

**BBC**

**Anti-Bribery Policy**

**June 2011**

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**CLAUSE**

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1. ANTI-BRIBERY POLICY STATEMENT

- 1.1 The BBC is committed to conducting business in accordance with the highest ethical and legal standards. The integrity of our staff, and those with whom we do business, is critical to our success. Our audiences and stakeholders have every right to expect that professional, competent and trustworthy people are working in the best interests of the BBC. The BBC Trust, as the guardian of the licence fee and public interest, must ensure that the BBC observes high standards of openness and transparency and exercise rigorous stewardship of public money. This Anti-Bribery and Corruption Policy is drafted with these obligations in mind.
- 1.2 The BBC takes a zero-tolerance approach to bribery and corruption and is committed to acting professionally, fairly and with integrity in all its business dealings and relationships wherever it operates. The BBC is committed to implementing and enforcing effective systems to counter bribery.
- 1.3 The BBC's Anti-Bribery Code of Conduct (which comprises this Policy and its associated guidance) reflects our commitment to uphold all laws relevant to countering bribery and corruption in all the jurisdictions in which we operate. In particular, we are committed to compliance with the Bribery Act 2010, in respect of our conduct both at home and abroad. The Bribery Act 2010 applies to individuals and all organisations carrying on a business in the UK, including the broadcasting sector. The territorial jurisdiction of the prosecutors extends to offences committed both in the UK and abroad.
- 1.4 The purpose of this Policy is to:
- (a) set out our responsibilities, and of those working for us, in observing and upholding our position on bribery and corruption; and
  - (b) provide information and guidance to those working for us on how to recognise and deal with bribery and corruption issues.
- 1.5 Bribery and corruption are punishable for individuals by up to ten years imprisonment and if the BBC is found to have failed to prevent bribery in relation to its business it could face unlimited fines and extensive reputational damage. We therefore take our legal responsibilities very seriously.
- 1.6 We have conducted a Risk Assessment exercise considering the nature and extent of the potential risks of bribery faced by the BBC, taking into account all interactions the BBC has with third parties. We will continue to monitor our overall risk profile.

1.7 In this Policy, **third party** means any individual or organisation you come into contact with during the course of your work for us, and includes actual and potential clients, customers, suppliers, distributors, business contacts, agents, advisers, and government and public bodies, including their advisors, representatives and officials, politicians and political parties.

**2. WHO IS COVERED BY THE POLICY?**

2.1 Under Section 7 of the Bribery Act the BBC may be liable to be prosecuted for an offence if a person associated with it bribes another person, intending to obtain or retain business or a business advantage for the organisation. It is a defence for the organisation to show that it has in place "adequate procedures" designed to prevent bribery by its "associated persons". A person is associated with an organisation if it performs services for or on behalf of that person, eg as employee, subsidiary, agent or subcontractor.

2.2 This Policy applies to all individuals working at all levels and grades, including senior managers, officers, directors, employees (whether permanent, fixed-term or temporary), consultants, contractors, trainees, seconded staff, casual staff and agency staff, volunteers, interns, agents, sponsors, or any other person associated with us, or any of our subsidiaries or their employees, wherever located (collectively referred to as **staff** in this Policy).

**3. WHAT IS BRIBERY?**

A bribe is an inducement or reward offered, promised or provided in order to gain any commercial, contractual, regulatory or personal advantage.

**Examples:**

**Offering a bribe**

You offer an artist's agent tickets to a major sporting event, but only if they agree to reduce the advance requested by the artist for his performance.

This would be an offence as you are making the offer to gain a commercial and contractual advantage. The BBC may also be found to have committed an offence because the offer has been made to obtain business for the BBC. It may also be an offence for the artist's agent to accept your offer.

**Receiving a bribe**

The promoter of a major record label offers to take the presenter of your radio show on a family holiday if she agrees to play the latest single from their latest signing on her breakfast show.

It is an offence for the promoter to make such an offer. It would be an offence for you to

accept the offer as you would be doing so to gain a personal advantage.

**Bribing a foreign official**

A fixer which you have booked makes an additional payment to a foreign official to speed up the issuing of a registration licence for a local branch in a remote African country. There is no official process for speeding up the issuing of a licence in the country.

