

UNIVERSITI TEKNOLOGI MALAYSIA

UTM.J.02.02/10.12Jld.4 (43)

12 April 2017
15 Rejab 1438

PEKELILING PENTADBIRAN BIL. 10/2017

GARIS PANDUAN PENERIMAAN DAN PEMBERIAN HADIAH STAF UNIVERSITI TEKNOLOGI MALAYSIA

Sukacita dimaklumkan bahawa Mesyuarat Jawatankuasa Pengurusan Universiti Bil. 6/2017 yang diadakan pada 28 Mac 2017 telah meluluskan **Garis Panduan Penerimaan dan Pemberian Hadiah Staf Universiti Teknologi Malaysia**.

2. Amalan memberi dan menerima hadiah telah menjadi budaya dalam Universiti, sehingga menyebabkan amalan ini sukar dipantau oleh pihak atasan. Walaupun bertujuan bagi menzahirkan rasa terima kasih, persahabatan dan persaudaraan, namun maksud sebenar amalan ini amat sukar diterjemahkan. Jika berkaitan dengan tugas rasmi harian, perkara ini berkemungkinan menjurus ke arah penyalahgunaan kuasa yang boleh diterjemahkan sebagai rasuah dan secara langsung menjejaskan integriti dan imej Universiti.

3. Sehubungan dengan itu, dalam usaha meningkatkan integriti, satu garis panduan mengenai pemberian dan penerimaan hadiah diwujudkan agar pelaksanaan tugas rasmi harian dijalankan dengan telus dalam kalangan staf Universiti Teknologi Malaysia. **Garis Panduan Penerimaan dan Pemberian Hadiah Staf Universiti Teknologi Malaysia** beserta borang-borang berkaitan adalah seperti di lampiran.

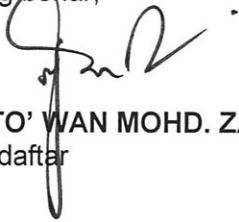
4. Sehubungan itu, semua staf diminta mengambil maklum mengenai pelaksanaan **Garis Panduan Penerimaan dan Pemberian Hadiah Staf Universiti Teknologi Malaysia** selaras dengan pematuhan Peraturan 7, Peraturan-Peraturan Tatatertib Badan-Badan Berkanun, Akta Badan-Badan Berkanun (Tatatertib dan Surcaj) 2000.

...2/-

5. Sebarang kemusykilan, rujukan boleh terus dibuat kepada Pejabat Penasihat Undang-Undang UTM di talian 07-5530391.

“Berkhidmat untuk Negara kerana Allah”

Yang benar,



DATO' WAN MOHD. ZAWAWI BIN WAN ABD. RAHMAN
Pendaftar

- s.k. - Naib Canselor
- Timbalan Naib Canselor (Penyelidikan dan Inovasi)
 - Timbalan Naib Canselor (Akademik dan Antarabangsa)
 - Timbalan Naib Canselor (Hal Ehwal Mahasiswa & Alumni)
 - Timbalan Naib Canselor (Pembangunan)
 - Pro-Naib Canselor (Kampus UTM Kuala Lumpur)
 - Pegawai-pegawai Kanan/Dekan/Pengarah

**GARIS PANDUAN PENERIMAAN DAN PEMBERIAN HADIAH
STAF UNIVERSITI TEKNOLOGI MALAYSIA**

GARIS PANDUAN PENERIMAAN DAN PEMBERIAN HADIAH
STAF UNIVERSITI TEKNOLOGI MALAYSIA

1. Latar Belakang

- 1.1 Amalan memberi dan menerima hadiah telah menjadi budaya dalam masyarakat malah ianya amat sukar dibendung tanpa kawalan oleh pihak atasan. Walaupun ia bertujuan bagi menzahirkan rasa terima kasih, persahabatan dan persaudaraan, namun maksud sebenar amalan ini amat sukar diterjemahkan. Jika berkaitan dengan tugas rasmi harian, perkara ini berkemungkinan menjurus ke arah penyalahgunaan kuasa yang boleh diterjemahkan sebagai rasuah. Akibatnya akan menjejaskan integriti dan imej organisasi.
- 1.2 Dalam usaha meningkatkan integriti, satu garis panduan mengenai pemberian dan penerimaan hadiah diwujudkan agar pelaksanaan tugas rasmi harian dijalankan dengan telus di kalangan Staf Universiti Teknologi Malaysia.

2. Kenyataan Garis Panduan

- 2.1 Pekeliling Perkhidmatan Bilangan 3 Tahun 1998, Surat Pekeliling Perkhidmatan Bilangan 5 Tahun 2008, Akta Badan – Badan Berkanun (Tatatertib dan Surcaj) 2000 telah memperuntukkan tentang kawalan berhubung penerimaan dan pemberian hadiah di kalangan staf Universiti Teknologi Malaysia.
- 2.2 Selain daripada itu, keperluan mengadakan garis panduan ini telah diputuskan secara rasmi melalui Mesyuarat Jawatankuasa Integriti dan

Tadbir Urus (JITU) UTM bertarikh 8 Februari 2017, yang telah dipengerusikan oleh Y.Bhg. Prof. Datuk Ir. Dr. Wahid bin Omar, Naib Canselor, Universiti Teknologi Malaysia.

3. Tujuan

- 3.1 Sebagai rujukan dan makluman mengenai garis panduan penerimaan dan pemberian hadiah di kalangan Staf Universiti Teknologi Malaysia dan pihak – pihak yang berurusan dengan Staf Universiti Teknologi Malaysia.
- 3.2 Meningkatkan integriti di kalangan Staf Universiti Teknologi Malaysia dan seterusnya meningkatkan imej Universiti Teknologi Malaysia.

