



Anti-Bribery & Corruption Policy & Procedures, including Gifts & Hospitality

Responsibility for Policy:	Finance Director
Relevant to:	LJMU Staff, Governors and Contractors,
Approved by:	Audit & Risk Committee, 21 June 2023
Responsibility for Document Review:	Finance Director
Date introduced:	July 2011
Date(s) modified:	Reviewed on annual basis
Next Review Date:	June 2024

RELEVANT DOCUMENTS

- The Bribery Act 2010

RELATED POLICIES & DOCUMENTS

- Staff Handbook
- Code of Conduct for Staff
- Staff Disciplinary Procedures
- Financial Regulations
- Financial Due Diligence Process
- Anti-Money Laundering & Terrorist Financing Policy
- Procurement Strategy
- Whistleblowing Policy (Disclosure under the Public Interest Disclosure Act 1998)

- E Learning Module: Bribery Act (mandatory for all staff)

1. Purpose

The purpose of this document is to define Liverpool John Moores (the University) Anti-Bribery & Corruption Policy and Procedures (including Gifts and Hospitality).

2. Scope

This policy applies to all University staff. It also applies to agency and contract staff working for the University (including seconded staff, interns and self-employed contractors), and all other persons associated with and acting for the University, whether directly or indirectly (“associated persons”). This definition includes Governors, representatives, agents, subsidiaries, individuals appointed as directors of any company, consultants, contractors and partners.

To the fullest extent permissible by law, this policy shall apply in all jurisdictions in which the University operates.

3. Definitions

Corruption is defined as dishonest or fraudulent conduct, typically involving bribery.

Bribery is the offering, giving, receiving, or soliciting of any item of value (money, goods, favours or other forms of recompense) to influence the actions of an official or other person in charge of a public or legal duty.

Both Bribery and Corruption are illegal

4. The Bribery Act 2010

4.1 The Bribery Act

The Bribery Act came into force in July 2011.

According to the Act, bribery is where someone requires, gives or promises financial (or other) advantage with the intention of inducing or rewarding improper performance. Improper performance is a key concept and generally means where an individual does not act in good faith, impartially and/or properly. The test of what is proper is based upon what a person in the UK would reasonably expect.

A typical example of improper performance could involve work being continually directed to a particular construction contractor at the expense of other qualified contractors as a result of bribery - work that has invariably been overpriced to allow for the bribery payments required.

Under the Act, there are two general forms of bribery where individuals are personally

criminally liable:

- Offering, promising or giving of a bribe (either directly or indirectly) with the intent to induce a person to improperly perform a relevant function - known as **active bribery**.
- Requesting, agreeing to receive or accepting a bribe (either directly or indirectly) such that a relevant function is, or will be, improperly performed - known as **passive bribery**.

There are two other related offences:

- **Bribing a foreign public official** in order to obtain or retain business or an advantage to the conduct of business.
- **Corporate liability where a body, such as a university, fails to prevent bribery.**
 - *As an employer if we fail to prevent bribery we can face an unlimited fine, exclusion from tendering for public contracts, and damage to our reputation. We therefore take our legal responsibilities very seriously.*

It is a criminal offence to offer, promise, give, request, or accept a bribe. Individuals found guilty can be punished by up to ten years' imprisonment and/or a fine

It is important to note that:

- The timing of bribery payments - before, during and/or after a relevant function - does not affect the offence.

4.2 Overseas reach

The Bribery Act has extensive global reach and holds UK organisations liable for failing to implement adequate procedures sufficient to prevent such acts by those working for the University or on its behalf, no matter where in the world the act takes place. In addition, current US legislation (Foreign Corrupt Practices Act or FCPA) offers similar prohibitions and potential penalties, and is enforced robustly by the US authorities, supported by extensive inter-agency co-operation on an international basis.

4.3 Mitigation

There is a statutory defence against the Act if the University can demonstrate that it had in place appropriate adequate procedures designed to prevent bribery.

