University of Essex Anti-Bribery Policy

Introduction

The Bribery Act 2010 will come into force during 2011, replacing a number of older laws and creating a single comprehensive code in relation to Bribery and Corruption. The act creates new offences and places responsibility on organisations as well as the individual. The act has a wide geographical reach and covers any country in the world and also includes any bribes paid by third parties on behalf of the organisation. The act also covers the acts of agents or associates acting on behalf of the organisation. The penalties are severe with potentially unlimited fines and the possibility of imprisonment up to a maximum of 10 years for individuals.

The act creates two new offences:

- Bribing a foreign official

  A person is guilty of the offence if their intention is to influence the official in the official's capacity as a foreign public official. Foreign public officials include government officials and those working for international organisations. The offence does not cover accepting bribes, only offering, promising or giving bribes. It does not matter whether the offer, promise, or gift is made directly to the official or through a third party.

- Failing to prevent bribery

  The Bribery Act introduces a new offence for commercial organisations of failing to prevent bribery by persons associated with them. This is committed where a person associated with the organisation commits an act of corruption with the intention of obtaining or retaining business or of obtaining or retaining an advantage in the conduct of business. A person is deemed to be “associated” if he or she performs services for or on behalf of the company or partnership, without regard to whether the person is an employee, agent or subsidiary company. There is a statutory defence if the organisation can show that it had in place “adequate procedures” designed to prevent bribery.

Offences Under The Act

The Act creates four offences. The first three are offences that are committed by individuals:

1. Promising or offering a bribe;
2. Requesting, agreeing to receive or accepting a bribe;
3. Bribing a foreign public official; and
4. A corporate offence of “failure to prevent bribery” by “persons associated” with an organisation
Definitions

A traditional definition of bribery is the receiving or offering of undue reward by or to any person whatsoever in a public office, private employee, colleague or representative of another organisation in order to influence their behaviour in office and to incline them to act contrary to known rules of honesty and integrity.

Policy Statement

The University of Essex Anti-bribery Policy applies to all staff and officials including Directors of any subsidiary or associated companies. The policy also includes third parties such as agency workers, consultants, sub-contractors and others working on behalf of the University irrespective of their location, function or grade.

The University does not wish to stifle the development of good working relationships with suppliers, agents, contractors or officials; however, the actions must be transparent, proportionate and auditable. The University expects our business partners, agents, suppliers and contractors to act with integrity and without any actions that may be considered as an offence within the meaning of the Bribery Act 2010.

University employees or any other person working on behalf of the University must not:

- Offer or make a bribe, unauthorised payment or inducement of any kind to anyone;
- Solicit business by offering a bribe, unauthorised payment or inducement to a third party;
- Accept any kind of bribe, unauthorised payment or inducement that would not be authorised by the University in the normal course of events.

University employees or any other person working on behalf of the University must:

- Refuse any bribe, inducement or unauthorised payment that is offered in a clear manner that could not lead to any misunderstanding;
- Report all such offers received under the University Whistleblowing policy;
- Report all perceived or potential breaches of this policy to the Registrar under the University Whistleblowing policy which can be found at the Whistleblowing Policy on the University website.

Hospitality and Gifts

The occasional exchange of business gifts, meals or low level entertainment is a common practice and is meant to create goodwill and enhance relationships. However, if the receipt of business courtesies becomes excessive, it can create a sense of personal obligation on the part of the recipient. Such sense of obligation can interfere with the individual's ability to be impartial in the transaction.
Staff may accept business courtesies, but such courtesies must be modest enough not to interfere with the ethical judgement of the member of staff and must not create an appearance of impropriety. Corporate hospitality and gifts (whether received or provided) must be transparent, auditable and proportionate. Modest gifts and hospitality may be accepted unless an inducement is intended or suspected.

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 to a central register and held by the University.

Any gift or hospitality received or given must not have any influence or intention to influence the party receiving the gift or hospitality.

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

**Reporting**

The University takes compliance with the act very seriously and any known or perceived breach of the policy or act should be reported immediately to the Registrar & Secretary under the procedures outlined in the University Whistleblowing policy. Any breach of the procedure, policy or law will be treated as a disciplinary offence and may result in dismissal following investigation.

**Review**

This policy will be reviewed by the Risk Management Group annually or as and when any legislative changes occur to ensure compliance with one of the principles of the act.