

Anti-Bribery Policy

WHC reserves the right to amend this policy at its discretion. The most up-to-date version can be downloaded from our website.



University of the
Highlands and Islands
West Highland College

Oilthigh na Gàidhealtachd
agus nan Eilean
Colaiste na Gàidhealtachd an Iar

ANTI-BRIBERY POLICY

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1.0 Introduction

- 1.1 This document sets out the College's policy and advice to employees in dealing with bribery or suspected bribery.
- 1.2 The Bribery Act 2010, which came into force on 1 July 2011, introduced a new, clearer regime for tackling bribery that will apply to all businesses based or operating in the UK. It covers all sorts of bribery, the offering and receiving of a bribe, directly or indirectly, whether or not it involves a public official, in the UK or abroad. There are offences by individuals, and a corporate offence for corporate and partnerships, and penalties for non-compliance are serious.
- 1.3 Bribery is a criminal offence for both individuals and commercial organisations and can be punished with imprisonment of up to 10 years or unlimited fines. Ministry of Justice guidance on Adequate Procedures (S7 Paragraph 35) states that "As regards bodies incorporated, or partnerships formed, in the UK, despite the fact that there are many ways in which a body corporate or a partnership can pursue business objectives, the Government expects that whether such a body or partnership can be said to be carrying on a business will be answered by applying a common sense approach. So long as the organisation in question is incorporated (by whatever means), or a partnership, it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made. If any employee was accused of bribery, the College's reputation might be damaged considerably, and subsequent enforcement action would be time-consuming and hinder the College from focusing on its core business and service delivery.
- 1.4 It is therefore the policy of the college to prohibit any form of bribery or corrupt practices, whether covered directly by The Bribery Act 2010 or not. The policy applies to the College, all of its employees and anyone acting for, or on behalf of, the College ("associated persons"), including governors, other volunteers, temporary workers, consultants and contractors, independent of their grade and position, and shall be respected at all times.

2.0 Definitions

- 2.1 Definitions for bribery and corruption vary, but both are covered within The Bribery Act 2010. Some common definitions are:

Bribery – "Inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages". Appendix A is a summary of The Bribery Act 2010.

Corruption – This can be broadly defined as the offering or acceptance of inducements, gifts, favours, payment or benefit-in-kind which may influence the action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.

It is a common law offence of corruption to bribe the holder of a public office and it is similarly an offence for the office holder to accept a bribe.

3.0 Scope

- 3.1 This policy relates to all forms of bribery and is intended to provide direction and help to employees who may identify, or suspect bribery. The overall aims of the policy are to:
- improve the knowledge and understanding of everyone in the College, irrespective of their position, and the risk of bribery within the organisation and its unacceptability
 - assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly
 - set out the College's responsibilities in terms of the deterrence, prevention, detection and investigation of bribery and corruption
 - ensure the appropriate sanctions are considered following an investigation, which may include any of the following:
 - criminal prosecution
 - civil prosecution
 - internal/external disciplinary action (including professional/regulatory bodies)
- 3.2 This policy applies to all employees of the College regardless of position held, as well as those acting on behalf of the College, including governors, other volunteers, temporary workers, consultants, contractors, and/or any other parties who have a business relationship with the College. It will be brought to the attention of all employees and Board members, and will form part of the induction process for new staff and Governors. It is incumbent on all of the above to report any concerns they may have concerning bribery.
- 3.3 In implementing this policy, managers must ensure that all staff are treated fairly and within the provision and spirit of the College's Equal Opportunities Policy. The College has procedures in place that reduce the likelihood of bribery occurring. These include Standing Orders, Financial Regulations, documented policies and procedures, including on public interest disclosure, a system of internal control (including Internal and External Audit) and a system of risk assessment.