The offence of bribing a foreign public official has been committed as soon as the offer is made. This is because it is made to gain a business advantage for the BBC. The BBC itself may also be found to have committed an offence, if it has failed to prevent such occurrences negligently.

4. **GIFTS AND HOSPITALITY**

4.1 This policy does not prohibit normal and appropriate hospitality (given and received) to or from third parties.

4.2 The giving or receipt of gifts is not prohibited, if the following requirements are met:

- (a) it complies with the BBC Business hospitality, entertainment and gifts policy;
- (b) it is not made with the intention of influencing a third party to obtain or retain business or a business advantage, or to reward the provision or retention of business or a business advantage, or in explicit or implicit exchange for favours or benefits;
- (c) it complies with local law;
- (d) it is given in our name, not in your name;
- (e) it does not include cash or a cash equivalent (such as gift certificates or vouchers);
- (f) it is appropriate in the circumstances. For example, in the UK it is customary for small gifts to be given at Christmas time;
- (g) taking into account the reason for the gift, it is of an appropriate type and value and given at an appropriate time;
- (h) it is given openly, not secretly; and
- (i) gifts should not be offered to, or accepted from, government officials or representatives, or politicians or political parties, without the prior approval of your line manager or your Division's Legal and Business Affairs representative.

4.3 We appreciate that the practice of giving business gifts varies between countries and regions and what may be normal and acceptable in one region may not be in another.

The test to be applied is whether in all the circumstances the gift or hospitality is reasonable and justifiable. The intention behind the gift should always be considered.

**5. GIFTS AND HOSPITALITY - WHAT IS NOT ACCEPTABLE?**

It is not acceptable for you (or someone on your behalf) to:

- (a) give, promise to give, or offer, a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- (b) give, promise to give, or offer, a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- (c) accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
- (d) accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
- (e) threaten or retaliate against another worker who has refused to commit a bribery offence or who has raised concerns under this policy; or
- (f) engage in any activity that might lead to a breach of this policy.

**6. FACILITATION PAYMENTS**

6.1 Facilitation payments are typically small, unofficial payments made to secure or expedite a routine or necessary government action by a government official, when we have already paid for, or are entitled to, that action. They are not commonly requested in the UK, but this is a widespread form of bribery, despite being illegal in almost every country in which we operate. Under Sections 1 and 6 of the Bribery Act 2010, bribes and facilitation payments are illegal and the offer of any of these forms of payments in any of the countries in which we operate is against BBC policy.

6.2 There is specific Guidance on Facilitation Payments and how to resist requests for them. Anyone whose work involves overseas productions, or travel overseas on BBC business, is required to review this guidance and act in accordance with it. Our zero-tolerance approach to bribery in the case of facilitation payments involves a policy of resistance which is achieved in stages. Our policy is to refuse to pay facilitation payments unless payment is clearly unavoidable and being made in exceptional circumstances (such as those referred to in paragraph 6.4). Clear documentation will be required for any payments made. Our ultimate goal is the elimination of such payments made on behalf of the BBC.

- 6.3 If you are asked to make a payment on our behalf, you should always be mindful of what the payment is for and whether the amount requested is proportionate to the goods or services provided. Where practical, and safe to do so, you should always ask for a receipt which details the reason for the payment. If you have any suspicions, concerns or queries regarding a payment, you should raise these with your line manager or your Legal and Business Affairs representative.
- 6.4 You should never refuse to make a payment if faced with a threat of, or fear of, violence or loss of liberty. The safety of our employees is of primary concern in all our operations both at home and abroad. The Guidance issued by the Ministry of Justice on the Bribery Act includes a defence of duress which is stated to be likely to be available in the case of payments made to protect "life, limb or liberty".

## 7. DONATIONS

The BBC does not make contributions to political parties or charitable donations, except in relation to designated BBC charities. If, in exceptional circumstances, a donation appears appropriate the BBC Editorial Guidelines Guidance on Charity must be consulted and the donation must not be offered or made without the prior approval of Editorial Policy.

