



University of
St Andrews

Anti-bribery and corruption

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1. Introduction and scope

The Bribery Act 2010 (the Act) came into force on 1 July 2011.

The Act, a copy of which can be found at <http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-quick-start-guide.pdf>, is the most substantial change to the UK's corruption laws since 1916. Prior to the introduction of the Act, the UK had received criticism for a poor record for prosecuting corruption. This criticism peaked when direct intervention from the British Prime Minister in 2008 led to a decision by the Serious Fraud Office not to proceed with prosecution of BAE Systems following allegations of corruption in the sale of arms to Saudi Arabia.

The Organisation for Economic Cooperation and Development (OECD) is responsible for helping governments tackle the economic, social and governance challenges of a globalised economy. The UK is a member of OECD. The Act was introduced by the UK government partly in response to sustained pressure from OECD and other organisations attempting to develop common international standards for global anti-corruption.

The purpose of the Act is to meet these challenges by providing a new consolidated scheme of bribery offences to prosecute bribery both in the UK and abroad. While primarily aimed at commercial organisations the Act also covers all organisations incorporated under UK law including Charities and, therefore, includes Universities.

This Policy considers the implications of the Bribery Act 2010, which came into force on 1 July 2011, for the University and what areas the University needs to consider in order to comply with the legislation.

1.1. What is Bribery?

A bribe is defined in the BA 2010 as “a financial or other advantage” offered, promised or given to induce a person to perform a relevant function of activity improperly, or to reward them for doing so (section 1).

This broad-ranging description covers many types of possible advantage including gifts, hospitality and entertainment, political or charitable donations, sponsorship and publicity. The timing of the financial or other advantage does not matter: it is still a bribe even if it is given or paid after the event. Individuals can be liable even if they unwittingly give or receive a bribe. Liability attaches if a bribe is offered or promised (or agreed to); it does not have to be actually given or received. The employer does not need to actually receive any advantage from the offer or payment of the bribe.

1.2. Offences under the Bribery Act 2010

The BA 2010 introduced four new criminal offences, which can be summarised as follows:

- Bribing another (section 1)
- Being bribed (section 2)
- Bribing a foreign public officer (section 6)
- Failure of a commercial organisation to prevent bribery by an “associated person” for its benefit (section 7).

1.3. Who is an “associated person”?

The definition of “associated person” in Section 8 of the BA 2010 is wide. It covers those who perform services for, or on behalf of, the organisation such as, for example, employees, agents and subsidiaries (section 8(3)). The capacity in which the person performs the services does not matter. There is a presumption that employees will be associated persons of the employer. However, others working for the University, such as consultants, agency workers and volunteers will also be associated persons for the purpose of the BA 2010. Associated persons are referred to as workers in this policy.

The University is therefore potentially responsible for the actions of a wide range of individuals, some of whom it may have minimal control over.

1.4. Penalties

The consequences of a breach of the BA 2010 are severe. Individuals face up to ten years imprisonment, and commercial organisations can be fined an unlimited amount and prevented from tendering for public contracts.

1.5. The “adequate procedures” defence

Under section 7(2) of the BA 2010, an organisation has a defence if it can show that it had in place “adequate procedures” designed to prevent bribery. There is, however, no definition or specific explanation as to what constitutes adequate procedures.

1.6. Governing Body

The Governing Body, the University Court of St Andrews, is fully committed to compliance with the Bribery Act 2010.

1.7. Scope and Purpose

This policy applies to all University employees and associated persons and workers including Members of Court, Contractor, temporary or agency staff or unpaid members of staff and voluntary workers. It also applies to staff in subsidiary companies. The policy applies to all activities of the University, whether related to its research, teaching, commercial or other activities, and exists for the protection of members of staff, workers and the University.

The University expects any person or organisation performing services for it or on its behalf, to adhere to this policy or otherwise have equivalent procedures in place to prevent corruption. These third parties include agents and others who represent the University suppliers, consultants and private sector partners as well as who perform services for the University or on its behalf, both domestically and internationally. As the University operates internationally, employees are reminded to be extra vigilant when conducting business overseas as there may be a greater risk of exposure to unethical activity.

The policy sets out the scope of the University’s approach to dealing with the relevant legislation, as follows:

Nature of Offence	Scope
Paying bribes	Members of staff of the University and those representing the University, including workers
Receiving bribes	Members of staff of the University and those representing the University, including workers
Bribery of a foreign public official	Members of staff of the University and those representing the University, including workers
Failure of a commercial organisation to prevent bribery	The University and its subsidiary companies

The policy also covers issues related to the following other policies and Codes of the University, where guidance is given on each specific policy and can be found on the HR webpage under Policies and Procedures or the full list of financial operating procedures:

- <http://www.st-andrews.ac.uk/staff/policy/hr/Disciplinaryprocedures/>
- <http://www.st-andrews.ac.uk/staff/policy/hr/gifts/>
- <http://www.st-andrews.ac.uk/staff/policy/hr/Whistleblowingpolicy/>
- <http://www.st-andrews.ac.uk/staff/policy/Financialoperatingprocedures/>

1.8. Breach of Policy

Where an allegation is made to the effect that a member of staff has breached this policy, the matter will be dealt with under the University's Disciplinary Policy. Where, after an investigation and subsequent disciplinary hearing, allegations are upheld, the employee may be subject to formal disciplinary sanctions up to and including dismissal.

