



## Anti-Bribery Policy

**Equality Impact Assessment:** Askham Bryan College recognises the importance of the Equality Act 2010 and its duties under the Act. This document has been assessed to ensure that it does not adversely affect staff, students or stakeholders on the grounds of any protected characteristics.

### 1. POLICY STATEMENT

- 1.1 Askham Bryan College has a zero-tolerance approach to acts of bribery or corruption, by employees or anyone acting on the College's behalf. This includes the offering, promising or giving of a bribe ("active bribery") and the requesting, agreeing to receive or accepting of a bribe ("passive bribery").
- 1.2 Whilst the College does not wish to stifle the development of good working relationships with suppliers, agents, contractors or public officials, the College will not tolerate any acts of bribery and or corruption by the College's employees and or anyone acting on the College's behalf.
- 1.3 The College and its associates, which means consultants, contractors, service providers and external partner organisations, are at all times required to uphold the highest standards of integrity in their dealings with or on behalf of the College and will comply with all relevant anti-bribery and anti-corruption legislation.
- 1.4 The College therefore expects its staff, business partners, agents, suppliers and contractors to act with integrity and in a way that does not contravene the Bribery Act 2010.
- 1.5 College staff or any other person working on behalf of the College must therefore not:
  - offer or make a bribe, unauthorised payment or inducement of any kind to anyone;
  - solicit business by offering a bribe, unauthorised payment or inducement to a third party, such as a public official and or a contractor, to secure a contract, service, etc;
  - accept any kind of bribe, unauthorised payment or inducement that would not be authorised by the College in the normal course of events.

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- 1.6 College staff or any other person working on behalf of the College must therefore:
- refuse any bribe, inducement or unauthorised payment that is offered in a clear manner that could not lead to any misunderstanding;
  - report all such offers received to the Chief Executive Officer, Clerk to the Corporation, CFO, Director of Estates and Facilities, Director of HR and or Legal and Compliance Adviser as appropriate, either directly or through their line manager; and
  - report all perceived or potential breaches of the College’s Anti-Bribery Policy to the Chief Executive Officer, Clerk to the Corporation, CFO, Director of Estates and Facilities, Director of HR and or Legal and Compliance Adviser as appropriate, either directly or through their line manager.
- 1.7 In the event that an incident of bribery, corruption, or wrongdoing is reported, the College will immediately investigate the allegation. If a member of staff or member of the Corporation suspects a director or senior officer is guilty of bribery, then they should report the matter confidentially, using the College’s Whistleblowing Procedure.
- 1.8 Breach of this policy by a member of staff will result in disciplinary action which could lead to dismissal.
- 1.9 Breach of this policy by an agent, supplier, contractor or consultant acting on the College’s behalf will lead to immediate termination of their contract.
- 1.10 In addition to enacting its internal procedures, the College may also notify the Police, Serious Fraud Office, the Charity Commission, and other relevant bodies as appropriate.

## 2. SCOPE

- 2.1 This policy applies to all members of Askham Bryan College which means all employees and members of the Corporation. Staff are individually responsible for ensuring that they comply with College policies and procedures, in particular the College Anti-Bribery Policy.

## 3. WHAT IS “BRIBERY”?

- 3.1 The Bribery Act creates a number of offences, further details of which are set out in the guidance to this policy. In short, these are “bribing another person” (section 1 of the Act), “being bribed” (section 2), bribing a Foreign Public Official (section 6) and “failure of commercial organisations to prevent bribery” (section 7).
- 3.2 Of these, “bribing another person” or “improper performance”, “being bribed” and “failure of commercial organisations to prevent bribery” are of most relevance to the College.

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- 3.3 In the case of the College, the offence of “failure of commercial organisations to prevent bribery” would be committed where the College fails to prevent any employee or other “associated person” (see below) from committing “active bribery”, “passive bribery” or bribery of a foreign official on the College’s behalf.
- 3.4 An “associated person” is someone who provides the College with services so includes employees, agents, consultants, contractors and external partner organisations.
- 3.5 The College is automatically liable for the bribery unless it can show that it has “adequate procedures” in place to prevent bribery.

### What is “a bribe?”

- 3.6 The Act refers to "a financial or other advantage". This is deliberately broad and goes beyond the payment of money and the handing over of "brown envelopes".
- 3.7 A “bribe” may therefore cover a wide range of things, including:
- gifts and corporate hospitality;
  - promotional expenses, travel expenses and accommodation costs;
  - employing public officials or their relatives;
  - vouchers or other cash equivalent;
  - provision of services such as use of a car or provision of a decorator;
  - awarding a contract to a company connected to a public official;
  - awarding a contract to a particular company; or
  - making political or charitable donations.
- 3.8 Reasonable and proportionate corporate hospitality should not be caught by the Act.
- 3.9 However, entertaining which is disproportionate, lavish or beyond what would be reasonably necessary to “cement good relations” may be evidence of intent to induce or reward improper performance.
- 3.10 For corporate hospitality to be a bribe, there needs to be an intent to induce improper performance or improper conduct and there needs to be a link between the hospitality and the inducement. This could be indicated by the lavishness of the hospitality and or its proximity to big decision making by the guests.

