

Anti-Bribery and Corruption Policy and Procedures (including Gifts and Hospitality)

Policy Schedule

Policy title	Anti-Bribery and Corruption (AB&C)
Policy owner	Associate Director of Financial Reporting
Policy lead contact	Chief Operating Officer
Approving body	People , Finance and Resource Committee
Date of Review	[September 2024]
Date of Approval	[September 2024]
Version no.	4
Related Guidelines and Procedures	Financial Regulations, Counter-fraud Policy, Fraud Response Plan, Anti-Money laundering Policy, Whistle-blowing policy and procedures.
Review interval	Annual
Further information contact	Associate Director of Financial Reporting

1. Definitions

Corruption can be defined as dishonest or fraudulent conduct, typically involving bribery.

Bribery can be defined as the offering, giving, receiving or soliciting of any item of value (money, goods, favours or other forms of recompense) to influence the actions of an official or other person in charge of a public or legal duty.

2. Introduction and Scope

2.1 Introduction

The University is committed to the highest standards of integrity, probity, ethics and acting professionally in all its dealings - wherever they may take place and in whatever context. Bribery is both illegal and unethical, and brings with it the potential for criminal liability and severe penalties - at both University and individual level. The legislation is extensive and, crucially, the University's anti-bribery responsibilities do not end at the office door or campus gate. Those responsibilities potentially extend to any associated person, representative, agent, subsidiary, partnership or body engaged on university business, including those within and outside of the UK.

2.2 Approach

The University has a zero tolerance approach to bribery and serious action will be taken against anyone found to be involved in bribery, up to and including dismissal under the University's disciplinary processes. For associated persons, breach of this policy may result in contractual, legal and/or other sanction(s).

2.3 Scope

This policy applies to all University staff and students. It also applies to agency and self-employed workers working for the University, and all other persons associated with and acting for the University, whether directly or indirectly. This definition includes external members of University Committees, representatives, agents, subsidiaries, individuals appointed as directors of any company, consultants, contractors and partners. To the fullest extent permissible by law, this policy shall apply in all jurisdictions in which the University operates.

2.4 Bribery risks

It should be stressed that, in common with other Higher Education Institutions (HEIs), the University faces a range of bribery risks throughout its activities, operations and geographies. These risks include, but are not limited to, bribery in relation to admissions, examinations, awards, procurement, construction and field trips.

3. What is Bribery? The Bribery Act 2010 & other legislation

3.1 The Bribery Act

The Act came into force in July 2011. It is a comprehensive piece of legislation which has extensive scope and geographic reach.

According to the Act, bribery is where someone requires, gives or promises financial (or other) advantage with the intention of inducing or rewarding improper performance. Improper performance is a key concept and generally means where an individual does not act in good faith, impartially and/or properly. The test of what is proper is based upon what a person in the UK would reasonably expect.

A typical example of improper performance could involve work being continually directed to a particular construction contractor at the expense of other qualified contractors as a result of bribery - work that has invariably been overpriced to allow for the bribery payments required.

Under the Act, there are two general forms of bribery where individuals are personally criminally liable:

- Offering, promising or giving of a bribe (either directly or indirectly) with the intent to induce a person to perform improperly a relevant function - known as active bribery.
- Requesting, agreeing to receive or accepting a bribe (either directly or indirectly) such that a relevant function is, or will be, improperly performed - known as passive bribery.

There are two other related offences:

- Bribing a foreign public official in order to obtain or retain business or an advantage to the conduct of business.
- Corporate liability where a body, such as a university, fails to prevent bribery.

It is important to note that:

- So-called 'facilitation payments' - payments typically to government officials to facilitate special treatment, such as prioritisation in an approval process - are also bribes. The University does not offer or make, and shall not demand or accept, facilitation payments of any kind. Advice should be sought if required in order to distinguish between properly payable fees and disguised requests for facilitation payments.
- The timing of bribery payments - before, during and/or after a relevant function - does not affect the offence.

