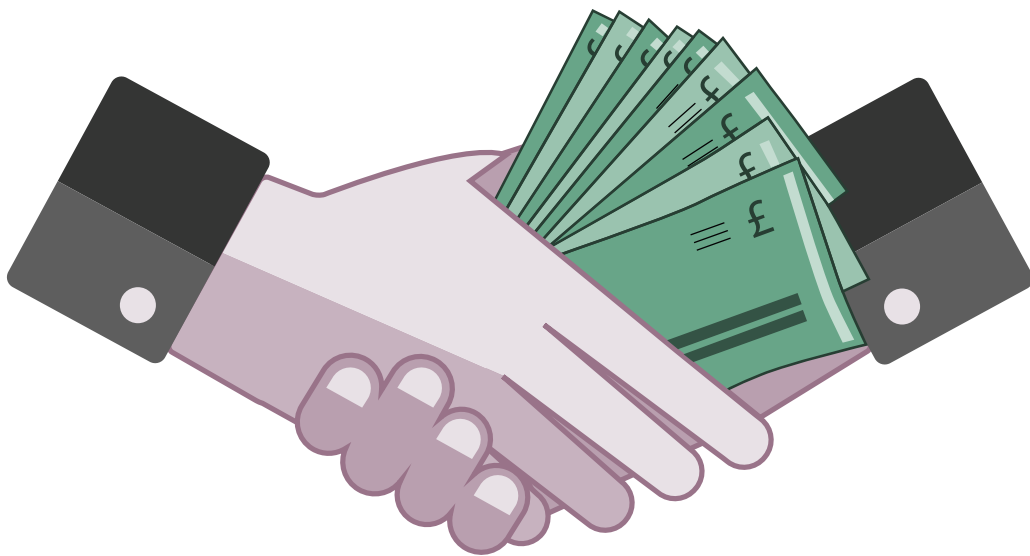




Northern Ireland Audit Office

# Managing the Risk of Bribery and Corruption

A Good Practice Guide for the  
Northern Ireland Public Sector







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# Foreword

Sound ethical values are one of the cornerstones of public service. The seven principles of public life, as established by the Committee on Standards in Public Life in 1995, provide a framework for public officials at all levels, and elected representatives, on how they should conduct themselves.

However, the Northern Ireland public sector is not immune to the risk of unethical behaviour. In recent years, the Public Accounts Committee has highlighted this very clearly in its reports, such as The Bioscience and Technology Institute (2012) and the Northern Ireland Events Company (2016). These cases are included as examples within this Guide.

While the risk of bribery and corruption in Northern Ireland may be considered low, it is still present and should not be under-estimated. Complacency carries its own dangers; raising awareness is key.

The nature of much of public sector business carries inherent risks. Functions such as procurement, planning, grant administration and regulatory functions are widely recognised as being open to the risk of bribery and corruption. This Guide provides advice on identifying and mitigating those risks.

It is essential that all public officials and elected representatives are aware of their responsibilities in countering the risk of bribery and corruption as they undertake their public duties and that all public sector employers embed the principles of this good practice within their organisations.

**Kieran Donnelly**

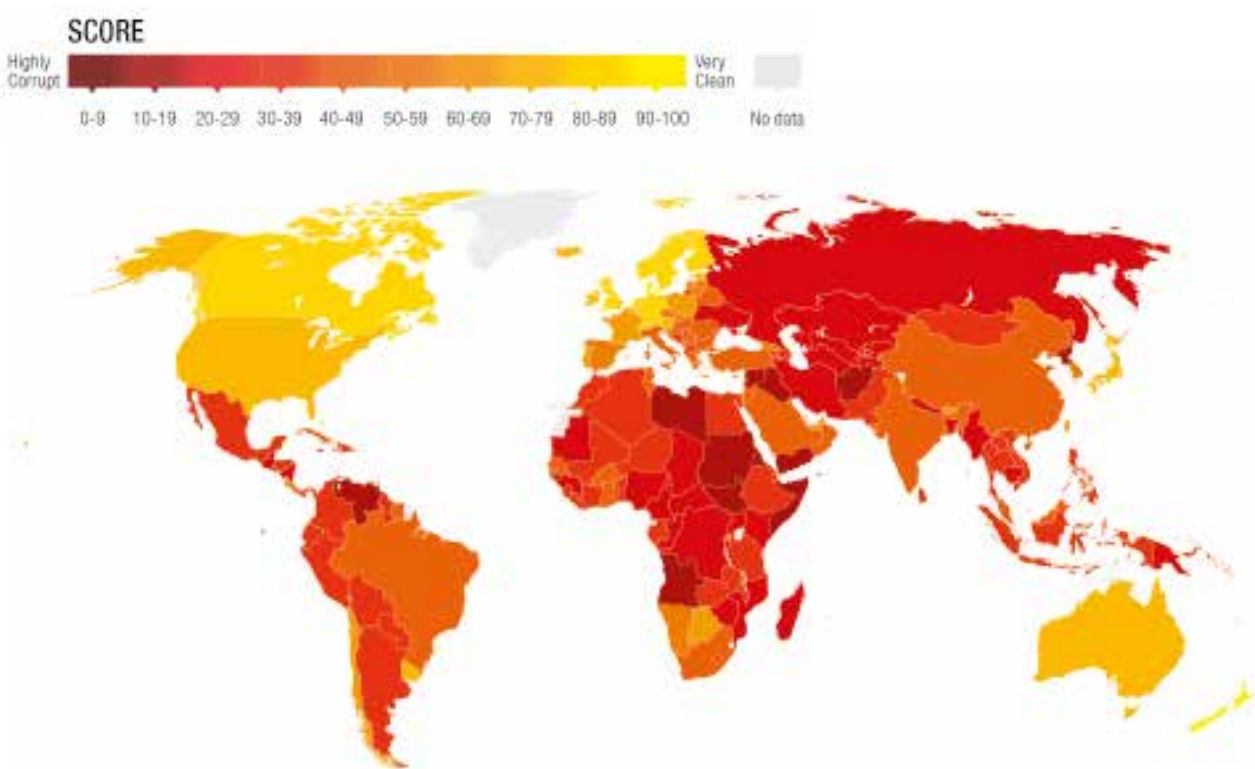
Comptroller and Auditor General for Northern Ireland





# Introduction

1. Bribery and corruption are illegal. Although the UK is not identified as a particular hot spot for bribery and corruption, the risk is present and should not be under-estimated.
2. Transparency International<sup>1</sup> publishes an annual Corruption Perceptions Index which ranks countries in terms of their perceived level of public sector corruption, with a score of 100 indicating "very clean" and a score of zero indicated "highly corrupt". The 2016 Index ranks the UK in joint tenth place out of 176 countries, with a score of 81. This compares favourably with other western European countries such as France (69), Spain (58) and Italy (47). However, Transparency International has also highlighted a potential lack of awareness of corruption in the UK and a reluctance to accept that it may exist.<sup>2</sup>

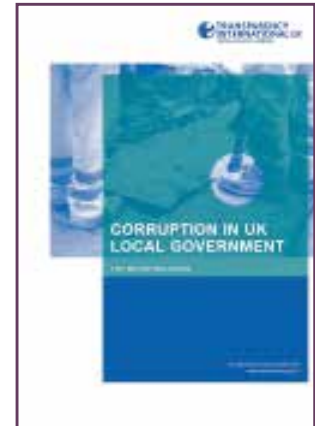


Source: Transparency International

<sup>1</sup> Transparency International is a global organisation aimed at highlighting and tackling corruption and promoting transparency and accountability.

<sup>2</sup> *Corruption in the UK, Part Two*, Transparency International, June 2011

3. Public officials<sup>3</sup> can be at risk, particularly if they have discretion in a decision-making process.<sup>4</sup> If they perceive that misconduct will not be detected or punished, they can be susceptible to using their public position for their personal gain, or accepting a bribe to influence official business.
4. This Guide will help Northern Ireland (NI) public sector organisations and individual public officials identify how bribery and corruption may occur, highlight the key risk areas and provide advice on how the risks can be countered, both at an organisational and personal level.
5. The Guide is collated from existing and long established guidance currently in the public domain, but is presented in a way that relates more specifically to the NI public sector. **Checklists (see Appendix 1) are included as aide-memoires only and should not be used as a substitute for an open, honest and ethical culture.**
6. **The Guide is principally aimed at those NI public sector organisations which undertake the majority of their business in Northern Ireland and the UK**, where the risk of bribery and corruption may be perceived as low. It seeks to raise awareness of the risk of bribery and corruption at a local level and provide advice on how any risk can be minimised. Organisations should adopt a **proportionate** response to the level of risk identified, in line with the advice in this Guide.
7. Organisations which operate more globally, such as Invest NI and Tourism NI, may face significant bribery and corruption risks in the countries with which they do business and should be aware of the wealth of more detailed guidance available (see Appendix 3).