4. Definisi

4.1 Hadiah termasuklah:

- Wang tunai
- Harta alih dan harta tak alih
- Kenderaan
- Tambang percuma ke sebarang destinasi
- Saham
- Tiket loteri
- Kemudahan perjalanan sama ada di dalam atau luar negara
- Hiburan seperti tiket wayang, tiket karaoke dsbgnya
- Keahlian kelab seperti kelab golf dsbgnya
- Sebarang bentuk diskaun/komisen
- Hamper termasuk makanan atau kosmetik
- Barang kemas seperti cincin, gelang, rantai emas dsbgnya
- Perhiasan seperti loket, jam tangan, barangan perhiasan Kristal dsbgnya

- Keraian
- Telefon bimbit/barangan elektronik

4.2 Tajaan

Merujuk kepada sebarang sumbangan yang diterima dari pihak lain yang diberikan untuk menjayakan program atau projek Universiti Teknologi Malaysia.

4.3 Staf Universiti Teknologi Malaysia

Semua pegawai lantikan di Universiti Teknologi Malaysia.

4.4 Orang – orang lain

Merujuk kepada:

- Isteri/Suami
- Ibumbapa kandung dan ibu bapa mertua
- Anak – anak termasuk anak angkat yang sah
- Mana – mana orang lain bagi pihaknya

4.5 Emolumen

Segala saraan dalam bentuk wang yang kena dibayar kepada pegawai dan Staf Universiti Teknologi Malaysia termasuklah gaji pokok, elaun tetap, bayaran insentif dan elaun bulanan lain.

4.6 Ketua Jabatan

Naib Canselor Universiti Teknologi Malaysia dan termasuklah mana – mana pegawai yang diberi kuasa dengan sewajarnya secara bertulis oleh Naib Canselor Universiti Teknologi Malaysia untuk bertindak bagi pihaknya.

5. SKOP

- 5.1 Garis panduan ini diguna pakai semua Staf Universiti Teknologi Malaysia di sepanjang tempoh perkhidmatannya dengan Universiti Teknologi Malaysia dan termasuk pihak – pihak yang berurusan dengan Staf Universiti Teknologi Malaysia, dan bagi pelajar, sepanjang pengajiannya di Universiti Teknologi Malaysia.

6. LARANGAN PEMBERIAN DAN PENERIMAAN HADIAH

- 6.1 Staf Universiti Teknologi Malaysia dilarang daripada menerima dan memberi hadiah sekiranya berkaitan dengan pelaksanaan tugas rasminya dan/atau bentuk, amaun atau nilai hadiah itu tidak sepadan dengan maksud hadiah itu diberi. Peraturan yang melarang Staf Universiti Teknologi Malaysia menerima dan memberi hadiah adalah di bawah Peraturan 7(1), Bahagian II, Tatakelakuan, di bawah Akta Badan – Badan Berkanun (Tatatertib dan Surcaj) 2000, Akta 605 seperti berikut:

Peraturan 7(1), Bahagian II, Tatakelakuan, Akta Badan – Badan Berkanun (Tatatertib dan Surcaj) 2000:

“Seseorang pegawai tidak boleh menerima atau memberikan dan tidak boleh membenarkan isteri atau suaminya atau mana – mana orang lain untuk menerima atau memberikan bagi pihaknya apa-apa hadiah, sama ada dalam bentuk zahir atau selainnya, daripada atau kepada mana – mana orang, persatuan, badan atau kumpulan orang jika penerimaan atau pemberian hadiah itu dalam apa-apa segi mempunyai kaitan, sama ada secara langsung atau tidak langsung, dengan tugas rasminya.”

7. HADIAH YANG DIBENARKAN DITERIMA OLEH STAF UTM DENGAN KEBENARAN

7.1 Dalam keadaan tertentu, Staf Universiti Teknologi Malaysia dibenarkan menerima pemberian hadiah tertakluk kepada kelulusan Ketua Jabatan. Perkara ini diperuntukkan di bawah Peraturan 7(4) Bahagian II Tatakelakuan, Akta Badan – Badan Berkanun (Tatatertib dan Surcaj) 2000.

Peraturan 7(4) Bahagian II, Tatakelakuan, Akta Badan – Badan Berkanun (Tatatertib dan Surcaj) 2000.

Jika –

- (a) *Seseorang pegawai berasa ragu – ragu tentang sama ada bentuk, amaun, atau nilai hadiah yang diterima olehnya adalah sepadan dengan maksud hadiah itu diberikan; atau*
- (b) *hal keadaan menyebabkan sukar bagi seseorang pegawai untuk menolak sesuatu hadiah atau cenderamata yang bernilai, yang penerimaannya dilarang oleh peraturan ini,*

hadiah itu bolehlah diterima secara rasmi tetapi pegawai itu hendaklah, dengan seberapa segera yang praktik, mengemukakan suatu laporan bertulis kepada Ketua Jabatannya yang mengandungi perihalan lengkap dan anggaran nilai hadiah itu dan hal keadaan hadiah itu diterima.

