

# Bribery: essential reading

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## INTRODUCTION

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All members of staff are asked to read this short ebook, which provides information about the Bribery Act 2010 and the corresponding University policies.

Examples of bribery in the UK Higher Education sector include overseas subsidiary companies paying bribes to win contracts, irregularities with degree accreditations and international donations and, most recently, the case of a graduate student convicted of attempting to bribe his course supervisor.

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How would you respond to the following scenarios; could either of these situations result in possible legal action against you and/or the University?

1. You have arranged for a shipping agent to transport some vital research equipment overseas. They have called to say that the local customs official won't release the items until he receives an extra 'entry fee'. Do you give the shipping agent the go-ahead to pay this?
  2. A project manager, seconded for 8 months from First Consulting, has proposed hosting a meal (paid for by First) at the end of the project for all departmental staff involved. Are there any significant bribery risks associated with this?
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If you are uncertain as to the right answer to these scenarios, you are not alone. Situations that could lead to inappropriate actions are often ambiguous or even seemingly innocuous. In addition to the basic principles provided in this ebook, you may find that case studies from different areas of the University bring this subject to life and make it more relevant to your work; these can be found on the [Council Secretariat website](#).

If you have any questions – or additional case study examples that you would like us to include in the online guidance – please do [get in touch](#).

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## THE BRIBERY ACT 2010

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Bribery is the offering, promising, giving, requesting, or accepting of a financial or other advantage with the intention to induce or reward improper performance.

A bribe can take any form, size or value that provides the intended recipient with some form of benefit or advantage. This means bribes can be money, discounts, vouchers, loans, gifts, hospitality, preferential treatment, business advantage etc.

Under the Bribery Act it is an offence:

- a. to offer, promise or give a bribe;
- b. to request, agree to receive or accept a bribe; and
- c. to bribe a foreign public official.

It is also an offence for organisations to fail to prevent bribery by persons associated with it. **The term ‘associated persons’ includes anyone employed by the University, as well as people and companies working on behalf of the University, wherever they are in the world.**

The Act allows **one exception** under which a bribe or facilitation payment can be paid: where not to do so would **place an individual in imminent or immediate personal danger**. You must still report such incidents as soon after the event as possible, both to the authorities in the location where the incident occurred and to the University via its [procedures for reporting bribery](#).

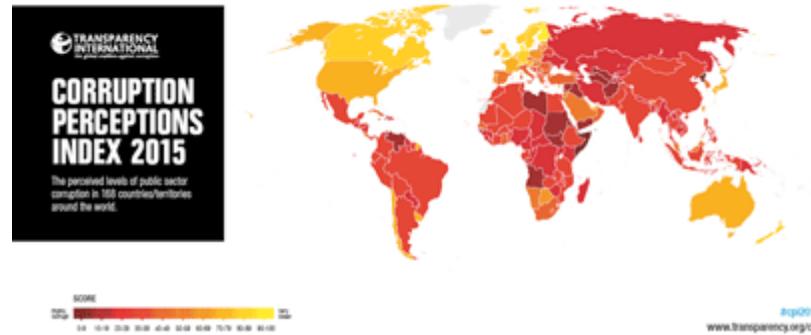
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## THE SCALE AND SIGNIFICANCE OF BRIBERY

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Bribery and other forms of corruption destroy trust, damage social and economic development and undermine fair competition in both developed and developing economies.

Click image to enlarge



This Corruption Perceptions Index Map is produced annually by Transparency International. The map measures the perceived levels of public sector corruption in countries worldwide – the darker the shade of red, the higher the degree of perceived corruption in that territory.

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## THE RISK OF BRIBERY

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The risk of bribery within the University ought to be small. Nevertheless, opportunity exists in a number of areas.

General risks:

- suppliers offering 'extras' to staff involved in the award of contracts;
- agents acting improperly on behalf of the organization;
- staff or associated persons being asked for facilitation payments when travelling overseas.

Specific risks in the Higher Education sector:

- students or staff working with sensitive subject matter or data being tempted to supply information or access for a fee;
- donations from people who have connections to applicants;
- donations from people who have connections to commercial suppliers;
- payments to facilitate the shipping of equipment, or the arranging of visas and licences for overseas research;
- fieldwork in countries where bribery is endemic.

Controlling the risk of bribery often works on the basis of limiting opportunity through limiting means. Therefore, within the University, controls tend to concentrate on requiring more than one person to be involved in taking key decisions, authorizing major actions, or processing significant transactions. This division of responsibilities or segregation of duties not only makes it harder for someone to influence decisions and actions improperly, but it also protects the people involved through lessening their potential exposure to this risk.

Bribery risk should be regularly assessed as part of the wider risk management performed by divisions, departments and committees. To support this, guidance is provided in the online [Bribery and Fraud Risk Awareness Toolkit](#).

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## THE IMPACT OF BRIBERY

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The implications of committing an offence include:

- disciplinary action or criminal proceedings against staff;
- criminal proceedings against senior officers if they have consented to or connived at an offence; and
- criminal proceedings and substantial fines against the University.

