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Anti – Bribery Policy and Procedures

1 INTRODUCTION

- 1.1 Bournemouth University (**BU**) is committed to ethical standards of business conduct.
- 1.2 BU adopts a zero-tolerance approach to bribery and corruption in all jurisdictions.
- 1.3 BU will uphold relevant laws for countering bribery and corruption, in particular the Bribery Act 2010 (**the Act**).
- 1.4 This policy is intended to set out BU's approach to monitoring, identifying and ultimately avoiding incidents and/or risks of bribery.

2. SCOPE AND PURPOSE

- 2.1 This policy and its associated implementing procedures apply to:
 - 2.1.1 all employees of BU, whether permanent or temporary, and workers, casual and agency staff and volunteers when working in or for BU (**Staff**). To avoid doubt this includes visiting faculty when working in or for BU;
 - 2.1.2 all external members of the BU Board when acting in that capacity (**External Members**);
 - 2.1.3 all employees, directors or trustees of BU's wholly owned subsidiary companies (**Subsidiary Representatives**); and
 - 2.1.4 all other persons when working in or for BU, whether directly or indirectly, such as external members of Faculty or BU committees, individuals that BU appoints as directors of any company, fundraisers, consultants and contractors (**External Representatives**).

- 2.2 To the fullest extent permissible by law, this policy shall apply in all jurisdictions in which BU works from time to time.
- 2.3 Preventing, detecting and reporting bribery in line with this policy is the responsibility of all Staff, Subsidiary Representatives and External Members. Preventing and detecting bribery in line with this policy is also the responsibility of all External Representatives. BU acknowledges that reporting arrangements for External Representatives will be context specific.
- 2.4 Breach of this policy and its associated procedures in force from time to time may constitute a disciplinary offence for Staff and Subsidiary Representatives and will be subject to investigation under BU's disciplinary procedures. For External Members and External Representatives, breach of this policy and its associated procedures, may result in other contractual or legal sanction. Criminal penalties may also apply, but are outside the scope of this policy.

Policy

3. POLICY STATEMENT

- 3.1 Each Staff member, External Member and Subsidiary Representative must:
 - 3.1.1 take all action and comply with all prohibitions required by this policy and its associated procedures;
 - 3.1.2 identify and report bribery situations where there is a suspicion or risk of bribery;
 - 3.1.3 comply with the hospitality reporting requirements contained in this policy and its associated procedures; and
 - 3.1.4 consider their related duties to make appropriate disclosures under BU's Conflict of Interest and Fraud policies.
- 3.2 Each External Representative must:
 - 3.2.1 take all action and comply with all prohibitions required by this policy and its associated procedures;
 - 3.2.2 identify and report bribery situations where there is a suspicion or risk of bribery.

4. What is Bribery?

4.1 “Bribery” means:-

- 4.1.1 offering, promising or giving a financial or other advantage to another person (either directly or indirectly) with the intent to induce a person to improperly perform a relevant function or activity or to reward a person for the improper performance of a relevant function or activity; or
- 4.1.2 offering, promising or giving a financial or other advantage to another person (either directly or indirectly) knowing or believing that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity; or
- 4.1.3 requesting, agreeing to receive or accepting a financial or other advantage (either directly or indirectly) intending that, in consequence, a relevant function or activity will be improperly performed or as a reward for the improper performance of a relevant function; or
- 4.1.4 requesting, agreeing to receive or accepting a financial or other advantage (either directly or indirectly) where the request, agreement or acceptance itself constitutes the improper performance of a relevant function or activity; or
- 4.1.5 offering, promising or giving any financial or other advantage (either directly or indirectly) to a foreign public official with the intention of influencing that official in order to obtain or retain business or other advantage in the conduct of business.

4.2 The following are examples of bribery. The list is not exhaustive:

- 4.2.1 offering excessive hospitality **to** a contact to secure a commercial research project or grant;
- 4.2.2 receiving concert tickets **from** a contact on the understanding that you will, as a result, put business “their way” or award or renew an existing contract;
- 4.2.3 a contact offers your partner a free long-haul flight if you ensure that their tender response receives preferential treatment;

4.2.4 using an overseas intermediary to pay a suggested £1,500 “fee” for expedited approval by a foreign official of a local course proposed to be run by BU;

4.2.5 a student has been unable to secure an undergraduate position at BU due to poor grades but his father offers a £10,000 donation to a Faculty or research project if the decision is reversed.

