



UNIVERSITY  
*of*  
ABERTAY DUNDEE

## Anti-Bribery & Corruption Code of Conduct and Policy

Author	Head of Finance
Approved by	Court
Approval date(s)	21 June 2013
Review date	June 2016
Version	3.0
Document type	Policy
Activity/Task	
Keywords	
Document location	
Confidentiality	

### Version Control Table

<b>Version Number</b>	<b>Purpose / Changes</b>	<b>Author</b>	<b>Date</b>
Version 1.0	Creation of Anti-Bribery Policy	Head of Finance	01-Mar-12
Version 1.1	Minor amendments required	Head of Finance	16-Mar-12
Version 2.0	Approved by Court	Head of Finance	16-Mar-12
Version 2.1	Reviewed with no changes apart from revision date	Head of Finance	04-Mar-13
Version 3.0	Approved by Court	Head of Finance	21-Jun-13

## **Code of Conduct - Overview**

The UK Bribery Act 2010 received Royal Assent in April 2010 and became law on 1 July 2011. The Act makes radical changes to UK bribery and corruption law and puts UK legislation amongst the strictest in the world.

Because the change is so radical and far-reaching, the impact will be felt across all organisations in the UK, or with links to the UK, including those in the education sector.

The Bribery Act introduces a new strict liability offence for organisations of failing to prevent bribery. The introduction of this new corporate criminal offence places a burden of proof on organisations to show that they have 'adequate procedures' in place to prevent bribery, with the adequate procedures being informed by the following six principles:

Principle 1 - Proportionate Procedures

Principle 2 - Top-level commitment

Principle 3 - Risk Assessment

Principle 4 - Due diligence

Principle 5 - Communication, including training

Principle 6 - Monitoring and review

An organisation will be guilty of an offence under the Bribery Act if an 'associated person' carries out an act of bribery or corruption in connection with the organisation's business. Most importantly, a person will be associated with the organisation where he or she performs services for, or on behalf of, that organisation; the association could be as a result of being an employee, or through another role such as a subsidiary, agent, third-party, intermediary or supplier.

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## 1. Introduction & Policy Statement

**It is the policy of the University of Abertay Dundee that all staff, students and persons associated with the organisation as a result of being an employee, agent, third-party, intermediary, representative, third-party, business partner or supplier, or through another role such as a subsidiary, is obliged to conduct business on its behalf honestly, and without the use of bribery or corrupt practices in order to gain an unfair advantage.**

The University of Abertay Dundee has a zero tolerance policy towards bribery and corruption and is committed to the highest levels of openness, integrity and accountability, both in letter and spirit. This is not just a cultural commitment on behalf of the University of Abertay Dundee, but reflects the fact that any bribery-related issue could expose the organisation, its employees and associated persons to the risk of prosecution, fines and imprisonment, together with reputational damage and other Governmental-related consequences.

This Anti-Bribery and Corruption (ABC) Code of Conduct has been produced and adopted by the Court and it is essential that everyone involved with the organisation is aware of it, committed to it and abides by it. The University of Abertay Dundee ABC training and communication programme will support these objectives. It is the responsibility of Heads of Schools/Services and other Senior Management to ensure that staff in their areas of responsibility are aware of the existence and content of the University of Abertay Dundee ABC.

ABC is one element of the principles established by the Committee on Standards in Public Life, which all associated persons, at all levels, are expected to observe. A summary of these principles can be found at Appendix 3.

Any breach of this policy will be considered a serious matter and is likely to result in disciplinary action up to, and including, dismissal.

## 2. What is Bribery & Corruption, and what is a bribe?

**Bribery is the offer, promise, giving, demanding or acceptance of an advantage as an inducement for an action which is illegal, unethical, a breach of trust or the improper performance of a contract. Inducements can take the form of gifts, fees, rewards, jobs, internships, academic grades, favours or other advantages. Corruption is the misuse of entrusted power for personal gain.**

The Bribery Act 2010 makes radical changes to UK bribery and corruption law and puts UK legislation amongst the strictest in the world. The Bribery Act introduces a new strict liability offence for organisations failing to prevent bribery. The introduction of this new corporate criminal offence places a burden of proof on organisations to show that they have 'adequate procedures' in place to prevent bribery, with the adequate procedures being informed by the six principles shown at Section 7.

