

## Anti-Bribery Policy

### 1. POLICY STATEMENT

1.1 The University of Sussex ("the University") is committed to probity and good conduct in carrying out its business functions and to adhering strictly to the provisions of the Bribery Act 2010, in respect of its conduct both in the UK and internationally. This statement of policy is adopted by the University's Council.

1.2 The University expects its staff and other persons officially associated with the University to comply with this policy and related principles, and strictly to adhere to these core precepts:

- Do not offer, promise or pay bribes;
- Do not request, agree to or accept bribes.

1.3 The University has a duty to comply with legal requirements, the requirements of funding bodies (including, notably, the Higher Education Funding Council for England) and the standards in public life enunciated in the Reports of the Committee on Standards in Public Life (the Nolan Committee), including the "Seven Principles of Public Life", namely: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

The University expects its staff not only to avoid, and be vigilant for, behaviours that contravene this policy, but to appreciate the broader professional need to avoid and resist participation in any situation that might create, for an onlooker, the *appearance* or *perception* of inappropriate influence or conflict of interest. If in doubt, the transparency test should be applied, i.e. staff should ask themselves whether they would be comfortable with the action/behaviour in question being subjected to public scrutiny.

1.4 This policy also outlines how the University is implementing and enforcing effective systems to counter bribery. The purpose of the policy is to:

1.4.1 Set out the responsibilities of the University, and those working on the University's behalf, in relation to bribery – including the obligation to report any instances of suspected wrongdoing; and

1.4.2 Provide information and guidance on how to recognise and deal with bribery issues.

1.5 The University accepts its responsibility to make its staff and others affected aware of this policy, and to provide support and guidance on its implementation.

### 2. THE BRIBERY ACT

2.1 The Bribery Act creates a number of bribery offences that an organisation such as the University, can be liable for. These offences are:

2.1.1 **Paying bribes** (applicable to individuals and organisations)

2.1.2 **Receiving bribes** (applicable to individuals and organisations)

2.1.3 **Bribery of a foreign public official** (applicable to individuals and organisations)

2.1.4 **Failing to prevent bribery**, when a bribe is paid on its behalf in order to win or retain business or a business advantage. Issues to note in connection with this offence are:

- (a) This liability can arise irrespective of whether the bribe is paid in the UK or overseas.

- (b) The organisation does not need to have known about the bribe to be criminally responsible.

2.2 In addition, if a senior officer turns a blind eye, consents or connives in bribery, they can be separately prosecuted.

2.3 The sanctions for bribery offences are severe. They include up to ten years' imprisonment for individuals and unlimited fines for organisations, as well as significant reputational damage.

2.4 A bribe can be any form of financial or other advantage which is intended to act as an inducement or reward in order for someone else to misuse their position or improperly perform their function. Typically a bribe is designed to achieve a commercial, contractual, regulatory or personal advantage for the bribe payer – but it can be for someone else's benefit too. It is also possible for a bribe to be intended to gain some reputational or academic benefit for the bribe payer or another person. Bribery does not only arise where someone improperly performs their activities in a business context. Functions and activities to which a bribe can relate also include:

2.4.1 Any function of a public nature;

2.4.2 Any activity performed in the course of employment;

2.4.3 Any activity performed by or on behalf of an organisation of any kind.

It is improper to offer or accept any of these forms of bribe.

2.5 Adherence to these precepts should avoid any offence being committed under the Bribery Act:

2.5.1 Do not make payments to someone (or favour them in any other way) if you know that this will involve someone in misuse of their position.

2.5.2 Do not misuse your position in connection with payments (or other favours) for yourself or others.

2.5.3 Do not deliberately use advantages to try to influence foreign public officials for business reasons. If you need to promote the University's business with a foreign public official, agree in advance how to approach this with your line manager (or refer to Appendix 2).

Guidance on the practical application of these principles is set out in other sections and Appendix 2 of this policy.