5. Policy Statement

5.1 Position Statement and Commitment

The University is committed to the highest standards of integrity, probity and ethics in all its dealings - wherever they may take place and in whatever context.

Bribery is both illegal and unethical and brings with it the potential for criminal liability

and severe penalties - at both University and individual level. The legislation is extensive and, crucially, the University's anti-bribery responsibilities do not end at the office door or campus gate. Those responsibilities potentially extend to any associated person, representative, agent, subsidiary, partnership or body engaged on University business, including those within and outside of the UK.

The University has a zero-tolerance approach to bribery and serious action will be taken against anyone found to be involved in bribery, up to and including dismissal under the University's disciplinary processes. For associated persons, breach of this policy may result in contractual, legal and/or other sanction(s).

The University prohibits the offering, giving, soliciting or the acceptance of any bribe in whatever form to, or from, any person or company (public or private) by anyone associated with the University.

5.2 The Main Risk Areas for the University

Effective risk management lies at the very heart of this policy. Risk management is a crucial element of the University's overall governance process. It facilitates identification of the specific areas where the University does, or could, face bribery and corruption risks and allows mitigation plans, actions and protections to be put in place.

Global custom and practice in business can be deeply rooted in the attitudes, cultures and economic prosperity of a particular region, any of which can change at any time. Moreover, UK or European norms may not be applicable in some parts of the world where the University has interests; for example, the definition of 'foreign public official' may be technically significantly different in those countries where there is extensive nationalisation.

In common with other Higher Education Institutions (HEIs), the University faces a range of bribery risks throughout its activities, operations and geographies. These risks include, but are not limited to:

- Purchase of goods and services by the University, particularly the award of tenders and contracts
- Tenders and bids for research contracts which are made by the University
- The giving and receiving of gifts and hospitality
- The admission and recruitment of students (particularly from overseas)
- Collaborations, joint ventures, partnerships, affiliations (academic and commercial) particularly with organisations based overseas)
- Student assessments / examinations
- Subsidiaries and spin out companies

5.3 Anti-Bribery Measures at the University

- The **Finance Director** has responsibility for the Anti- Bribery and Corruption Policy (including Gifts & Hospitality), which will be reviewed annually by the **Audit and Risk Committee**.
- **Line Manager responsibilities:** It is the responsibility of all line managers to ensure that this policy is fully and regularly communicated to those involved with University business within their area. Crucially, this will include communication not only to staff but other external agencies e.g. agents, representatives and contractors.
- The **key policies for prevention of bribery** are listed in the Relevant Policies and Documents section of this policy and include appropriate record keeping, internal controls as well as monitoring.
- All relevant standard contracts and include **anti-bribery provisions**. It is particularly important for all staff and associated persons to:
 - Get to know every organisation which the University is intending to work with – whether the organisation will be a collaborative partner, supplier, contractor, consultant, or something else – and check that it has an embedded anti-bribery culture and has adopted similar robust anti-bribery policies and procedures
 - Use the up-to-date and applicable standard contract or document which incorporates anti-bribery provisions and do not amend any of those anti-bribery provisions without obtaining legal advice from the University Legal Department
- The University has a separate **Due Diligence Policy**. Due diligence procedures are used to ensure that, before establishing a relationship with a third party, that sufficient due diligence is performed to determine the third-party commitment to ethical business practice consistent with Anti-Bribery and Corruption Policy;
- **Training** on the Anti-Bribery and Corruption Policy is mandatory for all staff (see Related Policies and Documents – Online Training). Training includes making all staff aware of their personal responsibilities and duty to adhere strictly to this policy at all times;
- The University has a **Whistleblowing Policy** in place to ensure that all breaches or suspected breaches of this policy are fully investigated and, if appropriate, disciplinary measures are invoked and prompt action taken to remedy the breach;
- **Staff Responsibilities:** It is important for all staff/ associated persons to:
 - Read, understand and comply with this Anti-Bribery and Corruption Policy
 - Avoid any activity that might lead to, or suggest, a breach of this Anti-Bribery and Corruption Policy;
 - Register all gifts and hospitality in accordance with the University Gift and Hospitality Procedure – see section 7 below

- Alert the University as soon as possible in the event of a belief or suspicion that a conflict with this Anti-Bribery and Corruption Policy has occurred, or may occur in the future, in accordance with the Whistleblowing Policy – see section 6 below.