An organisation will be guilty of an offence under the Bribery Act if an 'associated person' carries out an act of bribery or corruption in connection with the organisation's business. Most importantly, a person will be associated with the organisation where he or she performs services for, or on behalf of, that organisation; the association is widely interpreted and could be as a result of being an employee, or through another role such as a subsidiary, agent, third-party, intermediary or supplier.

The Bribery Act provides for strict penalties for 'active' (giving) and 'passive' (receiving) bribery by individuals, as well as companies. The four prime offences are:

- Two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive or accepting of an advantage;
- A discrete offence of bribery of a foreign public official; and,
- A new offence of failure by a commercial organisation to prevent a bribe being paid to obtain or retain business or a business advantage (with the defence being that the organisation has adequate procedures in place to prevent bribery).

Acts of bribery or corruption are designed to influence the individual in the performance of University of Abertay Dundee duty and incline them to act dishonestly. The person being bribed is generally someone who will be able to obtain, retain or direct business. This may involve activities such as buying, selling or adjudication, or it may involve administrative tasks such as granting licences, customs, visas, imposing fines or taxes. It does not matter when the act of bribery is committed, either before or after the activity has been undertaken.

It should also be noted that bribery does not necessarily require an individual to act improperly; it could be, for example, a bribe to ensure that tender qualification criteria are applied exceptionally stringently, with the effect that competing tenders are excluded.

Appendix 2 gives some examples of 'Red Flag' risk scenarios - potential acts of bribery or corruption - which are relevant to University of Abertay Dundee.

### **3. Who can engage in Bribery & Corruption?**

Bribery and corrupt behaviour can be committed by:

- An employee, officer or director;
- A person acting on behalf of the University of Abertay Dundee (including agents, third-parties and representatives, which can include students); or
- Individuals and organisations that authorise someone else to carry out these acts.

Bribery and corruption will often involve public or government officials and this is a specific offence under the Act. It is important, again, to recognise that 'government official' is widely interpreted and could include:

- A public official, whether foreign or domestic
- A political candidate, or party official
- A representative of a government-owned or majority controlled organisation
- An employee of a public international organisation (eg World Bank)

### **4. Bribery & Corruption geography and penalties**

Bribery is a criminal offence in most countries and penalties can be very severe, potentially resulting in prison sentences of up to 10 years, unlimited fines or both. There are also other consequential penalties, such as debarment from public (government) tendering.

The Bribery Act not only makes bribery illegal, but also holds organisations, including University of Abertay Dundee, liable for failing to prevent such acts by those working for it, or on its behalf, irrespective of where the act takes place. Similar legislation is in place in many other countries, including the Foreign and Corrupt Practices Act (FCPA) in the USA.

It is in the interest of both the University of Abertay Dundee and the individual that everyone associated with the University of Abertay Dundee acts with propriety at all times. Corrupt acts committed abroad can result in prosecution in the UK.

Failure to comply with, or breach of, any parts of this Anti-Bribery & Corruption Code of Conduct could be regarded as a disciplinary offence, up to and including Gross Misconduct. Penalties could include dismissal without notice or pay in lieu of notice in accordance with the University of Abertay Dundee Discipline Procedure.

## **5. What are the University's Bribery & Corruption Implementation and Action Plans?**

The University of Abertay Dundee Action Plan is summarised below. It must be noted that some actions are the responsibility of each individual or manager, whereas others are managed by nominated functions within the University of Abertay Dundee:

**5.1 Top-level commitment** This Anti-Bribery and Corruption (ABC) Code of Conduct has been produced and adopted by the Court. The Court has undertaken ABC training and has appointed a Responsible Officer with responsibility for all matters relating to bribery and corruption. The University of Abertay Dundee governance processes will also now incorporate periodic bribery and corruption reviews, directly linked to the risk assessment process.