## 8. YOUR RESPONSIBILITIES

- 8.1 You must ensure that you read, understand and comply with this Policy.
- 8.2 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for us or under our control. All staff are required to avoid any activity that might lead to, or suggest, a breach of this Policy.
- 8.3 You must notify your line manager **OR** your legal and business affairs representative or the Whistle Blowing (Public Disclosure) Guide as soon as possible if you believe or suspect that a conflict with this Policy has occurred, or may occur in the future. For example, if a supplier or potential supplier offers you something to gain a business advantage with us, or indicates to you that a gift or payment is required to secure their business. Further "red flags" that may indicate bribery or corruption are set out at the end of this Policy.
- 8.4 Any employee who breaches this Policy may face disciplinary action, which could result in dismissal for gross misconduct. We reserve our right to dismiss staff if they breach this Policy.

9. **RECORD-KEEPING**

- 9.1 Financial records must be kept and appropriate internal controls must be put in place which will evidence the business reason for making payments to third parties.
- 9.2 Written records of all hospitality or gifts accepted or offered must be declared and kept, which will be subject to managerial review.
- 9.3 All expenses claims relating to hospitality, gifts or expenses incurred to third parties must be submitted in accordance with our expenses policy and specifically record the reason for the expenditure.
- 9.4 All accounts, invoices, memoranda and other documents and records relating to dealings with third parties, such as clients, suppliers and business contacts, should be prepared and maintained with strict accuracy and completeness. No accounts must be kept "off-book" to facilitate or conceal improper payments.

10. **WHAT TO DO IF YOU HAVE A SPECIFIC CONCERN ABOUT BRIBERY OR CORRUPTION**

- 10.1 All staff are encouraged to raise concerns about any issue or suspicion of malpractice at the earliest possible stage. If you are unsure whether a particular act constitutes bribery or corruption, or if you have any other queries, these should be raised with your line manager **OR** your legal and business affairs representative or through the confidential helpline. Concerns should be reported by following the procedure set out in Whistle Blowing (Public Disclosure) Guide.
- 10.2 It is important that you tell your line manager or your legal and business affairs representative as soon as possible if you are offered a bribe by a third party, are asked to make one, suspect that this may happen in the future, or believe that you are affected by any another form of unlawful activity.

11. **PROTECTION**

- 11.1 Staff who refuse to accept or offer a bribe, or those who raise concerns or report another's wrongdoing, are sometimes worried about possible repercussions. We aim to encourage openness and will support anyone who raises genuine concerns in good faith under this policy, even if they turn out to be mistaken.
- 11.2 The BBC is committed to ensuring no one suffers any detrimental treatment as a result of refusing to take part in bribery or corruption, or because of reporting in good faith their suspicion that an actual or potential bribery or other corruption offence has taken place, or may take place in the future. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a



concern. If you believe that you have suffered any such treatment, you should inform the compliance manager immediately. If the matter is not remedied, and you are an employee, you should raise it formally through the Whistle Blowing (Public Disclosure) Guide or through the BBC Grievance procedure.

## 12. TRAINING AND COMMUNICATION

- 12.1 Anti-Bribery Training on this Policy is available online. Your Divisional Director is responsible for identifying which staff in his/her Division are required to undergo training on this Policy, but if you consider that you need further information we would encourage you to complete the online training module. In addition, targeted 1-2-1 training is available for all staff designated as requiring this by their Divisional Director. You can consult your line manager or legal and business affairs representative for further information.
- 12.2 Training and guidance will be updated and communicated as appropriate on a regular basis and all relevant staff will receive regular, relevant training on how to implement and adhere to this policy.
- 12.3 The BBC's zero-tolerance approach to bribery and corruption must be communicated to all suppliers, contractors and business partners at the outset of our business relationship with them and as appropriate thereafter.