5. Legal Penalties

5.1 Individuals found guilty of a bribery offence can face fines or prison sentences of up to ten years.

5.2 BU may face unlimited fines if it is found to have “failed to prevent” bribes being made by Staff or persons associated with BU. This is why this policy extends to External Members and External Representatives. BU may also find itself excluded from certain public contracts, potentially affecting its income.

6. What is not acceptable?

6.1 Without limitation it is not acceptable for Staff, External Members, Subsidiary Representatives or External Representatives or anybody on behalf of any of them to:

6.1.1 engage in bribery (whether giving or receiving) as defined in section 4 above; or

6.1.2 otherwise engage in any activity that might lead to a breach of this policy and its associated procedures as they apply to Staff, External Members, Subsidiary Representatives and External Representatives.

6.2 In addition, it is not acceptable for Staff, External Members or Subsidiary Representatives to fail to report any concerns which are required to be reported under this policy and its associated procedures.

6.3 BU acknowledges that although External Representatives are required to report, as set out in paragraph 3.2.2 above, the method of reporting will be context specific.

7. What do I do if I suspect bribery?

7.1 Any member of Staff, External Member or Subsidiary Representative who:

7.1.1 has reason to suspect or be concerned that bribery has occurred or may occur; or

7.1.2 encounters any of the “red flags” listed in Schedule 1 to this policy, must promptly report their concern(s).

7.2 In the case of Staff or External Members, the report must be to the Finance Director, copied to the Chief Operating Officer. In the case of Subsidiary Representatives, the report must be to the person specified by the Board of the relevant subsidiary company.

7.3 The person in receipt of a report shall take such further action as they deem appropriate to ensure legal compliance and appropriate remediation (where applicable).

7.4 Where the concern(s) may be linked in some way to a person due to receive the report under 7.2 above, the report must be made directly to the Chair of BU’s Audit, Risk and Governance Committee (**ARG Committee**). The ARG Committee Chair may then take, in conjunction with unaffected members of the University’s Executive Team, such further action as he/she deems appropriate to ensure legal compliance and appropriate remediation (where applicable).

8. What if I am worried about reporting?

8.1 BU encourages Staff, External Members and Subsidiary Representatives to speak up and report concerns through the above channels. This is a core part of its commitment to ethical and legal compliance and BU is committed to ensuring that individuals making reports in good faith do not suffer detriment as a result.

8.2 If Staff are not comfortable reporting concerns through the routes above then they should still report their concerns and are reminded of the provisions of the Public Interest Disclosure Policy in the Staff Intranet.

9. Hospitality

9.1 What is hospitality?

BU defines hospitality as including gifts, entertainments or ‘perks’ **offered** or **received** by reason of or in connection with employment or relations with BU. This could include the offer of a meal, tickets to a sporting or professional event, or an individual present, for example a bottle of alcoholic drink.

9.2 Hospitality can amount to bribery.

9.2.1 The key point is the need for great care, transparency and proper processes when dealing with hospitality. This applies equally where hospitality is given (or proposed to be given) as to where it is received (or offered).

9.2.2 There is no “cut off” point at which gifts and hospitality are considered too small to amount to bribery at law. This is because the purpose behind the hospitality is always important.

9.3 What is not allowed?

The gift or receipt of hospitality by Staff, External Members, Subsidiary Representatives and External Representatives which is aimed at securing an improper business or other advantage or which may affect the recipient's independence.

9.4 What is allowed?

Normal and proportionate hospitality whether given or received, for example, as part of BU's wider student, commercial, promotional and marketing activities where this is genuinely aimed at building a good business relationship or improving the profile of BU.

9.5 Conflicts

In addition to the requirements below, in the case of Staff and External Members, hospitality may also need to be disclosed under BU's related Conflict of Interest Policy, and in the case of Subsidiary Representatives, hospitality may also need to be disclosed under the relevant company's conflicts of interest policy.