8. **BENTUK, AMAUN, ATAU NILAI HADIAH SEPADAN ATAU TIDAK DENGAN MAKSUD IA DIBERI**

- 8.1 Penerimaan hadiah wajar mengambilkira bentuk, amaun atau nilai hadiah yang diterima agar tidak menimbulkan sebarang syak wasangka bagi dirinya atau orang lain.
- 8.2 Dalam keadaan penerimaan hadiah **tidak berkaitan dengan tugas** Staf Universiti Teknologi Malaysia, maksud bentuk, amaun atau nilai hadiah itu sepadan atau tidak dengan tujuan hadiah itu diberi, hendaklah berdasarkan kepada nilai semasa hadiah itu, "occasion" dan tujuan atau maksud hadiah itu diterima.
- 8.3 Penerimaan hadiah oleh Staf Universiti Teknologi Malaysia yang **tidak berkaitan dengan tugasnya**, sama ada sepadan atau tidak dengan maksud ia diberi adalah seperti berikut:
- (a) Penerimaan hadiah dianggap **tidak sepadan** dengan maksud hadiah itu diberi jika nilai semasa hadiah diterima itu nilainya (dalam bentuk wang) melebihi $\frac{1}{4}$ emolumen bulanan atau melebihi RM500.00 mana yang lebih rendah. Dalam hal ini, penerimaan hadiah itu hendaklah dilaporkan kepada Ketua Jabatan untuk kelulusan.
- (b) Penerimaan hadiah dianggap **sepadan** dengan maksud hadiah itu diberi dan tidak perlu dilaporkan kepada Ketua Jabatan untuk kelulusan, jika nilai hadiah yang diterima kurang $\frac{1}{4}$ emolument atau RM500.00, mana yang lebih rendah. Di samping itu, penerimaan hadiah dianggap sepadan dengan maksud hadiah itu diberi walaupun nilainya melebihi RM500.00, jika penerimaan hadiah itu dalam keadaan berikut:

- i. penerimaan hadiah daripada rakan sekerja sempena persaraan, pertukaran, pertunangan dan perkahwinan Staf Universiti Teknologi Malaysia;
- ii. penerimaan hadiah daripada isteri atau suami, anak – anak termasuk anak menantu atau anak angkat yang sah dari segi undang – undang, ibu/bapa termasuk ibubapa mertua dan adik – beradik termasuk sebelah isteri atau suami;
- iii. Penerimaan hadiah daripada saudara mara dan rakan – rakan sempena majlis hari jadi, pertunangan dan perkahwinan pegawai atau anak – anak, atau apa – apa majlis lain yang berkaitan dengan adat resam dan agama; atau
- iv. penerimaan hadiah yang cepat rosak dan tidak tahan lama seperti buah – buahan, kuih-muih, minuman ringan dan sebagainya.

8.4 Walau bagaimanapun, sekiranya Staf Universiti Teknologi Malaysia masih ragu – ragu dan mendapati penerimaan ini boleh menimbulkan masalah berkaitan dengan tanggungjawabnya atau boleh menimbulkan syak wasangka bagi dirinya atau orang lain, maka Staf Universiti Teknologi Malaysia boleh melaporkan penerimaan ini kepada Ketua Jabatan.

9. PENERIMAAN HADIAH YANG SUKAR DITOLAK

9.1 Semasa menjalankan tugas, kadangkala sukar untuk Staf Universiti Teknologi Malaysia menolak pemberian hadiah kerana jika menolak pemberian itu akan memalukan sipemberi atau menimbulkan keadaan serba salah. Ini misalnya:

- (a) semasa menjalankan tugas di seminar, symposium, kursus atau mana – mana majlis rasmi di peringkat negeri atau antarabangsa, pihak penganjur tidak memberitahu pemberian hadiah terlebih dahulu; atau
 - (b) semasa menjalankan tugas rasmi di daerah atau di kampung di mana masyarakat atau pemimpin di peringkat kampung atau daerah memberi buah – buahan, sayur – sayuran dan hasil kerja tangan penduduk dan sebagainya.
- 9.2 Dalam keadaan sukar untuk menolak pemberian hadiah yang ada kaitan dengan tugas rasmi, Staf Universiti Teknologi Malaysia dibenarkan menerima hadiah berkenaan dan kemudiannya sekembalinya di pejabat, Staf Universiti Teknologi Malaysia hendaklah melaporkan kepada Ketua Jabatan untuk kelulusan sewajarnya.
- 9.3 Walau bagaimanapun, bagi memudahkan urusan pentadbiran, Staf Universiti Teknologi Malaysia dikehendaki hanya melaporkan sahaja kepada Ketua Jabatan dengan borang seperti di **Lampiran B**, iaitu tanpa perlu kelulusan Ketua Jabatan, jika pemberian hadiah yang sukar ditolak itu;
- (a) nilainya kurang daripada RM100.00;
 - (b) berbentuk lencana, "plaque" atau "pennat" atau barang – barang kraftangan yang dihasilkan sendiri oleh pemberi berkenaan atau apa – apa bentuk bahan bercetak yang berkaitan pemberi dan bertujuan untuk promosi
 - (c) dalam bentuk barang – barang yang cepat rosak dan tidak tahan lama seperti buah – buahan, sayur – sayuran, kuih-kuih, minuman ringan, bunga dan sebagainya.

10. PENERIMAAN HADIAH YANG MENJADI KESALAHAN

10.1 Walau bagaimanapun penerimaan hadiah itu, sama ada kurang atau lebih dari nilai yang dinyatakan atau sama dengan nilai tersebut, adalah menjadi kesalahan di bawah undang – undang jika ia diterima dalam keadaan – keadaan berikut:

- (a) hadiah itu diterima atau diminta secara atau dengan niat rasuah (corruptly or with corrupt intention) bahawa ia adalah dorongan atau upah kepada Staf Universiti Teknologi Malaysia itu bagi melakukan atau tidak melakukan (to forebear), atau kerana telah melakukan atau telah tidak melakukan sesuatu perbuatan berhubung dengan hal ehwal urusan prinsipalnya atau dalam menjalankan kerja – kerja rasminya (Seksyen 16 dan 17(a) Akta Suruhanjaya Pencegahan Rasuah Malaysia 2009 (Akta 694), Seksyen 161 dan 162 Kanun Keseksaan);
- (b) orang yang memberi hadiah itu mempunyai perhubungan dengan kerja – kerja rasmi Staf Staf Universiti Teknologi Malaysia itu sendiri atau dengan kerja rasmi seseorang Staf Universiti Teknologi Malaysia yang di bawahnya dia bekerja dan pemberian serta penerimaan itu tidak dibuat dengan suci hati(not in good faith), sebaliknya ia dilakukan dengan satu niat jenayah (mens rea); atau
- (c) hadiah itu diterima dengan niat jenayah (mens rea) daripada seseorang, yang Staf Universiti Teknologi Malaysia itu ketahui telah, atau sedang, atau mungkin ada kena mengena dalam apa – apa urusan yang telah dijalankan, atau yang akan dijalankan oleh pegawai itu (Seksyen 165, Kanun Keseksaan).

