

CITY OF LONDON COLLEGE



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A UNIVERSITY SECTOR PREMIER COLLEGE

ANTI-BRIBERY POLICY

2021/2022

CITY OF LONDON COLLEGE ANTI-BRIBERY POLICY

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1. Summary

- 1.1. This paper outlines the overarching framework of procedures and processes that can be considered to be the College's anti-bribery policy.
- 1.2. The College takes a zero tolerance approach to, and does not in any way condone, bribery. Offences under the Bribery Act 2010 (the Act), including, but not limited to, active and passive bribery or facilitation payments, by employees of the College, constitute gross misconduct under the conduct procedure. The conduct of persons associated with the College will be regulated via their contracts with the College which will similarly prohibit offences under the Act. In addition to any internal procedures the College will report suspected cases to the relevant authorities.
- 1.3. The College's Financial, HR and other procedures have been designed to inhibit financial and contractual impropriety; in response to the introduction of the Act the College has undertaken a number of additional actions including updating a number of Financial Procedures and policies to make explicit reference to the Act.

2. Summary of the Act

- 2.1. The College adopts the legal definitions as set out in the Act, abridged versions of which are detailed below for ease of reference. For the avoidance of doubt the full legal definitions can be found within the relevant sections of the Act.
- 2.2. **Offering a Bribe**
Financial or other advantage offered, promised, or given, to induce a person to perform a relevant function or activity improperly, or to reward him or her for doing so. (Bribery Act 2010 S.1).
- 2.3. **Receiving a Bribe**
Requesting or agreeing to receive or accepting a bribe. (Bribery Act 2010 S.2).
- 2.4. **Bribery of Foreign Public Officials**
It is an offence to offer, or provide, a financial, or other advantage, to a foreign public official. This includes facilitation payments, which are unofficial payments made to public officials for carrying out or speeding up routine procedures. They are more common overseas. Facilitation payments, or offers of such payments, will constitute an offence under the Act. (Bribery Act 2010 S.6).
- 2.5. **Applicability**
The Act applies to individuals, their managers and senior officers as well as the College as an organisation. If an offence under one of the three categories above is committed with the "consent or connivance of a senior official or person purporting to act in such a capacity" (Bribery Act 2010 S.14), the College itself is guilty of an offence (Bribery Act 2010 S.7).
- 2.6. **Penalties**
 - Maximum prison sentence of 10 years;
 - Unlimited maximum fine.

3. Policy Statement

- 3.1. Bribery is a criminal offence and morally wrong. It exposes the staff of the College to the risk of prosecution, fines and imprisonment as well as endangering the College's reputation.
- 3.2. The College is committed to maintaining the highest ethical standards and to carrying on its activities fairly, honestly, openly and in compliance with all applicable laws.
- 3.3. Bribery will not be tolerated by the College in any form and all members of staff and Associates (agents, consultants, contractors, Governors, service providers and external partner organisations) are required to uphold the highest standards of integrity in their dealings with or on behalf of the College and to comply with all applicable laws of the countries in which they are working. Failure to do so will result in disciplinary and, where appropriate, legal action against the individuals or organisations concerned.
- 3.4. Staff who suspect, or are concerned, that bribery may be taking place are obliged to report it in line with the College's whistleblowing policy.
- 3.5. Where the College confirms or reasonably suspects an offence under the Act may have been committed it will inform the relevant authorities as well as carrying out its own investigations.

4. Risk Assessment

- 4.1. The majority of the College's business is conducted within the UK and in accordance with UK consortia and EU tender procedures; it can therefore be considered low risk (The Bribery Act 2010, Quick start guide P5).
- 4.2. Existing financial procedures are considered to be sufficiently robust not to warrant further augmentation other than to simply reflect their links to the Act. However the College remains vigilant and processes put in place apply equally to UK and overseas activity.
- 4.3. The risk is considered greatest where the College conducts business overseas and for staff that travel abroad on business. Agents/regional representatives are also within a higher risk category given that the College may be liable for the actions of its Associates. Due diligence conducted on organisations prior to overseas visits substantially mitigates the risk to the College and its staff and is embedded into the process underpinning the production and authorisation of College's academic and commercial agreements.
- 4.4. In addition to the College's overseas activities, senior staff are considered to have a higher inherent risk as decision makers within the institution.
- 4.5. Staff in contact with students undergoing assessment may also be at risk under the Act; however this risk continues to be managed via checks in place as part of the Academic Regulatory framework and the conduct policy.

