

ANTI-BRIBERY POLICY

October 2023

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Executive Summary

The Bribery Act 2010 came into force from 1 July 2011, replacing a number of older laws and creating a single comprehensive code in relation to Bribery and Corruption. The Act creates new offences and places responsibility on organisations as well as the individual. The Act has a wide geographical reach and covers any country in the world and also includes any bribes paid by third parties on behalf of the organisation. The Act also covers the acts of agents or associates acting on behalf of the organisation. The penalties are severe with potentially unlimited fines and the possibility of imprisonment up to a maximum of ten years for individuals.

The Act creates four offences. The first three are offences that are committed by individuals and the fourth is a corporate offence:

1. Promising or offering a bribe;
2. Requesting, agreeing to receive or accepting a bribe;
3. Bribing a foreign public official; and
4. A corporate offence of 'failure to prevent bribery' by 'persons associated' with an organisation.

This Policy covers:

- the main areas of liability under the Bribery Act 2010;
- the responsibilities of employees and associated persons acting for, or on behalf of, the University and its subsidiary companies;
- the consequences of any breaches of this Policy; and
- information and guidance on how to recognise and deal with bribery and corruption issues.



1 Introduction

The University of Portsmouth is committed to the highest standards of ethical conduct and integrity in its business activities in the UK and overseas. This Policy outlines the University's position on preventing and prohibiting bribery, in accordance with the Bribery Act 2010. The University does not tolerate any form of bribery, whether direct or indirect, by, or of, its employees, governors, temporary workers, consultants, contractors, agents and subsidiaries or any persons or body acting for it or on its behalf, and its students.

Senior management is committed to implementing effective measures to prevent, monitor and eliminate bribery.

2 Scope of Policy

This Policy applies to all employees of the University, and to 'associated persons', which includes the governors of the University, temporary workers, consultants, contractors, agents and subsidiaries acting for, or on behalf of, the University within the UK and overseas, and its students. Every employee and associated person acting for, or on behalf of, the University is responsible for maintaining the highest standards of business conduct. Any breach of this Policy is likely to constitute a serious disciplinary, contractual and criminal matter for the individual concerned and may cause serious damage to the reputation and standing of the University.

All employees and associated persons are required to comply with this Policy, in accordance with the Bribery Act 2010.

3 What is bribery?

A bribe is an inducement or reward offered, promised or provided in order to gain any commercial, contractual, regulatory or personal advantage.

A criminal offence will be committed under the Bribery Act 2010 if:

- an employee or associated person acting for, or on behalf of, the University offers, promises, gives, requests, receives or agrees to receive bribes; or
- an employee or associated person acting for, or on behalf of, the University offers, promises or gives a bribe to a foreign public official with the intention of influencing that official in the performance of his/her duties; and
- the University does not have the defence that it has adequate procedures in place to prevent bribery by its employees or associated persons.

It is not the intention of the Policy to prevent the following activities:

- normal and appropriate hospitality;
- the giving and receiving of modest gifts.

Such hospitality or gifts must be proportionate, reasonable and made in good faith and not place any expectation on the recipient to reciprocate either in like or by performing, or failing to perform, any other task in return. This Anti-Bribery Policy must be read in conjunction with the Gifts and Hospitality Procedure which provides guidance and rules on gifts and hospitality. This can be found at:

<https://policies.docstore.port.ac.uk/policy-093.pdf>

4 What is prohibited?

The University prohibits employees or associated persons from offering, promising, giving, soliciting or accepting any bribe. The bribe could be made to ensure that a person or organisation improperly performs duties or functions to gain any commercial, contractual or regulatory advantage for the University in either obtaining or maintaining University business, or to gain any personal advantage, financial or otherwise, for the individual or anyone connected with the individual.

5 Individual responsibilities

These include:

- To read, understand and comply with this Policy.
- The prevention, detection and reporting of bribery and other forms of corruption.
- To notify the Director of Finance and the University Secretary as soon as possible if you believe or suspect that a conflict with this Policy has occurred, or may occur in the future.

Any employee who breaches this Policy will face disciplinary action. We reserve our right to terminate its contractual relationship with associated persons if they breach this Policy.