3 For the purposes of this Guide, the term “public official” includes Ministers, councillors, Board members and employees of public sector organisations.

4 *Corruption in UK Local Government*, Transparency International, 2013 (Page 12)

## Part 1: Defining bribery and corruption

- 1.1 The terms “bribery” and “corruption” are often linked. Corruption has a broad definition and in public sector terms relates to someone using public office to further their private and personal interests. Corruption can include, for example, fraud, conflicts of interest and unethical behaviour. Bribery is a specific offence falling within the broad spectrum of corruption.

### **Definition of Bribery:**

The offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal, unethical or a breach of trust.

### **Definition of Corruption:**

The abuse of entrusted power for private gain.

Source: *The Anti-Corruption Plain Language Guide*, Transparency International, July 2009

- 1.2 Bribery and corruption can take many forms such as cash payments, offers of gifts or hospitality, an exchange of favours or facilitation payments (see Appendix 2). Bribes can be offered or requested for a range of purposes such as securing favourable treatment, expediting a lengthy official process or avoiding punitive costs.

### **The Legal Position**

- 1.3 Bribery and corruption offences are defined in two main pieces of legislation:

#### **The Fraud Act 2006**

The Act introduced a legal definition of fraud for the first time and outlined three main ways in which fraud may occur:

- fraud by false representation;
- fraud by failing to disclose information; and
- fraud by abuse of position.

The core of all three offences is an improper action leading to personal gain (or loss to another). Such improper actions by a person in a position of trust, for example public office, may amount to corruption.

### **The Bribery Act 2010**

The Act introduced four prime offences:

- offering, promising or giving a bribe (active bribery);
- requesting, agreeing to receive or accepting a bribe (passive bribery);
- bribing a foreign official to obtain or retain business; and
- failure by a commercial organisation to prevent bribery by an associated person.

The core of bribery is the offering or acceptance of an inducement to gain a business advantage or influence the performance of a function.

- 1.4 Section 16 of the Bribery Act makes clear that the Act applies to “individuals in the public service of the Crown”. In addition, guidance from the Department of Finance<sup>5</sup> highlights that while Crown bodies in Northern Ireland may not be “commercial organisations” under the legislation and therefore not liable for prosecution if they fail to prevent bribery by an associated person (this will be a matter for the courts to decide when a relevant case comes before them), they should consider their anti-bribery arrangements as if they were covered by the legislation.

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5 DAO(DFP) 09/11, The Bribery Act 2010

## Part 2: Key risk areas for bribery and corruption

2.1 A number of areas of public sector business have an inherent risk of bribery and corruption:

- ❖ procurement of goods and services;
- ❖ planning;
- ❖ regulatory functions (including inspection, testing, licensing and valuation);
- ❖ grant funding; and
- ❖ partnership working.

### Procurement

2.2 The public sector in Northern Ireland procures a wide range of goods and services on a large scale and securing public sector business can be lucrative for contractors and suppliers. Bribery and corruption risks may arise at various stages of the procurement cycle:

#### Figure 1: Examples of Potential Bribery and Corruption Risks in Procurement

- A public official may be offered, or may request, a bribe to draft tender evaluation criteria to suit a particular contractor or supplier.
- A public official may abuse their position by accepting a late bid from a relative or friend's company.
- A public official may be influenced, by a bribe or other inducement, to make a biased decision at tender evaluation stage.
- A public official may be offered, or may request, a bribe to turn a blind eye to the use of sub-standard materials or provision of sub-standard goods at contract implementation stage.
- A public official may be offered, or may request, a bribe to collude with contractors or suppliers in negotiating changes in price or specification.

Source: *Corruption in UK Local Government*, Transparency International, 2013

## Case Example

In November 2013, the NI Public Accounts Committee reported on the Management of Major Capital Projects by the Department of Culture, Arts and Leisure (DCAL).

In the period 2008-11, DCAL had an unprecedented target to deliver £229 million capital investment in the Northern Ireland culture, arts and leisure infrastructure and this resulted in the delivery of a number of capital projects, including the rebuilding of the Lyric Theatre.

In its report, PAC concluded:

*"In summary, a number of completely unacceptable departures from long-established principles of good practice were made in awarding the Lyric Theatre rebuild contract:*

- *A number of unexplained adjustments were made to the tender submissions, and Central Procurement Directorate (CPD) confirmed that this is not normal practice.*
- *Despite £413,000 being stripped out from one of the tenders, this cost was later paid in full.*
- *The private sector consultants who produced the tender evaluation report destroyed the tendering documentation very promptly after the tender evaluation meeting.*
- *Proper arrangements were not put in place for either the sponsoring bodies (the Department and the Arts Council) or their technical advisors (CPD) to attend the tender evaluation meeting.*
- *The Department, the Arts Council NI and CPD all received a copy of the tender evaluation report but failed to raise any concerns.*
- *The preferred bidder provided a donation of £150,000 to the Lyric Theatre.*

*Taking all of the points in the round the Committee is left with a very strong impression that the outcome of the tender process was both rigged and manipulated."*

Source: *Report on DCAL: Management of Major Capital Projects*, Public Accounts Committee, November 2013, seventeenth report of Mandate 2011/15

### Case Example

Two Edinburgh City Council officers responsible for the award of maintenance contracts pleaded guilty to accepting bribes to favour a particular company. Over a period of almost five years from 2006 to 2010 they accepted cash and hospitality totalling almost £75,000.

The contractors inflated invoices to cover the bribes, so in effect the Council was being charged for the cost of bribing its own officials.

The police investigation took five years. The council officers were each jailed for around four years and two of the contractor's directors were jailed for between two and three years each and disqualified as directors for five years.

The men were described in court as *"acting together in an unholy alliance, stealing from and manipulating the public purse at will"*.

Source: Press reports, May and June 2015

- 2.3 The risk of bribery and corruption in procurement is not confined to the procurement function. For example, responsibility for contract management can lie with the department for which the goods or services were procured. Organisations should not focus solely on the central procurement function when evaluating such risk.
- 2.4 The Public Accounts Committee has also highlighted the risk of collusion between contractors, stating that: *"Those responsible for purchasing functions need to be alert to, and to check for, evidence of collusion between groups of bidders or between bidders and officials who are in a position to influence the placing of orders. It is also important that any concerns about suspected impropriety are investigated thoroughly and promptly."*<sup>6</sup>

### Planning

- 2.5 Planning is widely regarded as a key risk area for bribery and corruption.<sup>7</sup> In April 2015, the majority of planning functions were devolved to the 11 new local councils. They now make decisions about the type and scale of development, planning applications and planning enforcement.

<sup>6</sup> Report on the Investigation of Suspected Contract Fraud, Public Accounts Committee, 2009, First Report Session 2009-10

<sup>7</sup> Report on the Performance of the Planning Service, Public Accounts Committee, NI Assembly, January 2010

2.6 Planning decisions can have major implications for landowners and developers, with decision-makers at risk of undue pressure to ensure they make the “right” decision. Devolution of planning powers to a local level means that councillors may be deciding on cases where they know the landowners or developers personally, or planning committee members may also be landowners or developers with a potential conflict of interest.<sup>8</sup>

### Figure 2: Examples of Potential Bribery and Corruption Risks in Planning

- A planning officer or a planning committee member may influence a planning decision in favour of a particular landowner or developer, in return for a bribe or other inducement.
- A planning officer or planning committee member may be offered, or may request, a bribe to help expedite a planning decision.
- A planning officer may abuse their position by omitting a costly planning condition from an approved application for a relative or friend.
- A planning committee member may influence a planning decision in relation to a business development to which they are connected, without disclosing a conflict of interest.
- Developers may seek to bribe planning officers or committee members to influence a decision on the change of use of a designated piece of land, in order to increase its value.

Sources: *Corruption in UK Local Government*, Transparency International, 2013  
*DOE Planning: Review of Counter Fraud Arrangements*, NIAO, October 2013

#### Case Example

In March 2002, the former Chair of Planning for Doncaster City Council was sentenced to four years in prison after receiving bribes, including a farmhouse valued at £160,000, from a property developer who also received a five year sentence. A further 21 councillors were convicted of fraud during the police investigation.