4.6. **Reputational risks**

Governors are considered to be low risk, however it is recognised that their substantial business interests need to be appropriately and transparently presented. Accordingly the existing register of interests will be expanded to cover gifts and hospitality as well as issuing guidance in the form of the code of conduct.

5. **Anti-bribery measures**

5.1. The College has reviewed the existing regulatory and policy framework and considered it sufficiently robust to manage many of the risks outlined within section 4 above. However where additional measures are considered necessary they have been put in place and are detailed below.

5.2. **Communication of the Policy to staff**

The Chief Executive Officer will highlight the College's anti-bribery policy statement to all staff which will be openly available on the College's website in addition to information already published. The Policy has been included within induction arrangements for new staff and training developed for specific at risk groups.

5.3. **Staff (or Associates) based or travelling overseas**

The CEO has informed all staff and associates of their obligations and has implemented a register for gifts and hospitality which will be used in accordance with the guidance in section 6 below. All employees of the College travelling overseas on official College business are made aware of CLC's anti-bribery policy by the CEO. The CEO is also responsible for ensuring that representatives/agents contracts are updated to fully reflect this policy. The specific anti-bribery policy for agents is included within this document at Appendix 1.

5.4. **Other staff including Senior Management and Governors**

Staff and Governors should declare gifts/hospitality using the Gifts and Hospitality Register. Completion of the register does not exempt senior post holders, as defined by the Board of Governors, from declaring separately relevant expenditure incurred as expenses.

6. **Guidance on Gifts and Hospitality**

6.1. The Gifts and Hospitality Register is maintained by the College, in a similar method and frequency to the risk register; that is staff are responsible for maintaining their own entries on the Register. Governors are only expected to make entries on the Register where gifts/hospitality have been given or received in the pursuance of College business.

6.2. **Gifts**

In general the receipt of gifts by College staff is discouraged, however legitimate gifts associated with the business organisation (e.g. goods with the organisations brand) may be accepted if it is considered that it may damage the relationship or cause offence to do otherwise. All gifts over the value of £30 received by College employees must be recorded on the Gifts and Hospitality Register.

6.3. Hospitality

The Act does not prohibit hospitality but due consideration must be given to the level of hospitality given or received, the way in which it was provided and to whom. For the purposes of the Gifts and Hospitality Register hospitality given (or received) by staff on College premises and using catering services procured using the appropriate process (e.g. online order form) does not need to be recorded on the register.

- 6.4. Where hospitality is given or received off College premises over the value of £30 per person (i.e. lunch for four people costing £120 would not need to be included on the register, if it cost £125 it would) and not paid by invoice to the College this must be entered onto the Gifts and Hospitality Register.
- 6.5. Individuals that receive or give low value hospitality to/from the same third party on a regular basis must declare it once the cumulative value exceeds £30 and on every occasion thereafter.
- 6.6. Where a group of CLC employees receives hospitality, the most senior person (defined by grade or, if grades are equal, length of service) present when hospitality is received is responsible for completing the Gifts and Hospitality Register on behalf of the others present.
- 6.7. Gifts or hospitality over the value of £50 per person should not be accepted without prior authorization from an individual's line manager. All gifts given to staff while on the business of the College may be considered to be the property of the College at the discretion of the Clerk to Governors.
- 6.8. The Register will be provided three times per academic year to the Clerk to the Board of Governors for review.

7. Further guidance

Further guidance should be sought from line managers in the first instance, who may in turn refer the matter to the Finance Manager or the CEO.

8. Policy Review

This policy will be reviewed on an annual basis, or if there is a change in legal or other business or academic related requirement.