6 Preventing and reporting bribery

All University employees and associated persons have a responsibility to prevent, detect and report bribery. Individuals are encouraged to raise concerns about any instance or suspicion of malpractice 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 the Director of Finance and the University Secretary.



The University is committed to ensuring no one experiences any detrimental treatment as a result of refusing to take part in bribery or corruption, or because of reporting in good faith their suspicion that an actual or potential bribery or other corruption offence has taken place, or may take place in the future.

The Whistleblowing Policy is in place to protect anyone reporting suspicions in good faith. The Whistleblowing Policy can be found at:

<https://policies.docstore.port.ac.uk/policy-067.pdf>

7 Consequences

Any breach of this Policy is likely to constitute a serious disciplinary, contractual and criminal matter for the individual concerned and may cause serious damage to the reputation and standing of the University. A breach of the organisation's Anti-Bribery Policy by an employee will be treated as grounds for disciplinary action. The University may terminate the contracts of any associated persons, including consultants or other workers who act for, or on behalf of, the University who are found to have breached this Policy.

Employees and other individuals acting for the organisation should note that bribery is a criminal offence that may result in up to ten years' imprisonment and/or an unlimited fine for the individual and an unlimited fine for the organisation.

The University may also report any matter to the relevant authorities, including the Director of Public Prosecutions, Serious Fraud Office, Revenue and Customs Prosecutions Office and the police. The University will provide all necessary assistance to the relevant authorities in any subsequent prosecution.

Appendix 1

Frequently asked questions

Who does the Bribery Act apply to?

It applies to both individuals and companies. Both UK and foreign companies are covered, provided they have some operations in the UK, and could be prosecuted by the Serious Fraud Office (SFO). It is a criminal offence for an individual to give or receive a bribe. It is also a corporate offence if an organisation is found to have failed to prevent bribery.

What are the penalties?

Individuals can face up to ten years in prison and an unlimited fine. Organisations can also face unlimited fines.

What counts as bribery?

In its *Guide to the Bribery Act*, the Ministry of Justice says:

‘Very generally, [bribery] is defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.’

Facilitation payments, whereby officials are paid to speed up routine services they are obliged to carry out, are bribes. These types of payments were illegal even before the Bribery Act.

For instance, a facilitation payment may involve giving cash to customs officials abroad to get goods through.

Hospitality is not prohibited by the Act. This had previously been unclear and the legislation, which had been due to come into force in April, was delayed after the government issued additional guidance.

What is the definition of ‘bribing another person’?

The offering, promising or giving of a reward to induce a person to perform a relevant function or activity improperly.

For this offence to be committed there needs to be evidence that the act under consideration was carried out with the purpose of inducing a person to act improperly. The government guidance gives the example of inviting clients to a Six Nations match at Twickenham to cement good relations. This act of hospitality is unlikely to be seen as a bribe because the purpose is not to induce improper behaviour.

What is the definition of ‘being bribed’?

The accepting of, agreeing to accept or requesting of a reward in return for performing a relevant function or activity improperly. A ‘relevant function or activity’ includes any activity of a public nature or any activity connected to a business.

‘Acting improperly’ will be any breach of what a reasonable person in the UK would expect in relation to the performing of the function or activity. However, note that the offences apply even if the function or activity is not taking place in the UK.

What is the definition of ‘bribing a foreign public official’?

This is a specific offence of trying to influence a foreign public official with the intention of obtaining or retaining business in a situation where the public official was not permitted or required by law to be influenced.

The government guidance makes specific comment about situations that can occur when seeking tenders for publicly funded contracts .

In such situations governments often permit those tendering for the contract to offer some kind of additional investment in the local economy, or to carry out some act that would be of benefit to the local community. If relevant written law permits or requires an official to be influenced by such an arrangement then this will fall outside of the offence. If the additional investment would amount to an advantage to the foreign public official and there is no reference in local law as to whether this is permitted, then prosecution is possible – consideration would be given to the public interest in prosecuting.

What is the definition of ‘failure to prevent bribery’?

This – the ‘corporate offence’ – occurs when an organisation fails to stop people who are operating on its behalf from being involved in bribery .