10. Hospitality Reporting

10.1 ***Transparency is critical to ensuring hospitality does not cross the line into bribery.*** The following procedures in this section and section 11 do not apply to BU Graduation Ceremonies or to the attendance of Staff or External Members in their capacity as Staff or External Members at formal corporate events organised by the University.

10.2 From 1st July 2011, where it might reasonably exceed £20 in overall value, Staff, External Members and Subsidiary Representatives must log in the appropriate Faculty, Professional Service or Board hospitality register all hospitality offered by them or to them or received by them, whether or not accepted. The appropriate hospitality register for Subsidiary Representatives will be communicated to Subsidiary Representatives by the board of directors of the relevant subsidiary company.

10.3 The “overall value” is to be taken as an aggregate of any hospitality offered or received by an individual (or any parties related to them) within a three month period. For example, a business or personal contact buys you lunch every day for a week. The overall value of the hospitality offered is likely to exceed £20. It must therefore be logged.

10.4 Staff, External Members and Subsidiary Representatives must exercise discretion in relation to hospitality. If in doubt about the propriety of hospitality, do not offer or receive it (as the case may be). Remember to log the offer if the £20 value is exceeded.

10.5 **External Examiners**

Where external examiners are offered appropriate hospitality by the Faculties in accordance with Educational Development and Quality (EDQ) standard approved arrangements for attendance at examination boards this does not require logging in the register or separate approval under section 10 and section 11. Any hospitality offered to external examiners which does not fall within this exemption remains subject to the requirements of section 10 and section 11.

11. **Hospitality Approval**

11.1 In addition to the requirement to log, from 1st July 2011, where it might reasonably exceed £50 in overall value (see paragraph 10.3), Staff, External Members and Subsidiary Representatives should seek prior approval for all hospitality (or as the case may be, further hospitality) offered to them or proposed to be offered by them. In exceptional circumstances where it has not been possible to seek approval in advance then it must be logged and approval must still be sought at the first available opportunity.

11.2 Where approval is needed by a Staff member below the level of Dean or Director of Professional Service, the Staff member must seek approval from the Dean or Director of Professional Service.

11.3 Deans and Directors of Professional Services must seek approval from a member of the University Executive Team.

11.4 Except for the Vice-Chancellor, members of the University Executive Team must seek approval from the Vice-Chancellor.

11.5 The Vice-Chancellor and External Members other than the Chair, Deputy Chair and Chair of ARG Committee must seek approval from the Chair or Deputy Chair.

11.6 The Chair must seek approval from the Chair of ARG Committee, the Chair of ARG Committee must seek approval from the Deputy Chair and the Deputy Chair must seek approval from the Chair.

11.7 Subsidiary Representatives must seek approval in accordance with the approval process specified by the board of directors of the relevant subsidiary company.

12. Review of Hospitality Registers

12.1 The Chief Operating Officer, or such other persons as he may delegate for this function, will periodically review the contents of the hospitality registers and a quarterly report will be made to the University Executive Team. An annual report will be made to the ARG Committee.

13. Facilitation Payments

13.1 Facilitation payments are typically small, unofficial payments made to government officials to secure or expedite a routine service to which there is already entitlement. For example, an official may request an undue “grease” payment to issue an academic’s visa. Similarly individuals within an official overseas regulatory authority may require an improper payment to issue regulatory approval for any joint educational arrangements BU maintains with overseas organisations.

13.2 It would be illegal and BU does not offer or make, and shall not demand or accept, facilitation payments of any kind by Staff, External Members, Subsidiary Representatives or External Representatives anywhere in the world.

13.3 How do I recognise a facilitation payment?

You should consider what the payment is ostensibly being asked for and whether the amount requested appears relevant and proportionate to the matter in hand. You should always ask for clarification, preferably written, if in doubt about what you are being asked for. Sometimes you may need to seek further advice to distinguish between properly payable fees and disguised requests for facilitation payments.

