

Anti-Bribery Policy – Related Practical Guidance

1. APPEARANCES AND PERCEPTIONS

A consistently useful test to determine whether or not a behaviour or action gives the appearance or perception of inappropriate influence or conflict of interest is to ask yourself whether you would be comfortable with the action/behaviour in question being subjected to public scrutiny.

2. EXAMPLES OF BRIBERY

2.1 Offering a bribe

2.1.1 You offer a manager at a private sector company lavish entertainment and expensive gifts so that their company might provide a large sponsorship grant to a University research team.

2.1.2 The offer of a financial advantage of this kind can give rise to an offence under the Bribery Act 2010 where it is intended to induce the recipient to perform their functions improperly in connection with the award of the grant to the University. The bribery in this example may also have resulted in another institution losing out on the sponsorship – but there is no need for this to be demonstrated under the Bribery Act 2010.

2.2 Receiving a bribe

2.2.1 A supplier gives a member of your family a job, but makes it clear that in return they expect you to use your position to influence the chances of the supplier obtaining University business or another advantage in return.

2.2.2 It is an offence for a supplier to make such an offer. It would be an offence for you to accept the offer, as you would be doing so on the basis that you would misuse your position at the University. It does not matter that you have not received a personal benefit yourself. Note also that a conviction for paying bribes can automatically debar a supplier from tendering for future public contracts.

2.2.3 A bribe need not only be received in the purely commercial context, of which the above is an example. Some other areas where risks of bribery can arise in the higher education sector may include: the award of degrees or academic prizes, the publication of academic or research papers, sponsorship and donations to an institution from benefactors, and in the context of an institution's teaching or research partnerships with private sector organisations or other third parties.

2.3 Bribing a foreign public official

2.3.1 You pay an unofficial personal payment to a foreign official to speed up an administrative process (such as to ensure a consignment of university marketing materials is safely or promptly cleared through customs). This type of bribe is often known as a facilitation payment (see below for further guidance).

2.3.2 This is an example of an offence of bribing a foreign public official. The offence differs from the other offences above because there is no requirement to prove the foreign public official performed their functions improperly (although in this example they may have done). The offence only requires an offer of a financial or other advantage with the intention of influencing the official, in order to obtain or retain business or a business advantage. The possible advantage in this example is the ability of the University to use its marketing materials promptly.

3. **POTENTIAL RISK SCENARIOS**

3.1 Bribery and corruption can take many shapes and forms. A list of potential indicators of bribery or corruption is provided below. Further useful guidance can be found on the Serious Fraud Office's website (<https://www.sfo.gov.uk/publications/>).

3.1.1 You learn that a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having a "special relationship" with foreign public officials.

3.1.2 A third party insists on receiving a commission or fee payment before committing to sign up to a contract, or before carrying out a public function or process.

3.1.3 A third party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made.

3.1.4 A third party requests that payment is made to a country or geographic location different from where the third party resides or conducts business.

3.1.5 A third party requests an unexpected additional fee or commission to "facilitate" a service.

3.1.6 A third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services.

3.1.7 A third party requests that a payment is made to "overlook" potential legal violations.

3.1.8 A third party requests that you provide employment, a place on a course, or some other advantage to a friend or relative.

3.1.9 You receive an invoice from a third party that appears to be non-standard or contains unusual features or omits information you would expect to see.

3.1.10 A third party insists on the use of side letters or refuses to put agreed terms in writing.

3.1.11 You notice that the University has been invoiced for a commission or fee payment that appears large given the service stated to have been provided (or out of proportion to prevailing market rates).

3.1.12 A third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to the University or whose role is undefined or has no obvious commercial purpose.

3.1.13 You are offered an unusually generous gift or offered lavish hospitality by a third party.

4. **FACILITATION PAYMENTS**

4.1 If you are unsure as to the validity of an official's request for a payment, the steps below should be followed as far as they are applicable and as far as it is possible for you to do so without putting your personal safety or security at risk:

- If possible, contact your line manager or supervisor immediately.
- Ask the official for proof of the validity of the fee.
- Request that a receipt be provided confirming the validity of the payment.
- If no proof of validity will be provided, politely decline to make the payment and explain you cannot make the payment because of company policy and anti-bribery laws.
- If possible, ask to see the official's supervisor.
- Make a full note of the request, the circumstances and the parties involved.
- At all times, remain calm, respectful and polite.

4.2 If you find you are in fear for your safety or at risk of loss of liberty, do not refuse the payment.

4.3 In all circumstances report any demand for facilitation payments immediately in accordance with the University's Raising Concerns process.