
KEY CORRUPTION RISK AREAS

2.1 BRIBERY

Bribes in this context are payments offered in cash or kind to public officials in order to gain access to a scarce benefit, to avoid a cost, to receive a benefit, to avoid a

cost which is not scarce but where discretion must be exercised by officials, to prevent others from sharing in a benefit or to impose a cost on someone else.²

FIGURE 17: MENTION OF 'BRIBERY' IN CODES OF CONDUCT OF PARTICIPATING NATIONS



Eight of the 12 countries surveyed made direct reference to bribery. This is the area where criminal liability is made most explicit, with most countries having very clearly defined criminal penalties for offering, accepting or soliciting bribes. For those countries that do not address the issue directly, bribery could perhaps fall under more general offences such as 'using one's official position for private gain' or 'accepting personal favours which could engender unfair privileges or advantages from people or private entities'. This is probably because bribery is so obviously a criminal offence that there is no need to state it explicitly.

Nonetheless, treatment of this issue best demonstrates the gap in current practice between recognising a corrupt act and providing practical guidance for officials confronted with an ethical dilemma of this kind. There is a need to go beyond the legal requirement not to commit bribery, and to recognise that scenarios involving

bribery are not always clear-cut and can present a unique dilemma for officials. It is because of the serious implications of bribery that it should be treated as an issue separate from other areas covered in this report, such as gifts or conflicts of interest. Organisations should provide a clear definition of bribery, describe likely situations in which bribes might be offered and give real-life examples to support this guidance. Few countries do this. Only Sweden and Denmark have guidelines that elaborate on what constitutes the crime of bribery (see Figures 18 and 19). The Danish brochure *How to avoid corruption* (2007) also provides helpful case studies for all public sector employees.

Only four countries (Australia, Denmark, Germany and Norway) explain the process to be followed if an official is offered a bribe. Of these, Norway provides the most detailed instructions; individual officials are first advised to raise the matter with a supervisor. The leader must

2. J. Pope, *Confronting Corruption: The Elements of a National Integrity System* (2000)

then follow a set procedure, immediately contacting an internal body which coordinates assistance and decides if the matter should be sent for juridical evaluation. Finally a full report is compiled containing an overview of the procedures followed and evaluation of whether it is necessary to change internal controls and routines in order to prevent similar cases in the future.

Germany takes a different approach. Within each agency a contact person for corruption prevention is nominated. This individual has various tasks, including keeping staff members informed about anti-corruption initiatives, assisting with training and monitoring any indications of corruption. When faced with a corrupt offer, staff can contact this person without using official channels. The contact person has no authority to carry out disciplinary measures, nor do they lead investigations; however, they can inform agency management, who will then pass the case on to the public prosecutor's office. This is considered to be an effective method and could certainly help raise staff awareness of the issue.³

A common message is that officials have an ethical duty to report any irregularities or misconduct to the authorities. However, few nations outline tools which allow officials to do this confidentially. Only Australia

and Norway have in place an external whistleblowing channel to facilitate reporting. In Norway, a special hotline was established in 2007 as part of the MoD's ethics action plan, so employees can contact authorities should they feel uncomfortable discussing the issue with their immediate supervisor. In Australia, the Defence Whistleblower Scheme is well mapped out; employees can use a 24-hour hotline, see an investigator directly or report concerns on the organisation's intranet site. Details of the scheme are condensed into a small booklet answering common questions such as identity protection and investigation procedures (see Figures 20 and 21). In practice, the Australian MoD found this to be a useful way of gathering information, even though a substantial number of allegations were not considered worthy of investigation.

As a separate point, one question asked of nations was whether it is appropriate to offer financial incentives to employees for providing information that leads to a prosecution. One country rewards informers for coming forward with a substantial payment. Paying money for people to come forward could arguably represent a major diversion of resources. In TI-UK's view, financial awards should be given as a last resort, and offering other incentives is preferable.

FIGURE 18: DEFINITION OF BRIBERY, SWEDEN

Crimes of bribery are regulated in Chapter 20 of the criminal code, which states:

'An employee who, on behalf of himself or another, accepts, offers or demands a bribe or other inappropriate benefit during service, will be guilty of a crime of bribery, and be fined or sentenced to up to two years in prison. The same shall apply if the employee acted before starting or after leaving employment'.

A crime of bribery is hence fulfilled by simply asking for a bribe or accepting the offer of a bribe. The transaction does not have to have taken place. Neither does it have to imply causality between the bribe and the employee's service. It should also be noted that bribes offered before or after employment are included in the regulation. Furthermore, it is important to understand that the benefit does not have to have an economic value for the recipient to be qualified as a bribe.

In order for the benefit, reward or gift to be qualified as a bribe it has to be inappropriate. This is defined by considering all circumstances on a case-by-case basis.

In order for the benefit, reward or gift to be punishable, the recipient and the giver of the bribe need to have established their relationship in the line of duty. If the relationship was established as part of their official duties, it is automatically assumed that a bribe has been given. This is regardless of whether the official can show that his decisions were not affected by the bribe.

If a personal relationship also exists between the giver and recipient, this has no meaning other than that extra caution is called for in such situations.

Assessment will be stricter for employees who have a big influence on economically important decisions such as procurement.

Source: Sweden, *The Government Offices' Ethical Guidelines*

FIGURE 19: EXAMPLE OF BRIBERY, DENMARK

The Danish Ministry of Justice offers a definition of bribery and then provides a number of case studies and questions for public sector employees to test their knowledge.

For example:

A local councillor who is a member of the building and construction committee is contacted by an employee of one of five contractors. The contractor's employee offers to pay the building and construction committee member DK50,000 (US \$9,000) if the member will work in favour

of the contract being awarded to the relevant contractor. The committee member accepts the offer.

In this example, both parties would be guilty of bribery. The contractor's employee would be liable to punishment under section 122 of the criminal code (active bribery), while the building and construction committee member would be liable to punishment under section 144 of the criminal code (passive bribery).

Source: Denmark Ministry of Justice, *How to avoid corruption* (2007)

FIGURE 20: WHISTLEBLOWING IN DEFENCE, AUSTRALIA

Defence Whistleblower Scheme: An alternative and independent way to report alleged misconduct or unethical behaviour

What concerns might I report?

Certain behaviour can damage Defence's reputation or ability to operate efficiently and effectively. Examples of such behaviour include:

- Misconduct or unethical behaviour
- Fraud or any other activity that may breach Commonwealth legislation
- Harassment or unlawful discrimination
- Misuse or mismanagement of Defence resources
- Breaches of security
- Behaviour that could jeopardise the good reputation of Defence and that of its members

When should the scheme be used?

The normal means of reporting your concerns is through the chain of command or line management; however you may lack confidence in the normal reporting channels or may be worried about victimisation or other repercussions. The Defence Whistleblower Scheme offers an alternative and independent process for the reporting and investigation of your concerns in these circumstances.

How do I report a concern?

- By phoning a confidential 24-hour hotline
- In writing by letter or email
- By meeting with the Director, Investigations or an assigned investigator, in person or by using someone to act on your behalf.

Will my identity be protected?

Maintaining confidentiality is crucial to ensuring that people are confident to report concerns and that adverse consequences do not occur. The Director, Investigations will protect your identity where possible and discuss with you how the scheme operates and the implications of lodging a whistleblower report.