<i>Review date</i>	<i>Description</i>	<i>Reviewer</i>
02/12/2022	Anti-Bribery Policy	Academic Director

Document history:

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16/11/2016	Policy approved and accepted by Academic Board	Task and Completion Committee
30/11/2017	Anti-Bribery Policy	Academic Director
30/11/2018	Anti-Bribery Policy	Academic Director
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02/12/2021	Anti-Bribery Policy	Academic Director

Appendix 1: City of London College - Bribery Act 2010 - Policy for Agents

1. Introduction

- 1.1 The Bribery Act 2010 is in force from 1st July 2011 and a summary of the key offences under the Act is given in Appendix 2.
- 1.2 The Bribery Act 2010 covers all employees and officers of the Company, and temporary workers, consultants, contractors, agents and subsidiaries acting for, or on behalf of, the College (“associated persons”) within the UK and overseas. Every employee and associated person acting for, or on behalf of, the College is responsible for maintaining the highest standards of business conduct.
- 1.3 Under the Bribery Act it is a criminal offence:
 - to give, promise or offer a bribe in the UK or abroad
 - to request, agree to receive or accept a bribe in the UK or abroad
- 1.4 It is a separate criminal offence to bribe a foreign public official by means of a facilitation payment.
- 1.5 It is a corporate offence to fail to prevent bribery by persons working on behalf of but not necessarily employed by a business.
- 1.6 The College could also be liable where someone who performs services for it – like an employee or agent – pays a bribe specifically to get business, keep business, or gain a business advantage for the College.
- 1.7 It is immaterial whether the offence is committed in the UK or abroad.
- 1.8 Thus it is important that:
 - the College has “adequate procedures” in place to prevent bribery;
 - employees and agents do not undertake actions which contravene the Bribery Act 2010

2. Policy for the City of London College’s Agents

2.1 Scope

The policy set out below relates to both Agents in the UK and overseas. For the purposes of this policy “agent” includes anyone acting on the College’s behalf in the recruitment of students either under an agent’s contract or by payment of a referral fee.

2.2 **Overriding Principle**

In the course of the Agents work relating to the City of London College:

- Agents of the College must not undertake any actions on behalf of the College which contravene the Bribery Act 2010.
- The College prohibits agents from offering, promising, giving, soliciting or accepting any bribe. The bribe might be cash, a gift or other inducement to, or from, any person or company, whether a public or government official, official of a state- controlled industry, political party, or a private person or company, regardless of whether the agent is situated in the UK or overseas. The bribe might be made to ensure that a person or company improperly performs duties or functions (for example, by not acting impartially or in good faith or in accordance with their position of trust) to gain any commercial, contractual or regulatory advantage for the College in either obtaining or maintaining College business, or to gain any personal advantage, financial or otherwise, for the agent or anyone connected with the agent.

2.3 **Records**

- Agents of the City of London College are required to take particular care to ensure that all records are accurately maintained in relation to any contracts, or business activities, enacted on behalf of the College, including financial invoices and all payment transactions with clients, suppliers and public officials.
- Agents are required to keep accurate, detailed and up-to-date records of all corporate hospitality, entertainment or gifts accepted or offered relating to their work on behalf of the College (See Appendix 3).

2.4 **Agents Overseas**

Agents conducting business on behalf of the College outside the UK may be at greater risk of being exposed to bribery or unethical business conduct than UK-based agents. Agents owe a duty to the College to be extra vigilant when conducting international business.

2.5 Agents should report to the College close family, personal or business ties that the agent may have with government or corporate officials, directors or employees that College business is being undertaken with:

- a history of corruption in the country in which the business is being undertaken;
- requests for cash payments;
- requests for unusual payment arrangements, for example via a third party;
- requests for reimbursements of unsubstantiated or unusual expenses; or
- a lack of standard invoices and proper financial practices.

2.6 If an agent is in any doubt as to whether or not a potential act constitutes bribery, the matter should be referred to their prime contact at the College (The Agent's Contract Manager) who will liaise with the Finance Manager.

3. Facilitation Payments

- 3.1 Agents are prohibited from making or accepting any facilitation payments. These are payments made to government officials for carrying out or speeding up routine procedures. They are more common overseas. Facilitation payments are distinct from an official, publicly available fast-track process. (See Appendix 3).
- 3.2 Where a public official has requested a payment, the Agent should ask for further details of the purpose and nature of the payment in writing. If the public official refuses to give these, this should be reported immediately to their prime contact at the College (The College Contract Manager for the Agent) who will liaise with the Finance Manager.
- 3.3 If the public official provides written details, the Agent's College Contract Manager will liaise with the Finance Manager, who will consider the nature of the payment. Local legal advice may be sought by the College in liaison with the Agent. If it is concluded that the payment is a legitimate fee, for example part of a genuine fast-track process, or is permitted locally, the College will authorise the agent to make the payment.
- 3.4 Where the Agent's College Contract Manager and the Finance Manager consider that the request is for a facilitation payment, the Agent will be instructed to refuse to make the payment and notify the public official that the Agent is required to report the matter to the College.
- 3.5 The College will seek the assistance of the relevant agent in its investigation and may determine that the matter should be referred to the prosecution authorities.
- 3.6 If an Agent has any other concerns about the nature of a request for payment, the Agent should report it to the College Contract Manager for the Agent who will liaise with the Finance Manager.