The Judge told the court that the scandal had betrayed the public’s trust and seen the “*worst sort of corruption*” – the undermining of previously honest and hard-working elected representatives. The Judge noted: “*Public life requires a standard of its own. Power corrupts and corruption in government by those elected by the public strikes at its integrity and at the root of democracy. Fortunately it is rare in this country.*”

Source: *UK Anti-Corruption Plan*, HM Government, December 2014

8 See *Conflicts of Interest: a Good Practice Guide*, NIAO, March 2015, for detailed guidance



## Regulatory Functions

- 2.7 If an individual, organisation or business requires regulation or inspection approval to continue operating, or a licence to commence operating, the public official performing the regulation or inspection function may abuse their position by influencing the approval decision or may be offered an inducement to “turn a blind eye” to any weaknesses in compliance.

### Figure 3: Examples of Potential Bribery and Corruption Risks in Regulation and Inspection

- A health and social care inspector may be offered an inducement to overlook weaknesses and give a favourable inspection report to a care facility (see case example at paragraph 4.12).
- An education training inspector may be offered, or may request, a bribe to overlook weaknesses and give a favourable inspection report to a school or training facility.
- A driver and vehicle licensing official may abuse their position by providing a successful MOT outcome to a friend or relative, even though the vehicle has faults which should result in a failed test.
- A rates valuer may be offered, or may request, a bribe to give a modest property valuation, thereby reducing liability for rates.
- A health and safety inspector may overlook weaknesses and give a favourable inspection report in relation to unsafe or unfit premises because of a conflict of interest.
- A council official may be offered, or may request, a bribe to secure the award of an entertainment or street trading licence.

Source: NIAO

### Case Example

A local authority licensing officer was offered a bribe of around £300 by a person who failed a taxi driver test, in an attempt to have the decision changed to a pass. The licensing officer refused the bribe and reported the incident to Council management. The Council was able to secure a successful prosecution under the Bribery Act.

Source: Oldham Council media release, December 2012

### Case Example

A valuer from Land and Property Services was inspecting a property in connection with a review of the rateable value of the property. The property owner placed a cash sum under the valuer's notebook. The valuer made it clear that he could not accept the money. The valuer left the money and, on returning to the office, informed his manager of the incident.

Source: NIAO, 2016

## Grant Funding

- 2.8 Grant funding of voluntary and community sector organisations is an important and integral part of public sector business in Northern Ireland. Grants are allocations of funding to an organisation to be used for an agreed purpose in line with the grant funder's objectives. Grant funding can be essential for a funded organisation's survival.
- 2.9 The Government Funding Database<sup>9</sup> holds records of over 72,000<sup>10</sup> separate grants paid by government departments and councils to a large and diverse range of organisations across Northern Ireland. The grants range in size from a few hundred pounds to a few hundred thousand pounds.

### Figure 4: Examples of Potential Bribery and Corruption Risks in Grant Funding

- A public official may be offered, or may request, a bribe from the funded organisation in return for ensuring the successful award of a grant.
- An elected official with links to a grant-funded organisation may seek to influence a decision-maker who has discretion in the award of a grant to that organisation.
- A public official with links to a grant-funded organisation may request a bribe from the organisation to help prepare a grant application that would be successful.
- An elected member of a local authority may use grants to voluntary and community organisations as bribes to secure electoral support.

Source: *Knowing your Risks*, Independent Commission against Corruption, New South Wales Media reports 2015

<sup>9</sup> <https://govfundingpublic.nics.gov.uk/Home.aspx>

<sup>10</sup> As at July 2017

### Case Example

A public sector organisation reported allegations that one of its employees sought payment from a voluntary organisation to help it prepare a grant application. The employee also sought an additional payment for a colleague, to ensure the application was reviewed favourably.

Source: *Knowing your Risks*, Independent Commission against Corruption, New South Wales

### Case Example

The mayor of the London borough of Tower Hamlets was removed from office and barred from standing again after being found guilty of using grants to voluntary sector bodies as bribes to gain electoral support. A fellow councillor was also removed from office. It was found that they had intervened to make sure grants were awarded to voluntary organisations which failed to meet eligibility criteria.

Source: Media reports, April 2015

- 2.10 Given the number and range of grants awarded across the public sector, it is important that both funded and funding organisations are aware of the potential bribery and corruption risks involved.

## Partnership Working

- 2.11 Public sector organisations often work in conjunction with private sector or voluntary and community sector organisations to deliver public services, or they may outsource delivery entirely. Partnership working can range, for example, from the delivery of support services to vulnerable groups to maintain independent living, through to major capital projects such as the building of a school or hospital.
- 2.12 Partnership working may operate through the award of grants or contracts for services, so the bribery and corruption risks highlighted for procurement and grants will all apply. There will then be additional risks due to the arms-length nature of the relationship with partners, the inherent complexity of larger scale contracts and the use of sub-contractors creating more links in the supply chain<sup>11</sup>.

<sup>11</sup> *How to Bribe: A Typology of Bribe Paying and How to Stop It*, Transparency International, January 2014, Section 2.2

2.13 Under the Bribery Act, an organisation may be liable if a person “associated” with it offers a bribe to another person with the intention of obtaining or retaining business or a business advantage for that organisation. An associated person is defined as someone who “performs services” for or on behalf of the organisation and may include third parties such as:

- agents;
- subsidiaries; and
- contractors.

A public sector organisation working in partnership must therefore exercise due diligence in its dealings with third parties (see paragraph 3.14).

### **Consequences of not addressing bribery and corruption risk**

2.14 If bribery and corruption risk is not recognised and appropriately addressed, there may be a number of adverse consequences:<sup>12</sup>

- ❖ legal consequences, including criminal prosecution;
- ❖ financial consequences, including potential investigation and legal costs;
- ❖ operational consequences, including possible market distortion and embedding of corruption; and
- ❖ reputational consequences, including loss of confidence in the organisation and increased vulnerability to bribery and corruption.

### **Summary**

2.15 While the Northern Ireland public sector may be considered at low risk from bribery and corruption, this section of the Guide highlights that risks do exist across a wide range of public sector functions. Heightened awareness of the risks means that they can be addressed as part of wider counter fraud and governance arrangements, and adverse consequences can be avoided.

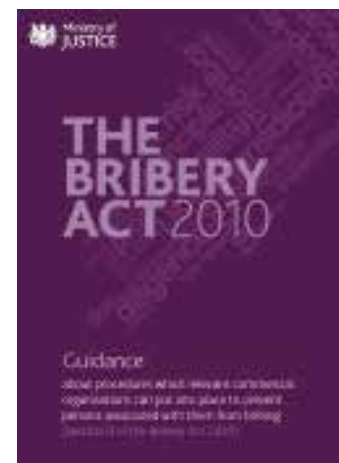
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12 *Countering Small Bribes*, Transparency International, June 2014

## Part 3: Countering bribery and corruption risk – Organisations

- 3.1 Organisations must protect themselves against the risk of bribery and corruption. Key UK Government guidance includes:
- Bribery Act guidance published by the Ministry of Justice in 2012;<sup>13</sup> and
  - Home Office and Cabinet Office guidance published in 2016.<sup>14</sup>
- 3.2 Organisations have a defence against potential prosecution for bribery if they can show that they have “**adequate procedures**” in place to prevent bribery. The 2012 guidance establishes six principles in relation to adequate procedures and these principles are reflected in the 2016 guidance in relation to bribery and corruption risks:

- ❖ proportionate procedures;
- ❖ top-level commitment;
- ❖ risk assessment;
- ❖ due diligence;
- ❖ communication and training; and
- ❖ monitoring and review.



### Proportionate Procedures

- 3.3 Organisations should adopt **proportionate** procedures to counter identified bribery and corruption risks (see paragraphs 3.8 to 3.13 on risk assessment). Procedures should also be:
- clear;
  - practical; and
  - effectively implemented.
- 3.4 A basic requirement is a policy statement<sup>15</sup> which clearly establishes the organisation’s anti-bribery and corruption stance and intention to foster a culture which minimises the risk of bribery and corruption. Organisations may have a stand-alone anti-bribery and corruption policy or may choose to incorporate anti-bribery and corruption provisions in their counter fraud policy.

