

Gazette Supplement



Bribery and Fraud Policy

Approved by Council on 27 June 2011

The following Bribery and Fraud Policy supersedes the Anti-Fraud Policy (Supplement (2) to *Gazette* No. 4796, 7 February 2007).

Bribery and Fraud Policy

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Bribery and Fraud Policy

A. Introduction

1. The University is committed to conducting its business fairly, honestly and openly and in accordance with relevant legislation, and to the highest standards of integrity. The University has no tolerance of **bribery and fraud**, and believes that action against **bribery and fraud** is in the broader interests of society. As a charity deriving a significant proportion of its income from public funds, benefactions and charitable organisations, the University is concerned to protect its operations and reputation and its funders, donors, staff and students from the detriment associated with bribery and other corrupt activity. It is therefore committed to preventing **bribery and fraud** by its staff and any third party acting for or on behalf of the University.

2. This Policy has been adopted by Council and applies throughout all the University apart from Oxford University Press, which has its own complementary policy and procedures. Words or phrases that appear in bold are defined in schedule 1. The three attached schedules form part of this Policy.

B. Definitions

3. Bribery and fraud are complex legal concepts and the definitions section in schedule 1 provides more detail about what they mean. For the purposes of this Policy, bribery and fraud have been treated as separate offences, but it should be recognised that there are circumstances in which they overlap.

C. The University's approach to bribery and fraud

4. The University will take appropriate action to prevent **bribery** and all forms of **fraud** in the University.

5. No University employee or **associated person** shall seek a financial or other advantage for the University through **bribery**.

No University employee or **associated person** shall offer, promise, give, request, agree to receive or accept a **bribe** for any purpose.

6. The payment or acceptance of **facilitation payments** or any other 'kickback' by University employees and **associated persons** is unacceptable. The only exceptions are where the employee or **associated person** is in a vulnerable position arising from the circumstances in which the payment was demanded (for example where he or she is in personal danger) or the relevant territory specifically permits such payments in its local written law. In such exceptional cases, the payment should be reported in advance, or if that is not possible, as soon as reasonably practicable afterwards, in accordance with the procedure set out in schedule 2.

7. The University has no tolerance of **fraud** within its operations, and University employees and **associated persons** must not engage in any form of **fraud** with regard to activity carried out on behalf of the University.

8. University employees who suspect that **bribery or fraud** have occurred are required to report such instances internally, through the channels described in schedule 2. The University will appropriately investigate, record, and report all suspected instances of **bribery and fraud** in accordance with the procedures set out in schedule 2.

9. **Bribery and fraud** by University employees will be treated as a serious disciplinary offence resulting, potentially, in dismissal and legal action.

10. Excessive or lavish gifts or hospitality in relation to business transactions or arrangements with donors might constitute **bribery**. No University employee or **associated person** shall give or receive gifts or hospitality otherwise than in accordance with the Financial Regulations. Gifts and hospitality must not exceed normal business courtesy; all gifts or hospitality given by the University

shall be for the purpose of better presenting the University or establishing cordial relations with business partners and supporters and will be for proper charitable and/or business purposes, reasonable, appropriate and in accordance with the Financial Regulations of the University and any other policy approved by Council or made under its delegated authority.

11. The University does not make political donations, and only makes and receives charitable donations in accordance with the Financial Regulations of the University. Any charitable donations received by the University must be requested and received for exclusively charitable purposes and shall not **improperly** influence any decisions made by or on behalf of the University.

12. This Policy should be read together with the University's Policy on Conflict of Interest, Financial Regulations, Public Interest Disclosure Code of Practice and Procedure, Guidelines on the Acceptance of Donations and any other relevant policies and procedures approved by Council or made under its delegated authority and identified to readers of this Policy by the Registrar, who shall be entitled to amend or add to the list of policies and procedures set out in this clause from time to time.

13. The University takes measures to prevent **bribery** and **fraud** by agents or other third parties performing services for or on behalf of the University; and will take appropriate action should it discover that they are engaging in **bribery** and **fraud** on behalf of the University.

D. Implementation

14. Responsibility for implementation of this Policy lies with the Registrar.

15. The commitment by the University to preventing **bribery** and **fraud** shall be clearly and regularly communicated to staff and **associated persons** by the Registrar or others nominated by the Registrar. For this purpose Council has approved the **Standards** expected of University employees and **associated persons**. These are set out in schedule 3.

16. The nature and extent of the risks relating to **bribery** and **fraud** to which the University is exposed shall be regularly and appropriately assessed and appropriate procedures to prevent **bribery** and **fraud**, including proportionate preventative and detective internal controls, and effective reporting procedures shall be implemented to reflect the outcomes of the risk assessments.