2.6 It is University policy to put in place adequate procedures designed to prevent bribery, which are designed to complement other measures that University has adopted to ensure probity and good conduct of University business.

### 3. **WHO IS COVERED BY THE POLICY?**

3.1 This policy applies to all individuals employed by, working for or otherwise officially associated with the University, including:

3.1.1 Senior managers, officers and directors

3.1.2 Employees (whether permanent, fixed-term, temporary or casual)

3.1.3 Contract, seconded and agency staff

3.1.4 Volunteers, apprentices and interns

- 3.1.5 Others associated with the University in a formal but unpaid capacity, or who are otherwise deemed to be covered by this policy by the Registrar & Secretary.

Top-level commitment is an essential feature of compliance of the Bribery Act and colleagues and associates with management responsibility are expected to share the University's commitment to observe and implement the spirit and terms of this policy.

- 3.2 In addition, adherence to this policy or similar standards of conduct is expected by anyone else associated with the University who performs services for the University or on its behalf. This includes agents, sponsors, contractors, representatives, consultants and other service providers.
- 3.3 This policy will also be made available to and discussed with parties with whom the University has commercial dealings, or is considering doing business with, to ensure they understand the University's standards.
- 3.4 Except where a student is also an employee of the University, this policy does not apply directly to students. However, students are nevertheless expected to behave in a way that is consistent with the precepts of this policy, and this expectation is made clear in relevant regulations<sup>1</sup>.

#### 4. **GIFTS AND HOSPITALITY**

- 4.1 This policy does not prohibit reasonable and proportionate gifts and hospitality given to or received from third parties, subject to the rules set out below and other relevant policies relating to the transparent and ethical conduct of University business, set out in Appendix 1.
- 4.2 Gifts and hospitality (whether given or received) should comply with the following rules:
- 4.2.1 They should be appropriate to the circumstances, and limited in the ways set out in 4.2.4 and 4.2.5 below. A core consideration is that the giving or receiving of gifts or hospitality should not create a risk or perception that they might improperly influence the recipient.
- 4.2.2 They must not contravene any rules applying to the individual to whom the hospitality or gift is offered (i.e. any policy that another organisation has in place) or any laws applying to that other person (whether in the UK or elsewhere).
- 4.2.3 The expenditure in question should not be related in time to some actual or anticipated business with the recipient, particularly in a competitive context.
- 4.2.4 In the case of hospitality provided or received, it should be intended to foster cordial relations or have legitimate marketing purposes and:
- (a) The level of hospitality should be proportionate with regard to the recipient and their organisation.
- (b) There should be no "add-ons" such as inappropriate overnight accommodation, travel costs, or sundry or lavish expenses.
- 4.2.5 In the case of gifts, these should be no more than a modest token of appreciation, such as the exchange of gifts in a meeting with visitors representing international institutions or agencies, or at another special time such as the completion of a project with the recipient, and:

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<sup>1</sup> In addition to the general expectation that students shall maintain a good standard of conduct, Regulation 2 includes the following specific breach of discipline: 'Behaviour that would compromise the integrity of the University's activities by offering, promising, giving, receiving or soliciting a financial, academic or other advantage or favour as a means to influencing the actions of others, or otherwise securing a particular end.'

- (a) The level of gift should be proportionate with regard to the recipient and their organisation;
  - (b) It should never be cash or a cash equivalent;
  - (c) It should carry no risk of being misconstrued by either the recipient or an observer as a reward, an inducement or other corrupt act.
- 4.2.6 In the case of gifts, they should not be offered to, or accepted from, government or public officials or representatives, or politicians or political parties, without the prior approval of the Registrar & Secretary.
- 4.2.7 All offers of hospitality or gifts (given or received) to a value of over £50 must be recorded in the Hospitality Register, maintained by the Office of Governance and Secretariat.
- 4.2.8 In addition, for any hospitality or gift (given or received) to a value over £50, written permission must be obtained in advance from a Head of School or Head of Professional Services Division (or in the case of Heads of Schools and Professional Service Divisions and members of the Vice Chancellors' Executive Group, from the Registrar & Secretary).
- 4.2.9 In any given relationship with a third party, and even where the unit value of hospitality or gifts remains within the limits set out in section 4.2.7, caution should be exercised to avoid undue frequency that may, cumulatively, constitute lavish expense or create a sense of conflict of interest.