## 13. WHO IS RESPONSIBLE FOR THE POLICY?

- 13.1 The Executive Board has overall responsibility for ensuring this policy complies with our legal and ethical obligations, and that all those under our control comply with it. The Chief Operating Officer and the Chief Financial Officer are the joint-sponsors of the BBC's Anti-Bribery Policy.
- 13.2 The Divisional Directors have primary and day-to-day responsibility for implementing this Policy, and for monitoring its use and effectiveness. The Group General Counsel has primary responsibility for dealing with any queries on its interpretation. BBC management at all levels are responsible for ensuring those reporting to them are made aware of and understand this Policy and are given adequate and regular training on it.

## 14. MONITORING AND REVIEW

- 14.1 The effectiveness of the implementation of this Policy will be reviewed and monitored regularly considering its suitability, adequacy and effectiveness. Any improvements identified will be made as soon as possible. Internal control systems and procedures will be subject to regular audits to provide assurance that they are effective in countering bribery and corruption.

- 14.2 All staff are responsible for the success of this policy and should ensure they use it to disclose any suspected danger or wrongdoing.
- 14.3 Staff are invited to comment on this Policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to your legal and business affairs representative.
- 14.4 This Policy does not directly form part of any employee's contract of employment and it may be amended at any time.

**Potential risk scenarios: "red flags"**

The following is a list of possible red flags that may arise during the course of your work and which may raise concerns under various anti-bribery and anti-corruption laws. The list is not intended to be exhaustive and is for illustrative purposes only.

If you encounter any of these red flags while working for us, you must report them promptly to your line manager **OR** to your Legal and Business Affairs representative **OR** using the procedure set out in the Whistle Blowing (Public Disclosure) Guide :

- (a) you become aware that a third party engages in, or has been accused of engaging in, improper business practices;
- (b) you learn that a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having a "special relationship" with foreign government officials;
- (c) a third party insists on receiving a commission or fee payment before committing to sign up to a contract with us, or carrying out a government function or process for us;
- (d) a third party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made;
- (e) a third party requests that payment is made to a country or geographic location different from where the third party resides or conducts business;
- (f) a third party requests an unexpected additional fee or commission to "facilitate" a service;
- (g) a third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
- (h) a third party requests that a payment is made to "overlook" potential legal violations;
- (i) a third party requests that you provide employment or some other advantage to a friend or relative;
- (j) you receive an invoice from a third party that appears to be non-standard or customised;
- (k) a third party insists on the use of side letters or refuses to put terms agreed in writing;
- (l) you notice that we have been invoiced for a commission or fee payment that appears large given the service stated to have been provided;
- (m) a third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to us;

- (n) you are offered an unusually generous gift or offered lavish hospitality by a third party.

## **BBC GUIDANCE – FACILITATION PAYMENTS**

### **How to resist requests for facilitation payments**

#### **What are they?**

Facilitation payments are typically small, unofficial payments made to secure or expedite a routine or necessary government action by a government official, when we have already paid for, or are entitled to, that action. A typical example might be “inspection fees” for clearance of imported equipment through customs. They are not commonly requested in the UK, but this is a widespread form of bribery, despite being illegal in almost every country in which we operate. Under Sections 1 and 6 of the Bribery Act 2010, bribes and facilitation payments are illegal and the offer of any of these forms of payments in any of the countries in which we operate is against BBC policy.

#### **The Government’s approach**

The guidance issued by the Ministry of Justice earlier this year<sup>1</sup> has expressly acknowledged the problems companies face in some parts of the world and said that getting rid of facilitation payments is its long-term objective needing cooperation between governments and other international bodies. The BBC’s Guidance on how to resist requests for facilitation payments is framed with this approach in mind.

#### **The BBC approach – staged resistance**

Our zero-tolerance approach to bribery in the case of facilitation payments involves a policy of resistance which is achieved in stages. Our policy is to refuse to pay facilitation payments unless payment is clearly unavoidable. Where payment is determined to be unavoidable and payment is made, this needs to be documented – guidance on what details to record is set out below. Our ultimate goal is the elimination of all such payments made on behalf of the BBC.

#### **Safety and Duress**

You should never refuse to make a payment if faced with a threat of, or fear of, violence or loss of liberty. The safety of our employees is of primary concern in all our operations both at home and abroad. The Ministry of Justice Guidance includes a defence of duress which is stated to be likely to be available in the case of payments made to protect “life, limb or liberty”.

