

NDCS Anti-Corruption & Bribery Policy

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Introduction

1. NDCS is committed to conducting business honestly without corrupt practices or acts of bribery, ensuring adherence to the highest legal and ethical standards. This must be reflected in every aspect of the way in which NDCS operates.
2. In the UK, where NDCS is registered, the Bribery Act 2010 not only makes bribery and corruption illegal, but will also hold NDCS liable for failing to implement adequate procedures to prevent such acts by those working for the organisation or on its behalf, no matter where in the world the act takes place. Corrupt acts committed abroad, including those by partners or consultants working directly on our behalf for example, may result in a prosecution.
3. Bribery and corruption have a range of definitions in law, but the fundamental principles apply universally. Bribery is the offering, promising, giving, demanding or acceptance of an advantage as an inducement for an action which is illegal, unethical or a breach of trust. Corruption is the misuse of public office or power for private gain; or misuse of private power in relation to business. Acts of bribery or corruption are designed to influence the individual in the performance of their duty and to incline them to act dishonestly.
4. Bribes can take on many different shapes and forms, but typically they involve corrupt intent. There will usually be a 'quid pro quo' – both parties will benefit. A bribe could be the:
 - Direct or indirect promise, offering, authorisation or acceptance of anything of value
 - Offer or receipt of any kickback, loan, fee, reward or other advantage
 - Giving or receiving of aid, donations or voting designed to exert improper influence
5. NDCS will seek to apply a “zero tolerance” approach to acts of bribery and corruption by any of our staff, volunteers, consultants, or by partners working on our behalf. Any breach of this policy will be regarded as a serious matter by NDCS and, for employees, is likely to result in disciplinary action.
6. This policy should be read in conjunction with NDCS policies and guidelines on Whistle Blowing, Gifts & Hospitality, Anti-Fraud, Bullying & Harassment and Recruitment, Conflict of Interest which are all complimentary.
7. Please note that there is a separate NDCS policy on Anti-Fraud. Corruption and bribery are types of fraud but the legal framework for these specific areas and the responsibilities placed on NDCS as an organisation are such that a separate policy is required. Where fraud other than corruption or bribery is suspected, the reporting process in the NDCS Anti-Fraud policy must be followed.

Purpose

8. The purpose of this policy is to:
 - set out the responsibilities of NDCS staff, and others working on behalf of NDCS in observing and upholding our position on bribery and corruption; and
 - provide information and guidance to NDCS staff and others working on the behalf of NDCS on how to recognise and deal with bribery and corruption issues.

Scope

9. This policy applies to all NDCS employees (staff, contract and temporary), casual workers, agency staff, volunteers, consultants, contractors, partners and Trustees and extends to all our dealings and transactions in all countries in which we or our subsidiaries and associates operate.

Policy

Risk Assessment

10. Effective risk assessment is at the very core of the success or failure of this policy. Risk identification pinpoints the specific areas in which bribery and corruption risks arise and enable better evaluation and mitigation of these risks.
11. Each Executive Director is required to consider bribery and corruption risk as part of their ongoing risk assessment procedures. Where no such risks are identified this must be confirmed in writing to the Director of Finance & Administration on an annual basis.
12. Appendix 1 provides some of the key risk factors to be considered when assessing the corruption and bribery risk faced by NDCS.

Effective Monitoring and Internal Control

13. All parts of NDCS must maintain an effective system of internal control and monitoring of our transactions. Once bribery and corruption risks have been identified and highlighted via the risk assessment process, procedures must be developed accordingly to mitigate these risks.

Record Keeping

14. It is imperative that accurate books, records and financial reporting are kept. Overall financial reporting must be maintained and be transparent. False, misleading or inaccurate records of any kind could potentially damage NDCS.

Relationship with Partners and Consultants

15. Each Executive Director is responsible for evaluating partner and consultant relationships within their Directorate and informing them of our Anti-Corruption and Bribery policy and the need to adhere to it.

Facilitation payments and kickbacks

16. In many countries, it is customary business practice to make payments or gifts of small value to government officials in order to speed up or facilitate a routine action or process. Despite this, facilitation payments as defined here are against this policy. NDCS takes the view that they are illegal. The UK Bribery Act 2010 makes no distinction between facilitation payments and bribes – regardless of size or local cultural expectations, even if that is “how business is done here”. However, if staff are forced to pay under duress or faced with potential safety issues or harm, such a payment may be made. If such a situation arises, this should be reported immediately in accordance with the reporting procedures set out in paragraph 26 below.

Gifts, Entertainment and Hospitality

17. This policy does not prohibit normal and appropriate hospitality (given or received) to or from third parties.
18. Please refer to the “NDCS Gifts and Hospitality Policy” for more information.
19. It is not acceptable for you (or someone on your behalf) to:
 - give, promise to give, or offer, a payment, gift or hospitality with the expectation that a business advantage will be received, or to reward a business advantage already given;
 - 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;
 - 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;
 - 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;
 - threaten or retaliate against another working on behalf of NDCS who has refused to commit a bribery offence or who has raised concerns under this policy; or
 - engage in any activity that might lead to a breach of this policy.

