



## GUIDANCE ON FACILITATION PAYMENTS

### What are facilitation payments?

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 country is against the University’s policy.

### Illustrative examples of facilitation payments in relation to University activity:

- An academic conducting research overseas is asked to pay a small sum of cash directly to a customs official to avoid excessive delay in importing research equipment required to do the work.
- Whilst visiting an overseas office a senior University manager is asked to pay a sum of money directly to a foreign government official in order to sign registration documents.
- A University employee assigned to work overseas is asked to pay a sum to an immigration official to expedite his/her work permit application.
- A University employee in receipt of a valid entry visa is asked to pay an additional ‘visa payment’ to facilitate entry to the country.
- An agent or intermediary responsible for finding potential new overseas students for the University pays a small bribe directly to an education department official to be allowed access to a highly rated secondary school.
- An employee is asked to contract exclusively with a third party for services in order to secure overseas government funding.

### The University’s approach

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 University.

**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”.

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

This Guidance is primarily aimed at staff who are based overseas or will be travelling overseas for any purpose, either research related or on University business, 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. 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 all staff need to be alert to the possibility of a request and be prepared to adopt the strategies indicated in this Guidance. In addition, this Guidance is relevant to any University staff who make use of agents or intermediaries. Contracts or agreements with agents and intermediaries should always be confirmed in writing and there should be a requirement to agree to adhere to the University's Anti-Bribery and Corruption Policy in all dealings on behalf of the University.

## **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:

- 1. Research**
- 2. Resistance**
- 3. Recording**
- 4. 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.

### **1. 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. If possible get official written confirmation that all documents are in order.
- Research the background of your agent or intermediary and include anti-bribery provisions in their contract. Their contract or agreement 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.
- Build in the necessary time required to get through the administrative formalities well in advance so that time pressure is likely to be less of an issue.

### **2. 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 University policy, as well as UK law, and that you would have to report it to the University.
- 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.

### **3. 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.

### **4. REPORTING**

- Immediately - or as soon as practicable - report the payment to your line manager and explain why you had to pay it.
- Ensure payment is recorded in the University finance system with a clear explanation of its purpose.
- Line managers will liaise with the University Secretary on any requirement for reporting to relevant authorities in the UK and in the country concerned, e.g. the country's Ministry of the Interior or local Embassy.
- Incidents need to be considered by the relevant Department 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 abroad contact your line manager who may take legal advice if necessary.

For further guidance in relation to facilitation payments or any other Bribery Act queries, advice can be sought from the University Secretary.

**University policies related to this Guidance (available in the University's Policies and Documents intranet page):**

- Anti-Bribery and Corruption Policy
- Gifts and Hospitality Policy