**5.2 Risk Assessment** This is central to the success of the University of Abertay Dundee Anti-Bribery & Corruption programme. Bribery & Corruption risk assessment - and consequent risk mitigation - will form a substantial component of the University of Abertay Dundee overall risk management programme and will be led by the Responsible Officer. The risk assessment will recognise that business practices around the world can vary widely and may be deeply rooted in history, attitudes, cultures and the business prosperity of that particular region. The Risk Register will be formally reviewed by the Court to an agreed timetable.

**5.3 Due Diligence** A comprehensive and mandatory due diligence programme will be undertaken for all parties to the University of Abertay Dundee business relationships and supply chain. This will incorporate a requirement for all new partners and suppliers to undertake, and satisfy, an initial due diligence review.

**5.4 Accurate Record-Keeping** Many serious bribery and corruption offences have been found to involve some form of inaccurate record-keeping; it is for this reason that some bribery and corruption-related legislation incorporates offences directly related to record-keeping. Accurate records and financial reporting must be maintained for all activities, including where third-parties are acting on the University of Abertay Dundee behalf. Clearly, false, misleading, mis-stated or inaccurate records could significantly damage the reputation of the University of Abertay Dundee and it is for this reason that the Head of Finance will be maintaining a periodic special corruption-related review of records which will then feed into the University of Abertay Dundee internal controls and monitoring procedures.

**5.5 Training, Communication & Declaration** Members of Court and the Senior Management Group of the University of Abertay Dundee will take part in a risk-based Anti-Bribery & Corruption training session.

Periodic communications will be issued by the Director of Communications to maintain awareness of bribery and corruption, but these will be carefully controlled in order to avoid 'over-communication'.

On completion of University of Abertay Dundee training, all staff undertaking the training will be expected to complete the 'Declaration of Understanding' shown at Appendix 1, confirming that they have undertaken the training and understand this Code of Conduct - which will have already been issued to them either by paper copy or online. Failure to do so will be considered a disciplinary offence, and will be dealt with under the University of Abertay Dundee Discipline Procedure.

**5.6 Code of Conduct for Third-Parties** A version of this Code of Conduct will be provided to all third-parties who could be considered 'associated persons' under the Bribery Act. Those individuals, or University of Abertay Dundee organisations, will also be expected to complete an equivalent 'Declaration of Understanding'. Progressively, Counterparty Clauses will be incorporated into all the University of Abertay Dundee contracts which will include a contract termination clause related to bribery and corruption. Failure to complete a 'Declaration of Understanding', confirming that they understand the Code of Conduct could be considered sufficient reason for contract termination.

**5.7 Associated Persons, including Agents and Consultants** All Associated Persons but, particularly, Agents and Consultants will need an appropriate clause to be inserted into University of Abertay Dundee contractual documents, which can be derived from this Code of Conduct under advice from the University of Abertay Dundee Solicitors and the Head of Finance.

In the case of Agents, the fundamental question - does the University of Abertay Dundee need the services of this agent and do the benefits from the relationship outweigh the inherent risks - will need to be answered formally in each case and signed-off through the authorisation process which will be managed by the University of Abertay Dundee Responsible Officer.

All existing and new suppliers will have a mandatory Bribery Act clause inserted into University of Abertay Dundee supply contracts by the University of Abertay Dundee Procurement team. This will be undertaken as soon as is practically possible, and certainly no later than the next formal contract renegotiation. This clause will give the University of Abertay Dundee the right to terminate any contract in the event of any bribery concern and the University of Abertay Dundee will not contract with any supplier who does not include the University of Abertay Dundee bribery clause, or a clause deemed to be materially comparable (this is likely to be confined to the largest suppliers to the University of Abertay Dundee).

All new employees will also have a mandatory Bribery Act clause inserted into University of Abertay Dundee contracts of employment and it is the intention of the University of Abertay Dundee to incorporate a relevant clause into existing employment contracts at an appropriate juncture.



## 6. Controls & Record-Keeping

The management and controls around Gifts & Hospitality, donations and similar activities are central to the University of Abertay Dundee having, and being seen to have, an effective Anti-Bribery & Corruption programme.

