



## Anti-Bribery and Corruption Policy

Date approved	September 2018
Approved by	Board
Review date	September 2020
Responsible Manager	Head of Quality Improvement, Risk and Compliance
Executive Lead	Chief Financial Officer
Accessible to	Staff, External Stakeholders

- **Applicability of Policy to Organisation**

This policy applies to:-

- Awarding
- NCFE Apprenticeship Services (NAS)
- ForSkills
- Group Services
- Any future business units or subsidiaries
- Our stakeholders, including our customers

- **Scope and Purpose of Policy**

NCFE has zero tolerance towards bribery and corruption in any form.

Bribery and corruption are criminal acts. Identified risks of bribery/corruption may result in prosecution(s). As such, any person or body employed by, or acting on behalf of NCFE Group ('individual') is required to comply with the contents of this policy and procedure.

This policy applies to all individuals working for or on behalf of NCFE, including colleagues at all locations and at all levels including members of the Executive Team, external contractors, agency workers, partners, suppliers, centres, any associates, any subsidiaries or their employees or any other person associated with us (collectively referred to in this document as 'individuals').

A separate process is outlined for members of the Board in the document 'Code of Conduct for Trustees'.

NCFE complies with all relevant laws in all the jurisdictions in which it operates. As such, this policy extends to all of NCFE's dealings and transactions in all countries in which it or its consultants, partners, stakeholders and associates operate.

- **Policy Statement**

NCFE encourages the promotion of building successful business relationships. We support colleagues and any person or body acting on behalf of NCFE ('individuals') in ensuring these relationships do not in any way conflict with our requirement to engage in business relationships in a legal, transparent, ethical and responsible manner. This policy provides advice to individuals who, in

the course of their day-to-day work or as a result of their employment/contract of services, may be placed in situations which may potentially introduce the risk of, or perception of, bribery and/or corruption.

The policy also supports our compliance with our legal and regulatory requirements, namely:

- Bribery Act 2010 (see Appendix 2 for further information)
- The Charity Commission Regulations
- Ofqual's General Conditions of Recognition (A4.1) and any other similar Awarding regulatory requirements

NCFE recognises that bribery and corruption, or the perception of these practices, are not only illegal but are also contrary to the fundamental values of integrity, transparency and accountability, and that they undermine organisational effectiveness. NCFE considers the elimination of bribery and corruption from our business and business practices to be essential to our business. The implementation of this policy and procedure forms a significant aspect of our overall risk management and corporate governance assurances.

- **Linked Policies**

This policy should be read in conjunction with NCFE's:-

- Conflicts of Interest Policy
- Whistleblowing Policy.
- Code of Conduct
- Financial Regulations
- Travel, Subsistence and Expenses Policy

- **Location and Access to the Policy**

The Anti-Bribery and Corruption Policy is located as follows:

- Intranet: Staff
- Website: Stakeholders, customers, suppliers

- **Persons Responsible for the Policy**

Executive, the Executive Team have overall responsibility for the contents of, and Group compliance, with this policy, including their personal compliance. Specifically, as an Executive member, the Responsible Officer (MD Awarding) is also responsible for their commitment to reducing the risk of potential cases, and escalating reports of actual or potential cases of bribery and corruption to the Chair of the Audit, Risk and Investment Committee, where such conflicts may be contrary to NCFE Awarding's regulatory duties and/or interests. In particular, reporting would be required where the matter could have an impact on NCFE Awarding's regulatory status and relationships.

- Board, through its committee is responsible for overseeing risk management within NCFE, including the risk of bribery and / or corruption.
- Business unit leadership are responsible for monitoring such risks in line with the Scheme of Delegation and the NCFE Risk Management Framework.

- External audit review and report on Corporate Governance, including risk management, as part of the financial audit.



## Anti-Bribery and Corruption Procedure

### **1 Raising concerns; confidentiality and whistleblowing regarding risks of bribery or corruption**

To assist us in managing significant risks with regards to potential bribery/corruption, individuals must tell us about any relevant issue that has come to their attention. We appreciate that they may wish to do so in confidence, therefore individuals are referred to our Whistleblowing Policy (available on our website) for more information.

### **2 Risk management in relation to bribery and corruption**

Assessing the risks to NCFE of bribery and corruption is an integral part of NCFE's overall and ongoing risk management process. Implementation of NCFE's anti-bribery procedures is monitored as part of NCFE's overall risk management and internal control processes. Cases of bribery or corruption will be escalated as appropriate to an Executive Member (usually the Director of PoD) / Board Trustee in line with this procedure.

Reviews of NCFE's anti-bribery and corruption procedures are made periodically.