In addition to the legal position, there are moral, ethical and reputational dimensions to bribery. The damage to reputation that bribery – or even the hint of bribery – can cause is potentially enormous. In addition to negative press, within a University context it could translate to:

- research sponsors withdrawing support;
  - donations for capital buildings projects being withdrawn;
  - HEFCE and other funding being restricted, or subject to strenuous review and conditions;
  - the ability to attract top-quality staff being damaged;
  - imposition of a tighter control framework with less flexibility to operate as freely as previously;
  - possible exclusion from government tendering exercises.
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## THE UNIVERSITY'S STANDARDS

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The University has developed policies and guidance relating to **bribery, fraud and gifts and hospitality**\*. The policies outline the University's required standards of behaviour:

- no financial or other advantage shall be sought through bribery;
- the payment or acceptance of facilitation payments will not be tolerated, except where the relevant territory specifically permits such payments in its written law;
- the University Gifts and Hospitality Policy must be adhered to at all times;
- any suspicion of bribery should be reported immediately through the defined channels.

**All members of staff** are responsible for ensuring that they comply with these policies at all times.

**Heads of Department** are responsible for ensuring that staff within their departments are made aware of the policies and associated guidance.

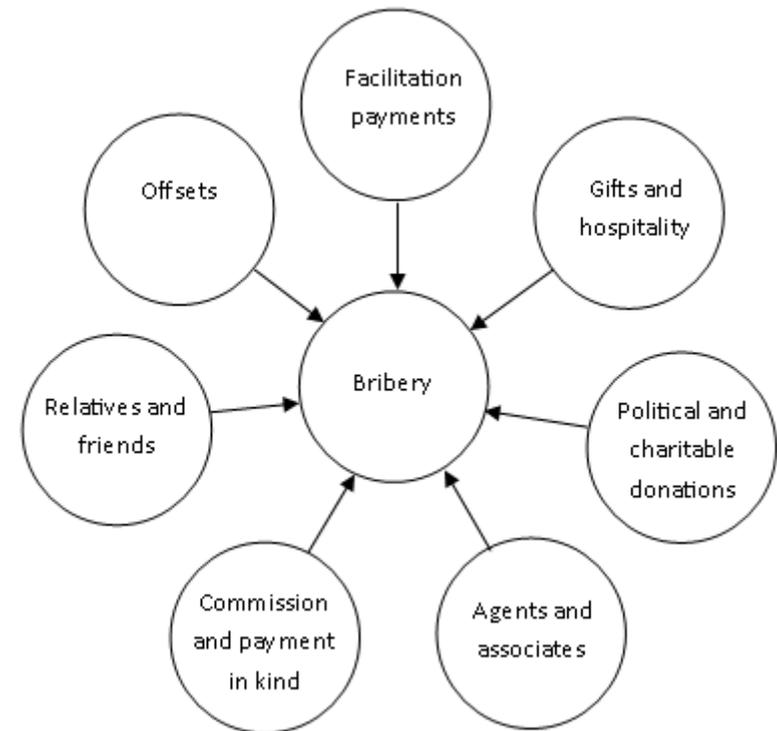
Bribery and fraud by University employees or student members acting on behalf of the University will be treated as a serious disciplinary offence.

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\*'The University' means the divisions, departments and services of the University of Oxford (which includes subsidiary companies, and Kellogg and St Cross Colleges, but excludes other colleges and OUP, which has its own policies).

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1. Facilitation payments
2. Gifts and hospitality
3. Political and charitable donations
4. Agents and associates
5. Commission and payment in kind
6. Relative and friends
7. Offsets



### 1. Facilitation payments and the offence of bribing a public official

Facilitation payments are **additional payments to facilitate the proper performance of a job**, i.e. they give you access to or speed up something to which you are entitled anyway. Facilitation payments usually take the form of cash and often involve public officials. There is a specific section in the Act which deals with the offence of bribing a foreign public official.

Examples of facilitation payments include any small extra payment to:

- speed up a decision on a licence, visa, application, etc.
- obtain swift passage through an airport or border;
- get goods released from customs;
- ensure connection of utilities or essential services;
- ensure security from police officers or law agencies.

The term 'public official' relates to **anyone in a position of official authority** . This can include:

- government ministers and civil servants;
- local government members and officials;
- the police and other security agencies, such as immigration and border control;
- the armed forces; etc.

Public officials can be 'hidden' or appear as employees of private or commercial bodies, such as:

- **'QUANGOS'** (the Law Commission, British Library, Civil Aviation Authority, etc.)
- **world bodies** (the World Bank, Red Cross and International Standards Organization);
- **commercial and other bodies** in countries where enterprise is largely state-owned, most notably China;
- **Universities and research institutes** in countries where these organisations are considered to be state bodies.

Extra caution must always be exercised, therefore, when dealing with public officials, either within the UK or overseas. If there is any doubt then it is always safer to treat individuals and organizations as though they were public officials.