## 5. FACILITATION PAYMENTS

- 5.1 Facilitation payments are bribes and prohibited by this policy. They are typically small unofficial payments paid to speed up an administrative process or secure a routine government action by an official and are most frequently encountered in overseas jurisdictions with perceived high corruption risks.
- 5.2 Facilitation payments should be contrasted with official, lawful payments (typically to an organisation rather than an individual) to expedite certain functions (e.g. where there is a choice of fast track services to obtain a passport).
- 5.3 The University's policy strictly prohibits any kind of facilitation payments made by employees, agents or third parties acting on its behalf. If in doubt about the validity of an official's request for payment, the steps outlined in Appendix 2, section C should be followed.
- 5.4 **Any demand for facilitation payments should be reported immediately in accordance with the procedures set out in section 9 below (How to raise a concern).**

## 6. DONATIONS

- 6.1 Donations by the University must at all times adhere to the principles set out in this policy. The University does not make contributions to political parties. The University supports charitable giving and initiatives by colleagues. However, it is only open to the University to make charitable donations at an institutional level in limited prescribed circumstances, and any such requests should first be referred to the Director of Finance.

6.2 Donations received by the University are covered by the University's Gifts and Donations Policy (see Appendix 1).

## 7. RESPONSIBILITIES

7.1 Those covered by this policy are expected to understand and comply with it.

7.2 You must notify your manager and the Registrar & Secretary as soon as possible if you believe or suspect that a breach of this policy has occurred, or may occur in the future (see section 9).

7.3 The University Council has overall responsibility for ensuring that this policy complies with the University's obligations under the UK Bribery Act and to ensure that the University's operations are adhering to this policy.

7.4 The Registrar & Secretary, as chief compliance officer, has operational responsibility (in consultation with the Vice-Chancellor's Executive Group) for implementing this policy and monitoring its effectiveness. This includes responsibility for:

7.4.1 Ensuring that those covered by this policy are made aware of it, and publishing guidance on its implementation in an accessible way;

7.4.2 Monitoring indicators of institutional adherence to the policy, e.g. internal reporting of value and cumulative frequency of hospitality and gifts;

7.4.3 Periodically conducting a risk assessment to review and mitigate any emergent risks of non-compliance;

7.4.4 Regular reporting via Council's Audit Committee with regard to the status of compliance with this policy.

On a day-to-day basis, these responsibilities are delegated to the Academic Secretary and Office of Governance and Secretariat.

7.5 Any employee who breaches this policy may face disciplinary action, which could result in dismissal for gross misconduct.

## 8. RECORD-KEEPING

8.1 The University will keep accurate financial and other records and have appropriate internal controls in place which will evidence the business reason for making payments to any third parties (such as anyone who provides services for or on behalf the University). Employees must apply these principles in all aspects of their activities or functions.

8.2 Those covered by this policy must declare, seek approval and keep a written record of all hospitality, gifts, travel costs and other expenses in accordance with this policy.

## 9. HOW TO RAISE A CONCERN

9.1 Any concerns about a breach or suspected breach of this policy should be raised at the earliest possible stage. If you are unsure whether a particular act constitutes bribery, or if you have any other queries, these should be raised with your line manager in the first instance. If you or your line manager requires further guidance, or **in any case where you suspect a bribe has been or is about to be offered or received**, you should contact the Registrar & Secretary's Office immediately. Malpractice can also be reported by following the procedure set out in the University's Whistleblowing Procedure, which also involves reporting the matter to the Registrar & Secretary in the first instance.