4.0 Policy

- 4.1.1 All employees have a personal responsibility to protect the College from bribery or corruption, are responsible for maintaining the highest standards of business conduct and are expected to behave honestly and with integrity.
- 4.1.2 The College is absolutely committed to maintaining an honest, open and constructive culture so as best to fulfil its' objective. It is, therefore, also committed to the elimination of bribery, to the rigorous investigation of any such allegations and to taking appropriate action against wrong doers, including possible criminal prosecution.
- 4.1.3 All gifts, payments or any other contribution whether in cash or in kind, shall be documented, regularly reviewed, and properly accounted.
- 4.1.4 The College procures goods and services ethically and transparently with the quality, price and value for money determining the successful supplier/contractor, not by receiving (or offering) improper inducements. The College will not engage in any form of bribery, either in the UK or abroad.
- 4.1.5 The College prohibits employees and associated persons from offering, giving, soliciting or accepting any bribe in any way, or to give, or be perceived to have given, a financial or other advantage to any person (whether a UK or foreign public official, political candidate, party official, private individual, private or public sector employee or any other person) in order to induce that person to perform his/her functions or activities improperly. The bribe might include cash, a gift or other inducement, to or from any person or organisation, whether they are situated, and irrespective of whether or not they are a public official/body or private person or company, by an individual governor, employee, agent or other person or body acting on the College's behalf. The bribe might be in order to:
- Gain any commercial, contractual or regulatory advantage for the College in a way which is unethical;
 - Gain any personal advantage, pecuniary, or otherwise, for the individual or anyone connected with the individual.
- 4.1.6 The College may, in certain circumstances, be held responsible for acts of bribery committed by intermediaries acting on its behalf such as subsidiaries, clients, business partners, contractors, suppliers, agents, advisors, consultants or other third parties. The use of intermediaries for the purpose of committing acts of bribery is prohibited.

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- 4.1.7 All intermediaries shall be selected with care, and all agreements with intermediaries shall be concluded under terms that are in line with this policy. The College will contractually require its agent and other intermediaries to comply with the Anti Bribery Policy and to keep proper books and records available for inspection by the College, auditors or investigating authorities. Agreements with agents and other intermediaries shall at all times provide for the necessary contractual mechanisms to enforce compliance with the anti-bribery regime. The College will monitor performance and, in case of non-compliance, require the correction of deficiencies, apply sanctions, or eventually terminate the agreement even if this may result in a loss of business.
- 4.1.8 All employees should be aware that bribery will normally be regarded as a serious disciplinary offence which will be addressed in accordance with the College's existing disciplinary policy and associated procedures.

4.2 FACILITATION PAYMENTS

- 4.2.1 "Facilitation payments" are payments made to secure or expedite the performance of a routine action by a government official or agency to which the payer (or the company) has legal or other entitlement.
- 4.2.2 Facilitation payments are prohibited under The Bribery Act like any other form of Bribe. They shall not be given by the College or the College's employees in the UK or any other country.

5.0 Gifts and Hospitality

- 5.1 This policy is not intended to prohibit appropriate corporate entertainment and/or hospitality undertaken in connection with the College's business activities, provided the activity is customary under the circumstances, is proportionate, and is properly recorded/disclosed to the College in accordance with its procedures.
- 5.2 Courtesy gifts and hospitality must not be given or received in return for services provided or to obtain or retain business but shall be handled openly and unconditionally as a gesture of esteem and goodwill only. Gifts and hospitality shall always be of symbolic value, appropriate and proportionate in the circumstances, and consistent with local customs and practices. They shall not be made in cash. Please refer to the College's Gifts and Hospitality guidance and register for more guidance.

6.0 Political and Charitable Contributions

- 6.1 The College does not make any contributions to politicians, political parties or election campaigns.
- 6.2 As a responsible member of society, the College may take charitable donations. However, these payments shall not be provided to any organisation upon suggestion of any person of the public or private sector in order to induce that person to perform improperly the function or activities which he or she is expected to perform in good faith, impartially or in a position of trust or to reward that person for the improper performance of such function or activities.
- 6.3 Any donations and contributions must be ethical and transparent. The recipient's identity and planned use of the donation must be clear, and the reason and purpose for the donation must be justifiable and documented. All charitable donations will be publicly disclosed.
- 6.4 Donations to individuals and for-profit organisations and donations paid to private accounts are incompatible with the College's ethical standards and are prohibited.