13.4 Reporting

If Staff, External Members, Subsidiary Representatives or External Representatives have any suspicions or concerns in respect of a payment then, subject to the following paragraph, they must not make the payment. Staff, External Members and Subsidiary Representatives must report those concerns using the process under section 7 above.

13.5 Payments made or received under threat of personal safety or other duress

13.5.1 BU recognises that there may be circumstances in which Staff, External Members, Subsidiary Representatives or External Representatives could face a request for such payments in circumstances of duress, including actual or implied threat to their personal safety.

13.5.2 Common sense must be used in deciding whether to make a payment in such circumstances. BU will not penalise payments made in good faith in such circumstances.

13.5.3 Where the circumstances set out in this paragraph apply, Staff, External Members and Subsidiary Representatives must as soon as possible report the circumstances using the process under section 7 above. External Representatives must also report, as set out in paragraph 3.2.2 above, but BU acknowledges that the method of reporting will be context specific.

14. Who is Responsible for the Policy?

14.1 The BU Board has overall responsibility for the implementation, monitoring and review of BU's Anti-Bribery Policy and Procedures and other anti-bribery measures.

14.2 The BU Board has delegated oversight of anti-bribery and corruption compliance activity to the ARG Committee and operational responsibility at Executive level lies with the Finance Director.

14.3 The Finance Director or Chief Operating Officer (in the event of the Finance Director's absence) shall report to every meeting of the ARG Committee as a standing agenda item about any reports made in respect of bribery and actions taken to mitigate bribery risk at BU. ARG Committee will report to the Board as appropriate.

15. What are the Problem Areas?

15.1 All Staff, External Members, Subsidiary Representatives and External Representatives must be vigilant and seek to identify and avoid bribery and corruption.

- 15.2 BU recognises that no list of problem areas will be fully illustrative (or exhaustive) of the situations that may be encountered in practice. Nevertheless, a list of commonly identified “problem areas” can be found at Schedule 3 to this Policy.

General

16. FREEDOM OF INFORMATION

- 16.1 Information provided by Staff, External Members and Subsidiary Representatives under this policy will be recorded in the hospitality registers of the BU Board, the relevant Faculties or Professional Service teams or relevant subsidiary company.
- 16.2 Extracts from the hospitality register relating to members of the BU Board and members of BU Leadership Team will be published under BU’s Publication Scheme:
(<https://www1.bournemouth.ac.uk/about/governance/access-information/freedom-information-act-2000-foia-and-environmental-information>).
- 16.3 Extracts of hospitality registers are subject to disclosure in response to requests under the Freedom of Information Act 2000. The University will consider whether any relevant exemptions to disclosure apply before responding to requests.
- 16.4 Personal data provided in compliance with this policy and procedures will be processed in accordance with the Data Protection Act 2018. Data will be processed only to ensure the aims of this policy and procedures are met and that legal obligations are complied with.

Schedule 1 Potential Risk Scenarios¹

The following is a list of possible “red flag” situations in which increased vigilance in respect of bribery and corruption risk should be exercised. The list is illustrative, and not exhaustive.

If any Staff, External Members, Subsidiary Representatives or External Representatives (all referred to as you below) encounter any of the following working for BU in relation to a party with whom BU is involved or proposed to be involved (or, where the context permits, in relation to any member of Staff, External Member, Subsidiary Representative or External Representative of BU) you must report this promptly. Staff, External Members and Subsidiary Representatives must use the procedure set out in section 7 of the policy. BU acknowledges that the method of reporting by External Representatives will be context specific.

The “red flag” situations are:

1. you become aware that a third party engages in, or has been accused of engaging in improper business practices;
2. you learn that a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a “special relationship” with foreign government officials;
3. a third party insists on receiving a commission or fee payment before committing to signing up to a contract with BU, or carrying out a government function or process for BU;
4. a third party requests payment in cash and/or refuses to sign a formal commission or fee arrangement, or to provide an invoice, or receipt for a payment made;
5. a third party requests that payment is made to a country or geographic location different from where the third party resides or conducts business;
6. a third party requests an unexplained additional fee or commission to facilitate a service;
7. a third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
8. a third party requests that a payment is made to “overlook” potential legal violations;

¹ Developed with reference to Serious Fraud Office Corruption Indicators

9. a third party requests that you provide employment or some other advantage to a friend or relative;
10. you receive an invoice from a third party that appears to be non-standard or customised;
11. a third party insists on the use of side letters or refuses to put terms agreed into writing;
12. you notice that we have been invoiced for a commission or fee payment that appears large in comparison with the service provided;
13. a third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used or known to BU; and
14. you are offered an unusually generous gift or offered lavish hospitality by a third party.