Will all reports be investigated?

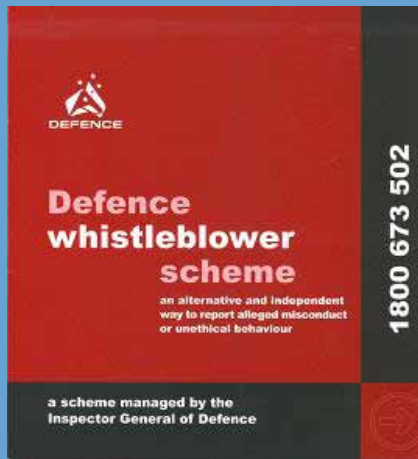
A report may not be investigated if it is:

- Frivolous, mischievous or vexatious
- Without substance
- About a matter previously investigated by another organisation or agency, unless the report is made regarding the actual conduct of the investigation.

Extracts from: Inspector General of Defence, Australia, *Defence Whistleblower Scheme*

3. The 2009 annual corruption report, compiled by the German Ministry of the Interior, pointed out that 316 contacts between employees and anti-corruption contact persons had been made; Source: *Bundesministerium des Inneren: Korruptionspraevention in der Bundesverwaltung. Jahresbericht 2009*, provided by the Ministry of the Interior to TI Germany.

FIGURE 21: AUSTRALIA'S WHISTLEBLOWER SCHEME PUBLICATION



CONCLUSIONS ON GOOD PRACTICE

- **Officials should be prohibited from arranging or accepting bribes from customers, contractors, suppliers or employees of any such party, for the official's benefit or that of their family, friends, associates or acquaintances.**
- **There should be clear instructions for officials so they know how to act and who to contact if offered a bribe.**
- **The organisation should ensure there are procedures in place for reports of bribery made to officials to be investigated and to notify external prosecutors.**

KEY CORRUPTION RISK AREAS

2.2 GIFTS AND HOSPITALITY

Gifts and hospitality are a key point for all integrity regimes, as they are among the most vulnerable points

of interaction between officers and officials and external actors.

FIGURE 22: GIFTS AND HOSPITALITY – GUIDANCE GIVEN BY PARTICIPATING NATIONS



GIFTS

All countries address the issue of gifts, confirming this as a common corruption risk area. Three countries adopt a blanket ban on acceptance, although the wording of regulations is imprecise, referring only to gifts **intended to influence an official's work**. This implies that customary or trivial gifts are permissible, and might leave officials uncertain of the correct policy.

The approach of all other countries is to declare an overriding principle that gifts or other benefits should not be accepted, but to make exceptions to this rule for gifts given through custom or of trivial value. This is considered a perfectly acceptable method of regulating the issue, as long as exceptions to the rule are clearly defined.

Definitions do vary considerably. Three countries determine a specific monetary value of what constitutes an acceptable gift, ranging from around US \$30-90. A monetary definition has the benefit of simplicity and should be set at a low amount, according to national norms and in the local currency. Two further countries choose not to stipulate a monetary value, simply permitting gifts of an 'inexpensive nature' or those which

are not 'in excess of the norm'. Likewise, the Swedish Defence Material Administration rightly asserts that the 'value itself is without meaning if the gift is perceived to influence the recipient'. These guidelines are fine provided this is accompanied with a description of these norms and concrete examples of gifts that would be unlikely to influence conduct. Finally, regulations were found in three country regimes where the monetary threshold is far too high and vague, and could be exploited for corrupt gain (see page 36).

While all made reference to gifts, less than half the participating countries were considered to provide guidance that could help officers and employees resolve related ethical dilemmas. Germany provides an example of best practice in this area because of the thoroughness and clarity of its instructions for employees. A circular from the Federal Ministry of the Interior clearly states that staff are not legally entitled to accept rewards or gifts. It provides concrete examples of types of benefits; details the procedure for requesting approval for exceptions to the ban; describes how gifts can be disposed of and outlines the legal consequences in case of contravention (see Figure 23).

Where countries did offer ethical guidance, officials were advised to consider carefully gifts which could give an impression of partiality or affect their ability to perform their functions. The Norwegian MoD, for instance, warns employees to think particularly about ‘the purpose of the gift (and to) be extremely careful if the gift is personal, there is not full openness or you are the decision maker or agenda setter’. In addition, two countries recommended that the subject be constantly discussed among colleagues to increase employee awareness of the boundaries between the acceptable and unacceptable. In these regimes, employees are instructed always to refer to a supervisor or superior in case of doubt.

Lastly, four countries detailed a procedure for the disposal of gifts. This is an area of corruption risk that warrants more attention. It can be the case that an official feels obliged to accept a gift (out of politeness, for instance) or does so unintentionally, in which case they must know how to dispose of it. Countries with guidelines generally require that the gift be formally registered in order to become the property of the state. The Kenyan Armed Forces Code of Conduct and Ethics states that the officer should report the matter to the Chief of General Staff, who will then direct the appropriate mode of disposal of the gift. Germany was the only country to provide a detailed procedure on the MoD intranet site for handing over gifts.

HOSPITALITY

While there is considerable overlap between the two areas, regulations governing hospitality are less common than those for gifts. The defence sector inevitably shares a particularly close working relationship with industry. Therefore it is vital that public or military officials know how to act in what is an inherently grey area of business conduct.

Five of the 12 countries surveyed give direction to officials regarding hospitality. Of these, many emphasise that this is an especially sensitive issue that could easily give rise to perceptions of bias. For example, members of the German *Bundeswehr* (Armed Forces) are told that in their business dealings with trade and industry they must make a ‘special effort to avoid the mere impression of being susceptible to personal benefits in discharging their duties’.

Where the issue is discussed, regulations are in most cases strong. As a general principle, all countries agree that modest hospitality is fully acceptable, such as working lunches and light refreshments. All regimes require approval for business trips or attendance at events where commercial interests are represented. For any such events, it is made clear that travel and accommodation must be financed through public funds.

Activities cited which might compromise impartiality include: any hospitality at commercially sensitive times (e.g. during bidding for a tender), attending events at a company’s private premises, private trips paid for by the supplier, discount training courses or seminars, the use of corporate aircraft or vehicles free of charge, free entertainment or tickets to sporting events, lavish meals and attending social events. See Figures 24-25 for good examples of hospitality guidelines.

FIGURE 23: RULES ON ACCEPTING REWARDS AND GIFTS, GERMANY

General Principle

Rewards or gifts are all benefits to which staff are not legally entitled and which objectively constitute a material or immaterial advantage. This also includes benefits bestowed on a third party (particularly family members, friends, the staff member's sports club, etc.) if the benefit results in a saving or a factual advantage for the member of staff. Generally speaking, the circular also applies to the *Bundeswehr*.

