

Anti-Bribery Policy

Version Number 1.2

Effective from 09 June 2017

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School / Professional Service Finance

Document Control Information			
Revision History incl. Authorisation: (most recent first)			
Author	Summary of changes	Version	Authorised & Date
Ian Dempsey	<i>Inclusion of a new clause 4.3 following review of Counter Fraud Policy Feb 2017</i>	V1.2	ARC: June 2017
Ian Dempsey	<i>Transfer into policy template and general update of policy references</i>	V1.1	April 2016
Lindsay Harris, Julie Halliwell & Steven Scott	<i>New policy based on Bribery Act 2010</i>	V1.0	Audit & Risk Committee: 02/06/2011
Policy Management and Responsibilities:			
Owner:	This Policy is issued by the Director of Finance, who has the authority to issue and communicate policy on finance matters and has delegated day to day management and communication of the policy to Head of Financial Accounting.		
Others with responsibilities (please specify):	All subjects of the Policy will be responsible for engaging with and adhering to this policy.		
Author to complete formal assessment with the following advisory teams:			
Equality Analysis (E&D, HR) Equality Initial assessment form	1. Submitted June 2016 with Anti-Bribery Policy V1.1		
Legal implications (LPG)	2. N/A		
Information Governance (LPG)	3. <i>Transfer to policy template: March 2016</i>		
Student facing procedures (QEO)	4. N/A		
UKVI Compliance (Student Admin)	5. N/A		
Consultation:			
Staff Trades Unions via HR Students via USSU Relevant external bodies (specify)	1. N/A		
Review:			
Review due:	3 years by February 2020		
Document location:	University Policy & Procedure Pages http://www.salford.ac.uk/policies		
Document dissemination and communications plan:			
Mandatory on line course introduced for all staff in June 2011 & since then all new starters have to complete the course as part of their induction.			

1.0 Purpose

The purpose of this document is to define the University Policy on anti-bribery. The policy is based on the Bribery Act 2010 (“Act”), which came into force on 1 July 2011, replacing and enhancing fragmented and complex existing laws which date from 1889, 1906 and 1916.

The United Kingdom signed an international treaty in 1998 to combat bribery and corruption and the new Act is intended to ensure that the United Kingdom is compliant with its obligations under that treaty.

The Act applies to offences committed on or after 1 July 2011 and the earlier statutes continue to apply to offences committed before 1 July 2011.

2.0 Scope

2.1 To whom the policy applies

This Policy applies to all **Members of the University Community, including subsidiary companies**, which means all employees and independent members of Council and its Committees, in particular:

- Members of the University Community who pay or accept a bribe could be personally prosecuted.
- Senior managers are at risk of prosecution if they “turn a blind eye” to bribes which are paid by the staff they supervise.

It should be noted that “Commercial organisations” can be prosecuted and, in addition to companies and partnerships, this expression is wide enough to include universities, schools and charities.

The Act does not only apply to individuals and commercial organisations in the United Kingdom but also to those who have a “close connection” (business presence) with the United Kingdom.

2.2 Definitions

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| Giving a bribe or active bribery | <p>a. An offence is committed where an individual or the University gives, promises or offers any financial or other advantage which is intended to induce or reward the improper performance of a public function or business activity or is made in knowledge or belief that acceptance of that financial or other advantage will itself amount to improper performance.</p> <p>b. It does not matter whether the financial or other advantage is given, promised or offered directly or through a third party.</p> <p>c. The financial or other advantage does not actually have to be given – the offer is sufficient to commit the offence.</p> <p>d. Reasonable and proportionate corporate hospitality should not be caught by the Act. However, entertaining which is disproportionate, lavish or beyond what would be reasonably necessary to ‘cement good relations’ may be evidence of intent to induce or reward improper performance.</p> |
| Receiving a bribe or passive | <p>a. An offence is committed where an individual or the University requests, accepts or agrees to receive a financial or other advantage which is intended to induce or reward the improper performance of a public</p> |