Schedule 2 – Helping to decide whether hospitality is acceptable

The following is a non-exhaustive list of questions for Staff, External Members and Subsidiary Representatives to consider when faced with a decision around hospitality, including an approval request.

1. The known intent behind the hospitality. Is the hospitality offered in “good faith” to build a business relationship, or might it be to secure an improper advantage? For example, a modest meal offered or received during a business meeting is likely to be more transparent and acceptable than any dinner from a supplier – even an existing supplier - during a tender period potentially affecting that supplier.
2. Might the “man in the street” consider the hospitality given to have an underlying purpose of securing an economic or business advantage? Consider how the hospitality would look if the parties were reversed. Might it look suspicious or improper?
3. Is the hospitality proportionate to the situation and the sector norms? Bear in mind that sector norms may change because of the new legislation, so what was once acceptable may no longer be considered to be.
4. Does the timing give rise to any concerns? What activity is being undertaken, and how might the hospitality be seen in the light of that?
5. Is the hospitality directed at a particular individual or is it more corporate? For example, is the hospitality offered to all those holding a particular position at universities, and therefore potentially more likely to amount to relationship building?
6. For hospitality proposed by BU, is it to be given as part of normal proportionate academic/professional practice to improve the image of BU or its relations with external business and educational partners? It must not be given to attempt to influence potential decisions by the recipient.
7. Extreme caution must be exercised in relation to **any** hospitality offered to an individual who might be considered to be a foreign public official. Where this is proposed it must be scrutinized as part of a full risk assessment in relation to that visit with due regard to the particular risks arising in the country in question. There may be countries where even routine promotional activity would be considered to be unacceptable.

What do I do if I am unsure?

In cases of uncertainty staff should seek further advice from the Finance Director or Legal Services before proceeding.

Schedule 3 - “Risk Areas”

Certain areas and business relationships require particular scrutiny, for example:

1. Improper hospitality, see further section 9.
2. Facilitation payments, see further section 13.
3. Intermediaries:
 - 3.1 appropriate due diligence, including both financial and wider background checks, is needed before any intermediary in a high risk location or business sector is engaged. The jurisdiction of the intermediary’s base and operation will be relevant as explained in paragraph 4 below. Enhanced due diligence, risk and financial controls will need to be proportionate to the scope of the arrangement in hand; and
 - 3.2 if the proposed intermediary operates in a jurisdiction where bribery is prevalent or endemic, it may be necessary to include contractual requirements for the intermediary to establish and operate anti-bribery measures equivalent to those applying to BU.

4. Jurisdiction

Certain jurisdictions present a heightened bribery risk. Transparency International publishes a helpful corruption index by jurisdiction at: <https://www.transparency.org/en/cpi/2019>

5. Joint Ventures and contracts

- 5.1 BU could be liable for any bribery or corruption committed by a fellow joint venture party or a contractor which accrues to BU’s commercial or financial benefit. It is therefore vital that detailed due diligence is carried out on any prospective joint venture party or contractor before committing BU to any such arrangement.
- 5.2 It may be necessary, as a result of the due diligence, for BU to require the joint venture party or contractor to “sign up” to equivalent anti-bribery measures and/or indemnify BU for any bribery or corruption risk and/or institute on-going monitoring arrangements.
- 5.3 Existing joint venture partners and contractors may need to be made subject to greater operational scrutiny by BU.

6. Donors

As a charity BU may receive donations or offers of donations. To avoid any risk of bribery it is vital that Staff, External Members and Subsidiary Representatives dealing with donors or potential donors remain vigilant and ensure that they are abiding by the terms of the policy and its associated procedures.