Examples

Apart from cash payments and material assets (explicitly forbidden), this includes all other types of benefits:

- the possibility of using or consuming items (motor vehicles, construction machinery, petrol or similar)
- vouchers, complimentary or admission tickets, bus, rail or plane tickets
- preferential treatment relating to private transactions, such as interest-free or low-interest loans, arranging purchasing opportunities at privileged prices, participation in deliveries for an authority etc.
- arranging for or granting of outside activities or a position after retiring from public service
- invitations involving hospitality
- provision of accommodation free of charge or on favorable terms
- invitation to or accompanying on informational, representative or holiday trips or paying for the same
- benefits with regard to an inheritance (legacy or appointment as heir)
- presentation of awards etc., unless presented by the employer

Express approval for exceptions to the ban on the acceptance of rewards and gifts

In order to avoid the mere impression of being susceptible to personal benefits, before accepting gifts or rewards, public service staff shall forthwith make a request for approval to the competent authority through official

channels. If this is impossible due to factual reasons, approval shall be requested after acceptance. This applies particularly if approval could not be requested in due time, especially if the granting of the benefit was not foreseeable. Approval of acceptance must be requested in writing or by electronic means.

Tacit approval of exemptions from the ban on the acceptance of rewards or gifts

Tacit approval may be assumed by way of exception in the following special cases:

- The acceptance of small gifts whose value does not exceed the amount of 25 Euros (e.g. simple promotional gifts such as ballpoint pens, writing pads, calendars). The market value in the Federal Republic of Germany is decisive. In this case, the employer must be notified. The following shall be specified: object, the object's estimated value, the reason for granting it and the person granting the object.

Tacit approval may be revoked in individual cases by the responsible authority if the acceptance of such benefits might give the impression of corruptibility or preferential treatment for individuals.

Legal consequences in case of contravention

Contravention of the ban constitutes a disciplinary offence:

- Civil servants may face dismissal from service
- Retired civil servants may face disciplinary measures up to deprivation of pension entitlements
- Employees can be sentenced under criminal law to a prison sentence of up to three years or a fine for accepting an advantage, if they demand or receive advantages or accept a promise of such advantage for themselves or for a third party in return for discharging their duties
- Employees can be sentenced to a prison term of up to 10 years in particularly grave cases of corruptibility.

Extracts: German Federal Ministry of the Interior, Acceptance of Rewards and Gifts (2005)

FIGURE 24: RULES ON ACCEPTANCE OF HOSPITALITY, TRAVEL AND ENTERTAINMENT, NORWAY

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 might 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 carefully:

In the relationship between public administration and business, certain industry contact is natural. However, employees must exercise caution in these dealings, to avoid placing themselves in a situation that casts doubt on their integrity. That is why you should think about the scope of invitations, dinners, etc. If in doubt, take it up with your supervisor.

Source: Royal Norwegian Ministry of Defence, *Ethical Guidelines regarding Business Contacts for the Defence Sector (April 2007)*

FIGURE 25: RULES ON ACCEPTANCE OF GIFTS, HOSPITALITY AND ENTERTAINMENT, AUSTRALIA

Gifts

There will be no expectation of any gift giving. Gifts will not be provided to Defence personnel or Defence agencies in the expectation of reciprocation or the granting of favours. If a supplier wishes to provide a personal gift, it should be of nominal value only (such as a calendar), and should be offered only on occasions (such as Christmas) which have no connection with evaluation of tenders or negotiation of contracts. If a supplier wishes to provide a gift such as a model or sample of more than nominal value, this will be to the Defence agency concerned rather than an individual; gifts of this kind are recorded in registers in accordance with Defence procedures.

Hospitality and entertainment

Extension of modest hospitality by Defence or industry can be appropriate as a means of facilitating business. Cost sharing can also be appropriate. Typically, such hospitality

would take the form of presentations, demonstrations, briefings and discussions, accompanied by breakfast, lunch or dinner. The hospitality should not be lavish, nor should it generally include travel and accommodation. It is not appropriate for Defence personnel to accept any offer of free entertainment from industry where it could be regarded as substantial or could give rise to either the reality or the perception of a conflict of interest.

Defence personnel are usually not entitled to use Government funds for hospitality. Approval is handled on a case-by-case basis and must be obtained in advance. There will be no expectation that industry pay for the hospitality or entertainment of Defence personnel. Ambiguity about the arrangements is to be avoided. During the tender evaluation process, social contact should be avoided. During contract negotiation there shall not be any acceptance of hospitality.

Source: Australia Department of Defence, *Defence and Industry: An Ethical Relationship* (1998)

FIGURE 26



Source: Australia Department of Defence, *Ethics Matters* (2002), page 11

POOR PRACTICE

Three countries state outright that accepting gifts is forbidden. These rules were often located in lengthy legal documents along with other general disciplinary offences. It is worth highlighting the ambiguity of these statements in that they often merely state that only gifts that influence an official's work are forbidden.

The restriction of the country above not to accept gifts or services that may give rise to a conflict of interest needs to be further elaborated. Gifts that do and do not run contrary to the public interest must be clearly defined. The threshold for accepting gifts of 'five times the minimum living standard' in the country example below is too vague and open to different interpretations.

EXTRACT FROM CODE OF CONDUCT, COUNTRY EXAMPLE 1

'Reject any gift, favour or service in commercial activities which is in excess of the norm in local customs and courtesy or which is an infraction of the penal code'

'Officials are prohibited from: accepting gifts or other benefits or advantages where the motivation is to influence

the carrying out of your functions'

'Civil servants are forbidden from: accepting gifts, gratuities or the like, including through a mediator, which are offered by interested parties in order to tempt them'

EXTRACT FROM CODE OF CONDUCT, COUNTRY EXAMPLE 2:

“Restrictions on the acceptance of gifts or services:

1. A person in the civil service may not accept or grant gifts or services if this may give rise to a conflict of interest or run counter to the public interest.
2. The above restriction shall not be applicable to gifts or services accepted pursuant to international protocol

or customs usually connected with the official duties of the person in the civil service.

3. In case the gift is valued in excess of five times the minimum living standard, the gift shall be considered the property of the state or municipality. Such gifts shall be evaluated and kept in the manner laid down by the Chief Official of the Ethics Commission.”

In the example below this example, the procedure to follow when offered a gift is clear. It is equally useful to warn against accepting gifts that may create a dependent relationship with the person offering the gift.

Nevertheless, the monetary threshold for accepting gifts is dangerously high and could greatly increase corruption risk.

EXTRACT FROM CODE OF CONDUCT, COUNTRY EXAMPLE 3:

Definition of prohibited gifts

- Money (regardless of the amount), entitlements, services without remuneration that put the official in a dependent relationship or create an obligation to the person offering a gift.
- If an official receives a gift that does not exceed the amount of one third of the average salary paid in the country in the preceding year, he/she is allowed to keep the gift.
- If the value of the gift does not exceed the average monthly salary, the official is allowed to keep it, but is obliged to report it to the Commission for the Resolution of Conflicts of Interest

- If the gift is in excess of this value, the gift cannot be kept and must be reported to the Commission and becomes property of the state.

Options on what to do when offered a gift, depending on the value:

- Reject the gift
- Try to determine the identity of the person offering the gift
- Keep the gift and report it immediately
- State the witnesses to the event
- Submit a written report about the event to the competent body
- In case of a punishable offence, report the event to the bodies that can conduct proceedings.