17. Where risk assessments indicate a significant risk that **bribery** and/or **fraud** might occur in relation to a particular transaction, third party or territory, appropriate due diligence shall be conducted prior to proceeding with the relevant transaction.

18. This Policy shall be available to every University employee and the University shall arrange specific training for those deemed most likely to encounter **bribery** and **fraud**.

19. The University's procedures to prevent **bribery** and **fraud** shall be monitored and reviewed and, where appropriate, amended to reflect legal requirements and in the light of any instances of **bribery** and **fraud**.

E. Responsibilities of the Registrar

20. The Registrar shall have the following responsibilities:

20.1. to maintain a register of the incidents of **bribery** and **fraud** that are reported to him or her and to investigate further and to report such incidents in accordance with the procedures set out in schedule 2;

20.2. to compile an annual report for the Audit and Scrutiny Committee on the implementation of this Policy including the outcomes of any relevant risk assessments and due diligence and any incidents of reported **bribery** and **fraud**, thereby contributing to the monitoring and review of this Policy; and to recommend any changes to this Policy which may, from time to time, become appropriate;

20.3. to ensure that any standard University documents and procedures (including procurement terms and procedures, fundraising documentation, and terms and conditions of employment) reflect the requirements of this Policy;

20.4. to coordinate the **University's** response to any investigation or charge under anti-bribery or fraud legislation;

20.5. to ensure that procedures are in place to communicate the **Standards** to all staff and any relevant associated persons and to deliver appropriate training to them;

20.6. to oversee the compilation of specific **bribery** and **fraud** risk assessments and the conduct of appropriate due diligence into significant transactions with a view to assessing **bribery** and **fraud** risks and taking appropriate action to mitigate them; and

20.7. to monitor the effectiveness and review the implementation of this Policy, regularly considering its suitability, adequacy and effectiveness.

The Registrar may delegate these responsibilities to named individuals as he or she sees fit.

Schedule 1: Interpretation

Associated person—a person, company or other legal entity that performs services for or on behalf of the University and which may include for example agents, subsidiaries and sub-contractors of the University, recipients of grants from the University, partners in joint ventures or collaborative working arrangements of any kind and suppliers of fundraising, professional or other services to the University.

Bribery—(a) offering, promising, giving, requesting or accepting a financial or other advantage in circumstances occurring inside or outside the UK which are intended to induce or reward **improper** performance of a function or activity that:

- is of a public nature, performed in the course of a person's employment, connected with a business or trade, or performed on behalf of a body of people; and
- a reasonable person in the UK would expect to be performed in good faith, impartially or in accordance with a position of trust;

(b) offering, promising or giving a financial or other advantage to a public official outside the UK (or somebody else nominated by that official) intending to influence the official in the performance of their official functions in order to obtain or retain business or a business advantage.

Facilitation payments—payments intended to secure or expedite routine or necessary Government action by a **public official**. A facilitation payment includes a payment to a public official to do their job properly as well as payment to do their job improperly.

Fraud—an act or omission, made with the intent of making a financial gain, or causing a financial loss, or exposing another to the risk of a financial loss, in which a person:

- dishonestly makes a false representation; or
- dishonestly fails to disclose information which he or she is under a legal duty to disclose; or
- occupies a position in which he or she is expected to safeguard, or not act against, the interests of another person; and
- dishonestly abuses that position; and
- intends, by means of that abuse of that position, to make a gain for himself or herself or another, or to cause loss to another or to expose another to the risk of loss.

Improper—(a) a failure to perform a function or activity in good faith, impartially or in accordance with a position of trust; or (b) not

performing the function at all. In deciding whether a function or activity has been performed **improperly** outside the UK, any local custom or practice must be disregarded unless it is permitted or required by the written law of the country in which it is performed.

Public official—someone who holds a legislative, administrative or judicial position of any kind, whether appointed or elected; someone who exercises a ‘public function’ for any country or territory (or any subdivision of such a country or territory); or an official of or agent of a public international organisation (eg UN, EU, World Bank).

Standards—the document attached as schedule 3.

Schedule 2: Investigation, recording and reporting of bribery and fraud

Making a disclosure

- Members of staff, or students or other individuals who reasonably suspect bribery or fraud in the University, should report their concerns as soon as possible to the Director of Finance or the Registrar, providing a brief description of the alleged irregularity, the loss or potential loss involved, and any evidence supporting the allegations or irregularity or identifying the individual or individuals responsible.
- Any report will be treated as a disclosure under the University’s Policy and Procedure on Public Interest Disclosure (www.admin.ox.ac.uk/ps/staff/codes/pid.shtml) and as such will be brought to the attention of the Registrar, who will decide on the procedure to be adopted.
- Although bribery and fraud can overlap, for clarity references to both offences have been included within this procedure.