**6.1 Gifts & Hospitality** The University of Abertay Dundee Gifts & Hospitality process, including the **Register of Gifts & Hospitality**, has been reviewed in light of the Bribery Act. It is essential that the guidance and process are followed regarding acceptance, or otherwise, of any gift or hospitality of any value - although it must be stressed that some gifts and hospitality remain acceptable. The Head of Finance is responsible for maintaining the register, summary reporting and authorisation in exceptional cases.

**6.2 Donations** The University of Abertay Dundee Donations process has similarly been reviewed, and a formal **Register of Donations** process established. Many issues related to donations arise from timing - for example, a donation coinciding with a tender or an application for a place at the University of Abertay Dundee. For this reason, it is essential that potential donations are fully considered across the University of Abertay Dundee and then formally accepted, or declined, through the authorisation process. Again, the University of Abertay Dundee Head of Finance is responsible for maintaining the register, summary reporting and for seeking formal authorisations.

**6.3 Facilitation payments** In many countries, it is customary business practice to make payments or gifts of small value to junior government officials, customs officers, parking wardens and people in similar official roles in order to speed up or facilitate a routine action or process. **Despite this, facilitation payments as defined here are not permitted under this Code of Conduct and the University of Abertay Dundee takes the simple view that they are illegal - under UK jurisdiction, and in many other countries.** UK legislation makes no distinction between facilitation payments and bribes - regardless of value or local culture, even if that is 'how business is done'.

However, there are clearly exceptions for example if a facilitation payment is extorted, or if personal safety or **Protection of Life** is involved. Any payments made under duress must be recorded appropriately in conjunction with the University of Abertay Dundee Solicitors and the Responsible Officer.

**6.4 Conflicts of Interest** The University of Abertay Dundee keeps a **Register of Interests** and it is essential that this is kept up-to-date by individuals associated with the University of Abertay Dundee such that the appropriate authorisation process can be followed in order to prevent any conflicts, or perceived conflicts, of interest. It must be recognised that **transparency** is of paramount importance and, as a consequence, potential conflicts of interest involving family members, business activities and other occupations must all be declared using the authorisation process. If there are any questions about what should be declared then these can be directed, in the first instance, to your line manager and then to the Secretary to Court and the Responsible Officer.

**6.5 Anti-Money Laundering (AML)** The University of Abertay Dundee already has a full range of Anti-Money Laundering procedures in place, which are managed by the Head of Finance and audited by both the internal and external auditors.

Notwithstanding, the University of Abertay Dundee will be reviewing these procedures in light of the requirements of the Bribery Act.

However, under the Bribery Act legislative 'jigsaw', revenue from a contract that is gained through bribery may well be considered to be the proceeds of a crime and, as a consequence, could come under the jurisdiction of the **Proceeds of Crime Act**. Again, the University of Abertay Dundee will be reviewing relevant procedures in light of this issue.

## **7. Response to the Bribery Act 2010 - Six Principles & 'Adequate Procedures'**

As has already been highlighted, the Bribery Act introduces a new strict liability offence for organisations of failing to prevent bribery. The introduction of this new corporate criminal offence places a burden of proof on organisations to show that they have 'adequate procedures' in place to prevent bribery, with the adequate procedures being informed by the following six principles:

Principle 1 - Proportionate Procedures

Principle 2 - Top-level commitment

Principle 3 - Risk Assessment

Principle 4 - Due diligence

Principle 5 - Communication, including training

Principle 6 - Monitoring and review

The University of Abertay Dundee has undertaken, and will undertake, the following actions in direct response to the requirements of the Bribery Act:

<b>Principle</b>		<b>UNIVERSITY OF ABERTAY DUNDEE Response</b>
1	Proportionate Procedures	Full review of relevant procedures and use of guidance developed specifically for the HE sector.
2	Top-level commitment	Code of Conduct, policy and approach formally approved by Court. Regular review process established as part of overall governance processes.
3	Risk Assessment	Identification of higher-risk and potential higher-risk activities - and introduction of enhanced processes if, and when, required.
4	Due diligence	Continuous requirement to assess new and ongoing activities, including the use of third-parties. Option to introduce enhanced processes if, and when, required.
5	Communication, including training	Approval and dissemination of combined Code of Conduct and Policy document to 'associated persons'; for the largest suppliers only, a materially comparable Code of Conduct will be deemed acceptable. Comprehensive risk-based training session currently being organised.
6	Monitoring and review	Comprehensive project planning and risk identification, including ethical assessments. Associated financial controls and infrastructure established.