13 *The Bribery Act 2010: Guidance*, Ministry of Justice, February 2012

14 *Bribery and Corruption Assessment Template*, Home Office, December 2016 and *Government Counter Fraud Professional Standards and Guidance: Counter Bribery and Corruption Sub Discipline*, Cabinet Office, 2016

15 CIPFA has produced a model policy, available via CIPFA Better Governance Forum - see Appendix 3 for details.

- 3.5 Procedures adopted should be designed to address the organisation's specific bribery and corruption risks and may be either stand-alone or part of wider guidance, for example on procurement. The procedures will include measures which should already be established in the organisation to strengthen governance and accountability and address wider fraud risks.

### Figure 5: Examples of Anti-bribery and Corruption Procedures

- A clear commitment from senior management to preventing bribery and corruption.
- A proportionate bribery and corruption risk assessment.
- Normal system controls, such as separation of duties and delegated authority levels.
- Normal financial controls, such as transparent accounting records with full supporting documentation, and internal and external audit functions.
- A comprehensive set of complementary policies, such as conflicts of interest, gifts and hospitality, anti-fraud and whistleblowing policies.
- A clear route for those wishing to raise concerns about actual or potential bribery and corruption.
- Arrangements for raising and reinforcing bribery and corruption awareness.

Sources: *The Bribery Act 2010: Guidance*, Ministry of Justice, February 2012  
*Counter Bribery and Corruption Standard*, Cabinet Office, 2016

### Top-level Commitment

- 3.6 The 'tone from the top' helps dictate what is expected of employees and third parties and demonstrates the ethical stance of the organisation to wider stakeholders. The Board and senior management are responsible for setting the right tone across an organisation in terms of its ethical values. CIPFA's Code of Practice<sup>16</sup> on managing fraud risk states "*The governing body should acknowledge its responsibility for ensuring that the risks associated with fraud and corruption are managed effectively across all parts of the organisation.*"
- 3.7 Top-level commitment can be demonstrated by, for example, a formal statement on the organisation's intranet and website making clear that fairness, honesty and openness are highly valued and that any form of fraud and corruption, including bribery, will not be tolerated. The statement could be replicated as a foreword in all relevant policies and must be backed up by appropriate and proportionate measures (see Figures 6 and 7).

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16 *Code of Practice on Managing the Risk of Fraud and Corruption*, CIPFA, December 2014

### Figure 6: Components of an Ethical Culture

- The Chair, Board and senior management establish the 'tone from the top' and their commitment to an ethical culture, including anti-bribery measures, through their actions and communications.
- Integrity and ethical values are defined, for example in a Code of Conduct and associated policies, and are considered to be fundamental and non-negotiable.
- All staff within the organisation, and those contracted to work for it, are made fully aware of the organisation's values and policies for integrity and ethics, and understand and abide by them.
- Raising awareness of the risk of fraud and corruption, including bribery, is an ongoing process, for example via staff bulletins on the intranet and tailored training for staff in high risk areas.

Sources: *Countering Small Bribes* - Transparency International, June 2014  
*Managing Fraud Risk in a Changing Environment: a Good Practice Guide*, NIAO, November 2015

### Figure 7: Practical Actions for Senior Managers

- Be involved in initiating and developing anti-bribery and corruption procedures, which may form part of wider anti-fraud measures or may be stand-alone.
- Nominate a senior manager with responsibility for overseeing anti-bribery and corruption arrangements.
- Provide leadership and input to key areas such as the code of conduct and raising awareness.
- Quality assure the bribery and corruption risk assessment.

Source: *The Bribery Act 2010: Guidance*, Ministry of Justice, February 2012

### Case Example

In 2012, the NI Public Accounts Committee reported on the reasons for the failure of a major innovation project, the Bioscience and Technology Institute Limited (BTI). The project secured grant of £2.2 million from four funding bodies - the Department of Enterprise Trade and Investment, two of its agencies (the Industrial Development Board (IDB) and the Industrial Research and Technology Unit) and the International Fund for Ireland. In addition, loan funding was provided by the bank and a private donor.

The Committee reported that *"BTI's corporate governance arrangements were exceptionally weak, with conflicts of interest, in particular, consistently being badly handled. There were several cases of improper behaviour which, the Committee suspects, were fraudulent in intent..... The Committee's impression is of a management culture, at that time, which acquiesced in ignoring the rules and circumventing their own controls.*

*"There is also a worrying lack of documentary evidence in a number of areas, most notably around IDB's consideration and approval of funding for BTI..... the Committee has a deep sense of unease over this issue and is concerned that there may have been a deliberate cover-up".*

The Committee stated that *"One of the most important messages coming out of this report, therefore, is to stress the particular onus on an organisation's top management to ensure that control procedures are followed and that the ethos of their organisation is fully in keeping with the proper conduct of public business."*

Source: *Report on The Bioscience and Technology Institute*, Public Accounts Committee, May 2012, eighth report of Mandate 2011/15

### Risk Assessment

- 3.8 An organisation must first assess the nature and level of its bribery and corruption risk before it can effectively counter the risk. The risk assessment should be proportionate to the size and complexity of the organisation. Small organisations may assess bribery and corruption risk as part of their overall risk assessment. Larger more complex organisations whose activities might be more prone to such risks may require a more detailed stand-alone bribery and corruption risk assessment. Any assessment of risk must be well-informed and documented, and should be subject to periodic review as risks can change over time.



3.9 A range of factors will determine an organisation’s vulnerability to bribery and corruption risk, for example the size and complexity of the organisation, the type of business it undertakes and the environment in which it operates. The risk factors can be either external or internal.

**External Risks**

3.10 UK Government guidance identifies five potential categories of external bribery and corruption risk.

**Figure 8: External Bribery and Corruption Risks**

Bribery and Corruption Risk	Comment
Country risk	This Good Practice Guide is aimed at NI public sector organisations which operate largely within the UK where the risk of bribery and corruption is considered low. However, some organisations, such as Invest NI, operate globally and need to be aware that certain countries have a reputation for bribery and corruption. Organisations with business operations in those countries must ensure that their procedures are adequate to deal with the additional risk. [See Appendix 3 for useful sources.]
Sectoral risk	Certain sectors are more prone to bribery and corruption risk than others, for example construction and large scale infrastructure.
Transaction risk	Certain types of transactions can have a higher risk of bribery and corruption, for example public procurement transactions and transactions related to permits/permission (e.g. planning permission) and licences.
Business opportunity risk	Business opportunity risk can arise in, for example, high value or complex projects involving multiple contractors or intermediaries, or projects with no clear legitimate objective.
Business partnership risk	Certain business relationships may involve a higher bribery and corruption risk, for example joint venture or partnership working, or cases involving prominent public officials.

Source: *The Bribery Act 2010: Guidance*, Ministry of Justice, February 2012

### **Internal Risks**

3.11 Internal factors can also influence bribery and corruption risk.

**Figure 9: Internal Bribery and Corruption Risks**

<b>Bribery and Corruption Risk</b>	<b>Comment</b>
Corporate culture	There may be no clear commitment from the top of the organisation to an ethical culture or no clear ethical statement in the form of a code of conduct which employees at all levels must sign up to. There may be a culture of risk taking.
Lack of employee awareness	Employees may be unaware of relevant organisational policies on fraud and corruption risks, gifts and hospitality, conflicts of interest and the need to raise concerns, and may not receive awareness training.
Unclear policies	Employees need to know what is acceptable or not in terms of their behaviour, for example in relation to offering or receiving gifts or hospitality. Lack of clarity increases the risk of improper actions.
Weak internal controls	Sound internal controls help ensure that business is conducted properly. Key controls include, for example, separation of duties, rotation of staff in key posts, authorisation levels, comprehensive accounting records, due diligence in relation to third parties etc. If sound controls are not in place, the risk of bribery and corruption can increase.

Source: *The Bribery Act 2010: Guidance*, Ministry of Justice, February 2012

### Identifying Risks

3.12 As with any risk assessment, organisations can use a variety of means to identify bribery and corruption risks. The extent to which each is appropriate will depend on the size and complexity of the organisation. Examples include:

- ❖ focus groups or facilitated workshops comprising staff across the full range of functions;
- ❖ interviews with staff in key risk functions, e.g. procurement, planning;
- ❖ self-assessment questionnaires;
- ❖ review of fraud and whistleblowing cases within the organisation, which may highlight system vulnerabilities and potential risks;
- ❖ review of the organisation’s register of interests which may highlight individual employees who may be susceptible to bribery; and
- ❖ seeking advice from professionals such as accountants and auditors.