CONCLUSIONS ON GOOD PRACTICE

- **Officials should be prohibited from the receipt of gifts from persons in industry. It is acceptable for exceptions to be made for gifts of trivial value, which should be clearly defined. The organisation should set a low threshold of value, in the local currency, for gifts that may be accepted.**
- **These rules should be accompanied by practical guidance for officials, using real-life examples to aid individual decision-making.**
- **The organisation should outline a clear procedure for officials to follow when confronted with an ethical dilemma; this should include a readily identifiable chain of command.**
- **Regulations must include procedures for the proper disposal of gifts. Registers of all offers of gifts, whether accepted or refused, should be kept and routinely updated within the organisation.**
- **Officials should be prohibited from accepting hospitality from persons in industry except under very clearly defined conditions. Business meals and light refreshments of low value are acceptable if made on legitimate official business and if received infrequently. Any other offers of hospitality should be refused, including offers of tickets for sporting, entertainment or cultural events.**

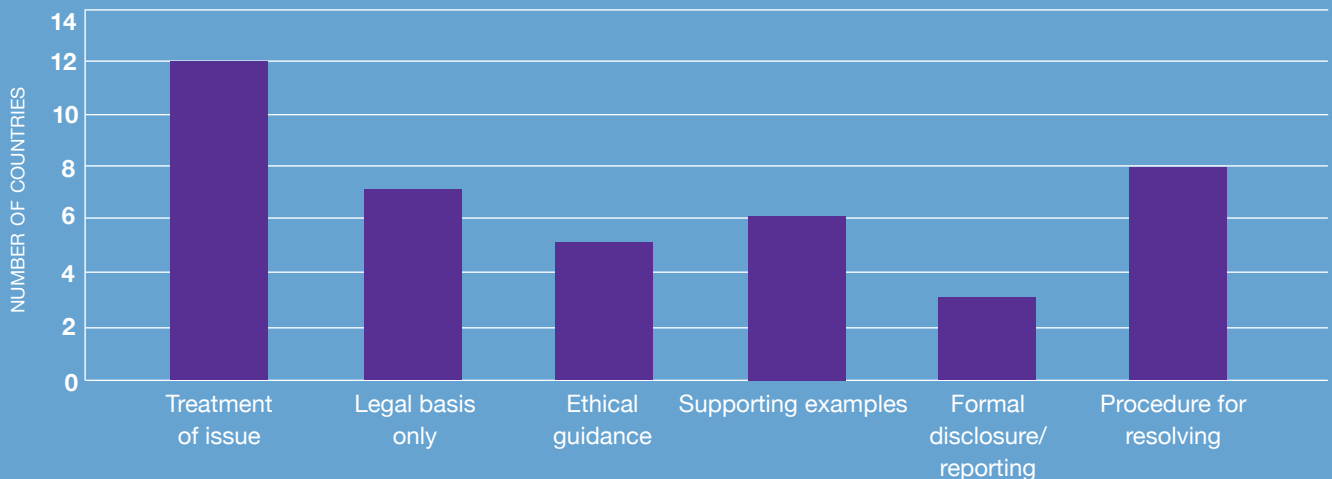
KEY CORRUPTION RISK AREAS

2.3 CONFLICTS OF INTEREST

In its broadest sense, a conflict of interest can be understood as any situation where an official’s personal interests run contrary to their public duties. The term therefore also encompasses other areas covered in this study, such as bribery or gifts and hospitality. In this section, the treatment of other common forms of

conflicts of interest is explored. These can be situations where personal or family ties affect an official’s impartiality in performing their public work. Similarly, a conflict may emerge if an official has other professional or commercial interests related to their public position.

FIGURE 27: CONFLICT OF INTEREST



As Figure 27 indicates, all the countries surveyed did address conflicts of interest; however their approaches vary considerably.

There is a clear division between countries which rely on hard legal rules alone, and others which place more responsibility on an individual official to manage potential conflicts. Among the former category, the rules are sometimes vague; officials are simply told to avoid any conflicts of interest, or ‘any personal, family, corporate or client-based factor’ which conflicts with the public interest. In other cases, more detail is given on particular activities that are forbidden. In Saudi Arabia, for instance, the rules explicitly state civil servants and military personnel must not engage in any commercial activities or private business, nor can officials work in industry indirectly, for example, as a member of a company board or as a consultant (see Figure 32).

For countries which rely on a less legalistic approach, the quality of guidance is not always sufficient. The sole requirement that employees should not participate in any case where the employee himself or a family member has special personal or financial interests is considered inadequate and of limited practical utility. Other regimes offer more comprehensive information and provide a range of scenarios that need to be considered carefully. For this area in particular, the Norwegian MoD’s traffic-light system (see Figure 29) is an excellent tool both to clarify an organisation’s expectations of conduct and to contextualise decision-making for employees. In the same sense, regulations provided by the Swedish government give helpful examples of what constitutes a conflict of interest (see Figure 28).

Only three countries (Argentina, Croatia and Lithuania) refer to a process for the disclosure of conflicts of

interest. This consists of a statement in which officials give details about their estate, income (including income outside their public salary), dependents, former positions of employment and any other links that might give rise to a conflict of interest. These documents are passed on to Ethics Commissions and are available to the public. In Argentina, the sworn statement of conflicts of interest forms a core element of the country's business conduct strategy. Functionaries are obliged to complete the statement within 30 working days of joining the service, must update it annually and present a final form within 30 days of leaving public employment. Disciplinary penalties are in place should officials fail to meet this requirement. Asset disclosure can be a powerful tool for preventing conflicts of interest; however, its effectiveness is dependent on the culture of the country concerned.

The procedures for resolving conflicts of interest are generally poorly elaborated. Officials are asked to adopt a policy of self-assessment and then self-exclusion from any matters where they feel their personal interests would collide with their official work. If officials are unsure whether a conflict exists, they are advised to discuss this with their supervisor. This is worded well in the German Anti-Corruption Code of Conduct, which requires employees to observe a 'strict separation between your private interests and

your official duties... check every procedure for which you are also responsible to see whether your private interests or those of your relatives or of organisations to which you feel obliged could lead to a conflict with your professional obligations'. However, beyond discussing the issue with a supervisor, no country sets out in detail a remedy for conflicts of interest that includes a clear chain of command or internal bodies to refer to, forms to be completed or a timeframe within which to act.

In some cases, secondary employment is permitted, provided that the work is not relevant to official duties and has received prior authorisation, for example by a special in the Ministry of Defence in the case of Kenya. Should secondary employment affect official duties, employees are advised choose one role or the other. Spain has very detailed legal provisions for the authorisation of secondary employment, forbidding all private activities with the exception of teaching and trusteeships in a non-related organisation.

Strikingly, no country provided officials with a summary of conflict-of-interest regulations covering all the necessary steps: the prior disclosure of sources of conflict, guidance to handling scenarios involving a conflict and a thorough procedure to remediate problems.

FIGURE 28: CONFLICT OF INTEREST REGULATION, SWEDEN

The regulations on conflict of interest

A person who has conflicting interests in a certain matter should not take part in decisions relating to it. Clear cases that constitute a conflict of interest are, for example:

- If you or someone close to you are one of the applicants in an issue or if the outcome would give you or someone close to you palpable benefits
- If you or someone close to you are substitutes for the person primarily concerned by the matter or for someone that can expect palpable benefits from the outcome
- If you participated in the handling of a certain matter in a previous instance and the matter was appealed to the Government

- If you have been a representative in the matter or if you were paid to assist someone in the matter
- If you or someone close to you is a major partner in a company that has an interest in the matter.