This document - a Combined Code of Conduct and Policy - is intended to address a number of aspects of the principles above, and to directly discharge some aspects of Adequate Procedures required under the Act.

## **8. Consequences of the Bribery Act 2010**

Clearly, one consequence of the Bribery Act is the need for the University of Abertay Dundee to establish relevant 'Adequate Procedures' and for all persons associated with University of Abertay Dundee to be aware of the Act, and what it means for them.

Failure to do so brings with it the consequence of prison sentences of up to ten years and unlimited fines, together with significant reputational damage, debarment from public (government) tendering and other penalties.

## 9. Bribery concerns

**9.1 Raising a concern** There are several routes to raise any bribery and corruption-related concern, or indeed, any concern related to the governance of the University of Abertay Dundee.

In the first instance, any concern can be raised with your line manager, who will escalate this to the Responsible Officer but where this is not possible or appropriate then it can be raised directly with the University of Abertay Dundee Responsible Officer.

The University of Abertay Dundee Whistleblowing policy (Public Interest (Whistleblowing) Policy) is also available for guidance and, if required, anonymity can be requested.

**9.2 What if you are a victim of bribery or corruption** In the event that you are a victim of bribery or corruption (eg you are approached about a bribe or offered a bribe) then it should immediately be notified to your line manager in confidence who must report this to the Responsible Officer and Head of Finance.

Where this is not possible or appropriate then it can be raised directly with the University of Abertay Dundee Responsible Officer or Head of Finance.

**9.3 Protection** Where a bribery or corruption-related concern is reported in good faith, typically in the circumstances of 9.1. or 9.2 above, then the University of Abertay Dundee will afford reasonable protection to the reporter, provided that the report has been made in good faith and is not vexatious.

**9.4 Investigation process** Any bribery or corruption-related investigations will be undertaken in accordance with the University of Abertay Dundee documented investigation process, which is detailed in the Financial Regulations (under Corruption and Fraud). Clearly, in some circumstances the decision to involve the police or other authorities will not rest with the University of Abertay Dundee eg where the University of Abertay Dundee is implicated in an ongoing police investigation.

**9.5 Self-reporting** The formal decision to self-report, where that is an option for the University of Abertay Dundee, will be taken by Court in conjunction with appropriate internal and external advisers. Self-reports will, typically, be made to the Serious Fraud Office (SFO) or Office of Fair Trading (OFT).

**9.6 Is there a Bribery Act 'grace' period?** There is no grace period (ie a period when a previous act of bribery or corruption can be reported without fear of penalty). If you have any knowledge of such an act, or acts, then you should make an immediate report through the channels identified in 9.1 and 9.2.

## **10. Anti-Bribery and Bribery Act accountability, roles and responsibilities**

**10.1 Code of Conduct and Policy** Responsibility for the preparation, authorisation by Court and updating of this document is held by the University of Abertay Dundee Head of Finance. Any questions about this document, the University of Abertay Dundee Anti-Bribery & Corruption process or response to the Bribery Act should be directed to the Responsible Officer in the first instance.

**10.2 Managers & Court** All University of Abertay Dundee Senior Management have responsibility for ensuring that they are trained in Anti-Bribery & Corruption to designated University of Abertay Dundee - wide standards. They are also responsible for ensuring that they, and University of Abertay Dundee staff, understand the potential consequences of an act of bribery or corruption. Managers also need to act as the initial point of escalation on bribery and corruption issues for University of Abertay Dundee staff, with the support of the Responsible Officer.

The Court retains overall responsibility for the management of all aspects of bribery and corruption, as part of the wider University of Abertay Dundee governance process.

**10.3 Students** Although likely to be exceptional, there will be circumstances where students could be in a situation - such as research, dealing with suppliers and overseas bodies with a relationship to the University of Abertay Dundee - where bribery and corruption could, potentially, be an issue. In these circumstances, it is essential that University of Abertay Dundee supervisor ensures that they go through the same process as an employee; typically, this would include receipt of this document.