This offence could occur as a result of the activities of a range of people working on behalf of the organisation – an employee, consultant or agent, for example – if those individuals were involved in accepting or receiving a bribe which resulted in the organisation gaining or retaining business .

Specifically offences may be prosecuted if:

- committed by a British national or corporation or individual who is ordinarily resident in the UK regardless of where the offence was committed; and/or
- any act or omission which forms part of the act is committed in the UK.

Are there any defences?

An organisation will not be liable if it can show it had adequate procedures in place to prevent bribery. ‘Adequate procedures’ may include providing anti-bribery training to staff, carrying out risk assessments, or carrying out due diligence on the people the organisation deal with. In the government guidance six guiding principles set out the approach that organisations should use to prevent bribery occurring in their organisation .

What are the six guiding principles?

There are six guiding principles outlined in the Government Guidance to the Bribery Act:

Principle 1 – Procedures to prevent bribery by persons associated with the University that are proportionate to the bribery risks it faces and to the nature, scale and complexity of the University’s activities.

Principle 2 – The Governors and Directorate are committed to preventing bribery by persons associated with University.

Principle 3 – Risk Assessment by the University assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it.

Principle 4 – The University applies due diligence procedures, taking a proportionate and risk-based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

Principle 5 – The University seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

Principle 6 – The University monitors and reviews procedures designed to prevent bribery by persons associated with it and make improvements where necessary.

Appendix 2

Risk assessment

Risk areas	Actions
Corporate gifts and hospitality	<p>Gifts and Hospitality Policy outlines requirements https://policies.docstore.port.ac.uk/policy-093.pdf</p> <p>The key principles are:</p> <ol style="list-style-type: none"> 1. No member of staff or governor shall be in receipt of gifts, excessive hospitality or any other inducement from a supplier or potential supplier of goods, materials or services to the University (the University's Financial Regulations). 2. All members of staff and governors must adhere to these procedures, to ensure the highest possible standards of public accountability in line with the Nolan Principles https://www.gov.uk/government/publications/the-7-principles-of-public-life 3. Staff should be aware that reports of receipts of gifts and/or excessive hospitality can cause public disquiet and possibly lead to prosecutions for corruption. 4. Staff who are in a position to award a contract or recommend contractors for the tender process must not work with any such University supplier on a personal basis including organising or securing services for other members of staff.
Overseas agents	<p>We make explicit reference to the University's anti-corruption stance in our Overseas Agents' agreement, paragraph 4.13:</p> <p>'The Agent shall work in line with the University's commitment to an anti-corruption culture, respecting that bribery is never acceptable: this includes the giving or receiving of gifts and hospitality that could influence or be perceived to influence a contractual or material transaction.'</p> <p>This will be part of an ongoing dialogue with agents and we should establish some training/development as appropriate, through processes and regular checks that bring engagement with anti-bribery and corruption to life, perhaps through website materials made easily accessible.</p>
Procurement – purchases of goods and services by the University, particularly the award of tenders and contracts	<p>Employees and, where applicable, associated persons, are required to take particular care to ensure that all University records are accurately maintained in relation to any contracts or business activities, including purchase orders, tenders, financial invoices, etc. and all payment transactions with clients, suppliers and public officials.</p>



All accounts, invoices, memoranda and other documents and records relating to dealings with third parties, such as clients, suppliers and business contacts, should be prepared and maintained with strict accuracy and completeness.

Due diligence – that is, reasonable efforts to undertake verifications and precautions to identify or prevent foreseeable risks – should be undertaken by employees and associated persons prior to entering into any contract, arrangement or relationship with a potential supplier of services, agent, consultant or representative (in accordance with the University's procurement and risk management procedures). (Note:

Purchasing undertake due diligence mainly, though it's possible that others – International Office, overseas agents, contractors who are then sub- contracting might also come into this category.)