6. Reporting concerns including whistleblowing

The University has a **Whistleblowing Policy** which should be referred to.

If an individual has a concern and wishes to make a disclosure, they should inform the **University Secretary & General Counsel**.

In the event of a disclosure concerning the University Secretary & General Counsel, the disclosure should be made to the Vice-Chancellor

The prevention, detection and reporting of bribery is the responsibility of everyone associated with the University. The University requires any potential breaches of this policy and bribery offers to be reported under the University's Whistleblowing Policy

Any allegations of misconduct under this policy within the jurisdiction the University will be taken very seriously. If appropriate, action may be taken under the University's disciplinary processes. Attempted bribery or acceptance of a bribe may be considered as gross misconduct and, where it is considered that a criminal offence has occurred, the police may be informed

"Red flags" which may indicate bribery or corruption are set out in Appendix 1.

7. Gifts & Hospitality (UK)/ Gifts & Entertainment (US)

7.1 Context

Gifts, Hospitality and Entertainment is a collective term for the receipt or offer of gifts, meals, travel costs, entertainment, tokens of appreciation and gratitude, or invitations to events, functions, or other social gatherings, in connection with matters related to the University. It should be noted, however, that travel costs would only exceptionally be borne by a third party, and that the travel authorisation process is a key element of the University's overall corporate governance infrastructure and best practice.

*Note: gifts and hospitality which the University offers to its own staff or governors is covered by this policy but is also subject to the processes set out within the **Travel and Expenses Policy**.*

*Note: Philanthropic gifts and donations offered to and accepted on behalf of the University are covered by the **Donations Policy***

7.2 Allowable vs Not Allowable Gifts and Hospitality

Allowable Gifts and Hospitality:

Normal, reasonable and proportionate hospitality given or received as part of the University's wider student, commercial, promotional and marketing activities which is genuinely and demonstrably aimed at building a good business relationship or improving the profile of the University is allowable, within limits (see section 7.3 below).

Gifts and Hospitality Not Allowable:

- Hospitality must not be accepted by employees of the University in circumstances that may allow the employee to appear to be unduly influenced in favour of the provider of that hospitality. Those circumstances might, for example, include the proximity of the hospitality to the award of a contract. The gift or receipt of hospitality which is aimed at securing an improper business or other advantage, or which may affect the recipient's independence is obviously not permissible.
- No gifts or hospitality should be offered or received with any form of secrecy
- Cash should not be given or received as a gift under any circumstances
- Cash equivalents, such as vouchers or discount cards, should not be given to, or received from, external parties, except in specific circumstances where a modest token of gratitude is appropriate -e.g. volunteering activities such as research participants.
- The University does not make political donations. University staff are expressly forbidden to provide any donation or gift to political parties on behalf of the University.

Hospitality can amount to real or perceived bribery, and caution should always be exercised. If there is any doubt about the propriety of hospitality, it should not be accepted or offered.

In general, the simple 'acid' test for hospitality can be phrased as 'Is it reasonable, and could I reciprocate?'

7.3 Authority to Accept/Offer Gifts and Hospitality

Gifts and hospitality that comply with the policy must be authorised for acceptance as follows – note approval should be sought in advance, retrospective authorisation should be in exceptional circumstances only.

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.