**10.4 Monitoring and Review** The Court will undertake periodic reviews of all aspects of bribery and corruption, as part of the wider University of Abertay Dundee governance process. In this, they will be supported by the Responsible Officer, Internal Audit and the University of Abertay Dundee external auditors.

**10.5 Annual Anti-Bribery and Bribery Act Certification** As part of the wider governance process, Court will undertake an annual 'fitness for purpose' certification of the University of Abertay Dundee anti-bribery, corruption and Bribery Act capabilities in light of legislative developments and emerging best practice. They will be supported in this by the Responsible Officer, Internal Audit and the University of Abertay Dundee external auditors.

## **11. Additional guidance**

Additional guidance on all aspects of Anti-Bribery and Corruption and the Bribery Act can be obtained, in the first instance, from your line manager. Where this is not possible or appropriate then it can be raised directly with the Responsible Officer.

**Appendix 1 - Declaration of Understanding form**

This declaration is intended to be completed on-line but where this is not possible, this page should be printed and completed manually.

**DECLARATION OF UNDERSTANDING OF THE UNIVERSITY OF ABERTAY DUNDEE  
ANTI-BRIBERY & CORRUPTION AND BRIBERY ACT CODE OF CONDUCT AND  
POLICY**

I confirm that I have read the University of Abertay Dundee Anti-Bribery & Corruption and Bribery Act Code of Conduct and Policy.

I also confirm that I have understood the requirements of the Code of Conduct and Policy and my responsibilities in relation to this document.

I understand that if I am party to any breach of the Code of Conduct and Policy then it could be regarded as Gross Misconduct and that this may result in disciplinary action, up to and including dismissal, in accordance with the University of Abertay Dundee Discipline Procedure.

Signed: .....

Name: .....

Position: .....

Date: .....

## Appendix 2 - 'Red Flag' risk scenarios relevant to University of Abertay Dundee

For the most part, 'Red Flag' risk scenarios relevant to University of Abertay Dundee are largely identical to those affecting most organisations. However, there are some - typically related to overseas campuses, donations and places - that are largely reserved to the education sector.

Some scenarios - such as a donation - when considered in isolation may seem perfectly acceptable. However, when that donation coincides with the donor tendering for a contract or the donor's close relative applying for a place at the University of Abertay Dundee then, clearly, this presents a completely different scenario and risk.

Clearly, for this reason it is imperative that such issues are considered across the University of Abertay Dundee on a fully holistic basis.

Whilst it is accepted that the following risk scenarios are central to the activities of the University of Abertay Dundee, nonetheless the associated bribery and corruption risks should not be underestimated:

- Any procurement-related activity
- Supply relationships where relatively significant hospitality has become the norm, or is expected from potential/new suppliers
- Payments for travel, hospitality, gifts and entertainment - particularly overseas
- Invoicing issues, including agent fees, cash payments, disproportionate costs and unjustifiable / ambiguous / 'dubious' expenses
- Overseas field trips involving potential 'facilitation' payments to customs officials and others, typically, in order to speed things up or to gain access
- Facilitation payments to expedite overseas building, building permissions and access to utilities
- Overseas agents and brokers, particularly where student enrolment is involved
- Overseas campuses
- Donations
- Student places
- Examination results and associated processes
- Concerns - which would clearly need to be substantiated - over lavish hospitality, unnecessary foreign travel and entertainment linked to (apparently) legitimate business travel

### Appendix 3 - Standards in Public Life (Nolan Report)

The principles established by the Committee on Standards in Public Life include the following:

- **Selflessness** - Holder of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, University of Abertay Dundee family or University of Abertay Dundee friends.
- **Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of University of Abertay Dundee official duties.
- **Objectivity** - In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability** - Holders of public office are accountable for University of Abertay Dundee decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to University of Abertay Dundee office.
- **Openness** - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for University of Abertay Dundee decisions and restrict information only when the wider public interest clearly demands.
- **Honesty** - Holders of public office have a duty to declare any private interests relating to University of Abertay Dundee public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership** - Holders of public office should promote and support these principles by leadership and example.