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## 4. MAIN AREAS OF RISK FOR THE COLLEGE

4.1 The main risk areas (activities) that have been identified for the College are:

- international activities – both abroad and in the UK;
- commercial activity, ie procurement, by the College and or subsidiary and associate companies – giving and receiving bribes when awarding contracts for goods and services; and
- teaching areas – awarding of grades and qualifications.

## 5. HOW DOES THE COLLEGE PREVENT BRIBERY AND CORRUPTION?

5.1 The College will take the following steps to assist in the prevention of bribery and corruption and ensure compliance with the **Six Principles**, referred to by the Ministry of Justice in its Guidance on the Bribery Act 2010:

### a) Proportionate procedures

**By having appropriate policies and procedures in place to ensure a zero-tolerance approach to bribery and acts of corruption. However, any policies or procedures should be proportionate to the risks faced by the College.**

No policies or procedures are ever capable of detecting and preventing all bribery. A risk-based approach will, however, serve to focus the effort where it is needed and will have most impact.

### b) Top level commitment

**Through top level commitment, ie at Corporation, Exec, and Senior Management level, to a zero-tolerance approach to bribery and acts of corruption.**

### c) Risk assessment

**By conducting effective risk assessment of the threat of bribery and or corruption to the College. The College should adopt a risk-based approach to managing bribery risks.** Effective risk assessment can identify specific areas in which the College may face bribery and corruption risks and allows the College to better evaluate and mitigate these risks.

### d) Due diligence

**By exercising due diligence in the College's dealings with external bodies, ie consultants, contractors, service providers and external partner organisations;**

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### e) Communication

**By effectively communicating and disseminating information about the risk of bribery and from acts of corruption to other members of the College.**

The College will ensure that that bribery prevention policies and procedures are embedded and understood throughout the organisation, via both internal and external communication.

### f) Monitoring and review

**Through accurate record keeping and ensuring appropriate internal processes are in place.**

Many serious global bribery and corruption offences have been found to involve some degree of inaccurate record-keeping. As a College, we should ensure that we maintain accurate records and financial reporting within all our functions and that applies also to third parties working on the College's behalf. Our records, in particular our financial reporting, must also be transparent, ie they must accurately reflect each of the underlying transactions.

## Contracts

- 5.2 As part of the procurement process, there should be an assessment with all third-party contracts of the risks of bribery and or corruption to the College and appropriate due diligence should be carried out before entering into any contract. See Appendix B for guidance on conducting due diligence on agents.

## 6. HOW SHOULD STAFF PREVENT BRIBERY AND CORRUPTION?

- 6.1 Every member of staff and every member of the Corporation shall treat with the utmost caution any offer of a gift, payment, favour or hospitality that is made to him/her personally.
- 6.2 No member of staff or the Corporation shall ask for, solicit or accept (directly or indirectly) a financial advantage from any person with the intent that a public or business function should be improperly performed.
- 6.3 No member of staff or the Corporation shall offer or give (directly or indirectly) a financial advantage to any person with the intent that a public or business function should be improperly performed.
- 6.4 Where a member of the Corporation or member of staff deals with a supplier, contractor or other external organisation, he/she has an obligation to act solely in the best interests of the College. This obligation includes not only those acts formalised by a written agreement or contracts; but also covers everyday business relationships with suppliers, contractors and employees of external organisations.

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6.5 If the return of a gift is not practicable because of its nature, it may be given to a charitable institution and the supplier, contractor or external organisation, as appropriate, informed of its disposition.

6.6 Where a member of staff or the Corporation makes a facilitation payment (as defined by section 3 of the guidance), they, in addition to the College, will be liable to prosecution.

6.7 These rules apply:

- worldwide, ie wherever the bribe is offered, requested or given;
- whether or not the bribe is actually paid or received;
- whether or not the performance of the relevant business or public function is actually affected.

## 7. HOSPITALITY AND GIFTS

7.1 The occasional exchange of business gifts, meals or low-level entertainment is a common practice and is meant to create goodwill and enhance relationships.

7.2 However, if the receipt of business courtesies becomes excessive, it can create a sense of personal obligation on the part of the recipient. Such sense of obligation can interfere with the individual's ability to be impartial in the transaction.