Actual or estimated value	Approver
Gifts and hospitality up to £50 total value* (excluding public officials)	Budget Holder approval if offering, self-approval if receiving

Gifts and hospitality offered to any public official up to £250 total value	Directorate Member responsible for area
Gifts and hospitality over £50 up to £250 total value*	Directorate Member responsible for area
Gifts and hospitality over £250 up to £1,000 total value*	ELT member responsible for area
Gifts and hospitality received by a member of ELT over £50	Vice Chancellor
Gifts and hospitality exceeding £1,000 total value*	Finance Director (or Vice Chancellor if being received /offered by the Finance Director

*When applied to overseas these values should be considered in terms of sterling equivalent.

The above parameters apply to all staff and the Chair of the Board of Governors is responsible for authorising or declining gifts received or given by the Vice Chancellor or any members of the Board of Governors. The Chair of the Audit Committee is responsible for authorising or declining gifts and hospitality received or given by the Chair of the Board of Governors

Gifts and hospitality in excess of £1,000 must also be reported to the Audit & Risk Committee.

7.4 Register and Declarations

A formal record of gifts and hospitality received must be kept where;

- Any single gift or hospitality received /provided by staff has a value in excess of £50, or where any series of gifts or hospitality received/provided to/ from the same third party in a 12mth period has a cumulative total in excess of £50

A template is provided and is available in Appendix 2

Departments are expected to keep the contents of the Register under constant review and will be required to forward copies of records made annually to the Finance Director or nominated delegate.

The information may be published at the discretion of the University, requested by Internal Audit subject to current legislation.

Information about how your data is used and the basis for processing your data is provided in the University's employee privacy notice.

Incidence of non-adherence to this policy may be considered under the University's Staff Disciplinary Procedure.

Gifts and hospitality in excess of £1,000 must also be reported to the Finance Director for reporting to Audit & Risk Committee.

7.5 Examples

Examples of Gifts and Hospitality with their treatment are provided below.

Category	Treatment
Financial Gifts (Money/Vouchers)	These CANNOT be provided or accepted. If it is difficult to refuse a gift at the time it must be recorded in Gifts and Hospitality and returned as soon as possible.
Expensive Food Hampers	
Membership or subscription to clubs	
Expensive items of clothing	
Holidays	
A modest lunch or evening meal	These CAN be provided or accepted. The gift/hospitality should be £50 or below and should be recorded in the Gifts and Hospitality register
Bottle of wine or box of chocolates	
Flowers	
Books	
Working lunches or other low value refreshments	These CAN be accepted or provided as low value items of marketing gifts at events such as conferences or training course They DO NOT need to be recorded in Gifts and Hospitality register

Appendix 1 : Examples of “red flags” which may indicate bribery or corruption

Facilitation payments, also known as "back-handers" or "grease payments", which are typically small, unofficial payments made to secure or expedite a routine or necessary action (for example by a government official). They are not common in the UK, but are common in some other jurisdictions in which we operate.

Kickbacks which are typically payments made in return for a business favour or advantage.

Both facilitation payments and kickbacks are bribes.

The following scenarios raise concerns under various anti-bribery and anti-corruption laws.

- you become aware that a third party engages in, or has been accused of engaging in, improper business practices;
- you learn that a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having a "special relationship" with foreign government officials;
- a third party insists on receiving a commission or fee payment before committing to sign up to a contract with us, or carrying out a government function or process for us;
- a third party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made;
- a third party requests an unexpected additional fee or commission to "facilitate" a service;
- a third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
- a third party requests that a payment is made to "overlook" potential legal violations;
- a third party requests that you provide employment or some other advantage to a friend or relative;
- you receive an invoice from a third party that appears to be non-standard or customised;
- a third party insists on the use of side letters or refuses to put terms agreed in writing;
- you notice that we have been invoiced for a commission or fee payment that appears large given the service stated to have been provided;
- a third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to us;
- you are offered an unusually generous gift or offered lavish hospitality by a third party;

Appendix 2 Gift and Hospitality Register Template

PDF attached to this document

Excel file available on Policy Centre