- bribery** function or business activity.
- b. It does not matter whether the financial or other advantage is requested, accepted or agreed directly or through a third party.
 - c. The financial or other advantage does not actually have to be received – requesting or agreeing to accept it is sufficient to commit the offence.
 - d. Reasonable and proportionate corporate hospitality should not be caught by the Act. However, entertaining which is disproportionate, lavish or beyond what would be reasonably necessary to ‘cement good relations’ may be evidence of intent to induce or reward improper performance.
 - e. It does not matter who pays the bribe, e.g. if a director pays a bribe to ensure that his company is awarded a contract, that is still caught by the Act.
- Bribing foreign official**
- a. An offence is committed where an individual or the University gives, promises or offers any financial or other advantage to a foreign official which is intended to:
 - i. influence that foreign official in the performance of his/her official functions; and
 - ii. secure business or an advantage for the University.
 - b. It is only a bribe if the financial or other advantage is not required or permitted under local laws.
 - c. A belief that local practice permits the payment is not a defence.
 - d. There is no exception for facilitation payments (small bribes paid to facilitate routine Government action).
- Corporate offence**
- a. The offence is committed where the University fails to prevent any employee or other “associated person” (see below) from committing active bribery or bribery of a foreign official on the University’s behalf
 - b. The bribe is caught even if it takes place outside the UK.
 - c. The bribe must be intended to induce or reward the improper performance of a public function or business activity.
 - d. The bribe must also be intended to secure business or other advantage for the University.
 - e. Knowledge of the bribe by the University is irrelevant.
 - f. The University is automatically liable for the bribery unless it can show it had “adequate procedures” (see below) to prevent the bribery.
 - g. If the University is a member of a company (e.g. joint venture or spin-out) the University is only liable for the corporate offence in respect of bribes paid by that company if that company is providing services to the University and the bribes are paid for the benefit of the University rather than the company itself.
- Associated person**
- a. Someone who is providing the University with Services so includes employees, agents, consultants, contractors and external partner organisations.
- Adequate procedures**
- a. The Act does not define “adequate procedures”. Government guidance makes clear that each organisation needs to decide a proportionate response based on its activities and areas of risk. (See Related

3.0 Policy Statements

Position Statement and Commitment

- 3.1 Bribery is a criminal offence, is morally wrong and exposes the Members of the University Community to the risk of prosecution, fines and imprisonment as well as endangering the University's reputation.
- 3.2 The University is committed to maintaining the highest ethical standards and to carrying on its activities fairly, honestly, openly and in compliance with all applicable laws.
- 3.3 Bribery will not be tolerated by the University and all Members of the University Community and Associates (which means consultants, contractors, service providers and external partner organisations) are required to uphold the highest standards of integrity in their dealings with or on behalf of the University and to comply with all applicable laws of the countries in which they are working.

The main risk areas for the University

- 3.4 The main risk areas that have been identified for the University are:
 - a. Purchases of goods and services by the University, particularly the award of tenders and contracts (e.g. Campus plan projects).
 - b. Tenders and bids for research contracts which are made by the University.
 - c. The giving/receiving of gifts and hospitality.
 - d. The admission/recruitment of students (particularly from overseas).
 - e. Collaborations, joint ventures, partnerships, affiliations (academic and commercial) (particularly with organisations based overseas).
 - f. Fundraising by the University (typically where the donation of funds or sponsorship is conditional on the University taking/not taking some action).
 - g. Student assessments/examinations.
 - h. Subsidiaries and spin-out companies.
- 3.5 If any Members of the University Community identify any bribery risk which they consider has not been addressed or adequately addressed by any actual or planned anti-bribery measures, then they should report this to the Director of Finance, either directly or through their line manager.

Anti-bribery measures

- 3.6 The VC Executive Committee (VCET) is the principal body which approves the University's anti-bribery measures, but these will also be reported to and endorsed by Council and, where applicable, Senate on an ongoing basis.
- 3.7 To promote a strong anti-bribery culture, the University's existing policies and procedures in the main areas of risk have been reviewed and, where necessary, enhanced. The key policies and procedures for the prevention of bribery are listed in the Related Documentation section.
- 3.8 Appropriate anti-bribery measures have been embedded in all relevant operational policies and procedures across the University. All relevant standard contracts and documents have also been updated to include anti-bribery provisions. It is particularly important for Members of the University Community to:

- a. Get to know every organisation which the University is intending to work with – whether the organisation will be a collaborative partner, supplier, contractor, consultant or something else – and check that it has an embedded anti-bribery culture and has adopted similarly robust anti-bribery policies and procedures.
 - b. Use the up-to-date and applicable standard contract or document which incorporates anti-bribery provisions and do not amend any of those anti-bribery provisions without obtaining legal advice from the University Solicitor.
- 3.9 A training programme and communications strategy has been implemented to raise awareness of the Act and this Policy (see Related Documentation).