11. PENAJAAN DARI PIHAK SWASTA UNTUK UNIVERSITI TEKNOLOGI MALAYSIA

11.1 Penajaan dari pihak swasta/ mana – mana pihak lain adalah dibenarkan dengan syarat, kebenaran diperolehi daripada Ketua Jabatan tertakluk kepada syarat – syarat seperti berikut:

- (a) Hadiah yang diterima hendaklah diberikan oleh penderma secara percuma tanpa sebarang syarat dan ikatan. Penderma – penderma pula tidak mempunyai apa-apa kepentingan dengan Universiti Teknologi Malaysia.
- (b) Sesuatu hadiah itu diberikan oleh penderma secara sukarela dan bukan atas permintaan Universiti Teknologi Malaysia. Universiti Teknologi Malaysia adalah dilarang menjalankan usaha bagi mendapatkan hadiah atau derma dari mana – mana pihak sama ada pertubuhan atau orang perseorangan.
- (c) Sumbangan yang diberikan itu juga hendaklah digunakan mengikut apa yang dihasratkan oleh penderma.
- (d) Semua hadiah hendaklah dimasukkan ke dalam daftar inventori Universiti Teknologi Malaysia.
- (e) Hadiah yang diterima juga hendaklah diambil kira dari segi jumlah dan kekerapan hadiah tersebut diterima.

12. UCAPAN TAHNIAH, TERIMA KASIH ATAU TAKZIAH DI AKHBAR – AKHBAR HARIAN DAN MEDIA MASSA

12.1 Staf Universiti Teknologi Malaysia adalah dilarang dari memberikan kebenaran bagi ucapan – ucapan tahniah/terima kasih/takziah yang menyentuh diri Staf Staf Universiti Teknologi Malaysia untuk disiarkan di akhbar – akhbar atau mana – mana media massa yang lain oleh pihak swasta, persatuan, pertubuhan orang perseorangan atau mana – mana kumpulan orang.

13. KEWAJIPAN MELAPORKAN TAWARAN RASUAH/SUAPAN

13.1 Staf Universiti Teknologi Malaysia adalah diingatkan tentang peruntukkan Seksyen 25 (1) dan (2), Akta Suruhanjaya Pencegahan Rasuah Malaysia 2009 (Akta 694) iaitu tanggungjawab untuk melaporkan kepada Suruhanjaya Pencegahan Rasuah Malaysia atau pihak polis sekiranya mereka diberi atau dijanjikan atau ditawarkan apa – apa bentuk suapan. Adalah menjadi kesalahan dan boleh dikenakan denda di bawah akta tersebut, sekiranya Staf Universiti Teknologi Malaysia gagal mematuhi peruntukan berkenaan.

14. KEPUTUSAN KETUA JABATAN

14.1 Ketua Jabatan apabila menerima laporan mengenai penerimaan hadiah oleh Staf Universiti Teknologi Malaysia yang memerlukan keputusannya, boleh membuat keputusan seperti berikut:

- (a) Membenarkan pegawai itu menyimpan hadiah itu, atau
- (b) Mengarahkan supaya hadiah itu dikembalikan, melalui Ketua Jabatan itu, kepada pemberinya, atau
- (c) Hadiah itu disimpan oleh Jabatan.

14.2 Ketua Jabatan semasa menimbangkan permohonan Staf Universiti Teknologi Malaysia hendaklah melihat kriteria – kriteria seperti berikut:

- (a) Hendaklah memastikan hadiah yang diterima itu dibenarkan di bawah garis panduan ini;
- (b) Penerimaan hadiah itu tidak menimbulkan syak Staf Universiti Teknologi Malaysia telah menggunakan kedudukannya atau kuasa yang ada padanya untuk memperolehi hadiah itu;
- (c) Mengambil kira kekerapan Staf Universiti Teknologi Malaysia tersebut menerima hadiah;
- (d) Hubungan antara Staf Universiti Teknologi Malaysia dengan sipemberi hadiah tersebut, khususnya mengenai tugas – tugas dan kuasa yang ada kepada Staf Universiti Teknologi Malaysia;
- (e) Kepentingan Universiti Teknologi Malaysia secara keseluruhan

14.3 Staf yang telah menerima hadiah daripada mana – mana pihak atau orang luar, perlu melaporkan penerimaan hadiah tersebut melalui borang penerimaan hadiah seperti di **Lampiran A** atau memuat turun di portal rasmi www.utm.my.

15. UMUM

15.1 Tiada apa-apa dalam garis panduan ini atau apa-apa pindaan yang dibuat di bawahnya boleh menghalang apa-apa tindakan diambil di bawah Akta Suruhanjaya Pencegahan Rasuah Malaysia (Akta 694), Kanun Keseksaan, Akta Kastam 1967 dan mana – mana undang – undang lain yang berkaitan terhadap mana – mana pegawai awam.