### **3 Roles and responsibilities**

#### **3.1 Centres, customers and contractors**

In line with our Centre Agreement, we expect our centres, customers and contractors:

- to read and abide by the contents of this policy
- to have dedicated anti-bribery and corruption policies and procedures which can be produced on request by our staff, including our contractors
- to fully adhere to your policies and procedures in the identification, minimisation and mitigation of risks of anti-bribery and corruption
- to adhere to any contractual arrangement you may have with us in relation to bribery or corruption
- to tell us where you have identified an incident of, or a significant risk of anti-bribery and/or corruption that may adversely affect the NCFE Group.

For our customers and centres, failure to comply with this policy and/or your Centre Agreement may lead to immediate termination of contract, in line with our established contractual agreements.

Customers and centres should direct risks or instances of bribery or corruption to the Head of QIRC, another SLT member or an Executive member. Contact details for the QIRC Team are included at the end of this document. SLT and Executive member details may be obtained from our Customer Support team on [service@ncfe.org.uk](mailto:service@ncfe.org.uk).

### **3.2 The Executive Team**

Any identified risks /disclosures regarding potential bribery or corruption that are specific to a member of the Executive Team/the role of the Responsible Officer must be escalated to the Chair of the Audit, Risk and Investment Committee; usually via the Director of PoD or another appropriate Executive Member.

### **3.3 Managers**

All line managers are responsible for ensuring this document is complied with by colleagues and for monitoring the activities and performance of those they are managing.

Line managers discovering or receiving information on instances of potential bribery or corruption must report the matter to their Senior Leadership Team (SLT) member (usually a Head of Department), unless:

- The colleague concerned is, or the matter relates to, a member of the SLT, then the manager must report the matter to a Director or Executive member.
- The colleague concerned is, or the matter relates to, an Executive member, the manager/SLT member must report the matter to the Director of PoD , who will report the matter to the Chair of the Audit, Risk and Investment Committee.

All appropriate instances of bribery and corruption, i.e. those which, on assessment may result in a significant risk to NCFE, will be reported to an Executive member by the receiving HoD/SLT member (unless outlined above). Advice from the Director of HRD must be sought at the earliest opportunity by the most senior receiving manager (usually an SLT/Executive member).

The most senior receiving manager (SLT/Executive member) must also consult in confidence with the Head of QIRC, as any identified significant risks that may result in a specified Adverse Effect (as outlined in the General Conditions of Recognition) may require reporting to the appropriate awarding regulator(s). The Head of QIRC will support in evaluation and onward reporting by the QIRC team if required. Significant risks to the business posed by the matter will also require escalation via the Head of QIRC to the appropriate Business Unit/Group Risk Register.

Potential cases which may introduce other regulatory risks (e.g. those governed by specific legislation) will also be escalated in confidence by the most senior receiving manager to the appropriate specialist HoD/Director (e.g. Head of Finance for financial-regulatory risks such as HMRC) to evaluate whether external specialist advice is required in assessing/mitigating the risk.

### **3.4 All NCFE colleagues**

For colleagues, committing, or being perceived to commit an act of bribery or corruption is likely to constitute a breach of contract, which could result in dismissal for gross misconduct. Bribery or corruption could also result in criminal proceedings, which, if resulting in a criminal conviction, would result in dismissal.

All colleagues are personally responsible for ensuring that they adhere to the policy and procedures in this document and failure to comply with this policy may result in disciplinary action. Please see our Disciplinary policy, available on the company intranet, for further information.

If a colleague has a query relating to bribery or corruption which is not included in this policy, they must refer the matter to their immediate line manager in the first instance.

If a colleague discovers or is made aware that a risk of bribery and/or corruption has arisen, or it is anticipated that one may arise, in protection of the business and individuals they must inform their line manager in order that a Head of Department (HoD) (or another SLT Member) and the Director of HRD can be informed. If there is any doubt whether or not an activity presents a risk of bribery or corruption, the matter should be also raised in this way, in order that an objective assessment may be made. Individuals raising and/or reporting such issues are generally protected under the Whistleblowing policy. Concerns may be raised in confidence (subject to certain caveats as outlined in the Whistleblowing policy, such as the requirement to disclose certain information to statutory bodies). Please see the Whistleblowing policy for further information.

### **3.5 The HRD Team**

The HRD Team will ensure all Board members, Executive Team members and employees, consultants and other relevant parties receive basic training regarding bribery and corruption and how to understand and avoid situations which may introduce a risk of bribery and/or corruption. Those in potentially higher-risk positions (for example, but not restricted to Executive members, International colleagues etc.) may receive more detailed training based on the risks they may face. This requirement will be evaluated by the Director of PoD.

### **3.6 The QIRC Team**

The Head of QIRC will lead on all potential regulatory issues arising from possible bribery/corruption, in conjunction with the Director of PoD and RO (particularly in relation to any instances of professional misconduct potentially affecting our regulated status).