7.0 Sponsoring

- 7.1 Sponsoring means any contribution in money or in kind by the College towards an event organised by a third party in return for the opportunity raise the College's profile. All sponsoring contributions must be transparent, pursuant to a written agreement, for legitimate business purposes, and proportionate to the consideration offered by the event host. They may not be made towards events organised by individuals or organisations that have goals incompatible with the College's ethical standards or that would damage the College's reputation. All sponsorships will be publicly disclosed.
- 7.2 Where commercial sponsorship is used to fund the College's training events, training materials and general meetings, the sponsorship must be transparent, pursuant to a written agreement, for legitimate business purposes, and proportionate to the occasion. Where meetings are sponsored by external sources, that fact must be disclosed in the papers relating to the meeting and in any published minutes/proceedings.
- 7.3 Where sponsorships links to the development of guideline and advice, this should be carried out in consultation with the College's nominated member of the senior management team.

8.0 Raising Concerns

- 8.1 Employees and associated persons are requested to remain vigilant in preventing, detecting and reporting bribery. Employees and associated persons are expected to report any concerns regarding any suspected bribery in accordance with the College's procedures outlined in the College Public Interest Disclosure Policy, which will be rigorously enforced, so that no individual will suffer any detrimental treatment as a result of reporting reasonably held suspicions. The Public Interest Disclosure Act 1998 came into force in July 1999 and gives statutory protection, within defined parameters, to staff who make disclosures about a range of subjects, including bribery and corruption, which they believe to be happening within the organisation employing them. Within this context, "reasonably held" means suspicions other than those which are raised maliciously and are subsequently found to be groundless.
- 8.2 Any unfounded or malicious allegations will be subject to a full investigation and appropriate disciplinary action.

9.0 Roles and Responsibilities

9.1 THE BOARD

9.1.1 The Board has a duty to ensure that it provides a secure environment in which to work, and one where people are confident to raise concerns without worrying that it will reflect badly on them. This extends to ensuring that staff feel protected when carrying out their official duties and are not placed in a vulnerable position. If staff have concerns about any procedures or processes that they are asked to be involved in, the College has a duty to ensure that those concerns are listened to and addressed.

9.1.2 The Board and/or the Accounting officer will be liable to be called to account for failing to prevent bribery. The College therefore has a duty to ensure employees receive adequate training and support in order to carry out their responsibilities.

Therefore, the Principal and/or another nominated member of the senior management team will monitor and ensure compliance with this policy.

9.2 EMPLOYEES

9.2.1 For the purposes of this policy, "Employees" include the College's staff, Board of Directors, volunteers, temporary workers, consultants and contractors.

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- 9.2.2 Directors and staff at all levels will lead by example in acting with utmost integrity and ensuring adherence to all relevant regulations, policies and procedures.
- 9.2.3 Employees must act in accordance with the College's Staff Codes of Conduct and Standing Orders which include guidance on the receipt of gifts or hospitality.
- 9.2.4 Employees who are involved in receiving offers of sponsorship, funding or gifts from outside agencies also should comply with their own professional codes of practice where applicable.

9.3 MANAGERS

9.3.1 Line managers at all levels have a responsibility to ensure that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively. The responsibility for the prevention and detection of bribery therefore primarily rests with managers but requires the co-operation of all employees.

9.3.2 As part of that responsibility, line managers need to:

- inform staff of the College's Code of Conduct and counter fraud and anti bribery policies as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms.
- ensure that all employees for whom they are accountable are made aware of the requirements of the policy.
- ensure that adequate control measures are out in place to minimise the risks.

This must include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of a key function is not invested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively.

- be aware of the College's anti bribery policy
- identify sensitive/at-risk posts
- ensure that controls are being complied with
- contribute to their line manager's assessment of the risks and controls within their area, which feeds into the College's overall statements of accountability and internal control.

9.3.3 All instances of actual or suspected bribery, which came to the attention of a manager, must be reported immediately. It is appreciated that some employees will initially raise concerns with their manager, however, in such cases managers must not attempt to

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investigate the allegation themselves, and they have the clear responsibility to refer the concerns in line with the College's Public Interest Disclosure Policy as soon as possible.

10.0 Information and Management Technology

- 10.1 The Head of Information Security (or equivalent) will contact the Principal immediately in all cases where there is suspicion that the College's IT infrastructure is being used for the purposes of bribery. This includes inappropriate internet/intranet, e-mail, telephones and PDA's.