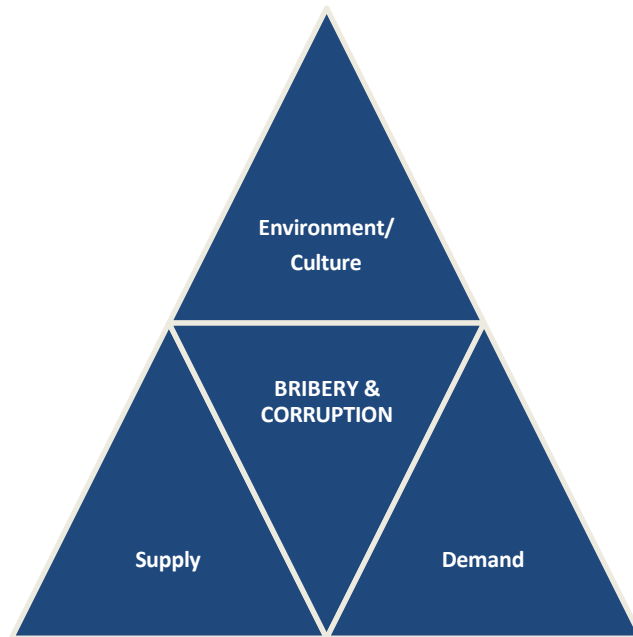
3.2 Overseas reach

The Bribery Act has extensive global reach and holds UK organisations liable for failing to implement adequate procedures sufficient to prevent such acts by those working for the University or on its behalf, no matter where in the world the act takes place. In addition, current US legislation (Foreign Corrupt Practices Act or FCPA) offers similar prohibitions and potential penalties, and is enforced robustly by the US authorities, supported by extensive inter-agency co-operation on an international basis.

3.3 Mitigation

There is a statutory defence against the Act if the University can demonstrate that it had in place appropriate adequate procedures designed to prevent bribery.

The 'Bribery Triangle', below, shows the three key drivers of bribery and corruption; environment and culture, supply of money, goods, services and favours as the currency of bribery, and demand for that currency:



The University's anti-bribery and corruption procedures are intended to directly mitigate its risk of bribery and corruption by impacting the three elements of the bribery triangle - by changing the organisational environment and culture, by removing/restricting the supply of money, goods, services and favours and/or reducing the demand for bribery. Reducing the demand for bribery, although clearly challenging, can be achieved in a number of ways including collaboratively creating a 'level playing field' or 'no bribery' approach in the higher education sector.

4. Identifying the risk of bribery

4.1 Risk Management

Effective risk management lies at the very heart of this policy. Risk management is a crucial element of the University's overall governance process. It facilitates identification of the specific areas where the University does, or could, face bribery and corruption risks and allows mitigation plans, actions and protections to be put in place.

Global custom and practice in business can be deeply rooted in the attitudes, cultures and economic prosperity of a particular region, any of which can change at any time. Moreover, UK or European norms may not be applicable in some parts of the world where the University has interests; for example, the definition of 'foreign public official' may be technically significantly different in those countries where there is extensive nationalisation.

4.2 Areas of Risk

Whilst the University's high risks will undoubtedly change over time, the areas of continuing bribery high risk that will require enhanced levels of due diligence and caution will almost certainly include:

- Agents and Intermediaries, particularly those who operate in jurisdictions where bribery is prevalent or endemic.
- Joint Ventures and consultancies, where the University could be held liable for any bribery or corruption committed by a third party with whom the University is associated by means of a joint venture or consultancy agreement.
- Contracts, particularly construction contracts where the values involved are likely to be high - and the industry has a perceived propensity for bribery.
- All aspects of procurement of services (particularly) and goods undertaken by the University.

5. Gifts, hospitality and entertainment

5.1 Outline

Gifts, hospitality and entertainment is a collective term for the receipt or offer of gifts, meals, travel costs, entertainment, tokens of appreciation and gratitude, or invitations to events, functions, or other social gatherings, in connection with matters related to the University. It should be noted, however, that travel costs would only exceptionally be borne by a third party, and that the travel authorisation process is a key element of the University's overall corporate governance infrastructure and best practice.

5.2 Scope

Normal, reasonable and proportionate hospitality given or received as part of the University's wider student, commercial, promotional and marketing activities which is genuinely aimed at building a good business relationship or improving the profile of the University is allowable, within limits (see below).

Hospitality must not be accepted by employees of the University in circumstances that may allow the employee to appear to be unduly influenced in favour of the provider of that hospitality. Those circumstances might, for example, include the proximity of the hospitality to the award of a contract. The gift or receipt of hospitality which is aimed at securing an improper business or other advantage, or which may affect the recipient's independence is obviously not permissible.

Clearly, hospitality can amount to real or perceived bribery, and caution should always be exercised. If there is any doubt about the propriety of hospitality, it should not be accepted or offered.

Unfortunately, policy and real events can be different, and it is not unknown for a purported 'quick bite' with a supplier to be turned into a lavish five-star lunch, with all its potential connotations. In general, the simple 'acid' test for hospitality can be phrased as 'Is it reasonable, and could I reciprocate?'

5.3 Register and Declarations

The University maintains a gift register process, for both inbound and outbound gifts and hospitality, and it is essential that each occurrence is accurately recorded. Annual

and individual occurrence limits on gifts and hospitality are also maintained, which can vary by country based on local financial benchmarks.

If a gift or hospitality is not in keeping with circumstances then every effort must be made to refuse the offer, without offending the person or organisation making the offer. If the gift cannot be refused, it should be declared on return to the University.