Bribery and Fraud Review Group

- Where concerns are to be taken forward under this Policy, they will be considered by a Bribery and Fraud Review Group (BFRG) comprising:
 - the Registrar;
 - the Director of Finance;
 - the Director of Legal Services; and
 - the Internal Auditor.
- In cases which involve or may involve students, the Proctors will be informed by the Director of Finance at the outset of the investigation. If a student is the subject of an allegation of bribery or fraud, this will be dealt with by the Proctors under the disciplinary procedures applicable to students.
- Bribery and fraud may include behaviour which would also be an offence under the provisions of the Proceeds of Crime Act

2002, or the Terrorism Act 2006 and related anti-terror legislation. If at any point there is a suspicion that the conduct complained of includes unlawful conduct of this nature, the BFRG will take immediate steps to secure appropriate professional advice as to the steps required to fulfil the University’s obligations under the relevant legislation before proceeding further.

7. The BFRG will decide on such further steps as are necessary including:

- investigating the concerns;
- notifying the police and other relevant authorities;
- minimising further loss;
- complying with any requirements of the University’s insurance cover;
- establishing and securing evidence necessary for criminal and disciplinary action;
- recovering losses;
- ensuring that appropriate action is taken against those responsible; and
- communicating with internal personnel and outside organisations with a need to know and in particular consider:
 - whether there are issues that should be referred to the appropriate funding body under the terms of any grant to which the allegations relate;
 - whether the incident should be reported to HEFCE under the terms of the Financial Memorandum; and
 - whether it should be reported to HMRC;

and will take steps to ensure that the relevant actions are undertaken as soon as is reasonably practicable.

- In any case where immediate action is required, the Registrar or Director of Finance may take the necessary steps and in that case will report to the BFRG on the actions taken and the reasons for them as soon as possible thereafter.
- In any case where an individual with responsibility under this Policy is the subject of an investigation under the Policy, the Vice-Chancellor, or if he or she is the subject of complaint, a Pro-Vice Chancellor unconnected with the matter in question, will appoint an alternate or alternates to fulfil the role or roles specified under the Policy.
- Investigations will normally be carried out by the Internal Auditor, taking account of appropriate professional practice, and any relevant guidance issued from time to time by HEFCE, the Charity Commission or any other relevant regulatory body.

11. The investigator will keep the BFRG informed as to the progress of the investigation and will complete the investigation in as timely a manner as is reasonably possible.

Suspension

- Personnel Services must be consulted before any staff member is suspended, and must be consulted throughout on the conduct of the investigation. No one person, acting on his or her own volition, may move to suspend a member of staff suspected of bribery or fraud.
- Any individual who is suspected of bribery or fraud may be suspended immediately (without deduction of pay) pending a full investigation. In some cases it may also be necessary to suspend other staff in order to conduct a proper investigation. The suspension of a member of staff does not constitute a finding of misconduct against him or her. Any staff suspended as a result of suspected bribery or fraud will be informed of the reason for the suspension.

14. Individuals suspended for suspected bribery or fraud, and individuals suspended to enable a proper investigation to be carried out, will normally be required to leave University premises immediately and/or will be denied access to the University’s IT facilities. During the period of any suspension they will not be permitted to return to the premises, to make contact with staff or witnesses, or to act on behalf of the University, unless given express permission to do so by the relevant University authorities. Any infringement of this requirement may be treated as a disciplinary offence.

Confidentiality

- All persons concerned with the investigation must treat the information in strict confidence. Where necessary, information will be transmitted in confidence to relevant regulatory bodies.
- An unwarranted breach of confidence may be the subject of disciplinary action.

Police involvement

17. In all cases where the police are involved, the University reserves the right, where it would be reasonable to do so, to proceed with its own disciplinary procedures or with civil proceedings.

Insurance

18. In the case of insured claims, the BFRG will ensure that any requirements of the insurance cover are observed.

Interim reporting

19. The BFRG will notify the Vice-Chancellor and the Chairman of the Audit and Scrutiny Committee that a matter has been reported under this Policy and will provide such further and confidential interim reports as to the

progress of the investigation as are deemed necessary. Such reports may be oral or written as appropriate.

Notifying HEFCE of serious incidents

20. HEFCE's Financial Memorandum requires a report to it of any theft, fraud, loss of charity assets or other irregularity where:

- 20.1. the sums of money involved are, or potentially are, in excess of £25,000; or
- 20.2. the particulars of the fraud, theft, loss of charity assets or other irregularity may reveal a systemic weakness of concern beyond the institution, or are novel, unusual or complex; or
- 20.3. there is likely to be public interest because of the nature of the fraud, theft, loss of charity assets or other irregularity, or the people involved.