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<sup>1</sup> Guidance about procedures which relevant commercial organisations can put in place to prevent persons associated with them from bribing (section 9 of the Bribery Act 2010).  
[www.justice.gov.uk/guidance/bribery.htm](http://www.justice.gov.uk/guidance/bribery.htm)

### **Who is the Guidance aimed at?**

This Guidance is primarily aimed at staff who are based or filming overseas, where the issue of facilitation payments is more likely to arise, although the Guidance is equally as applicable to any staff who encounter facilitation payment requests in the UK. The Guidance provides advice on how to resist requests for facilitation payments. Anyone whose work involves overseas productions, or is based or travels overseas on BBC business, is required to review this Guidance and act in accordance with it.

Requests for facilitation payments are perceived to be most likely in the countries/continents where corruption is perceived to be high. However, they can occur in other parts of the world, including European countries, so staff need to be alert to the possibility of a request and be prepared to adopt the strategies indicated below. In addition, this Guidance is relevant to production departments which make extensive use of intermediaries, known as “fixers”. Contracts with fixers should always be confirmed in writing and there should be a requirement to agree to adhere to the BBC's Anti-Bribery Code of Conduct, BBC Anti-Bribery Policy and this Guidance in all dealings on behalf of the BBC.

### **The 4 Rs – Staged resistance to facilitation payments**

It is important to know how to plan in advance to avoid these situations, and how to deal with them when they arise. The strategy of resistance outlined below falls under four headings – the 4Rs:

**Research**  
**Resistance**  
**Recording**  
**Reporting**

**However, we would stress that SAFETY of staff is of paramount importance. If at any stage fear for safety arises DO NOT RESIST. In these circumstances, staff should make the payment and make detailed notes afterwards of what happened and report as required.**

#### **Research – Preparation is key**

- Research local laws in advance; if we know what the official requirements are it should be easier to resist a request for payment.
- Research what authorisations or permits are needed well in advance, in cooperation with any relevant fixer (making sure the fixer knows our policy and adheres to it). If possible get official written confirmation that all documents are in order.

- Research the background of your fixer and include anti-bribery provisions in their contract. Your fixer's contract needs to itemise what you are asking them to do, so that there is less chance of hidden facilitation payments being made on our behalf. Contact your Legal and Business Affairs representative for further guidance.
- Request that any intermediaries acting on our behalf train their staff on resisting facilitation payments and report any enforcement problems to their relevant BBC contact.
- Build in the necessary time required to get through the administrative formalities well in advance of production so that time pressure is likely to be less of an issue.

### **Resistance**

If it feels safe:

- Question the legitimacy of the request.
- Explain to the individual that you don't believe you need to make the requested payment as all your papers are in order – use your research on local laws to support this.
- Explain that facilitation payments are against your company policy, as well as UK law, and that you would have to report it to your management.
- Point out, if this is the case, that facilitation payments are against local law.

*If having resisted the payment, the payment appears unavoidable*

- Negotiate it to the minimum amount appropriate to the circumstances.
- Try to avoid making a payment in cash directly to the official.

### **Recording**

- Record all payments which you have had to make, having gone through the resistance steps.
- Record the name of the individual, if possible, requesting the payment and any other details it feels safe to get.

## Reporting

- Immediately - or as soon as practicable - report the payment to your manager and explain why you had to pay it.
- Ensure payment is recorded in the BBC expenses system, or relevant finance accounting system if not claimed through expenses, with a clear explanation of its purpose.
- Divisional Directors will liaise with the Group General Counsel on any requirement for reporting to relevant authorities in the UK and in the country concerned eg. the country's Ministry of the Interior or local Embassy.
- Incidents need to be considered by the relevant Divisional management and consideration given to efforts to reduce the risk of re-occurrence, particularly where incidents show a trend towards endemic corruption in a particular territory.

If you have any queries while you are in the field contact your line manager/BBC contact who may take legal advice if necessary.

### **REMEMBER SAFETY COMES FIRST**

***For further guidance in relation to facilitation payments or any other Bribery Act queries advice can be sought by programme-making teams from Legal and Business Affairs.***