16. TANGGUNGJAWAB KETUA JABATAN

- 16.1 Ketua Jabatan boleh meminta Staf Universiti Teknologi Malaysia memberi penjelasan sekiranya meragui apa – apa hadiah yang diterima.
- 16.2 Ketua Jabatan juga hendaklah melaporkan kepada pihak berkuasa tatatertib atau mana – mana pihak berkuasa lain, sekiranya terdapat apa-apa pelanggaran terhadap apa-apa peraturan atau undang – undang berkaitan penerimaan hadiah oleh Staf Universiti Teknologi Malaysia.

17. PENUTUP

Diharap garis panduan ini akan menjadi rujukan yang efektif dan berkesan ke arah meningkatkan integriti di kalangan Staf Universiti Teknologi Malaysia

Disediakan Oleh:

Seksyen Integriti, Tatatertib dan Surcaj

UTM Pejabat Penasihat Undang – Undang

Universiti Teknologi Malaysia

PERMOHONAN BAGI MENDAPATKAN KEBENARAN PENERIMAAN HADIAH DI BAWAH PERATURAN 7, AKTA BADAN-BADAN BERKANUN (TATATERTIB DAN SURCAJ) 2000 DAN PEKELILING PERKHIDMATAN BILANGAN 3 TAHUN 1998

PERHATIAN :

1. Borang ini hendaklah diisi dengan lengkap dalam 2 salinan.
2. Borang ini hendaklah diisi dengan ditaip atau ditulis dengan huruf cetak.

A. BUTIR - BUTIR PERIBADI

- (i) Nama Pegawai :
- (ii) No. Kad Pengenalan :
- (iii) Gelaran Jawatan :
- (iv) Kumpulan Perkhidmatan :
Dan Gred/ Tingkatan
- (v) Tempat Bertugas :

(Catitan: Lampirkan senarai tugas pegawai).

B. KETERANGAN MENGENAI HADIAH

- (i) Jenis :
- (ii) Nilai (Anggaran Nilai) :
- (iii) Tarikh diterima :
- (iv) Sipemberi dan Alamat :
- (v) Hubungan/Kaitan :
Dengan Pegawai
- (vi) Sebab diberi :
- (vii) Lain-lain maklumat, jika ada :
(seperti pandangan pegawai
tentang hadiah itu, sama ada
pegawai berkehendakkan hadiah
tersebut atau sebagainya)

C. PERAKUAN PEGAWAI

Saya mengaku bahawa butir-butir yang diberi di atas adalah benar.

Tarikh :

(Tandatangan Pegawai)

D. ULASAN KETUA JABATAN/ CAWANGAN/ UNIT, JIKA PERLU

.....
.....

Tarikh :

(Tandatangan Pegawai)

Nama :

Jawatan :

E. KEPUTUSAN KETUA JABATAN

Saya selaku Ketua Jabatan, setelah menimbangkan penerimaan hadiah di atas, membuat keputusan berikut:-

Membenarkan pegawai menerima hadiah tersebut.

Hadiah tersebut dikembalikan kepada sipemberi melalui Ketua Jabatan.

Hadiah tersebut disimpan oleh Jabatan.

[(✓) mana yang berkenaan]

Tarikh :

(Tandatangan)

Nama :

Gelaran :

Jawatan

**LAPORAN PENERIMAAN HADIAH
DI BAWAH PEKELILING PERKHIDMATAN BILANGAN 3 TAHUN 1998**

PERHATIAN :

1. Borang ini hendaklah diisi dengan lengkap dalam (1) salinan sahaja.
2. Borang ini hendaklah diisi dengan ditaip atau ditulis dengan huruf cetak.
3. Borang ini hendaklah dimasukkan dalam fail peribadi pegawai atau fail yang berkaitan.

A. BUTIR – BUTIR PERIBADI

- (i) Nama Pegawai :
- (ii) No. Kad Pengenalan :
- (iii) Gelaran Jawatan :
- (iv) Kumpulan Perkhidmatan :
Dan Gred/ Tingkatan
- (v) Tempat Bertugas :

B. KETERANGAN MENGENAI HADIAH

- (i) Jenis Hadiah :
- (ii) Sipiemberi Hadiah :
- (iii) Tarikh Hadiah diterima :

Tarikh :

(Tandatangan Pegawai)

UNIVERSITI TEKNOLOGI MALAYSIA

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ADMINISTRATIVE CIRCULAR NO. 10/2017

GIFT ACCEPTANCE AND BEQUEATHING GUIDELINE FOR STAFF OF UNIVERSITI TEKNOLOGI MALAYSIA

Please be informed that the University Management Committee Meeting No. 6/2017 held on 28 March 2017 has endorsed the **Gift Acceptance and Bequeathing Guideline for Staff of Universiti Teknologi Malaysia**.

2. The practice of giving and receiving of gifts has become a culture at the University, making the practice difficult to be monitored by UTM higher authorities. Although intended to express gratitude, friendship and kinship, the real intent of this practice is very difficult to discern. If the gift is related to routine official duties, the practice would likely lead to abuse of power that can be interpreted as bribery and could directly affect the integrity and image of the University.

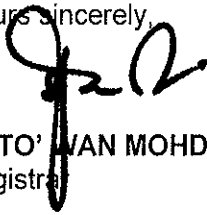
3. Accordingly, in order to enhance integrity, a set of guidelines on the acceptance and bequeathing of gifts has been developed in ensuring that the staff of Universiti Teknologi Malaysia could carry out their official duties in a transparent manner. The **Gift Acceptance and Bequeathing Guideline for Staff of Universiti Teknologi Malaysia**, together with the relevant forms are attached.

4. Thus, all staff members are to take note of the **Gift Acceptance and Bequeathing Guideline for Staff of Universiti Teknologi Malaysia**, in compliance with Rule 7, Disciplinary Regulations of Statutory Bodies, Statutory Bodies (Discipline and Surcharge) Act 2000.

