

The UK Bribery Act 2010 and How it Affects You

What is Bribery?

Bribery is generally defined as giving someone a financial or other advantage (not necessarily cash, and not necessarily of significant value) to encourage or influence that person to perform their functions or activities improperly or to reward that person for having already done so. The UK government issued legislation (The Bribery Act 2010) to tackle bribery and corruption both in the UK and overseas.

Keneth Clark, who oversaw the introduction of the legislation when he was UK Secretary of State for Justice, explained the need for action on the basis that: *"Bribery blights lives. Its immediate victims include firms that lose out unfairly. The wider victims are government and society, undermined by a weakened rule of law and damaged social and economic development. At stake is the principle of free and fair competition, which stands diminished by each bribe offered or accepted."*

UK Bribery Act 2010

The Bribery Act 2010 ("the Act") came into force on 1 July 2011 and applies to the whole of the UK. The UK courts also have a wide extra-territorial jurisdiction to deal with bribery committed outside the UK by persons and organisations with a close connection to the UK. Corporate bodies, including universities, are also liable to prosecution and may suffer reputational damage if a person/organisation **associated** with them bribes another person/organisation intending to obtain or retain business for them or an advantage in the conduct of business. This is why we need to brief all partners, agents and contacts associated with us about the Act, our expectations of their conduct and the implications if these standards are not met.

Our Approach and Policies

The University is committed to the highest standards of openness, integrity and accountability. The University conducts its business in an honest way and rejects the use of corrupt practices, or acts of bribery, to obtain an unfair advantage. The University has a suite of policies and a plan to support our commitment, including an Anti-Bribery Policy, an Anti-Corruption Policy, a Fraud and Corruption Response Plan, a Public Benefit Disclosure Policy and Anti-Money Laundering Policy. Copies of these documents can be found at <https://www.shu.ac.uk/about-this-website/legal-information>.

The Offences

The Act specifies three criminal offences which can be committed by organisations or individuals:

1. Paying or offering a bribe;
2. Accepting or requesting a bribe; and
3. Bribing a foreign public official.

There is also a fourth offence which can only be committed by an organisation:

4. Failing to prevent bribery by persons associated with the organisation.

The Defence

The Act provides organisations with a defence against a prosecution for the fourth offence if they can demonstrate that they have robust and effective anti bribery systems. We have procedures in place that are risk-based and proportionate, to seek to prevent bribery by our own employees and by anyone associated with us.

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Gifts and Hospitality

Normal hospitality which is reasonable and proportionate is not prohibited by the Act. The University maintains a Gifts & Hospitality Register and all gifts and hospitality received with a value of more than £100 MUST be recorded on here, although we do encourage that ALL gifts and hospitality are recorded for the sake of transparency.

When giving or receiving gifts and hospitality please consider whether the following requirements have been met:

- it is not made with the intention of influencing a third party to obtain or retain business or a business advantage, or to reward the provision of retention of business or a business advantage, or in explicit or implicit exchange for favours or benefits;
- it complies with any local law;
- it does not include cash or a cash equivalent;
- taking in to account the reason for the gift, it is an appropriate type and value and given at an appropriate time, and
- it is given openly, not secretly.

Having considered the guidance, if it is still not clear whether the gifts or hospitality are acceptable, the offer should be declined.

If you need to record something on the University's Gifts & Hospitality Register please e mail details to financialacc@shu.ac.uk

Corruption and bribery are against the law in every country in the world. Please note that it is no defence in UK law to say that a payment or practice is customary in an overseas institution or culture - the Act specifically says that UK standards must be applied.

Penalties and Consequences

The penalty for any organisation found to have committed a bribery offence under UK law is an unlimited fine. Individuals could face a ten year prison sentence and an unlimited fine. The University also risks serious reputational damage if we, any of our staff or any partner, agent or contact we work with were to be accused or found guilty of bribery or corruption.

Our Expectations

We ask that you take reasonable steps to prevent your directors, employees, officers, agents, affiliates or subsidiaries engaging in corrupt practices. We also ask that you please take an appropriate anti-bribery approach with your sub-contractors (usually by including a suitable anti-bribery clause in the contract) and oblige them to adopt the same approach with the next party down the supply chain and so on.

Our Position

You will see from this briefing that Sheffield Hallam University takes the issues of bribery and corruption extremely seriously, and we hope you will share our belief that corrupt practices must be stamped out.

Please note that Sheffield Hallam University will consider any act, offer, acceptance or omission which would constitute a breach of the UK Bribery Act 2010 or of our policies as a ground to terminate our contract with your organisation.