4. Corporate entertainment, gifts, hospitality and promotional expenditure

- 4.1 The College permits corporate entertainment, gifts, hospitality and promotional expenditure that is undertaken:
 - for the purpose of establishing or maintaining good business relationships;
 - to improve the image and reputation of the College;
 - to present the College services effectively, provided that it is arranged in good faith, and not offered, promised or accepted to secure an advantage for the College or any of its employees or associated persons or to influence the impartiality of the recipient.
- 4.2 The College will authorize only reasonable, appropriate and proportionate entertainment and promotional expenditure which has been authorized in advance by the appropriate College officer as set out in the College's procedures. Thus Agents need to obtain approval from the College before this is undertaken.

- 4.3 The Agent should submit requests for proposed hospitality and promotional expenditure well in advance of proposed dates to the officer of the College giving:
- the objective of the proposed client entertainment or expenditure;
 - the identify of those who will be attending;
 - the organization that they represent;
 - details and rationale of the proposed activity.
- 4.4 The College will approve business entertainment proposals only if they demonstrate a clear business objective and are appropriate for the nature of the business relationship. The College will not approve business entertainment where it considers that a conflict of interest may arise or where it could be perceived that undue influence or a particular business benefit was being sought (for example, prior to a tendering exercise.
- 4.5 Any gifts, rewards or entertainment received or offered from clients, public officials, suppliers or other business contacts should be reported immediately to the College Contract Manager for the Agent. In certain circumstances, it may not be appropriate to retain such gifts or be provided with the entertainment and an agent may be asked to return the gifts to the sender or refuse the entertainment, for example, where there could be a real or perceived conflict of interest. As a general rule, small tokens of appreciation, such as flowers or a bottle of wine, may be retained by employees.
- 4.6 If an agent wishes to provide gifts to suppliers, clients or other business contacts, prior written approval from the College Contract Manager is required, together with details of the intended recipients, reasons for the gift and business objective. These will be authorised only in limited circumstances.
- 4.7 Agents must supply records and receipts, in accordance with the contract requirements.

5. Charitable and political donations

- 5.1 Agents should not give charitable and political donations to third parties on the College's behalf or in relation to the College's business.

6. Reporting suspected bribery

- 6.1 The College depends on its Agents to ensure that the highest standards of ethical conduct are maintained in all its business dealings. This is also the case for any sub-contractors that the Agent employs to carry out work on behalf of the College. Agents are requested to assist the College and to remain vigilant in preventing, detecting and reporting bribery.
- 6.2 Agents are encouraged to report any concerns that they may have to the College Contract Manager as soon as possible. Issues that should be reported include any suspected or actual attempts at bribery in relation to the work carried out on behalf of the College.

6.3 The College Contract Manager for the Agent will then inform the Finance Manager who will liaise with other College officers to ascertain the appropriate action to be undertaken.

Appendix 2: Bribery Act 2010

The Act came in to force on July 1st 2011. It contains offences of making or receiving a bribe and establishes a new corporate offence. The Ministry of Justice has issued both “Guidance to the Bribery Act” and a “Quick Start Guide”. See below a summary of the key offences under the Bribery Act.

Section 1 – offering or providing a bribe

The general bribery offences under section 1 of the Act are drawn very widely:

- It is an offence for a person to offer or provide a financial or other advantage to another person, where the advantage is intended to induce a person to “perform improperly” a “relevant function or activity”, or reward them for that improper performance.
- An offence will also be committed where it is known that the acceptance of the advantage would itself constitute improper performance.
- The offering provision of the advantage can be made directly or via third party (e.g. an agent).
- There is no exception for “facilitation” or “grease” payments.
- “Functions” and “activities” include any public function, and any business or employment activity, whether within or outside the UK.
- “Improper performance” means performance of a function or activity in breach of a “relevant expectation” i.e. that the function or activity be performed in good faith, impartially, or by a person in a position of trust.
- The “expectation” is deemed to be that of a reasonable person in the UK. If the function or activity is performed outside the UK, the local customs and practices of bribery in the foreign country are to be disregarded, unless they are permitted by written law of that country.