5. For any enquiries, please refer directly to the UTM Legal Advisor Office at 07-5530391.

“Berkhidmat untuk Negara kerana Allah”

Yours sincerely,



DATO' WAN MOHD. ZAWAWI BIN WAN ABD. RAHMAN
Registrar

- c.c. - Vice-Chancellor
- Deputy Vice-Chancellor (Research and Innovation)
- Deputy Vice-Chancellor (Academic and International)
- Deputy Vice-Chancellor (Student Affairs and Alumni)
- Deputy Vice-Chancellor (Development)
- Pro Vice-Chancellor (UTM Kuala Lumpur Campus)
- Senior Officers/Deans/Directors

GIFT ACCEPTANCE AND BEQUEATHING GUIDELINE FOR STAFF OF UNIVERSITI TEKNOLOGI MALAYSIA

1. Background

- 1.1 The practice of giving and receiving of gifts has become a culture at the University, making the practice difficult to be monitored by UTM higher authorities. Although intended to express gratitude, friendship and kinship, the real intent of this practice is very difficult to discern. If the gift is related to routine official duties, the practice would likely lead to abuse of power that can be interpreted as bribery and could directly affect the integrity and image of the University.
- 1.2 In an effort to enhance integrity, a set of guidelines on accepting and bequeathing of gifts has been developed in ensuring that the staff of Universiti Teknologi Malaysia could carry out their official duties in a transparent manner.

2. Guideline Statement

- 2.1 Administrative Circular No. 3 of 1998, Service Circular No. 5 of 2008, and Statutory Bodies (Discipline and Surcharge) Act 2000 have made provisions for the control of accepting and bequeathing of gifts among the staff of Universiti Teknologi Malaysia.
- 2.2 In addition, the need to establish this guideline has been officially endorsed at the UTM Integrity and Governance Committee (JITU) dated February 8, 2017, which was chaired by Prof. Datuk Ir. Dr. Wahid bin Omar, Vice-Chancellor of Universiti Teknologi Malaysia.

3. Aim

- 3.1 Used as a term of reference and guidelines for accepting and bequeathing of gifts among the staff of Universiti Teknologi Malaysia and parties dealing with staff members of Universiti Teknologi Malaysia.
- 3.2 Enhance integrity among the staff of Universiti Teknologi Malaysia and ultimately elevating the image of Universiti Teknologi Malaysia.

4. Definition

4.1 Gifts include the following:

- Cash
- Movable and immovable properties
- Vehicles
- Free trips to any destinations
- Stocks and shares
- Lottery tickets
- Travel facilities and expenses either locally or abroad
- Access to recreational activities like movie tickets, karaoke fees and charges, etc
- Club memberships like golf clubs, etc
- Any forms of discounts/commission
- Hampers including food or cosmetics
- Jewelry like rings, bracelets and bangles, gold chains, etc
- Ornaments like pendants, watches, crystal, etc
- Entertainment
- Hand phones/electrical items

4.2 Sponsorship

Refers to any contribution received from another party for the purpose of supporting a program or project organised by Universiti Teknologi Malaysia.

4.3 Staff of Universiti Teknologi Malaysia

All appointed personnel at Universiti Teknologi Malaysia.

4.4 Other parties

Refer to:

- Wife/Husband (Spouse)
- Biological parents and parents-in-law
- Children - including legally adopted children
- Any other people acting on behalf of the staff

4.5 Emolument

All remuneration in monetary form due to the officers and staff of Universiti Teknologi Malaysia, including basic salary, fixed allowances, incentive payments and other monthly allowances.

4.6 Head of Department

The Vice-Chancellor of Universiti Teknologi Malaysia, including any officers authorized in writing by the Vice-Chancellor of Universiti Teknologi Malaysia to act on his behalf.

5. SCOPE

5.1 This guideline applies to all staff of Universiti Teknologi Malaysia throughout his/her tenure at Universiti Teknologi Malaysia, including any parties dealing with the staff of Universiti Teknologi Malaysia, and also applies to students, throughout their studies at Universiti Teknologi Malaysia.

6. PROHIBITION FROM ACCEPTING AND BEQUEATHING OF GIFTS

6.1 Staff members of Universiti Teknologi Malaysia are prohibited from receiving and bequeathing of gifts, related to the implementation of their official duties and / or when the nature, amount or value of the gift is not commensurate with the purpose of bequeathing the gift. Rules and regulations prohibiting the staff of Universiti Teknologi Malaysia from receiving or bequeathing gifts fall under Rule 7 (1), Part II of the Code of Conduct, under the Statutory Bodies (Discipline and Surcharge) Act 2000, Act 605 as follows:

Rule 7(1), Part II, Code of Conduct, Statutory Bodies (Discipline and Surcharge) Act 2000:

“An officer can neither receive nor give, and shall not allow his or her spouse or any other person to accept or give any gifts on his or her behalf, whether in tangible form or otherwise, from or to any individual, association, body or groups of people, if the acceptance or bequeathing of the gifts is in any way connected, either directly or indirectly, with the officer’s official duties.”

7. GIFTS AUTHORIZED TO BE ACCEPTED BY UTM STAFF

7.1 In certain situations, staff members of Universiti Teknologi Malaysia may receive gifts subject to the approval of the Head of Department. This is provided for under Rule 7(4) Part II of the Code of Conduct, Statutory Bodies (Discipline and Surcharge) Act 2000

Rule 7(4) Part II, Code of Conduct, Statutory Bodies (Discipline and Surcharge) Act 2000.