<p>Fundraising by the University (typically where the donation of funds or sponsorship is conditional on the University taking/not taking some action)</p>	<p>As a charity the University may receive donations or offers of donations. To avoid any risk of bribery it is vital when dealing with donors or potential donors to remain vigilant and ensure that they are abiding by the terms of the Policy and its associated procedures.</p>
<p>Joint ventures, collaborations, partnerships, affiliations, subsidiaries and spin-out companies</p>	<p>The University could be liable for any bribery or corruption committed by a fellow joint venture party or a contractor which is to the University's commercial or financial benefit. It is therefore vital that detailed due diligence is carried out on any prospective joint venture party or contractor before committing the University to any such arrangement and on each renewal of such arrangement.</p> <p>It may be necessary, as a result of the due diligence, to require the joint venture party or contractor to 'sign up' to equivalent anti-bribery measures and/or indemnify the University for any bribery or corruption risk and/or institute ongoing monitoring arrangements. Existing joint venture partners and contractors may need to be made subject to greater operational scrutiny by the University.</p>
<p>Tenders and bids for research contracts which are made by the University</p>	<p>As above.</p>
<p>The admission/recruitment of students (particularly from overseas)</p>	<p>International Office staff, overseas agents and all staff involved in admissions to be made aware of the Anti-Bribery Policy and the offences under the Bribery Act, and routinely reminded.</p>
<p>Student assessments/examinations</p>	<p>All staff to be aware that the offers of gifts may be perceived as bribery and staff should work scrupulously in line with the Gifts and Hospitality Policy.</p>

Appendix 3

Examples of scenarios in which offences *may* be committed

Active bribery

- An intermediary in China says that for a £50K fee he can guarantee securing a cohort of 200 engineering and science students who are currently reviewing their options with a number of UK institutions. The University normally pays the intermediary a flat rate of commission for each student recruited. Would your answer be different if the intermediary asked for a one-off increase to that flat rate?
- The University is seeking planning permission for a new site and the local planning officer suggests that a charitable donation to a local school (where he is governor) will help the University's cause. But this will be 'off the record'.
- Offering excessive hospitality *to* a contact to secure a commercial research project or grant.

Passive bribery

- Receiving concert tickets *from* a contact on the understanding that you will, as a result, put business 'their way' or award or renew an existing contract.
- A contact offers your partner a free long-haul flight if you ensure that their tender response receives preferential treatment.
- The University is reviewing its IT hardware suppliers. One bidder offers a free iPad for every department head if its bid is successful. Would your answer be different if the offer was included in or excluded from the tender?
- The University is bidding for a large research contract being funded by a pharmaceutical company. The procurement officer of the pharmaceutical company suggests that if you can get tickets for him and his son to go to the Cricket World Cup final that will help the University's bid.
- A student has been unable to secure an undergraduate position due to poor grades, but his father offers to make a £10,000 donation to the University if the decision is reversed.

Bribing a foreign official

- The University is opening a new representative office overseas. You learn that because of a backlog registration with the authorities it is taking up to six months to obtain registration. However, you are told that a payment of £5,000 will expedite the process.
- Using an overseas intermediary to pay a suggested £1,500 'fee' for expedited approval by a foreign official of a local course proposed to be run by the University.

Appendix 4

Examples of potential risk scenarios – red flags

If you encounter any of the following while working for the University, you must report them promptly to the Director of Finance and the University Secretary (this list is not exhaustive):

- You are offered an unusually lavish gift or hospitality.
- You become aware that a third party engages in, or has been accused of engaging in, improper business practices.
- A third party requests an unexpected additional fee or commission to 'facilitate' a service.
- A third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provisions of services.
- A third party demands that you provide employment or some other advantage to a friend or relative.
- A third party insists on receiving a commission or fee payment before committing to signing up to a contract, or carrying out a government function or process.
- You receive an invoice from a third party that appears to be non-standard or customised.
- You learn that a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a 'special relationship' with foreign government officials.
- A third party requests payment in cash and/or refuses to sign a formal commission or fee arrangement, or to provide an invoice, or receipt for a payment made.
- A third party requests that payment is made to a country or geographic location different from where the third party resides or conducts business (note: such a scenario may be a mixture of bribery and/or money laundering).
- A third party requests that a payment is made to 'overlook' potential legal violations.
- A third party insists on the use of side letters or refuses to put terms agreed into writing.
- A third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used or known to the University.



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