11.0 Procurement

- 11.1 Procurement practices will be conducted in a fair and transparent manner and not deal with contractors or suppliers known or reasonably suspected to be paying bribes. Before engaging contractors and suppliers, the College will undertake properly documented due diligence. The College will require contractors and suppliers to comply with its Anti-Bribery Policy as a minimum standard. Agreements with contractors and suppliers shall, at all times, provide for the necessary contractual mechanisms to enforce compliance with the anti-bribery arrangements. The College will monitor performance and, in case of non-compliance, require the correction of deficiencies, apply sanctions, or eventually terminate the agreement.

12.0 External Communications

- 12.1 Individuals (be they employees, temporary workers, volunteers, consultants, contractors or suppliers) must not communicate directly with any member of the press, media or any other third party about a suspected act of bribery, but should address any such concerns in accordance with the College's Public Interest Disclosure Policy.

13.0 Training

- 13.1 The College will provide any anti bribery training to all relevant employees to make them aware of our Anti Bribery Policy and guidelines, in particular of possible types of bribery, the risks of engaging in bribery activity, and how employees may report suspicion of bribery.

14.0 Related Policies

- Staff Code of Conduct
- Board Code of Conduct
- Standing Orders
- Financial Regulations (including Fraud Policy)
- Tendering and contracting policies and procedures
- Public Interest Disclosure Policy
- Disciplinary Policy

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15.0 Review

- 15.1 The policy will be reviewed every three years unless changes require this to be done earlier.

- 15.2 The next review will ordinarily be in 2015

Appendix A

Offences under the Bribery Act 2010

The following business practices constitute criminal offences under the Bribery Act 2010 and are therefore prohibited:

Offences of bribing another person

Case 1 is where a College employee offers, promises or gives a financial or other advantage to another person *and* intends the advantage (i) to induce that or another person to perform improperly a relevant function or activity, or (ii) to reward that or another person for the improper performance of such a function or activity.

Case 2 is where a College employee offers, promises or gives a financial or other advantage to another person *and* knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity by that person.

The bribery must relate to (i) a function of a public nature, (ii) an activity connected with a business, (iii) an activity performed in the course of a person's employment, or (iv) an activity performed on behalf of a body of persons (whether corporate or incorporate). The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust. It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector and whether the advantage is offered, promised or given directly by the College employee or through a third party, e.g. an agent or other intermediary.

Offences relating to being bribed

Case 3 is where a College employee requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by him-/herself or another person).

Case 4 is where a College employee requests, agrees to receive or accepts a financial or other advantage, *and* the request, agreement or acceptance itself constitutes the improper performance by him-/herself of a relevant function or activity.

Case 5 is where a College employee requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by him-/herself or another person) of a relevant function or activity.

Case 6 is where, in anticipation of or in consequence of a College employee requesting, agreeing to receiving or accepting a financial or other advantage, a relevant function or activity is performed improperly (i) by that of a College employee, or (ii) by another person at his/her request or with his/her assent acquiescence.

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Again, the bribery must relate to (i) a function of a public nature, (ii) an activity connected with a business, (iii) an activity performed in the course of a person's employment, *or* (iv) an activity performed by or on behalf of a body of persons (whether corporate or unincorporated). The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust.

It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector, whether the employee requests, agrees to receive or accepts the advantage directly or through a third party, e.g. an agent or other intermediary, and whether the advantage is for the benefit of a College employee or another person.

In Cases 4 to 6, it does *not* matter whether the College employee knows or believes that the performance of the function or activity is improper.

Bribery of foreign public officials

Case 7 is where a College employee bribes a foreign public official and intends (i) to influence that official in his/her capacity as a foreign public official *and* (ii) to obtain or retain a business or advantage in the conduct of business. A foreign public official is someone who holds a legislative, administrative or judicial position of any kind or exercises a public function of a country outside the UK, or is an official or agent of a public international organisation.

Failure of commercial organisations to prevent bribery

A corporate or partnership is guilty of a corporate bribery offence if an employee, agent, subsidiary or any other person acting on its behalf bribes another person intending to obtain or retain business or an advantage in the conduct of business for the corporate or partnership. For a definition of bribery, please refer to Case 1, 2 and 7 above.

It should be the policy of a corporate or partnership not to tolerate any bribery on its behalf, even if this might result in a loss of business for it. Criminal liability must be prevented at all times.