Under no circumstances must any gift of money be made or received by an employee or official of the University.

6. Policy statement

- 6.1** The University values its reputation for ethical behaviour and recognises that any involvement in bribery is illegal and will reflect adversely on its hard-earned image and reputation.
- 6.2** The University prohibits the offering, giving, soliciting or the acceptance of any bribe in whatever form to, or from, any person or company (public or private) by anyone associated with the University.
- 6.3** The University expects any person or company (public or private) associated with the University to act with integrity and without any actions that may be considered an offence within the meaning of the Bribery Act 2010.
- 6.4** The University requires any potential breaches of this policy and bribery offers to be reported under the University's reporting processes (see 9, below).
- 6.5** The prevention, detection and reporting of bribery is the responsibility of everyone associated with the University.

7. Communication

It is the responsibility of all Heads of Departments to ensure that this policy is fully and regularly communicated to those involved with university business within their area. Crucially, this will include communication not only to staff but other external agencies e.g., agents, representatives and contractors. The University will continue to provide regular training to identified high risk areas, particularly procurement and where overseas activities are involved.

8. Monitoring and Review

This policy and related procedures will be reviewed annually by the University Secretariat and the Audit Committee. Risk identification will form a key element of the overall monitoring and review process. Any incidents of bribery and corruption reported to, and recorded by, the University Secretariat will be incorporated into that review.

9. Reporting concerns including whistleblowing

- 9.1** All employees and others associated with the University are encouraged to report any concerns that they may have regarding potential breaches of this policy, including incidents relating to external agencies and third parties. This includes any instances where you may be the victim of attempted bribery.
- 9.2** The University has a comprehensive Whistle-blowing Code of Practice that is an integral, but physically separate, part of this document.
- 9.3** The University is fully committed to ensuring that there is a safe and confidential method of reporting any suspected wrongdoing to nominated officers. The University's Whistle-blowing Code of Practice also permits employees, and anyone contractually associated with the University to raise concerns of malpractice in the University, and those involving partners or competitors.
- 9.4** Any allegations of misconduct under this policy within the jurisdiction the University will be taken very seriously. If appropriate, action may be taken under the University's disciplinary process. Attempted bribery or acceptance of a bribe may be considered as gross misconduct and, where it is considered that a criminal offence has occurred, the police may be informed.

10. Further Information:

If you are in any doubt about offering or accepting a gift or hospitality, it is important that you discuss the situation with your line manager.

When considering whether to offer or accept a gift or hospitality make sure that it does not:

- negatively affect the institution's activities
- break the law in the UK, or in the country of the person or organisation who provided it
- influence a business decision or transaction
- give you an unwelcome duty to do something or put you in a difficult position
- involve regular offers from any one organization or individual
- involve receiving something which you could not offer in return
- create a negative perception of the institution

11. Branding and corporate identity

The reputation of the London Metropolitan University brand is fundamental to the success of the institution. You must never use London Metropolitan University logos or corporate identity for your own benefit or to carry out private transactions.

You must ensure that all company-branded internal and external communications comply with the London Metropolitan University brand guidelines - If you need to use logos or any other element of our corporate identity for business activities, please contact the Marcomms team.

Appendix 1 - International University bribery examples

Australia: Curtin University lecturer accepted bribes from students

“A former Curtin University lecturer has admitted accepting bribes and passing students who should have failed. Tuck Cheong Foong, 54, ... increased the marks of two of his students who would otherwise have failed their units in Applied Science in Construction Management after one paid him \$3000 and the other paid \$1500. He also increased the mark on an assignment of a third student and gave him a pass mark on an assignment that had not been submitted. Foong had a long-term personal and professional connection with the student’s father in Malaysia.”

(Perth Now, 2013)

South Africa: Blade aims to cut corruption in university procurement

“South African higher education minister Blade Nzimande says his department is considering approaching the National Assembly to pass legislation ... to curb corruption and nepotism in institutions. We are considering making a request for parliament to consider regulation on matters relating to the involvement of staff, students or council members in the supply chain in institutions.”

(Sunday Times, 2011)

United Kingdom: University of Bath student jailed over tutor bribe bid

“A failing student who tried to bribe his tutor while carrying a loaded air pistol has been jailed for 12 months. Yang Li, 26, placed £5,000 in cash on the professor's table but when he was told to leave, the gun fell from his pocket. Li, who admitted bribery and possessing an imitation firearm, was also ordered to pay £4,800 in costs. The court heard the innovation and technology management master’s student had arranged the meeting with his University of Bath professor on 23 November. Mark Hollier, prosecuting, said Li was awarded a 37% mark in his dissertation - three marks off the 40% needed to pass - and wanted to discuss his options.”

(BBC, 2013)