The QIRC team will annually complete:-

- a review of any risk assessments undertaken in the assessment of potential bribery/corruption
- a review of training and training records
- a review of the gifts register
- a review of the hospitality register.

The team will report findings to the Executive.

## **4 Anti-bribery and corruption procedures – specific risk areas**

### **4.1 Gifts, donations and hospitality**

The giving and receiving of gifts and hospitality is conducive to good customer and stakeholder relationships and NCFE encourages gifts and hospitality be given / received as appropriate in line with customary business practice. The value of and purpose for all gifts and hospitality must be reasonable, open and transparent. Any gifts or hospitality given must be provided openly, and in the company's name.

NCFE recognises that the company serves a charitable Board and in line with our core values, consideration must always be given to our charitable status in the decision to offer gifts and hospitality. As such, the following figures are generally deemed reasonable:

- up to £25 per gift for receiving gifts
- up to £50 per gift for giving gifts
- up to £50 per person for giving or receiving hospitality.

There may be rare occasions where it is reasonable to exceed these figures. However, in protection of both individuals and the business against claims of perceptual or alleged bribery or corruption, we must be open and transparent. Therefore, the giving of gifts or hospitality over the value of £50 per person must receive prior authorisation from an Executive member (the procedure for receiving gifts and hospitality over this figure are outlined below).

In the case of an Executive member wishing to exceed this figure, prior approval must be granted by the Chair of the Audit, Risk and Investment Committee or Chair of the Board.

No gifts or hospitality should be offered to or accepted from government officials or representatives, or politicians or political parties without the prior approval of the CFO, who will decide whether the gift or hospitality is customary and lawful, in addition to being appropriate and reasonable.

## **4.2 Gifts**

No NCFE Trustee, Executive member, employee, consultant or contractor will accept, directly or indirectly, any discount, gift, or favours (referred to as gifts) or give any discount, gift, or favour, etc. that may influence or be perceived to influence the exercise of their employment function, the performance of their employment duties or their professional judgement. Examples of criteria for making such judgements are attached in Appendix 1.

Gifts (given or received) may be subject to tax. Please see NCFE's Travel, Subsistence and Expenses policy (available on our website or the company intranet) for further details.

In protection of individuals and the business from allegations of bribery or corruption, all gifts, whether given or received, are reported to the individual's line manager and registered by emailing the details of the gift to the following inbox [giftsandhospitality@ncfe.org.uk](mailto:giftsandhospitality@ncfe.org.uk). This inbox is checked periodically by the PA to the MD and the QIRC Team who reported annually to the Audit, Risk and Investment Committee. Any queries or anomalies are flagged with the relevant HoD/Director/Executive member, depending on the issue raised.

Each individual, and ultimately their line manager is responsible for ensuring that gifts are registered in this way.

### **4.2.1 Receiving gifts**

All cash gifts will be refused. Gifts with a value of less than £25 may be retained by the recipient. All gifts with a value of more than £25 may be accepted but must be given to the Business Support Team (BST) who will include the gift in a raffle for charity.

### **4.2.2 Giving gifts**

The giving of cash as a gift is not permitted. Cash-equivalent gifts (including gift certificates and vouchers) are generally not appropriate as gifts for centres; however they can on occasion be given as gifts for learners. Please check with your line manager if you are unsure prior to giving a gift. Please note the £50 limit on gift giving.

### **4.2.3 Giving gifts of charitable donations and/or sponsorship**

This section does not apply to personal charitable donations or sponsorships (e.g. a colleague choosing to use their own money to personally sponsor a colleague or give to a charity, either directly or via 'Payroll Giving' where available).

Charitable donations, including charitable sponsorships may customarily be made by some companies to other companies and/or individuals undertaking activities to raise money for charities. Such donations and sponsorships may be interpreted as gifts.

There must be no risk of the perception of bribery/corruption on charitable giving by/on behalf of NCFE. Therefore, before proceeding with charitable donations and/or sponsorships, it is important to consider the questions in Appendix 1 to evaluate whether a donation from NCFE could be considered as or perceived to be a bribe. If colleagues are unsure, they should seek advice from their line manager before committing to a donation or sponsorship on NCFE's behalf.

#### **4.2.4 Political donations**

NCFE does not make donations to political parties or political organisations. Any decision whether to do so in the future will be decided by the NCFE Board.

### **4.3 Hospitality**

Hospitality, also referred to as 'business entertaining' includes meals, entertainment (which includes cultural events, tourist visits etc.), transport, accommodation and any other activities that could reasonably be interpreted as hospitality. Hospitality given (or hosted) by NCFE requires pre-authorization as per NCFE's Travel, Subsistence and Expenses Policy.