Other situations that could constitute a conflict of interest are where circumstances related to the matter could cause your impartiality to be questioned, for example, if you:

- Are a friend or enemy of either of the concerned parties
- Are economically dependent on either of the concerned parties
- Have an interest in the matter in a way that could raise suspicions that you are not completely impartial to the outcome.

Source: Sweden, *The Government Offices' Ethical Guidelines (2004)*

FIGURE 29: CONFLICT OF INTEREST RULES, NORWAY

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 employers.

UNACCEPTABLE	MUST BE CONSIDERED CAREFULLY	GENERALLY ACCEPTABLE
Considering cases involving family/ close friends	Using employer's suppliers for private purposes	Public office
Having directorships/ secondary occupations that may harm the employer's interests	Socialising privately with vendors	Exercising your freedom of expression
Evaluating offers from a vendor in which you have a large ownership interest	Involvement of former employees/ recruiting from a customer	Directorships/ secondary occupations where there is no conflict of interest
Considering cases from a vendor where you are a board member	Purchasing of real estate and other property from your own employer	
Non-documentable and non-traceable administrative procedures	Evaluating offers from a vendor in which you have an ownership interest	

Think particularly about:

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

Source: Royal Norwegian Ministry of Defence, *Ethical Guidelines regarding Business Contacts for the Defence Sector (April 2007)*

FIGURE 30: CONFLICT OF INTEREST STATEMENT, ARGENTINA

Sworn Statement on Conflict of Interest

Officials are obliged to make a sworn statement on conflicts of interest within 30 working days of taking up employment with the organisation. This information must be updated annually and officials are equally obliged to present a form within 30 days of leaving their position.

The statement includes details (among other items) on:

- Real estate
- Registered personal properties
- Debt and mortgages
- Capital invested in shares and companies
- Other incomes from professional employment or other sources

The above also applies to family and dependents.

Source: Argentina, Code of Conduct in Relation to Business

These declarations are sent to the National Commission of Public Ethics and the Anti-Corruption Office. The forms are published in an official bulletin to which the general public has access. The forms are held for a period of 10 years.

It is considered a grave offence not to provide this information.

FIGURE 31: CONFLICT OF INTEREST GUIDANCE, GERMANY

Article five: Separate your job strictly from your private life. Check to see whether your private interests might conflict with your work duties.

You must observe such strict separation between your private interests and your official duties in all cases – irrespective of any corruption risk – in all your official activities. Your agency and every citizen are entitled to your fair, appropriate, impartial behaviour. For this reason, check every procedure for which you are responsible to see whether your private interests or those of your relatives or of other organisations to which you feel obliged could lead to a conflict with your professional obligations. Avoid any appearance of possible partiality. Make sure you do not give any appearance of being biased, even through an interested party exerting a general climate of pressure.

Source: Argentina, Code of Conduct in Relation to Business

If, given a specific official task, you recognise that your obligations and private interests or the interests of third parties to whom you feel obliged might come into conflict, inform your supervisor so that he or she may respond appropriately (e.g. by releasing you from your activities in this specific case).

You must also clearly separate secondary activities you pursue or intend to pursue from your proper work. Personal relations arising from secondary activities must not influence your main professional activities. If in doubt, give up the secondary activity. Also bear in mind that you might face sanctions under public service law or labour law if you pursue a secondary activity that is subject to authorisation but has not been authorised; the same applies to failures to give notice of a secondary activity.

FIGURE 32: CONFLICT OF INTEREST REGULATION, SAUDI ARABIA

Officers in the armed forces are forbidden from the following:

- To work in trade or industry directly or indirectly, including financial management, or acting as president or a manager or member of the administrative board, or as a consultant or an employee at a company or a commercial establishment, or to make business transactions or any kind of speculation, or to establish ties with any company or agency, or to undertake any action that contradicts their official job or which could influence their performance of their duty in any way. This does not affect the officer's right to purchase shares in [private] limited companies.
- To take part in the procurement of missions, requirements and military equipment, as well as government properties and real estate for the purpose of speculation or for personal gain.
- To accept any work that falls outside the scope of their military work with any member of any trade establishments, whether [the work is to be carried out] in person or through an agent or deputy.
- To carry out any work, paid or unpaid, for another party, including outside business hours, except with special formal authorisation by the Chief of the General Staff.

Source: Saudi Arabia, the Law for serving individuals [military]

CONCLUSIONS ON GOOD PRACTICE

- **Officials and officers should be prohibited from performing official work on any matter where a person, family or close relationship is liable to raise doubts about their impartiality.**
- **Officials and officers should be prohibited from having any financial interest or involvement in organisations relevant to their defence work.**
- **The organisation should include clear guidance for officials so that they may judge whether a conflict of interest exists.**
- **Officials should be asked to disclose potential conflicts of interest.**
- **A defined and unambiguous procedure should be in place to resolve conflicts: there should be a clear chain of command, details on documentation to be completed and a timeframe within which officials are obliged to act.**

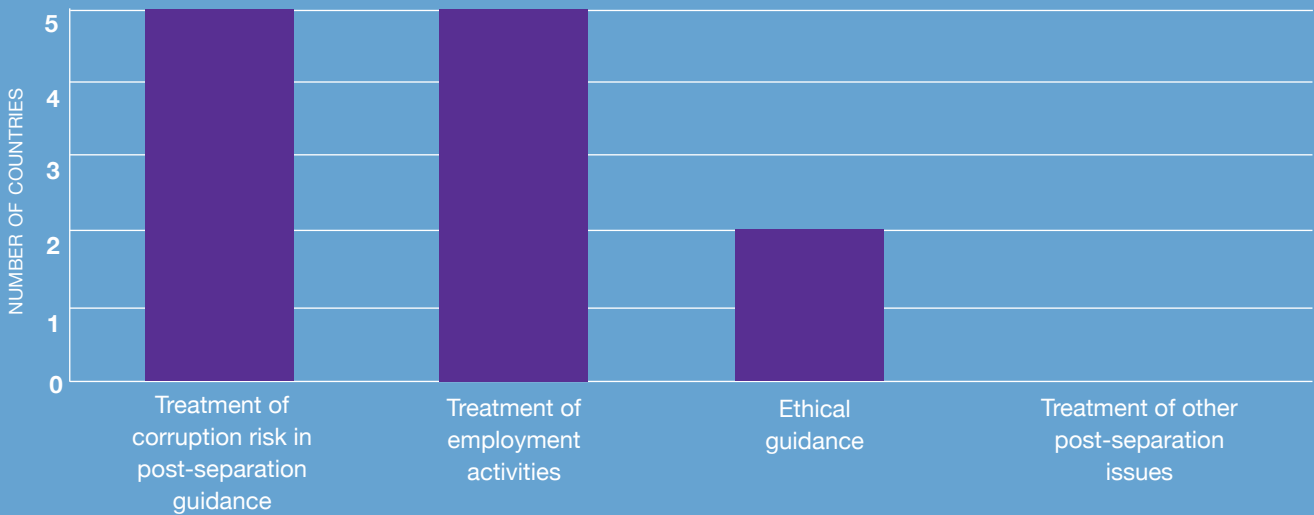
KEY CORRUPTION RISK AREAS

2.4 POST-SEPARATION ACTIVITIES

Post-Separation activities relate to regulations for leaving the public sector either through retirement or movement to the private sector. This can be a sensitive issue in relations between the public and private sectors, not

only in commercial terms, but also in terms of corruption risk, as former employees are able to use their knowledge and contacts for private gain.