Offences under the Act

3.10 Three offences (see Definitions section above) apply to all Members of the University Community and the University:

3.10.1 Giving a bribe (active bribery)

3.10.2 Receiving a bribe (passive bribery)

3.10.3 Bribing a foreign official

3.11 A further offence the “corporate offence” (see Definitions) applies only to the University.

3.12 Further guidance on the anti-bribery offences is included in the Related Documentation section and the Appendix.

Reporting bribery

3.13 All Members of the University Community have a responsibility to help detect, prevent and report not only bribery but all other suspicious activity or wrongdoing.

3.14 All concerns or suspicions of bribery, fraud or corruption must be reported immediately so that the matter can be investigated and appropriate action taken in accordance with the Counter Fraud Policy and Response Plan (See Related Documentation). In the first instance any concerns about bribery **must be reported to the Director of Finance**. If the issue relates to the Director of Finance, the matter must be reported immediately to the Chief Operating Officer.

4.0 Policy Enforcement

4.1 Any breach of this Policy will be regarded as a serious matter and is likely to result in disciplinary action or removal from office. Managers may also be subject to disciplinary sanctions for supervisory failures. The University will also determine whether a breach of this Policy is such as to be referred to the Police.

4.2 The University will avoid doing business with agents, consultants, contractors and suppliers who commit bribery and may end contracts with them.

Range of possible penalties (criminal and internal sanctions)

4.3 For individuals:

1. A criminal record with a sentence of imprisonment of up to 10 years and unlimited fines.
2. (Employees) dismissal or other disciplinary sanctions.
3. (Council members) removal from office.
4. Damage to reputation.

4.4 For the University:

1. A criminal record with unlimited fines and a potential ban from bidding for future research and other public contracts.
2. Damage to reputation and loss of public trust and confidence.
3. Adverse impact on donors, recruitment of Members of the University Community and students and UK Borders Agency approved list.
4. Regulatory and funding issues - HEFCE.
5. Disruption to business activities.

5.0 Related Documentation

5.1 Related Policies

The following documents can be found on the University Policy & Procedure pages at <http://www.salford.ac.uk/policies> or under 'P' via the Staff Channel A-Z index.

- Financial Regulations (Finance section)
- Counter Fraud Policy and Response Plan (Finance section)
- Agent Management Policy (under review)
- Whistleblowing Policy (Core & Organisational Governance)

Procedures relating to Procurement can be found within the Finance webpages at <http://www.salford.ac.uk/finance/procurement>

The following HR documents can be found on the HR pages <http://www.salford.ac.uk/hr>

- Recruitment Code of Practice
- Staff Disciplinary Policy

The following Council documents are located here <http://www.salford.ac.uk/about-us/corporate-information/governance/the-council>.

- Code of Conduct for Members of Council and Senior Officers

5.2 Training

- Anti-bribery E-Learning toolkit within New staff induction section of Blackboard

<http://www.salford.ac.uk/staff-development> and search for University Induction Activities (new staff) or click directly on the below link:

https://blackboard.salford.ac.uk/webapps/blackboard/content/launchLink.jsp?course_id=23759_1&content_id=643912_1&mode=view

6.0 Appendices

Appendix 1: Examples of Scenarios in which bribery might be committed

Appendix 1: Examples of Scenarios in which bribery might be committed

Active bribery

- An intermediary in Israel 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".

Passive bribery

- The University is reviewing its IT hardware suppliers. One bidder offers a free i-pad 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 in China. You learn that because of a backlog registration with the Chinese authorities it is taking up to 6 months to obtain registration. However, you are told that a payment of £5,000 will expedite the process.