9.2 A concern may be reported to the Registrar & Secretary via:

9.2.1 Hard copy letter to: Registrar & Secretary, Sussex House, University of Sussex, BN1 9RH;

9.2.2 By email to: registrar@sussex.ac.uk

Marking all communications 'Private and Confidential'.

9.3 The University will ensure any concerns are investigated appropriately and any colleague or third party making a report in good faith shall suffer no detriment for doing so and be supported. The University's Human Resources Department may be contacted for advice and support. If the matter is not remedied an employee may raise it formally using the University's Grievance Procedures.

9.4 It is a breach of this policy to threaten or retaliate against a colleague or third party who has raised concerns under this policy; and individuals found to have engaged in such conduct will be subject to disciplinary action.

9.5 Failure to report corrupt activity by other persons can also result in disciplinary sanctions, especially where there is evidence of an attempt to cover up or disguise another's wrongdoing.

## 10. **MONITORING AND REVIEW**

10.1 The University will monitor the effectiveness and review the implementation of this policy. Any improvements identified will be made as soon as possible. Internal control systems and procedures will be subject to regular monitoring (as set out in section 7) to provide assurance that they are effective in countering bribery and corruption.

10.2 Comment on this policy and suggestions as to how it may be improved are welcomed, and should be addressed to the Registrar & Secretary.

*Version endorsed by Audit Committee, June 2012;*

*Shared with trades unions, October 2012.*

*Agreed by Council, November 2012*

## Anti-Bribery Policy - practical guidance appendix

### A. APPEARANCES AND PERCEPTIONS

Before the specific practical examples of bribery and related risk scenarios/indicators contained in this appendix, it is useful to note that the University's standards of probity and good conduct require staff not only to avoid such behaviour and to be vigilant themselves, but to appreciate the general professional need to avoid and resist participation in any situation that might create, for an onlooker, the *appearance* or *perception* of inappropriate influence or conflict of interest. A consistently useful test is to ask yourself whether you would be comfortable with the action/behaviour in question being subjected to public scrutiny.

### B. EXAMPLES OF BRIBERY

#### a. Offering a bribe

- b. 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.
- c. The offer of a financial advantage of this kind can give rise to a Bribery Act offence 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.

#### d. Receiving a bribe

- e. 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.
- f. 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 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.
- g. 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.

#### h. Bribing a foreign public official

- i. 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).
- j. 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.

### C. POTENTIAL RISK SCENARIOS

Bribery and corruption can take many shapes and forms. A list of potential indicators of bribery or corruption is provided below. If any of these are encountered in work for the University, a report must be made immediately to the Registrar and Secretary and guidance obtained. Further useful guidance on types of offence and warning

signs can be found in the Serious Fraud Office's *Corruption Indicators*. (<http://www.sfo.gov.uk/bribery--corruption/corruption-indicators.aspx> ).

- a. 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;
- b. 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;
- c. 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;
- d. A third party requests that payment is made to a country or geographic location different from where the third party resides or conducts business;
- e. A third party requests an unexpected additional fee or commission to "facilitate" a service;
- f. A third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
- g. A third party requests that a payment is made to "overlook" potential legal violations;
- h. A third party requests that you provide employment, a place on a course, or some other advantage to a friend or relative;
- i. 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;
- j. A third party insists on the use of side letters or refuses to put terms agreed in writing;
- k. 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);
- l. 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;
- m. You are offered an unusually generous gift or offered lavish hospitality by a third party.

#### **D. FACILITATION PAYMENTS**

- a. 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
- a. **If you find you are in fear for your safety or at risk of loss of liberty, do not refuse the payment.**
- b. **In all circumstances report any demand for facilitation payments immediately in accordance with the procedures set out in section 9 of the main policy (How to raise a concern).**