FIGURE 33: POST-SEPARATION GUIDANCE GIVEN BY PARTICIPATING NATIONS



As in TI-UK’s first study into ethics and business conduct, post-separation activities were found to be a major area of weakness in most national regimes studied. Post-separation regulations were found in half the regimes surveyed; however, they were generally hard to locate, with their rationale rarely explained or covered in the necessary detail.

The only exception is the Australian Ministry of Defence, which provides practical guidance for employees when leaving the organisation for employment in the private sector (see Figure 34). This identifies three clear issues that staff need to consider to ensure transparency, including the inappropriate use of personal influence to secure preferential treatment for a new employee. Likewise, reference is made to the danger

of employees using their official position in order to secure employment in the future. The guidance is supported by strong legal obligations outlining a procedure to request authorisation for future employment, the consequences of infraction, and further examples of particularly sensitive areas such as tendering processes, contractual relationships with the MoD and access to commercial information.

Similarly, Germany notes that some retirement activities can be linked to corruption, and places restrictions on the activities of former officers for a period of five years after retirement. A brochure on fighting corruption in the Bundeswehr defines the purpose of the regulations as being to protect the public’s confidence in the functional capability of the public service, i.e. its impartiality. In

concrete terms this means that regulations are in place to avoid giving the public the impression that officers were in a position during their period of service to prepare the ground for lucrative activity after retirement. Although not included in this study, the authors are aware that the US Department of Defense has developed extensive guidelines for post-separation activities. The instructions are extremely thorough, with retired personnel required to complete detailed forms clarifying their exact role in any government business. While comprehensive, such a level of detail might not always be needed; instead a case-by-case approach might be adopted.

The remaining three countries covering this issue simply place legal restrictions on the activities of officials on leaving the public sector. The timeframe for restrictions ranges from one to five years. Officials are generally obliged to notify their former employer on assuming new employment or to request formal authorisation. In Lithuania, ex-civil servants are directly forbidden

from involvement in any business related to their former duties for a period of one year (see Figure 34). Argentina takes a different approach, in that the sworn statement on conflicts of interest extends to officials up to two years after leaving service. Personnel are also warned to avoid any inappropriate business work for the two-year period. This is regarded as an effective method of monitoring the activities of former officials, providing forewarning of any commercial situations likely to lead to a conflict of interest. Ukraine also extends its regulations on this issue to two years after retirement.

Finally, most countries made no reference to corruption risks in other post-separation activities than employment. An exception is Germany, where the detailed regulations on gifts and hospitality also apply to retired personnel. Regimes should acknowledge that retired personnel can be as vulnerable to bribes, gifts and hospitality as serving personnel, and that they can use their knowledge to give companies or firms a commercial advantage in return.

FIGURE 34: POST-SEPARATION REGULATION, LITHUANIA

Article 18. Limitations when concluding employment contracts

After leaving office in central or local public service, a person shall have no right, within a period of one year, to take up employment in management or audit institutions of any undertakings, if during the period of one year immediately prior to the termination of his service in public office his duties were directly related to the supervision or control of the business of said undertakings.

Article 19. Limitations on entering into contracts or enjoying individual privileges

1. After official separation from office in central or local public service, a person or an undertaking in which he or his close relatives or family members hold more

than 10 per cent of the authorised capital or material contribution, or are employed in management or audit institutions, shall have no right for a period of one year to enter into contracts with the institution in which the person held office for a period of one year immediately prior to his leaving the service, or to seek individual privileges provided by that institution.

2. Limitations prescribed by paragraph 1 hereof shall not apply where the contract has been concluded prior to the person's entry into office in central or local public service, or when the contract is extended, also with respect to a contract which is awarded by public tender and to contracts the value which does not exceed 10,000 Litas (US \$4,000) per year.

Source: Republic of Lithuania, Law on the adjustment of public and private interests in the civil service (1997)

FIGURE 35: POST-SEPARATION EMPLOYMENT GUIDELINES, AUSTRALIA

Post separation employment

Reference: DI(G) PERS 25-4: Notification of post-separation employment

Post-separation employment refers to situations in which Defence employees leave the organisation (including discharge from a service) to take up appointments with private or public sector organisations that provide or intend to provide services, supplies or material to Defence.

As a Defence employee, you must not use your position to obtain opportunities for future employment. This means you should not allow yourself, or your work, to be influenced by plans for, or offers of, employment outside Defence.

Of course, if you leave Defence you are free to use the skills you acquired. It is generally in Defence's interest to have people in industry with Defence expertise and experience. However, sometimes your knowledge and contacts could give you an unfair commercial advantage. Remember, you must not use confidential information gained while you were working in Defence, unless that information is now public.

Source: Australia Defence, Ethics Matters (2002)

To ensure probity and transparency, you need to consider three issues in seeking or negotiating employment upon leaving Defence:

- Protection of confidential information that was gained by virtue of your former Defence position
- Potential for inappropriate use of departmental contacts or personal influences to secure preferential treatment for a new employee
- Actions or decisions you made while still employed by Defence that may be construed as giving preferential treatment to a company in anticipation of you receiving an offer of employment from that company in the future.

To reduce the potential for embarrassment to yourself, Defence and the prospective employer, you should follow the post-separation procedures in DI(G) PERS 25-4.

You must also be careful about working with former employees. Make sure you do not give them, or appear to give them, favourable treatment or access to privileged information.

CONCLUSIONS ON GOOD PRACTICE

- **Countries should elaborate on post-separation corruption risks, explain the rationale behind related requirements and give examples.**
- **For a period of two to five years, officials should be obliged to request formal permission from their previous employer to accept offers of employment.**
- **Officers and officials should be prohibited from receiving gifts, hospitality and payments not related to official employment from prohibited sources for a period of two years after leaving office, and should remain bound to report all such offers to the appropriate authorities.**

Implementing change

This study has focused on the documentation and standards that nations have in place for the conduct of officers and officials. But this is only the first step in establishing an effective ethics and business conduct system across defence. Mechanisms for embedding these standards so they become second nature are also required, as are means of monitoring and disciplining inappropriate behaviour and a programme of action to effect necessary improvements.

3 STRENGTHENING BUSINESS CONDUCT STANDARDS; LEADING CHANGE

Circumstances differ hugely from one country to another, so it is not possible to offer generic guidance on good practice in implementing such changes. However, it is possible to offer some examples: what other countries have done and why, and how to learn from the experience of others in managing organisational change.

Experience of change management

Effecting change in large organisations is harder than it seems. Organisations can adapt, and are good at absorbing multiple attempts at change without actually changing.

The first lesson from all such experience is that there has to be commitment at the top. If the most senior people are seen to be distant from the change initiative, then people in the organisation draw the lesson that this is yet another change that is not serious. Even if leaders do speak on how important it is, people have a good sense for judging just how serious they are: do they really mean it? How can we tell? The answer to these questions for those devising a change programme depends on the circumstances. The following points are intended to provoke thoughts on the strengths and weaknesses of different approaches:

- High-level actions, such as the prosecution of senior officers or officials, can be very influential, but carry the risk of being seen as a political exercise in constraining opponents.
- Making new funds available for the changes, e.g. for training, is another organisational test of commitment.
- Changed personal behaviour is needed across the whole width of the top leadership: it is easy for one top individual to be persuaded by a new initiative, but much harder to convince the whole senior cadre of the urgency and importance of change.
- Behavioural change takes time, so any initiative which needs to be completed within a short period will not be seen as serious. Just like the financial

markets judging a country's finances, people want to see a multi-year programme with key short- and long-term milestones by which they can judge progress.