7.3 Staff may accept business courtesies; but such courtesies must be modest enough not to interfere with the ethical judgement of the member of staff and must not create an appearance of impropriety.

7.4 Corporate hospitality and gifts (whether received or provided) must be transparent, auditable and proportionate.

7.5 Modest gifts and hospitality may be accepted unless an inducement is intended or suspected.

7.6 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. The matter must also then be reported to either the Chief Executive or Clerk to the Corporation (where it involves the Corporation), or Legal and Compliance Adviser as appropriate, either directly or through a person's line manager, so the matter can be noted and if necessary, investigated and further action can be taken as appropriate.

### Gift Register

7.7 For the protection of those involved, the Legal and Compliance Adviser will maintain a register of gifts and hospitality received **where the value of the gift is in excess of £20** (there is no upper limit).

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- 7.8 Members of staff in receipt of such gifts or hospitality are obliged to notify the Legal and Compliance Adviser promptly. Governors shall notify the Clerk to the Corporation.
- 7.9 **Cash payments are never acceptable.**

## 8. MONITORING AND REVIEW

- 8.1 The Legal and Compliance Adviser will have responsibility for review of this policy and the guidance that supplements it.
- 8.2 The CFO (Chief Finance Officer) has a legal responsibility to make sure that fraud and corruption are prevented, detected and investigated.
- 8.3 In addition, the Audit Committee will provide an independent check on the financial management of the College. The Committee meets, receives and considers reports by the internal and external auditors on all aspects of financial processes and procedures.
- 8.4 The CFO attends Audit Committee and presents progress reports on the financial position of the College, changes to processes and procedures and progress reports on bribery prevention and if necessary, on any investigation work undertaken, in the event of a breach of this policy. The Audit Committee can question and ask for further explanation in relation to any aspects of this work.

## 9. ASSOCIATED POLICIES AND PROCEDURES

- 9.1 This document is supplemented by the following policies and procedures:

Anti-Bribery Policy Guidance  
Anti-Money Laundering Policy  
Anti-Money Laundering Procedure  
Financial Regulations

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### Appendix A Guidance on sensible gift giving

You can go through a series of tests to identify whether giving or receiving a gift is potentially a bribe:

- **Made for the right reason:** it should be given clearly as an act of appreciation;
- **No obligation:** the gift does not place the recipient under any obligation;
- **No expectations:** expectations are not created in the giver or an associate of the giver or have a higher importance attached to it by the giver than the recipient would place on such a transaction;
- **Made openly:** if made secretly and undocumented then the purpose will be open to question;
- **Accords with stakeholder perception:** the transaction would not be viewed unfavourably by stakeholders if it were made known to them;
- **Reasonable value:** the size of the gift is small and accords with general business practice;
- **Appropriate:** the nature of the gift is appropriate to the relationship and accords with general business practice;
- **Legality:** it is compliant with relevant laws;
- **Conforms to the recipient's rules:** the gift meets the rules or code of conduct of the recipient's organisation;
- **Infrequent:** the giving or receiving of the gift is not a frequent happening between the giver and the recipient;
- **Reported:** the gift should be recorded and reported to management;
- **Documented:** the expense is fully documented including purpose and approvals given and properly recorded in the books.

Taken from "Doing Business without Bribery: a trainer's handbook" – Transparency International UK, second edition, May 2013, ISBN 978-0-9566194-9-5

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### Appendix B Conducting Due Diligence on Agents

Due diligence is a process for carrying out thorough checks to a depth appropriate to the risks. It is required at the start of the relationship and then continued on a regular basis.

Look out for basic red flags, checking whether the agent:

- has faced allegations, investigations or prosecutions for involvement in corruption;
- has personal links with government officials;
- has been recommended by a government official;
- employs apparently unqualified staff or advisers;
- is resistant to formal written agreements;
- refuses to allow the principal to examine books and records;
- has requested payments to be made in unusual ways, e.g. split invoices or via tax havens;
- appears able to bypass legal or bureaucratic hurdles more easily than others;
- operates within a market or segment of the market in which business practices are prone to corruption; and or
- has been winning orders with uncompetitive products or services.

#### Enhanced or additional due diligence

Enhanced or additional due diligence may be required at any time that the circumstances change or there is a suspicion of bribery. This might involve checking whether the agent still:

- has adequate anti-bribery policies and procedures;
- has requisite skills and resources;
- is a recognised consultancy or part of a company and not a sole operator;
- charges fee levels or commissions that are in line with the market norm;
- has the necessary expertise or track record in the products and market; and or
- has a reputation for probity within the local market and with other clients.

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