If –

- (a) an officer is in doubt whether the nature, amount or value of the gift received by him/her is commensurate with the intent of giving the gift; or
- (b) circumstances make it difficult for an officer to refuse a gift or token of value, the receipt of which is prohibited by this regulation,

the gift may be formally accepted, but the officer shall, as soon as practicable, submit a written report to the Head of Department containing a full description and estimated value of the gift and the circumstances in which it was received.

8. NATURE, AMOUNT OR VALUE OF GIFTS COMMENSURATING WITH THE INTENT

- 8.1 Acceptance of gifts should take into consideration the nature, amount or value of gifts received in order not to arouse any suspicion to himself/herself or others.
- 8.2 In circumstances where acceptance of the gift is **not related to services provided** by the staff of Universiti Teknologi Malaysia, the gift's nature,

amount or value commensurate with the intent of the gift, shall be based on the gift's current value, occasion and intent of acceptance.

8.3 Acceptance of gifts by staff of Universiti Teknologi Malaysia **not related to his or her duties and responsibilities**, whether the gifts commensurate with their intent, is based on the following:

- (a) Acceptance of the gift does **not commensurate** with the intent of the gift if the current value of the gift (in monetary form) exceeds $\frac{1}{4}$ or more of the officer's monthly emolument, or exceeds RM500.00 whichever is lower. In this case, acceptance of the gift should be reported to Head of the Department for approval.
- (b) Acceptance of the gift **commensurate** with the intent of the gift and does not require any reports to be submitted to Head of the Department for approval, if the value of gift received is less than a $\frac{1}{4}$ of the officer's emolument, or less than RM500.00, whichever is lower. In addition, acceptance of the gift commensurate with the intent of the gift, even if its value exceeds RM500.00, if the gift is accepted in the following circumstances:
 - i. acceptance of gifts from colleagues due to retirement, redeployment, engagement and wedding of staff of Universiti Teknologi Malaysia;
 - ii. acceptance of gifts from his or her spouse, children - including sons- or daughters in-law or legally adopted children, mother/father, including parents-in-law and siblings of either spouses;

- iii. acceptance of gifts from relatives and friends for birthdays, engagement and marriage of the officer or the officer's children, or any events related to custom and religion; or
- iv. acceptance of perishable and non-durable gifts such as fruits, cakes and cookies, soft drinks, etc.

8.4 However, if the staff of Universiti Teknologi Malaysia is still in doubt and believe that the acceptance of the gift may cause problems with regard to the officer's duties and obligations, or may raise suspicion to himself/herself or others, the staff of Universiti Teknologi Malaysia may report the acceptance of the gift to the Head of Department.

9. ACCEPTANCE OF DIFFICULT TO DECLINE GIFTS

9.1 While carrying out a task or responsibility, at times it is difficult for the staff of Universiti Teknologi Malaysia to refuse a gift because refusing the gift would embarrass the giver/benefactor or would put the officer in a quandary. The following are some typical examples:

- (a) while serving in seminars, symposiums, courses or any official ceremonies at the state or international level, the organizers did not inform the officer in advance of gifts procured for the officer; or
- (b) while performing official duties in selected districts or villages where the community or village/district heads offer gifts in the form of fruits, vegetables, handicrafts, etc.

9.2 In circumstances where it is difficult to refuse a gift that is related to official duties, the staff of Universiti Teknologi Malaysia is allowed to receive the gift, but upon returning to the office, the staff of Universiti Teknologi Malaysia shall report to the Head of Department for approval.

9.3 Nevertheless, for ease of administration, the staff of Universiti Teknologi Malaysia is required only to report to the Head of Department using the form in Appendix B, which does not require approval of the Head of Department, provided the difficult to decline gift;

- (a) has a value of less than RM100.00;
- (b) is in the form of a badge, plaque or pennant, or any handicraft produced by the giver/benefactor himself/herself, or any forms of printed materials related to the giver/benefactor used for promotional purposes
- (c) is in the form of perishable and non-durable gifts such as fruits, vegetables, cakes and cookies, soft drinks, flowers, etc.

10. ACCEPTANCE OF GIFTS THAT BECOMES AN OFFENCE

10.1 Regardless of the acceptance of the gift, whether lower or higher than the declared value, or commensurate in value, it is an offense under the law to accept the gift in the following circumstances:

- (a) the gift was received or requested corruptly or with corrupt intention, and that it was an inducement or reward to the staff of Universiti Teknologi Malaysia to forebear or not forebear, or to act or refrain from acting in relation to the officer's principal affairs in implementing his/her official duties (Section 16 and 17 (a) of the Malaysia Anti-Corruption Commission Act 2009 (Act 694), Sections 161 and 162 of the Penal Code);
- (b) the person giving the gift has a direct interest in the official duties of the Staff of Universiti Teknologi Malaysia or with the subordinates

of the staff of Universiti Teknologi Malaysia, and the gift is given not in good faith; rather, with a criminal intent (mens rea); or

- (c) the gift was received with criminal intent (mens rea) from a person, where the staff of Universiti Teknologi Malaysia knows that the person had been, is involved, or might be involved in matters related to, or under the responsibility of the officer (Section 165, Penal Code).

11. PRIVATE SECTOR SPONSORSHIP FOR UNIVERSITI TEKNOLOGI MALAYSIA

11.1 Sponsorships from private sectors / external parties are permitted, provided approval has been obtained from Head of the Department, and subject to the following conditions:

- (a) Gifts received from sponsors should be gratis and without any conditions and commitments. Sponsors should not have any interest in Universiti Teknologi Malaysia.
- (b) Gifts are given by sponsors voluntarily and not at the request of Universiti Teknologi Malaysia. Universiti Teknologi Malaysia is prohibited from making any effort in attaining gifts or donations from any parties, whether organizations or individuals.
- (c) Sponsorships attained should be used according to the desire of the sponsors.
- (d) All gifts should be recorded in the Universiti Teknologi Malaysia's inventory registration list.