- It is vital to use external bodies to influence the organisation and give credibility to changes. There are many ways to do this, for example, by promoting media articles on the need for change that will be widely read within the MoD and the armed forces. Another is to involve external organisations that will make changes more credible and less reversible, for example, collaboration with a think tank, defence academy or NGO, with a commitment to publish progress on the reforms.

In Poland, the Ministry of National Defence has been explicit in setting out new standards of asset disclosure for officers and senior officials. The ministry has concentrated on asset disclosure statements and new conflict-of-interest guidelines as requirements that should be widely publicised. Several nations have chosen to signal a change in the tolerance of poor business conduct by prosecuting senior officers and widely publicising their trials – when in the past there have been almost no such prosecutions.

Alternatively, some nations and organisations have deliberately taken a low-key approach with minimum publicity. In environments where the public or employees are likely to be cynical about reform efforts or especially sensitive to them, it can make sense to keep expectations low. Do not publicise reform efforts, do not give interviews to the media on intentions, but put in place a series of bottom-up reforms, such as training, prioritised strengthening of discipline measures, promotions of well-regarded individuals of high integrity, etc. Whether this kind of approach works better than the strong, high-level commitment approach is a question of circumstances and judgment that must be considered by each nation individually.

Gaining momentum

One constant of change management experience is the need to build and sustain momentum. Staff and, where appropriate, citizens need to have the sense that the changes being introduced are part of an ongoing process, and that the pace of change will be sustained over several years, if not indefinitely. To achieve this, the programme needs to have a multi-year timeframe, and to be able to show that business conduct standards are actively becoming part of the fabric of the organisation – ‘the way we do business’.

Maximum outcome for minimum effort

In the real world there is never adequate funding or resources for important causes. Gaining the best result for the least effort is therefore central to maintaining continued support for a programme to raise business conduct standards.

Our experience to date has been that a campaign to raise business conduct standards is one of the least costly ways of demonstrating commitment to building integrity and reducing corruption in MoDs and armed forces. Factors contributing to the effectiveness of these campaigns are:

- Ethics and business conduct can relatively easily be inserted into the normal training programmes for officers and officials
- It is inexpensive to combine all the guidance from diverse existing sources into one easy-to-use guide
- Prosecuting authorities, especially if they are military, can be relatively easily directed to this issue and to focus on higher-profile cases
- A pro-active approach to industry is often a novel approach, and can quickly galvanise this important external set of stakeholders into assisting the process.

Training and education programmes

Training and education are arguably the most important ways of fostering strong internal ethical norms and ensuring the dissemination of an organisation’s message. TI’s research explicitly asked for documents that constitute a formal part of training programmes; however, only four countries provided information on this topic.

The Australian Department of Defence gave information on their fraud and ethics awareness training programme. This is conducted by the Inspector General and consists of a combination of face-to-face presentations and targeted workshops addressing particular issues. In addition, defence personnel are able to take e-learning modules from the intranet site. An Ethics and Fraud Awareness DVD is also available, containing 10 scenarios, each dealing with a particular ethical dilemma.

Likewise, the Norwegian Ministry of Defence supplied a copy of its training exercise *Over streken? (A step too far?)*. This is centred on the organisation’s ‘traffic light’ warning system already discussed in boxes 3 and 4. Personnel are given a series of scenarios and asked to classify them according to corruption risk. This is a very straightforward method of preparing personnel for any dilemmas they might confront.

However the lack of detail from remaining countries illustrates that the communication and dissemination of ethical programmes is in general a weak area. TI intends to produce a further study which will focus exclusively on this issue, with more in-depth analysis of training regimes.

Annexes

QUALITATIVE RANKING AND SUMMARY TABLES OF GOOD PRACTICE

I.1 QUALITATIVE RANKINGS

For the areas of practice reviewed, the report categorises each nation's regime into a simple qualitative ranking: strong, moderate and weak. These categories are broad and it is recognised that they are subjective. However, by classifying the countries in this way, the intention is to give a clearer impression of standards across each area of practice.

In tables 1–5 below, these rankings simply represent the extent to which nations align with the good practice bullet points. A weak regime neglects all or most of these points, while a strong one is considered to have most of these components in place.

For the key corruption risk areas (tables 5–8), we defined the rankings as follows:

Weak: Full or partial neglect of the area of corruption risk. If regulations are in place they are limited and insufficient. In some cases regulations are confusing and may increase corruption risk.

Moderate: Recognition of the corruption risk. Guidelines and procedures exist to resolve issues. However, these lack detail and are more limited in scope than in a strong regime.

Strong: Full and detailed coverage of the issue. Clear procedures and practical guidance are available to officers and officials to help resolve ethical dilemmas.

I.2 SUMMARY TABLES OF ALIGNMENT OF NATIONS WITH GOOD PRACTICE

TABLE 1: OVERARCHING APPROACH


	NO. OF COUNTRIES
A legal framework should be supported by clear ethical guidance.	4
This guidance should be designed to help shape and contextualise decision-making for individual officials.	4
OVERALL	
	
GOOD	3
MODERATE	4
POOR	5

TABLE 2: COMPONENTS OF STANDARDS OF CONDUCT REGIMES

	NO. OF COUNTRIES ^V
Organisations should refer to a code of conduct which condenses all material relevant to business conduct into a single document.	4
This guidance should be designed to help shape and contextualise decision-making for individual officials.	2
A statement of values should provide a structure in which to contextualise subsequent codes of conduct.	5
This should be an independent statement, distinct from more detailed ethical guidance.	3
OVERALL 	
GOOD	2
MODERATE	4
POOR	6

TABLE 3: PRESENTATION AND STYLE OF DOCUMENTS

	NO. OF COUNTRIES
Organisations should condense material into a single, accessible reference document.	4
This should have a simple layout to aid readability.	5
It should use graphics, colour or illustrations to communicate the organisation's principal messages.	2
Text boxes of key points or case studies should to used to help break down heavy legal text.	4
OVERALL 	
GOOD	2
MODERATE	3
POOR	7

TABLE 4: READABILITY


	NO. OF COUNTRIES
Guidance should be written in a simple and comprehensible style.	5
Comprehensive and thorough information on legal rules should be provided to ensure that officials fully understand what constitutes proper behaviour.	5
'Signposts' should be used to deliver key messages effectively.	4
OVERALL 	
GOOD	5
MODERATE	3
POOR	4

TABLE 5: BRIBERY


	NO. OF COUNTRIES
Officials should be prohibited from arranging or accepting bribes from customers, contractors, suppliers or employees of any such party, for the official's benefit or that of their family, friends, associates or acquaintances.	12
There should be clear instructions for officials in place so that they know how to act and who to contact if offered a bribe.	3
The organisation should ensure there are procedures in place for reports of bribery made to officials to be investigated and to notify external prosecutors.	2
OVERALL 	
GOOD	2
MODERATE	10
POOR	0