Your Responsibilities

20. You must ensure that you read, understand and comply with this policy.
21. The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working on behalf of NDCS. All such parties are required to avoid any activity that might lead to, or suggest, a breach of this policy.
22. You must report any suspicion that a conflict with this policy has occurred, or may occur in the future as soon as possible in accordance with the reporting procedure detailed in paragraph 26 below.
23. Appendix 2 provides a list of “Red Flags” you should be aware of that may indicate bribery or corruption.
24. Any employee who breaches this policy will face disciplinary action, which could result in dismissal for gross misconduct.

Training and Communications

25. We will communicate this policy and relevant guidance to staff across NDCS. Wherever possible we will also communicate this policy to our partners, contractors, suppliers and wider stakeholders. All employees will be expected to take responsibility for ensuring that any consultants, partners or anyone else acting on behalf of NDCS are made aware of this policy and NDCS’s zero-tolerance approach to bribery and corruption.

Raising Concerns

26. All those covered by this policy have a responsibility to help detect, prevent and report instances not only of bribery, but also of any other suspicious activity and wrongdoing. All initial concerns will be treated confidentially. However, as an investigation progresses it may not always be possible to fully protect the names of those raising concerns. Where this is a concern then the situation will be discussed with the people concerned before any action is taken.
27. It is very important to NDCS that any concerns about abuse of this policy are raised. Employees are encouraged to raise concerns about any instance of malpractice at the earliest possible stage to an appropriate employee of NDCS, either a line manager, the Director of Finance & Administration, In her absence the Deputy Director of Finance or by following the NDCS Whistleblower procedure.
28. Victimising an employee for raising a legitimate concern will be a disciplinary offence as will maliciously or vexatiously raising a concern.

Who is responsible for this policy?

29. The Board of Trustees has overall responsibility for ensuring this policy complies with our legal and ethical obligations, and that those under our control comply with it.
30. The Director of Finance & Administration has primary and day-to-day responsibility for implementing this policy and for monitoring its use and effectiveness and dealing with any queries on its interpretation. 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.

Monitoring and Review

31. NDCS will review the implementation of this policy in respect of its suitability, adequacy and effectiveness and make improvements as appropriate. It will periodically report the results of this process to the Trustees, who will make an independent assessment of the adequacy of the policy.

Useful links

32. The full Ministry of Justice Guidance and a more condensed “Quick start Guide” can be found at:

<http://www.justice.gov.uk/guidance/making-and-reviewing-the-law/bribery.htm>

33. The Bond “Anti-Bribery Principles and Guidance for NGOs” can be found at:

<https://www.bond.org.uk/resources/anti-bribery-guidelines>

Appendix 1 – Corruption and Bribery Risk Factors

The following is a list of risk factors that should be considered when assessing corruption and bribery risk within the organisation. The list is not intended to be exhaustive.

- *Geographical* – risks may be higher in certain countries or regions within countries. Activities in urban areas may pose different risks to activities in rural areas.
- *Cultural* – in certain cultures and work environments, bribes may be seen as “business as usual”.
- *Sector* – the nature of the sector in which an organisation works may pose specific risks.
- *Partners* - factors that may impact bribery risk include: size / structure / governance of partners; adequacy of partners’ control systems; partner selection processes; partnership contracts and agreements; and partners’ monitoring and support processes; political involvement or connections of partners.
- *Procurement* – increased risk where processes are not fair or transparent. Procurement is a high risk area for bribery.
- *Transactions* – certain transactions may carry higher risk; for example, payments to government officials, major contracts and payments through third parties.
- *Recruitment* – bribes can be offered or sought as part of recruitment processes.
- *New activities* – there may be increased risk when organisations start new activities in which they have limited experience such as humanitarian relief in a new country or commercial operations.

Appendix 2 – Red Flags

The following is a list of possible red flags that may arise during the course of you working for NDCS 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 NDCS, you must report them promptly in accordance with paragraph 26 above:

- 1) You become aware that a third party engages in, or has been accused of engaging in, improper business practices;
- 2) 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;
- 3) 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;
- 4) 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;
- 5) A third party requests that payment is made to a country or geographic location different from where the third party resides or conducts business;
- 6) A third party requests an unexpected additional fee or commission to "facilitate" a service;
- 7) A third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
- 8) A third party requests that a payment is made to "overlook" potential legal violations;
- 9) A third party requests that you provide employment or some other advantage to a friend or relative;
- 10) You receive an invoice from a third party that appears to be non-standard or customised;
- 11) A third party insists on the use of side letters or refuses to put terms agreed in writing;
- 12) You notice that we have been invoiced for a commission or fee payment that appears large given the service stated to have been provided;
- 13) 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;
- 14) You are offered an unusually generous gift or offered lavish hospitality by a third party.