- (e) Gifts received must also take into account the volume and frequency of the gifts received.

12. CONGRATULATIONS, CONDOLENCES OR GRATITUDE MESSAGES IN DAILY NEWSPAPERS AND MASS MEDIA

- 12.1 Staff members of Universiti Teknologi Malaysia are prohibited from giving permission for congratulations / gratitude / condolences messages in relation to any Staff of Universiti Teknologi Malaysia to be published in the press or any other mass media published by the private sector, societies, associations, individuals or groups of individuals.

13. OBLIGATION IN REPORTING CORRUPTION/BRIBERY

- 13.1 Staff members of Universiti Teknologi Malaysia are to take note of the provisions of Section 25 (1) and (2) of the Malaysia Anti-Corruption Commission Act 2009 (Act 694), involving the obligation to report to the Malaysia Anti-Corruption Commission or the police if they are given or promised or offered any forms of bribery. It is an offense and punishable in the form of fines, under the said Act, if the staff of Universiti Teknologi Malaysia fails to comply with the provision.

14. DECISION BY HEAD OF DEPARTMENT

- 14.1 The Head of the Department, upon receipt of a report on the acceptance of gifts by staff of Universiti Teknologi Malaysia that requires the Head to make a decision, may decide as follows:

- (a) The officer is allowed to keep the gift, or
- (b) The gift is to be returned to the giver/benefactor, via the Head of Department, or
- (c) The gift is to be kept by the Department.

14.2 The Head of Department in assessing the application of the Staff of Universiti Teknologi Malaysia shall refer to the following criteria:

- (a) Ensure that gifts received are allowed under this guideline;
- (b) Ensure acceptance of the gift does not put the Staff of Universiti Teknologi Malaysia under suspicion for misusing his/her position and power in obtaining the gift;
- (c) Take into account the frequency of the Staff of Universiti Teknologi Malaysia receiving a gift;
- (d) View the relationship between the staff of Universiti Teknologi Malaysia and the gift bearer, particularly in relation to the responsibilities and power which comes with the position held by the staff of Universiti Teknologi Malaysia;
- (e) Safeguard the interest of Universiti Teknologi Malaysia as a whole.

14.3 Staff members who have received gifts from any parties or external organizations, must report receipt of the gifts via the gift acceptance form in Appendix A or they may download the form from www.utm.my.

15. GENERAL

15.1 Nothing in this guideline or any amendment made there of shall preclude any action taken under the Malaysia Anti-Corruption Commission Act (Act 694), Penal Code, Customs Act 1967 and any other applicable law related to public officials.

16. Responsibility of Head of Department

16.1 The Head of Department may seek clarification from the staff of Universiti Teknologi Malaysia, if any doubt arises pertaining to any gifts received.

16.2 The Head of Department must report to the disciplinary authority or any other authority, in the event of any breach of any rules or laws relating to the acceptance of gifts by staff of Universiti Teknologi Malaysia.

17. CLOSING

It is hoped that this guideline will be an effective and efficient referral document towards enhancing the integrity level among the staff of Universiti Teknologi Malaysia.

Prepared by:

The Integrity, Discipline and Surcharge Section

UTM Legal Advisor Office

Universiti Teknologi Malaysia

**APPLICATION FOR THE AUTHORIZATION TO RECEIVE GIFTS UNDER RULE 7,
STATUTORY BODIES (DISCIPLINE AND SURCHARGE) ACT 2000
AND ADMINISTRATIVE CIRCULAR NO. 3 of 1998**

NOTE :

1. This form is to be completed in 2 copies.
2. This form must be filled in block letters or type written.

A. PERSONAL DETAILS

- (i) Name of Officer :
- (ii) Identification Card Number :
- (iii) Title of Position :
- (iv) Service and Grade/Scale Group:
- (v) Place of Duty :

(Note: Please attach list of official duties).

B. GIFT DETAILS

- (i) Type :
- (ii) Value (Estimated Value) :
- (iii) Date Received :
- (iv) Name and Address :
of Giver/Benefactor
- (v) Relationship/Connection :
with Officer
- (vi) Reason for the Gift :
- (vii) Other Information, if any :
(like the officer's view on the
gift, or whether the officer
is in need of the gift, etc)

C. DECLARATION OF OFFICER

I declare that the particulars given above are true.

Date :

(Signature of Officer)

D. COMMENT FROM HEAD OF DEPARTMENT / BRANCH / UNIT, IF NECESSARY

.....
.....

Date :

(Signature of Officer)

Name :

Position :

E. DECISION OF HEAD OF DEPARTMENT

I, as Head of Department, after considering the bequeathed gift, have made the following decision:-

The officer is allowed to accept the gift.

The gift is to be returned to the giver/benefactor via the Head of Department.

The gift is to be kept by the Department.

[Tick (✓) where applicable]

Date :

(Signature)

Name :

Title :

Position:

**GIFT ACCEPTANCE REPORT
UNDER ADMINISTRATIVE CIRCULAR NO. 3 of 1998**

NOTE :

1. This form is to be completed in (1) copy only.
2. This form must be filled in block letters or type written.
3. This form must be placed in the employee's personnel file or other related files.

A. PERSONAL DETAILS

- (i) Name of Officer :
- (ii) Identification Card Number :
- (iii) Title of Position :
- (iv) Service and Grade/Scale Group:
- (v) Place of Duty :

B. GIFT DETAILS

- (i) Type of Gift :
- (ii) Name of Giver/Benefactor :
- (iii) Gift Received Date :

Date :

.....

(Signature of Officer)