TABLE 6: GIFTS AND HOSPITALITY

	NO. OF COUNTRIES
Officials should be prohibited from receiving gifts from persons in industry. It is acceptable for exceptions to be made for gifts of trivial value, which should be clearly defined. The organisation should set a low value threshold for gifts which may be accepted, in the local currency.	10
These rules should be accompanied by practical guidance for officials, using real-life examples to aid individual decision-making.	5
The organisation should outline a clear procedure for officials to follow when confronted with an ethical dilemma; this should include a readily identifiable chain of command.	3
Regulations must include procedures for the proper disposal of gifts. Registers of all offers of gifts, whether accepted or refused, should be kept and routinely updated within the organisation.	3
Officials should be prohibited from accepting hospitality from persons in industry except under very clearly defined conditions.	4
<p>OVERALL</p>	
GOOD	3
MODERATE	6
POOR	3

TABLE 7: CONFLICTS OF INTEREST

	NO. OF COUNTRIES
Officials and officers should be prohibited from performing official work on any matter where a person, family or close relationship is liable to raise doubts about their impartiality.	12
Officials and officers should be prohibited from having any financial interest or involvement in organisations relevant to their defence work.	12
The organisation should include clear guidance for officials so that they may judge whether a conflict exists.	5
Officials should be asked to disclose potential conflicts of interest.	4
A specific procedure should be in place to resolve conflicts: there should be a clear chain of command to refer to, details on documentation to be completed and a timeframe within which officials are obliged to act.	0
OVERALL 	
GOOD	3
MODERATE	9
POOR	0

TABLE 8: POST-SEPARATION REQUIREMENTS

	NO. OF COUNTRIES
Countries should elaborate on the corruption risks around post-separation activities, explain the rationale for related requirements and give examples.	2
For a period of two to five years, officials should be obliged to request formal permission from their previous employer to accept offers of employment.	4
Officers and officials should be prohibited from receiving gifts, hospitality and payments not related to official employment from prohibited sources for a period of two years after leaving office, and should remain bound to report all such offers to the appropriate authorities.	1
OVERALL 	
GOOD	2
MODERATE	2
POOR	8

ANNEX TWO: LIST OF KEY REFERENCE DOCUMENTS

ARGENTINA

- Military personnel law
- Statutes for civil personnel and the armed forces
- Public employment law
- Disciplinary code of the armed forces
- Penal code of the nation
- Ethical law with regard to public functionaries
- Statutory decree of the above
- Decree of code of ethics
- Resolution no.818/2009 of the MoD

AUSTRALIA

- Defence Whistleblower Scheme pamphlet
- Ethics Matters, in Defence Resource Management Handbook (2002)
- Ethics Matters Newsletters (Issues 19 and 20, 2009)
- Compilation DVD Ethics and Fraud Awareness
- Fraud and Ethics Awareness Training Options
- Defence and Industry: An Ethical Relationship, brochure (1998)
- Defence Leadership Framework booklet
- Defence Values

CROATIA

- Law on the Prevention of Conflict of Interest in the Exercise of Public Office (2003-08)
- Public Procurement Act (2007)
- Ethical code of conduct for civil servants (2006)
- Anti-Corruption Policy (2008)
- Civil Servants Act (2008)
- Military Service Regulation (2009)
- The law on service in the Armed Forces of the Republic of Croatia (2002)

DENMARK

- Code of Conduct in the Public Sector – in brief (March 2008)
- Acquisition and logistics organisation; procedure regarding receipt of gifts, services
- Denmark Ministry of Justice, How to avoid corruption (2007)

GERMANY

- VMBI 2005 Acceptance of rewards and gifts (2005)
- Excerpts from Public Service Collective Bargaining Agreement and Military Criminal Code: Section 48
- Excerpt from German Collective Agreement for the Public Service (2005)
- Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration and Aid for Implementing the Directive (2004)
- Excerpts from the German Criminal Code
- BMVg-ES Fighting Corruption in the German Bundeswehr (15 October 2001)

KENYA

- Armed Forces Code of Conduct and Ethics (2003)
- Armed Forces Terms and Conditions of Service (1992)
- Anti-Corruption and Economic Crime Act (2003)
- Public Officer Ethics Act (2003)
- Public Procurement and Disposal Act (2005)
- Armed Forces Standing Orders (2004)

LITHUANIA

- Law on the adjustment of public and private interests in the civil service (amended June 2009)
- Code of ethics for Lithuanian soldiers (2005)
- Disciplinary regulations of the armed forces of the Republic of Lithuania (1999)

NORWAY

- Ethical ground rules for the defence sector
- Code of Conduct for the Armed Forces (2006)
- Action Plan for Attitudes, ethics and leadership 2009-2012 (2009)
- Ethical guidelines regarding business contacts for the defence sector
- Provisions for the Armed Forces relating to treatment of cases of embezzlement, corruption, theft, fraud and breach of trust

- Dilemma training exercise 'Over streken'
- Overview from the intranet MoD Norway
- Procurement Regulations for the defence sector: chapter 1.8 : Ethical guidelines and general requirements for administrative procedures

SAUDI ARABIA

- Anti-commercial fraud law and executive regulations
- Anti-Concealment Law
- Anti-money-laundering law
- Assuming Public Funds Law
- Competition Law
- Contractor Classification Law and executive regulations The Law for serving officers [military]
- Government Tenders and Procurement Law, plus implementation regulations and a sample of some government contracts
- Human Rights Commission Law
- Institute of Diplomatic Studies: Syllabi of the institute's programmes
- Law of the Board of Grievances
- Law of the Judiciary
- Law of the Bureau of Investigation and Public Prosecution
- Law of the Civil Service
- Law for Officials: Discipline, Executive Regulation and the Commission for Oversight and Investigation
- Labour Law
- Ministry of Finance: a sample declaration for contractors, declaring that he/she will not bribe
- Naif Arab University for Security Sciences: University's work programme
- Public Administration: Guide for training programmes and sessions
- Regulations and Procedures for training sessions of the Armed Forces (2008)
- Regulations for the acceptance of gifts presented on official visits and occasions (for members of the Saudi Consultative Assembly)
- The Law for serving individuals [military]
- The Anti-bribery Law
- The Anti-forgery Law
- The Law for the General Supervisory Board
- The National Strategy for the Protection of Integrity and Fighting Corruption
- Training regulations for the Civil Service
- And a CD containing all Saudi laws

SPAIN

- Military Penal Code (1985)
- Law on Conflict of Interest for the Public Administration (1985)
- Civil Service Statute (2007)
- Modification to Law 8 (2007)
- Disciplinary Code for the Armed Forces (1998)
- Law on Conflict of Interest for Military Personnel (1986)
- General Orders (2009)

SWEDEN

- Guidelines and Rules for Employees at the Swedish Defence Materiel Administration (FMV) (2006)
- The Government Offices' Ethical Guidelines (2004)
- Agreement between Saab and FMV on provisions regarding transparency (2007)

UKRAINE

- Guide on Carrying Out Preventative Educational Anti-Corruption Work among Employees of the National Tax Service (Applicable to all Public Servants)
- Other documents from the 2008 TI-UK study

ANNEX THREE: POINTS OF CONTACT

ARGENTINA

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The individual has changed position

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