Source: *Countering Small Bribes* - Transparency International, June 2014

### Evaluating Risks

3.13 Organisations must evaluate each identified risk in terms of the likelihood of it occurring and the severity of the impact if it does occur. A risk matrix (see below) can be used to prioritise risks and help inform decisions about implementing mitigating controls.<sup>17</sup>

<b>Probability</b>	Very High (5)		<b>10</b>			<b>25</b>
	High (4)					
	Medium (3)			<b>9</b>		
	Low (2)	<b>2</b>				<b>10</b>
	Very Low (1)					
		Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Severe (5)
<b>Impact</b>						

Source: *Policy and Framework for Risk Management*, Department of Finance and Personnel, 2011

<sup>17</sup> Detailed guidance on bribery risk assessment can be found in *Diagnosing Bribery Risk*, Transparency International, July 2013

## Due Diligence

3.14 Due diligence is an accepted element of wider good governance within an organisation. The application of due diligence in relation to the bribery and corruption risk posed by associated persons (see paragraph 2.13) should be proportionate and risk-based. The level of due diligence required will vary and for many public sector organisations it will be low. At its most basic, due diligence will involve ensuring that the associated person is aware of the principal organisation's ethical values and anti-bribery policies and procedures, and agrees to abide by them.

3.15 For higher risk relationships, due diligence may involve a range of measures including:

- ❖ direct enquiries or indirect investigations into background and expertise;
- ❖ investigative research;
- ❖ contract terms requiring compliance with the principal organisation's policies and procedures for countering bribery risk; and
- ❖ contract terms giving the principal organisation the right to inspect the records of the associated person or to terminate the contract where bribery is suspected.

Sources: *The Bribery Act 2010: Guidance*, Ministry of Justice, February 2012  
*Countering Small Bribes*, Transparency International, June 2014

3.16 While due diligence generally applies to third parties, it can also apply to an organisation's own employees, particularly those being recruited to positions of trust, for example within the finance function, or to posts where the risk of bribery and corruption is considered to be more significant, such as procurement or planning. Public sector organisations should review their recruitment and human resources procedures to ensure that appropriate due diligence is applied.

3.17 A further aspect of due diligence in the public sector was raised in a report by the Public Accounts Committee on the Northern Ireland Events Company (NIEC).

### Case Example

The NIEC was wound up in 2007 with a financial deficit of £1.6 million. The Committee viewed the appointment of a new Chief Executive in January 2004 as “a pivotal moment that set in train a sequence of events that culminated in the financial collapse of the NIEC”, noting that the appointee had not met the essential criteria for the post of Chief Executive.

The Committee said:

*“It is the responsibility of the principal Accounting Officer in the sponsor Department to approve and appoint the Accounting Officer in its Arm’s Length Bodies. The role of the Accounting Officer is vital to the process of public scrutiny and accountability. It is important, therefore, that individuals appointed to these roles are fit to perform the duties required of them and that both the sponsor Department and the Arm’s Length Body’s Accounting Officer are clear on their respective responsibilities. Given this important role, we view it as essential that sponsor departments carry out robust due diligence checks prior to making Arm’s Length Body Accounting Officer appointments.”*

Source: *Report on the Northern Ireland Events Company*, Public Accounts Committee, February 2016, Thirty-Fourth Report NIA 308/11-16

### Communication and Training

- 3.18 Organisations should clearly communicate their ethical stance and zero tolerance of fraud and corruption, including bribery, both internally and externally. Again the type and level of communication should be proportionate to the level of risk identified.
- 3.19 The purpose of communication is to promote awareness and understanding of the organisation’s policies and procedures in relation to bribery and corruption and, by so doing, provide a deterrent.

### **Internal Communication**

3.20 Internal communication should:

- ❖ clearly convey to all staff a top-level commitment to fairness, honesty and openness;
- ❖ clarify expectations in terms of employees' compliance with relevant policies;
- ❖ confirm arrangements for any employee wishing to raise concerns about possible bribery and corruption (this may be via whistleblowing arrangements – see paragraph 4.9); and
- ❖ direct employees to where they can seek advice in a confidential and accessible way.

Source: *The Bribery Act 2010: Guidance*, Ministry of Justice, February 2012

### **External Communication**

3.21 External communication with third parties will depend on the nature of the relationship, the nature and scale of the third party role and the assessed level of bribery and corruption risk. External communication:

- ❖ should convey the organisation's commitment to fairness, honesty and openness with an expectation that the third party will adhere to the same values;
- ❖ should reassure existing and prospective third party associates as to the organisation's values, which should then act as a deterrent to any associates contemplating an act of bribery or corruption; and
- ❖ may include information on bribery and corruption prevention procedures and controls, particularly in key risk areas such as procurement, as well as sanctions that will be applied.

Source: *The Bribery Act 2010: Guidance*, Ministry of Justice, February 2012

### **Training**

3.22 Training on bribery and corruption risk should be proportionate to the level of risk identified for the organisation, but UK Government guidance recommends that some degree of awareness training, regardless of the level of risk, can be effective. Considerations include:

- ❖ For organisations with low risk, bribery and corruption awareness may be covered as part of general awareness training on fraud.
- ❖ For organisations with a high risk level, a more specific focus on bribery and corruption risk may be required.
- ❖ Training may range from raising awareness of the risks with new employees as part of induction arrangements, to specialised training for those in key posts.
- ❖ General awareness training should involve highlighting the policies and procedures in place and the role and responsibilities of employees within those procedures.
- ❖ Specialised training should be provided for key employees within functions such as procurement, planning and regulation, highlighting their potential vulnerability to bribery and corruption risk and their responsibility to act ethically.

Source: *The Bribery Act 2010: Guidance*, Ministry of Justice, February 2012

## Monitoring and Review

3.23 An organisation's functions can change over time and therefore risks can also change, highlighting the need for periodic monitoring and review. The scale of change in the Northern Ireland public sector in the last few years clearly demonstrates this point, for example:

- ❖ planning functions were devolved to the 11 new councils from April 2015, thereby affecting councils' bribery and corruption risk;
- ❖ the Department of Agriculture, Environment and Rural Affairs acquired additional environmental regulation powers from May 2016, thereby affecting its bribery and corruption risk; and
- ❖ the Department for Infrastructure assumed responsibility for driver licensing and driver and vehicle testing from May 2016, thereby affecting its bribery and corruption risk.

3.24 Monitoring and review arrangements should be proportionate to the size and complexity of the organisation and the level of bribery and corruption risk identified.

**Figure 10: Practical Steps for Monitoring and Review**

- Monitor the operation of normal system controls and financial controls to help detect changes in bribery and corruption risk. Internal audit work programmes and reports should provide useful information in this regard.
- Periodically review high risk transactions e.g. within procurement.
- Periodically seek confirmation from employees, particularly those working in key risk functions, that they comply with anti-bribery and corruption procedures.
- Periodically review fraud and whistleblowing caseload within the organisation; these may highlight fraud, corruption and bribery risks.
- Periodically review the register of interests to determine whether any new conflicts of interest have arisen which could leave an employee more susceptible to the risk of bribery and corruption.
- Review information from relevant trade bodies or regulators which may highlight new or changing risks.

Sources: *The Bribery Act 2010: Guidance*, Ministry of Justice, February 2012  
*Countering Small Bribes*, Transparency International, June 2014

### ***The Role of Internal Audit***<sup>18</sup>

- 3.25 Internal audit does not have a direct role in detecting fraud and corruption but can provide independent, objective advice to management on fraud and corruption risks and mitigating controls. Internal audit will have a role to play in quality assuring an organisation's "*adequate procedures*" for countering bribery and corruption risk, for example by ensuring effective implementation of mitigating controls and auditing high risk transactions.

### ***The Audit and Risk Assurance Committee***<sup>19</sup>

- 3.26 Similarly, the Audit Committee of an organisation has a role in reviewing the organisation's risk assessment, risk management and control environment. This includes the risk of bribery and corruption.

<sup>18</sup> This section is drawn largely from *Managing Fraud Risk in a Changing Environment: A Good Practice Guide*, NIAO, November 2015

<sup>19</sup> This may more commonly be known as the Audit Committee



**Figure 11: The Audit Committee and Bribery and Corruption Risk****The Audit Committee should:**

- understand the organisation's control environment and risks, including fraud, corruption and bribery risks;
- be familiar with the organisation's policies and procedures relating to bribery and corruption risk;
- ensure that responsibilities for risk management, including bribery and corruption risk, are clearly allocated;
- be aware of the vulnerability of the organisation to particular risks, for example within procurement or planning; and
- critically review and challenge the control environment in place to mitigate the risk of bribery and corruption.