Where third parties performing services or supplying goods for, or on behalf of the University, are in breach of this policy, action may be taken by the University up to and including terminating the relevant contractual relationship.

2. Guiding principles

Organisations are required to set out adequate procedures designed to prevent bribery and the following six principles have been identified by the UK Government:

- Top level commitment
- Risk assessment
- Proportionate procedures
- Due diligence
- Communication (including training)
- Monitoring and review

3. Policy statement and compliance with legislation

3.1 Policy Statement

In accordance with the highest standards of professional practice and good governance, the University will not tolerate bribery or corruption of any kind.

All members of staff, workers and agents of the University must adhere strictly to the UK legislation in relation to bribery and corruption and follow the procedures designed by the University to prevent bribery.

Staff must not offer, promise or pay bribes and they must not request or receive bribes. The University will also expect the highest standards of compliance in this area from other parties that provide services to the University or on its behalf.

3.2 The Code of Public Interest Disclosure ('whistleblowing')

The University Court of St Andrews is committed to ensuring that the University conducts its affairs in a reasonable, ethical and transparent way and conforms to those standards. This also includes detection, prevention and reporting instances of possible bribery or corruption.

Consequently, the Court will ensure that any former or current University employee or student who has information about possible malpractices within the University during her/his membership of the University is able to bring that concern immediately to its attention. The designated contact to receive such concerns is the Convener of the Audit and Risk Committee of the University Court. Letters may be sent to the Convener (marked 'For Forwarding without Opening' and 'Strictly Private and Confidential' to the Court Office, College Gate, North Street, St Andrews, Fife, KY16 9AJ or by email via a special account with the address whistleblowing@st-andrews.ac.uk.

When a disclosure is made, the Convener of the Audit and Risk Committee, having obtained legal advice as necessary, shall normally consult with the Senior Governor. The latter will ensure that the matter is fully investigated and determined as (s)he thinks fit by either University procedure, if appropriate, or referred to the Police or other relevant Authority. The Senior Governor will report the outcome of the investigation (whether internally or external investigated) to both the original complainant and to the University Court.

A full copy of The Code of Public Interest Disclosure ('whistleblowing') can be found at: <http://www.st-andrews.ac.uk/staff/policy/hr/Whistleblowingpolicy/>

Alternatively, staff may seek further information from the Finance Director. It is the choice of the individual as to whom they wish to report instances of possible bribery or corruption.

3.3 Risk Audit

An external Risk Audit was carried out by Ernst & Young in conjunction with the Quaestor and Finance Director of the University. The areas below were initially highlighted as potential concerns within the institution:

- Overseas Agents
- Trading Subsidiaries
 - Donations
 - Large Scale Procurement
 - Gifts and Hospitality

Key staff who operate in these areas of the University received a briefing by the external auditors Ernst & Young on the fundamental details of the new legislation.

3.4 Responsibilities

Line managers from the Principal's Office down, are responsible for ensuring that:

- All employees with whom they work are aware of this Policy and attend training as necessary on how it affects their work;
- They promote all other anti-corruption compliance measures within the parts of the University in which they work and that they lead by example.
- They inform their Head of School / Director of Unit immediately when they are notified of any corruption concerns.

All employees are expected to:

- Adhere to the University's anti-corruption procedures, and other similar policies, as far as they are applicable to their roles within the University;
- Raise corruption concerns immediately with their line managers or their Head of School/Unit;
- Follow University guidance and best practice when involved in activities relating to the procurement of goods, services or works, or using overseas or other agents and third parties

3.5 Due Diligence

The University will ensure that individuals, incorporated and/or unincorporated bodies who 'perform services for or on behalf of the University' ie members of staff, workers, agents and subsidiaries are fully aware of the implications of the Bribery Act 2010.

3.6 Communication and Training

Members of the Audit and Risk Committee received training from Ernst & Young on the implications of the Bribery Act 2010 in June 2011. Those members of staff to which the Bribery Act 2010 directly relates, will continue to receive specific guidance and training on an ongoing basis.

3.7 Monitoring and Review

Effective monitoring and review is critical to the long-term sustainability of an anti-bribery initiative and the University is committed to ensuring that the effectiveness of its procedures and processes are regularly updated in order to comply with updates/changes to the Act. One area in which continual assessment will take place is with regard to new markets into which the University may develop/expand in the future.

3.8 Record-keeping

The University maintains financial records and has appropriate internal controls in place through other policies and procedures to ensure all payments to third parties (such as payments to anyone who provides services for or on its behalf) are properly documented and authorised.

4. Processes and controls

Specific policies have been created covering the following areas:

- Overseas Agents
- Trading Subsidiaries
- Donations
- Large Scale Procurement
- Gifts and Hospitality

These have been implemented in order to reduce the risk or opportunity for bribery covering these areas (as noted in 1.7) and can be found at:

Overseas Agents:

<https://www.st-andrews.ac.uk/subjects/entry/>

Donations:

<https://www.st-andrews.ac.uk/development/>

Large Scale Procurement:

<https://www.st-andrews.ac.uk/staff/money/procurement/policies/>

Gifts and Hospitality:

<http://www.st-andrews.ac.uk/staff/policy/hr/disciplinaryprocedures/>

<http://www.st-andrews.ac.uk/staff/policy/hr/gifts/>

Trading Subsidiaries:

Contact Keith Millican, Group Finance Director, St Andrews Applied Research Ltd

The Policy Appendices have been collated to add further clarity to the type of examples where the Act could be relevant, for individuals within the University, or acting on its behalf.