Section 2 – Receiving bribes (Section 2 of the Act)

It is an offence under the Act to be bribed as well as to bribe:

- The Act makes it an offence to request or accept a financial or other advantage, with the intention that, as a consequence, a relevant function or activity (as defined above) should be performed improperly.
- Again, an offence will be committed where the request or acceptance itself constitutes the improper performance, and also where a person requests or accepts the advantage as a reward for improper performance. Note that, in these instances there is no requirement that the recipient knows or believes that the performance of a function or activity is improper.
- Again the request or acceptance of the advantage can be made directly or via a third party.

Section 3 – Bribery of foreign public officials (Section 6 of the Act)

The Act sets out specific offences relating to bribery of public officials:

- It is an offence to offer or provide a financial or other advantage to a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.
- Again, the offering or provision of the advantage can be made directly or via a third party (e.g. an agent).
- The local customs and practices of bribery of officials in the foreign country are to be disregarded, unless they are permitted by the written law applicable to the official.

Section 4 – Failure of a commercial organisation to prevent bribery (Section 7 of the Act)

The Act creates an entirely new “corporate” offence which can be committed by any commercial organisation (partnerships and companies) in the private as well as the public sector. The definition includes English HEIs:

- A commercial organisation will commit an offence where a person “associated” with it commits one of the above bribery offences with the intention of obtaining or retaining business for the organisation, or obtaining or retaining an advantage in the conduct of business for the organisation.
- The offence can be committed by a UK body corporate or partnership carrying on business in the UK or abroad, and also a foreign body corporate or partnership carrying on business in the UK.
- An associated person is anyone who performs services for or on behalf of the organisation. This can extend beyond employees and subsidiaries to sub-contractors, distributors, suppliers, business partners, and other agents. The key test is whether the person is performing services for or on behalf of the organisation.
- The offence is one of “strict” or automatic liability i.e. it can be committed by the commercial organisation without intention or knowledge.
- However, it will be a defence for the organisation to prove that it had in place “adequate procedures” designed to prevent associated persons from committing bribery offences. Adequate procedures will need to be proportionate to the size of the organisation and the risks faced by it.
- The Ministry of Justice has produced guidance on what procedures will constitute “adequate procedures” for the purposes of Section 7 of the Act.

Section 5 – International application

- The offences set out above have international application. Therefore, a person may commit the offences in Section 1, 2 and 6 of the Bribery Act either in the UK, or abroad, so long as the person has a “close connection” with the UK e.g. is a British citizen or UK company.
- A commercial organisation, as defined, may commit the offence under Section 7 in the UK or abroad in any event. There is no additional requirement that it has a close connection with the UK.

Section 6 - Penalties

- Maximum prison sentence of 10 years.
- Unlimited fine.

Appendix 3: Extract from “The Ministry of Justice Quick Start Guide to the Bribery Act 2010”

Can I provide hospitality, promotional or other business expenditure under the Act?

Yes. The Government does not intend that genuine hospitality or similar business expenditure that is reasonable and proportionate be caught by the Act, so you can continue to provide bona fide hospitality, promotional or other business expenditure.

In any case where it was thought the hospitality was really a cover for bribing someone, the authorities would look at such things as the level of hospitality offered, the way in which it was provided and the level of influence the person receiving it had on the business decision in question. But, as a general proposition, hospitality or promotional expenditure which is proportionate and reasonable given the sort of business you do is very unlikely to engage the Act. So you can continue to provide tickets to sporting events, take clients to dinner, offer gifts to clients as a reflection of your good as a reflection of your good relations, or pay for reasonable travel expenses in order to demonstrate your goods or services to client if that is reasonable and proportionate for your business.

What about facilitation payments?

Facilitation payments, which are payments to induce officials to perform routine functions they are otherwise obligated to perform, are bribes. There was no exemption for such payments under the previous law nor is there under the Bribery Act.

As was the case under the old law, prosecutors will carefully consider all the facts and surrounding circumstances of cases which come to their attention to assess whether a payment amounts to a bribe and, if so, whether a prosecution is in the public interest.

You can continue to pay for legally required administrative fees or fast-track services. These are not facilitation payments.