Sources: Adapted from *Audit and Risk Assurance Committee Handbook (NI)*, Department of Finance and Personnel, March 2014 and *Managing Fraud Risk: The Audit Committee Perspective*, Grant Thornton

***The Role of External Audit***

- 3.27 The role of external audit is primarily to give an opinion on whether the financial statements of an organisation are true and fair and expenditure and income has been applied to the intended purposes. In doing so, external auditors will need assurance that the financial statements are free from material levels of fraud, including the potential impact of bribery and corruption.



## Part 4: Countering bribery and corruption risk - Individuals

4.1 This section of the Guide looks at how bribery and corruption risk can affect individual public officials and considers the steps individuals should take to protect themselves against such risk.

### Ethical Standards

4.2 All public officials are expected to adhere to the ethical standards promoted by the Committee on Standards in Public Life, commonly known as the Nolan Principles. The principle of integrity is the most relevant in relation to avoiding the risk of bribery and corruption.

#### Figure 12: The Nolan Principles

- **Selflessness:** Holders of public office should act solely in terms of the public interest.
- **Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.
- **Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.
- **Honesty:** Holders of public office should be truthful.
- **Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Source: *Committee on Standards in Public Life*

4.3 Public sector organisations should have a Code of Conduct embodying these principles, which officials sign up to formally.

## Awareness

4.4 Certain public officials will be exposed to a greater bribery and corruption risk because of their responsibilities, for example:

- ❖ officers working in procurement may be offered, or may request, a bribe in relation to the letting of a contract for goods or services;
- ❖ officers or councillors involved in the planning process may have an undeclared conflict of interest which may influence their planning decisions for personal gain; or
- ❖ officers working in regulation and inspection functions may be offered, or may request, a bribe to provide a favourable outcome or turn a blind eye.

4.5 All public officials, and particularly those exposed to greatest risk, should be aware of the potential bribery and corruption risks they face and should be fully informed about all relevant organisational policies and procedures, for example those on bribery, fraud, whistleblowing, gifts and hospitality and conflicts of interest.

## Transparency

4.6 Public officials should demonstrate transparency within their organisation, to avoid any perception of bribery and corruption. This applies in particular to:

- declaring any conflicts of interest, or potential conflicts of interest, which could lead to accusations of undue influence;<sup>20</sup> and
- recording all offers of gifts and hospitality, whether accepted or declined, in accordance with the organisation's policy.

4.7 Gifts and hospitality can be a sensitive area open to misinterpretation. Public officials in a position to either give or receive gifts and hospitality must ensure that they are familiar with their organisation's policy and must abide by its rules.



20 See *Conflicts of Interest: A Good Practice Guide*, NIAO, March 2015

**Figure 13: Gifts and Hospitality**

- Gifts and hospitality should be recorded in a register in accordance with your organisation's policy.
- Any gifts or hospitality given or received should be reasonable and justifiable.
- The more lavish the gift or hospitality, the more likely the inference that it is intended to influence behaviour.
- The giving or receiving of gifts or hospitality should not give rise to any obligation or expectations.
- Gifts and hospitality should be given or received openly, as secrecy can give rise to questions.
- Any gifts or hospitality given or received should accord with stakeholders' perceptions and not be open to misinterpretation.

Source: *Invest NI Anti-Bribery Policy*, January 2015

## Avoiding Risk

- 4.8 Public officials with responsibilities in high risk areas such as procurement and planning are particularly vulnerable to bribery and corruption risk. These individuals should take practical steps to minimise the risk.

**Figure 14: Avoiding Bribery and Corruption Risk**

### **When dealing with contractors, developers or suppliers:**

- do not allow over-familiarity;
- do not meet informally outside working hours or away from your organisation's premises;
- do not give out your personal mobile phone number;
- do not accept offers, discounts or other services from suppliers, contractors, developers or other high risk associates;
- do not discuss your private life, or the social and recreational interests of you or your partner; and
- do not do anything that makes you feel obligated or that might be open to misinterpretation.

Source: *When it comes to bribery, prevention is better than cure*, CIPFA Counter Fraud Centre, November 2015

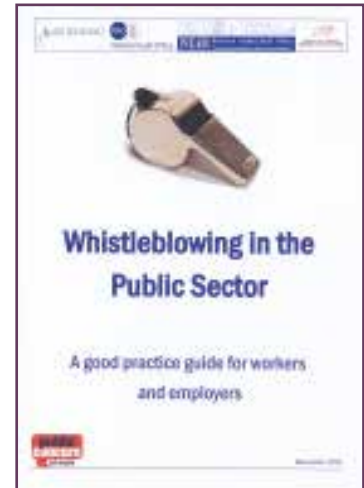
## Raising Concerns

- 4.9 Organisations should provide public officials with a means of raising concerns about possible bribery and corruption (see paragraph 3.20). This will generally be by way of a whistleblowing policy and procedures.
- 4.10 Employers, including all public sector organisations, should have a whistleblowing policy in place which clearly describes how any concerns can be raised. Whistleblowing should be welcomed by public sector organisations as an important source of information that may highlight serious risks, potential fraud, bribery and corruption. Workers, including public officials, are often best placed to identify wrongdoing before there are any adverse consequences, so the importance of their role as the 'eyes and ears' of the organisation cannot be overstated.
- 4.11 Public officials who suspect wrongdoing in relation to bribery or corruption should understand that:

- ❖ they are not required to have firm evidence before raising a concern, only a reasonable suspicion of wrongdoing;
- ❖ they are aware of a potential wrongdoing and are merely relaying that information to the employer; and
- ❖ it is the responsibility of the employer to use the information to investigate the issue raised.

Source: *Whistleblowing in the Public Sector: A good practice guide for workers and employers*, Public Sector Audit Agencies, November 2014

- 4.12 Arrangements for raising concerns will only be of value in countering bribery and corruption risk if public officials have confidence in them and make use of them. It is essential that there is a culture of support for whistleblowers within public sector organisations, so that issues of concern are raised promptly and dealt with effectively. Legislation<sup>21</sup> offers protection to those who raise concerns and suffer victimisation, harassment or detriment as a result, but if organisations adhere to best practice<sup>22</sup>, the need to rely on the legislation should be greatly minimised.



### Case Example

A care home inspector in GB was dismissed for gross misconduct by the Care Quality Commission following allegations by a whistleblower that the inspector was pressurising care home managers into paying bribes for favourable inspection reports. The allegations were substantiated and the case was referred to the police.

Source: Media reports, April 2012

21 Public Interest Disclosure (Northern Ireland) Order 1998

22 *Whistleblowing in the Public Sector: A good practice guide for workers and employers*, Public Sector Audit Agencies, November 2014





## Appendix 1: Checklists

The following checklists have been drawn together from a range of sources<sup>23</sup> and are designed to help NI public sector organisations identify and address any bribery and corruption risks they may face. The checklists have been kept reasonably brief and high level for the purposes of this Guide but organisations with significant bribery and corruption risks can access the more detailed checklists from which these have been compiled (see source details at Appendix 3). The checklists are based on the six key principles as described in Part 3 of this Guide.

**The checklists are included as aide-memoires only and should not be used as a substitute for an open, honest and ethical culture.**

When considering bribery and corruption risk and using the checklists, organisations should ensure that they adhere to the principle of proportionality.

The final checklist on page 44 will help individual public officials determine whether they are familiar with, and adhere to, all relevant policies and procedures.

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<sup>23</sup> *The Bribery Act 2010: Guidance*, Ministry of Justice, February 2012, *Countering Small Bribes*, Transparency International, June 2014, *The 2010 UK Bribery Act Adequate Procedures Checklist*, Transparency International and *Bribery and Corruption Assessment Template*, Home Office, December 2016

## Proportionate Procedures

Procedures adopted by an organisation to counter bribery and corruption risk should be proportionate to its level of risk. Procedures may be either stand-alone or part of wider guidance, for example on procurement, and should include measures already in place to strengthen governance and accountability and address wider fraud risks (see paragraphs 3.3 to 3.5).