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## 2. Gifts and hospitality

Gifts and hospitality can be used as a means of **inducing improper performance** , as well as for reasonable and legitimate business purposes. For example:

- lavish entertainment by a supplier or applicant of someone involved in considering tenders or applications;
- frequent and regular hospitality provided by an HR agency to personnel staff;
- gifts of an excessive nature that you provide to a prospective client, sponsor or donor in the hope that this will impress.

The common factor is the intent to influence improper performance and the excessive nature of the gifts and hospitality.

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## 3. Political and charitable donations

**The University does not permit the making of political donations** – you may need to be aware of this if engaging the services of a politician (as a speaker, advisor, etc.). On a broader basis, donations (whether provided to or by the University) can also be used as a means of disguising bribery if there is some hidden advantage to be gained in return by the donor.

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## 4. Agents and associates

Agents, associates or partners acting on behalf of the University are a significant potential channel for bribery. Situations that might give cause for concern include:

- agents in overseas territories who act as ‘fixers’ to arrange travel, access to individuals, accommodation, etc. – do they pay bribes in order to secure the necessary arrangements?
  - partners or associates working with the University on teaching, research, or associated activities, themselves sub-contracting work to unregulated agents – can you be certain the sub-contractors do not pay bribes?
  - a shipping agent who transports goods on behalf of the University to overseas territories where bribery is endemic – exactly how do they ensure your items clear customs in time?
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## 5. Commission and payment in kind

Consider carefully any arrangement that involves payment of **commission** to a third party: is the size of that commission appropriate or could it be used by that party to bribe on your behalf?

An example:

‘Go For It’ is a company that helps place undergraduate language students with suitable hosts overseas during their study. It receives a commission for every student successfully placed. This payment is large enough, however, to enable Go For It to offer bribes to attract potential hosts and yet still make a profit.

**Payment in kind**, i.e. non-monetary arrangements can also be used as a means of covering up bribery so, as a general rule, should be avoided. Examples might include:

- gifts, goods or free use of assets or facilities;
  - services provided in return at a free or preferential rate.
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## 6. Relative and friends

This might be paying or favouring a relative or close friend or paying a bribe in order to obtain a benefit or position for a relative or friend.

Examples might include:

- side-stepping admissions rules to make a place available to the relative of a donor or sponsor;
  - employing the relative of someone to whom 'a favour is owed';
  - employing relatives or friends who will turn a blind eye to untoward activity;
  - providing gifts or hospitality to a relative or friend of an individual it is intended to influence, rather than directly to that individual.
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## 7. Offsets

Another **means of hiding bribery** – similar to commission – is an arrangement involving offsets, i.e. where fees owed in one direction can be offset by charges made in return. Such arrangements are frequently used legitimately where sub-contractors are employed (including caterers, cleaners, etc.) but because it is easy to 'lose' individual transactions or values when offsets are applied, care should always be taken in checking that all such charges are correct, legitimate and justified.

## PROCEDURE FOR DEALING WITH ACTUAL OR SUSPECTED CASES OF BRIBERY

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The following procedure is to be used in instances where bribery or fraud is reasonably suspected in the context of the University's activities. For example:

- if you are asked to pay a bribe or facilitation payment;
- if you are forced under duress to pay a bribe or facilitation payment;
- if you are offered a bribe for any reason;
- if you suspect bribery is occurring.

Individuals should report their concerns as soon as possible to the Director of Finance or the Registrar or the [Compliance Team](#) providing a brief description of the alleged irregularity, the loss or potential loss involved, and any evidence that supports the allegations or irregularity and identifies the individual or individuals responsible.

Any report will be treated as a disclosure under the University's [Public Interest Disclosure Code of Practice](#) (effectively its whistle-blowing policy). The Registrar will consider all submissions and determine whether there is a case to answer. If there is, the Bribery and Fraud Review Group will be convened to determine how to investigate or take the matter forward.

At all times information submitted will be treated in strictest confidence.

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## AND FINALLY

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You have now reached the end of this ebook.

The University's policy documents and further guidance can be found in the [Bribery and Fraud section](#) of the Council Secretariat's website.

If you have any concerns about complying with these policies, please contact the [Compliance Team](#).

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At the beginning we presented you with these two scenarios, now compare your answers with ours:

1. You have arranged for a shipping agent to transport some vital research equipment overseas. They have called to say that the local customs official won't release the items until he receives an extra 'entry fee'. Do you give the shipping agent the go-ahead to pay this?

» Do not pay the fee unless written confirmation can be obtained that it is required under local law.

2. A project manager, seconded for 8 months from First Consulting, has proposed hosting a meal (paid for by First) at the end of the project for all departmental staff involved. Are there any significant bribery risks associated with this?

» It's unlikely that this proposal could be construed as unduly influencing staff so that the consulting firm is used again in the future, however, this is how it might look to those not directly involved and so caution should be exercised. The project is complete, so as long as the meal is not overly elaborate or expensive, there is no bribery risk.

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