Recovery of losses

21. The Internal Auditor will endeavour to quantify the amount of any loss. The Director of Finance will take advice from Legal Services and the Insurance Office and may recommend civil action to recover outstanding losses in those cases where there is a reasonable prospect of success. In cases of substantial loss, consideration may also be given to an application for an order to freeze the suspect's assets pending completion of the investigation.

Final report

22. The Internal Auditor will prepare an investigative report for submission to the BFRG, which will be responsible for considering the findings and making recommendations to the Vice-Chancellor.

23. The final report, which will be provided in strict confidence to the Vice-Chancellor and to the Chairman of the Audit and Scrutiny Committee, will contain:

- 23.1. a description of the allegations and the steps taken to investigate them;
- 23.2. a conclusion as to whether the allegations made had substance and if so the extent of any loss and any other adverse impact on the University;
- 23.3. a description of any steps taken in relation to the individual or individuals concerned together with recommendations as to any disciplinary action;
- 23.4. the steps taken to mitigate any losses to the University;
- 23.5. the measures taken to minimise a recurrence; and
- 23.6. any action needed to strengthen future responses bribery or fraud, which may include provision for a follow-up report within a specified time frame.

Records

24. The Registrar shall maintain a register (the 'Register') of all cases of bribery or fraud which are reported within the University (except Oxford University Press, which maintains its own records), including those where there was found to be no case to answer.

25. The Register will be maintained and will be available for inspection, subject to the requirements of the Data Protection Act 1998, and the Freedom of Information Act 2000.

26. The Registrar shall specify the following, in an anonymised form, in relation to each case of bribery or fraud:

- 26.1. what the suspected or actual incident was;
- 26.2. whether the incident was suspected or actual;
- 26.3. when the suspected or actual incident occurred and if actual who was (allegedly) involved;
- 26.4. what the actual and potential impact of the incident on the University might be;
- 26.5. what inquiries were made and/or action was taken, including any reports to other regulators or the police;
- 26.6. how any decision to terminate the investigation of the incident was made, and why;
- 26.7. what policies and procedures were in place that apply to the incident, whether they were followed, and if not, why; and
- 26.8. whether policies and procedures need to be introduced or revised, and if so, how and by when.

Communication to the complainant

27. The complainant will be informed in broad terms of the outcome of the investigation, having due regard to the confidentiality of information relating to the individual or individuals accused and others identified in the report.

References for employees or students disciplined or prosecuted for fraud

28. All requests for references for members of staff known to have been disciplined or dismissed for bribery or fraud must be referred to Personnel Services for advice on how to respond in accordance with employment law. In no circumstances must any person provide a reference for a member of staff whom they know to have been dismissed for bribery or fraud without first consulting Personnel Services.

29. References for Student Members, who have been the subject of disciplinary sanction, must be referred to the Proctors.

Schedule 3: University standards

The University is committed to carrying out its activities to the highest standards of integrity and in accordance with relevant legislation.

The University has no tolerance of bribery and fraud, and believes that action against bribery and fraud is in the broader interest of society.

The University will not offer, promise, give, request, agree to receive or accept bribes for any purpose, and will take appropriate action to prevent bribery in the University. The University will not make unlawful facilitation payments.

Appropriate action will be taken to prevent all forms of fraud within the University.

The University will expect third parties acting on behalf of the University not to commit bribery or fraud; the University will take measures to prevent third parties from taking part in bribery or fraud on its behalf; and the University will take appropriate action should it discover that third parties are involved in bribery or fraud on its behalf.

Any hospitality or gifts the University offers or receives relating in any way to its activities will always be reasonable, appropriate, for proper purposes and in accordance with properly approved policies.

The University will not make political donations; any charitable donations we make will comply with properly approved policies; and any charitable donations received by the University must be requested and received for exclusively charitable purposes and shall not improperly influence any decisions made by or on behalf of the University.

The University will require those employees who suspect bribery and fraud to report such instances internally, and will provide channels for them to do this.

The University will appropriately investigate all suspected instances of bribery and fraud.

Where bribery and fraud are shown to have occurred, the University will take firm action, including, potentially, dismissal and legal action.

The University will seek to understand the risk of bribery and fraud in various contexts; implement policies and procedures to support these standards in view of its understanding of this risk; advise, inform and/or train its people appropriately concerning relevant standards, policies and procedures.

The University has instructed the Registrar to oversee the implementation of these Standards and supporting policies, provide advice as necessary, and monitor and report upon breaches of policy and the general application of policy.