Good Practice	Y/N	Action Required
This organisation has a formal policy which highlights a zero tolerance of bribery and corruption.		
This organisation has anti-bribery and corruption procedures which are proportionate to the risks identified and the size and complexity of the organisation.		
This organisation has procedures in place for raising and reinforcing awareness, particularly with those open to greater risk of bribery and corruption.		
This organisation has sound system controls in place which will help reduce the risk of bribery and corruption, such as separation of duties and delegated authority levels.		
This organisation has sound financial controls in place which will help reduce the risk of bribery and corruption, such as transparent accounting records and a requirement for full supporting documentation for all transactions.		
This organisation seeks to minimise or avoid the use of cash payments.		
This organisation has strong internal and external audit functions and an effective audit committee.		
This organisation has a comprehensive set of policies in place which address possible bribery and corruption risks, for example conflicts of interest, gifts and hospitality and anti-fraud policies.		
This organisation has clear and effective procedures in place for those wishing to raise concerns about actual or potential bribery or corruption.		
This organisation has effective procedures in place for dealing with any bribery or corruption detected, e.g. a fraud or bribery response plan.		

## Top Level Commitment

Those at the top of an organisation are best placed to ensure that it conducts its business in a fair, honest and open way. Clear and visible commitment from senior management is an essential element of an ethical culture (see paragraphs 3.6 and 3.7).

Good Practice	Y/N	Action Required
This organisation has formally committed to business integrity and ethics.		
This organisation has a Code of Conduct or similar document which includes a clear anti-bribery and corruption statement.		
The Chair, Board and senior management of this organisation provide a 'tone from the top' which enhances a culture of integrity and supports an anti-bribery and corruption stance.		
The Chair, Board and senior management of this organisation have clearly assigned responsibility and authority for implementing anti-bribery and corruption arrangements.		
The Board or equivalent body considers bribery and corruption risks as part of wider discussion of fraud and whistleblowing concerns at its meetings.		

## Risk Assessment

A risk assessment is key to establishing the bribery and corruption risk faced by an organisation. It will also inform the proportionality of the controls introduced to mitigate risks identified (see paragraphs 3.8 to 3.13).

Good Practice	Y/N	Action Required
The Board or equivalent body has oversight of the risk assessment process.		
The risk assessment process includes consideration of bribery and corruption risk.		
The risk assessment is documented and periodically reviewed.		
The process for identifying bribery and corruption risk ensures that all key risks will be identified (for example, by consulting with staff across all business functions, and particularly those in higher risk areas).		
The business functions at particular risk from bribery and corruption have been identified.		
The employees most likely to be exposed to bribery and corruption risk have been identified by, for example, reviewing the register of interests.		
Assessment of bribery and corruption risk has been used to inform relevant policies and procedures.		
Bribery and corruption risks have been evaluated and prioritised so that mitigating controls can be properly targeted.		

## Due Diligence

Due diligence is an accepted element of wider good governance within an organisation. The application of due diligence in relation to the bribery and corruption risk posed by associated persons should be proportionate and risk-based. Due diligence can be applied both to third party associates and internal members of staff (see paragraphs 3.14 to 3.17).

Good Practice	Y/N	Action Required
<b>Due Diligence – Third Parties</b>		
Risk-based due diligence is carried out on contractors, suppliers and other associates before appointment and periodically thereafter.		
Contractors, suppliers and other associates are made aware of this organisation’s ethical position in relation to bribery and corruption and are expected to act accordingly.		
Where there is a higher risk level, associates are contractually required to comply with our anti-bribery and corruption policy and procedures.		
Where there is a higher risk level, there is contractual provision for access to the associate’s records for inspection purposes.		
Where there is a higher risk level, there is provision for termination of the contract where bribery or corruption by the associate is suspected or proven.		
There are procedures for the application of sanctions to third party associates when incidents of bribery or corruption occur.		

Good Practice	Y/N	Action Required
<b>Due Diligence – Employees and other Officials</b>		
This organisation’s recruitment process includes procedures to ensure that it is fair, transparent and free from bribery and corruption.		
This organisation carries out appropriate due diligence when recruiting Board members.		
This organisation carries out appropriate due diligence when recruiting employees, particularly to positions with a higher risk of bribery and corruption or positions of trust.		
Employees must sign up to a Code of Conduct (which should include a clear anti-bribery and corruption statement) when they join this organisation and must continue to be made aware of its provisions.		
Board members and Councillors are required to sign up annually to a Code of Conduct or equivalent statement.		
Employees and other officials (e.g. Board members and Councillors) receive training on bribery and corruption awareness and countering bribery and corruption risk.		

## Communication and Training

Communication promotes awareness and understanding of the organisation's policies and procedures in relation to bribery and corruption and provides a deterrent to acts of bribery or corruption by internal or external associated persons or agents (see paragraphs 3.18 to 3.21). Training may range from raising awareness of the risks with new employees as part of induction arrangements, to specialised training for those in key posts (see paragraph 3.22).

Good Practice	Y/N	Action Required
<b>Internal Communication</b>		
This organisation has a clear anti-bribery and corruption policy and procedures which are communicated in an accessible way to all employees. (Depending on the level of risk, provisions in relation to bribery and corruption may be included in the anti-fraud policy or may be in a stand-alone policy.)		
This organisation provides a secure, confidential and accessible means by which employees can raise concerns or seek advice in relation to bribery and corruption risk, without fear of reprisal.		
<b>External Communication</b>		
This organisation's anti-bribery and corruption stance is clearly stated and communicated to all third party associates. (This may be, for example, by way of a policy statement and/or code of conduct on the organisation's website.)		
Every opportunity is taken in external communications to emphasise this organisation's commitment to fairness, openness and honesty, as a deterrent to improper behaviour.		

Good Practice	Y/N	Action Required
<b>Training</b>		
Bribery and corruption awareness training is given to all staff. (This may be as part of general fraud awareness training.)		
Those employees at a higher risk of bribery and corruption (e.g. those who work within procurement, planning or regulatory functions) are given more detailed, tailored anti-bribery and corruption training.		
Where appropriate, third party associates are included in tailored anti-bribery and corruption training.		
Training is provided to all staff on how they can raise concerns about bribery and corruption risks, or seek advice.		
Training is provided to staff who may receive reports of concerns, so they have the confidence to deal appropriately with concerns raised.		



## Monitoring and Review

An organisation's bribery and corruption risks can change over time, for example if it assumes new functions. There is a need to periodically monitor and review anti-bribery and corruption arrangements to ensure they remain adequate and fit for purpose (see paragraphs 3.23 to 3.27).

Good Practice	Y/N	Action Required
Internal financial control systems are subject to periodic review and audit to ensure they remain effective in countering bribery and corruption risk.		
There is periodic review of high risk transactions, for example large scale procurements or significant planning decisions, to ensure compliance with anti-bribery and corruption procedures and controls.		
There is periodic review of fraud and whistleblowing caseload within the organisation, to determine whether the cases highlight any new bribery and corruption risks.		
There is periodic review of the register of interests to determine whether any new conflicts of interest may have arisen which could leave an employee more susceptible to the risk of bribery and corruption.		
Employees, particularly those in high risk functions, are required to confirm periodically that they comply with anti-bribery and corruption arrangements, for example by signing up to a Code of Conduct which includes anti-bribery and corruption provisions.		
The Audit Committee or Board periodically reviews anti-bribery and corruption procedures and controls, and challenges where necessary.		
The results of review activities feed into systems controls reviews and the strengthening of controls where necessary.		

## Checklist for Individual Public Officials

Bribery and corruption risk can affect individual public officials. Officials need to be aware of the risks they face and how they can minimise those risks (see Part 4).

Good Practice	Y/N	Action Required
I am aware of the ethical standards required of me in my role as a public official.		
I am aware of, and abide by, the provisions of my organisation's Code of Conduct.		
I am aware of my organisation's policies on: <ul style="list-style-type: none"> <li>• fraud and corruption;</li> <li>• bribery;</li> <li>• gifts and hospitality;</li> <li>• conflicts of interest; and</li> <li>• whistleblowing.</li> </ul>		
I know where to access these policies.		
I am aware of the need to declare any actual or potential conflicts of interest.		
I have declared any such conflicts of interest.		
I am familiar with my organisation's policy on gifts and hospitality.		
I fully comply with the gifts and hospitality policy.		
I am aware of the potential bribery and corruption risks I may face as a public official		
I am aware that the risks are more significant if my responsibilities relate to high risk areas such as procurement, planning or regulation.		
I avoid over familiarity with contractors and suppliers and act in an appropriate way to avoid any sense of obligation.		
I am familiar with the procedures to follow if I need to raise a concern about actual or potential bribery or corruption.		

## Appendix 2: How can bribery or corruption occur?

Bribery or corruption can occur in a number of ways<sup>24</sup>. The main ones likely to affect public sector organisations are set out in this Appendix, along with examples of warning signs (red flags) and appropriate controls. Comprehensive detail on other forms of bribery or corruption can be found in the sources listed in Appendix 3.

### Cash

Cash is one of the main ways in which a bribe can be given or received. Cash bribes may take the form of one-off payments or regular repeat payments, often linked to securing or retaining contracts or permits.

Organisations should avoid cash transactions where possible. If they cannot be avoided, organisations should apply stringent controls to any such transactions, to mitigate the risk of bribery.

#### Red Flags:

- a pattern of repeated cash payments;
- receipts for cash payments not available for inspection;
- a lack of detail on invoices provided;
- excessive use of petty cash;
- cash payments recorded as fees and commissions; and
- evidence of cash received for works or services subsequently identified as not having been performed or delivered.

#### Controls:

- checks for recurrent cash expenses of similar size;
- checks on cash payments and expenses for rounded sums;
- expense transactions to be supported by information which identifies employee, recipient and purpose;
- supporting documentation for all payments; and
- petty cash floats kept to a minimum or avoided, with any use strictly monitored and access restricted.

#### Case Example:

A court clerk at Redbridge Magistrates' Court, was sentenced to six years in jail (later reduced to four years on appeal) for using his privileged access to the court system to help more than 50 offenders avoid prosecution relating to driving offences, in exchange for sums of up to £500 a time.

He became the first person to be jailed under the Bribery Act 2010.

Source: Media reports, November 2011

<sup>24</sup> Sources: *Countering Small Bribes*, Transparency International, June 2014 and *How to Bribe*, Transparency International, January 2014

## Gifts and Hospitality

Offering and receiving gifts and corporate hospitality is an accepted business practice aimed at building and strengthening working relationships. However, when such gifts or hospitality become increasingly lavish or excessive or coincide with, for example, the letting of a major contract, a line can be crossed which takes the practice into the realm of bribery and corruption. Any gift or offer of hospitality should therefore pass a 'reasonable and proportionate' test before it is considered for acceptance.

### Red Flags:

- The gift or hospitality could influence the award or continuation of a contract or service.
- Acceptance of the gift or hospitality could be perceived by others (e.g. regulators or media) as being a bribe.
- The gift or hospitality does not fall within policy guidelines.
- The gift or hospitality is excessive in value.
- The recipient of the gift or hospitality is in a position of influence.

### Controls:

- a clearly defined gifts and hospitality policy;
- clear personal/annual limits for gifts or hospitality;
- a requirement for all gifts and hospitality to be declared and authorised in advance of acceptance; and
- a requirement for all offers of gifts and hospitality to be recorded in a register.

### Case Example

Allegations were made that a Northern Ireland Housing Executive (NIHE) Maintenance Officer had a close relationship with the directors of a major maintenance contractor and had accepted excessive hospitality from the company, including staying at accommodation in the USA owned by a director of the company and going on a Caribbean cruise with the director.

The case was investigated by the NIHE Fraud Unit and it was found that the officer had breached the NIHE Code of Conduct. He was disciplined and was dismissed. However, following appeal, he was reinstated, given a final written warning and offered relocation to another post within NIHE. Subsequently, the officer took a career break and later resigned.

The Public Accounts Committee said that in its view "*staff rotation plays an important role in managing the risk of over-familiarity, impropriety and fraud in contract management. The Committee welcomes the Housing Executive's decision to introduce new arrangements for regular rotation of key staff.*"

Sources: *NIHE Management of Response Maintenance Contracts*, NIAO, September 2012 and *NIHE Management of Response Maintenance Contracts*, Public Accounts Committee, February 2013

## Favours, Nepotism and Cronyism

Bribery and corruption in the form of exchanging favours can be particularly difficult to identify as often there is no financial transaction. Nepotism (favouring a family member) and cronyism (favouring a friend or associate) are examples where favours, such as jobs or benefits, are given to a decision maker's relatives or friends in order to gain an unfair advantage.

### Red Flags:

- Someone associated with, or connected to, the organisation could gain an exclusive advantage through the exchange of favours.
- Normal, fair or regulated selection processes could be circumvented by the exchange of favours.
- Certain business or employment decisions could be made without apparent regard to merit.
- A person could exploit their power and authority by offering privileged access to services.

### Controls:

- a robust conflicts of interest policy;
- declaration of interests as appropriate, for example within recruitment or planning processes;
- full disclosure at application stage of relatives already working in the organisation in senior positions;
- not allowing relatives of candidates to sit on their selection panel;
- awareness training for all staff, Board members and councillors in relation to bribery and corruption, fraud and conflicts of interest so they are aware of their responsibilities; and
- sanctions for any breach of the relevant policies and procedures.

### Case Example

There were allegations that a council leader in England replaced the planning committee Chairman because the committee had failed to approve a development that would have benefitted the council leader's long-term friend.

The replacement Chairman had previously supported projects by the same development company which was led by the council leader's friend.

Source: *Corruption in UK Local Government*, Transparency International, October 2013

## Facilitation Payments

Facilitation payments are small bribes aimed at speeding up a process or securing something that the payer is entitled to anyway. Queue jumping, where bribery can be used to secure favourable treatment such as having a planning or licence application approved without delay, can be tempting. Regardless of the motive, such payments are bribes.

### Red Flags:

- A payment is requested or solicited for the purpose of expediting or facilitating a service.
- An organisation or individual gains preferential treatment through making the payment.
- A payment appears to be unofficial or covert.
- A payment is higher than, or over and above, the standard fee for the service being provided.

### Controls:

- a clear anti-bribery policy and procedures;
- demands for facilitation payments recorded and reported to senior management; and
- bribery and corruption awareness training for all staff.

### Case Example

A drinks distribution company opened a new foreign based distribution office but the General Manager was told it would take twelve months to obtain a phone and broadband connection.

After complaining, the General Manager was told that for a one-off 'unofficial' payment, connection could be made within a week. The manager agreed to pay the amount and the line was connected.

Source: *How to Bribe*, Transparency International, January 2014

## Donations

Corporate donations to charities and political parties are commonplace and entirely legal. Charitable donations can benefit communities and good causes. If, however, the donations are made with the intention of influencing a political decision or gaining preferential treatment in contract negotiations, then this can be regarded as corrupt.

Within the Northern Ireland public sector, a scenario might arise where a contractor makes a significant donation to a political party. A Minister or councillor from that party may have the final say in the award of a large contract by their department or council, and their decision could be influenced by the donation made.

Public officials in positions of significant influence, particularly political and elected officials, should be aware of the potential risks around donations and the perception that could arise if the donation became public knowledge.

## Appendix 3: Sources and useful references

**Bribery Act 2010:**

[www.legislation.gov.uk/ukpga/2010/23/contents](http://www.legislation.gov.uk/ukpga/2010/23/contents)

**Bribery Act Guidance:**

[www.gov.uk/government/publications/bribery-act-2010-guidance](http://www.gov.uk/government/publications/bribery-act-2010-guidance)

**Cabinet Office Counter Bribery and Corruption Standard** – not available electronically

**CIPFA Better Governance Forum:**

<http://www.cipfa.org/services/networks/better-governance-forum>

**Fraud Act 2006:**

<http://www.legislation.gov.uk/ukpga/2006/35/contents>

**Fraud Advisory Panel: Adequate Procedures:**

<https://www.fraudadvisorypanel.org/wp-content/uploads/2016/05/Adequate-Procedures-to-Prevent-Bribery-and-Corruption-May2016.pdf>

**Fraud Advisory Panel: Bribery and Corruption:**

<https://www.fraudadvisorypanel.org/wp-content/uploads/2016/05/Bribery-and-corruption-3rd-edition-May2016.pdf>

**Home Office Bribery and Corruption Assessment Template:**

<https://www.gov.uk/government/publications/bribery-and-corruption-assessment-template>

**Independent Commission Against Corruption (New South Wales):**

<https://www.icac.nsw.gov.au/preventing-corruption/known-your-risks>

**Public Concern at Work:**

[www.pcaw.org.uk](http://www.pcaw.org.uk)

**Transparency International UK Publications:**

**Countering Small Bribes:**

<http://www.transparency.org.uk/publications/countering-small-bribes/>

**How to Bribe:**

<http://www.transparency.org.uk/publications/how-to-bribe-a-typology-of-bribe-paying-and-how-to-stop-it/>

**Corruption in UK Local Government:**

<http://www.transparency.org.uk/publications/corruption-in-uk-local-government-the-mounting-risks/>







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