No NCFE Trustee, Executive member, employee, consultant or contractor will:

- Accept, directly or indirectly, any hospitality (as defined) that may influence or be perceived to influence the exercise of their employment function, or the performance of their employment duties or their professional judgement.
- Offer directly or indirectly any hospitality (as defined) that may influence or be perceived to influence improperly the actions of other persons (including individuals overseas).

Examples of criteria for making such judgements are attached in Appendix 1.

Cash in lieu of hospitality, whether given or received, is strictly prohibited.

Where hospitality is provided by NCFE (e.g. at a dinner), a colleague from NCFE must always attend the event.

All hospitality received with an unknown value but which is likely to exceed £50 per person must be reported to the colleague's line manager and registered by email to [giftsandhospitality@ncfe.org.uk](mailto:giftsandhospitality@ncfe.org.uk).

#### **4.4 Appointment and activities of consultants**

Certain areas of NCFE activities make use of external consultants. It is NCFE's policy that:

- potential consultants have not previously been involved in any corrupt activity
- the consultant's contractual arrangements require the individual's adherence to NCFE's anti-bribery and corruption policy and procedures
- the individual receives appropriate training on NCFE's anti-bribery and corruption policy and procedures as appropriate

- NCFE's contract/agreement for services with the individual allows for termination of the relationship in the case of a breach of NCFE's anti-bribery and corruption policy and procedures.

Responsibility for the implementation of and adherence with this section lies with the HoD with whom the consultant is contracting. Specimen contracts/clauses to this regard may be provided on request by the Head of Commercial Projects.

#### **4.5 Risks posed by international trade and travel**

International trade and travel are a key potential risk area for NCFE and NCFE's zero tolerance policy applies equally to this area as it does in the UK. In addition, there are some areas which may present higher risks internationally, which are outlined below.

##### **4.5.1 Facilitation payments**

'Facilitation payments' are prohibited under the Bribery Act 2010 (see Appendix 2). Facilitation payments (which tend to be more of a risk in overseas travel / transactions) are payments made to secure or speed up routine actions, usually by public officials, such as issuing permits, immigration controls, providing services or releasing goods held in customs. They may be classified as an 'inspection' or 'licence' fee. Such payments may be common place in certain countries.

NCFE does not make nor receive facilitation payments. It is also our policy that our agents and other intermediaries, contractors and suppliers are prohibited from making facilitation payments on our behalf.

If there is a suspicion or perception that a payment might be considered a facilitation payment, payment should only be made if can be verified in advance that it the official or third party can and will provide a formal receipt which sets out the reason for the payment. Without this assurance and receipt, the payment must not be made. Where possible, written confirmation of the legality of the payment should also be obtained. If practicable (i.e. within UK office hours), Executive approval must be obtained prior to any payment which may be perceived to be a potential facilitation payment being made subject to the above.

##### **4.5.2 Use of partners and agents**

It is recognised that in the area of international development, NCFE may require the use of partners and agents. It is NCFE's policy that any potential partners and agents will be vetted through due diligence procedures by the Director of International Sales and Development (or another appropriate colleague as nominated in writing by the Director of International Sales and Development) to ensure, as far as reasonably practicable, that:

- potential partners/agents have not previously been involved in any corrupt activity
- their contractual arrangements require the individual's adherence to NCFE's anti-bribery and corruption policy and procedures
- the individual receives appropriate training on NCFE's anti-bribery and corruption policy and procedures as appropriate
- NCFE's contracts with the individual allows for termination of the relationship in the case of a breach of NCFE's anti-bribery and corruption policy and procedures.

## **5. How to contact us**

If you have a concern about anti-bribery or corruption, you can contact us via phone or email. If you have already collated evidence to support your concern please also send this to us when you make contact, to:

**NCFE Quality Improvement, Risk and Compliance Team**

**Q6**

**Quorum Business Park**

**Benton Lane**

**Newcastle upon Tyne**

**NE12 8BT**

**0191 239 8000\***

**[qirc@ncfe.org.uk](mailto:qirc@ncfe.org.uk)**

**\*To continue to improve our levels of customer service, telephone calls may be recorded for training and quality purposes.**

## Appendix 1

### What is meant by the terms 'bribery' and 'corruption'

A bribe is an inducement or reward offered, promised or provided in order to gain any commercial, contractual, regulatory or personal advantage through 'improper performance'. A bribe is not limited to financial payments and includes other advantages; particularly in relation to, but not exclusive to, gifts and hospitality.

Corruption is the abuse of public or private office for personal gain.

### Bribery Act 2010

The following is forbidden under the Bribery Act 2010:

- giving, promising or offering a bribe (i.e. bribing)
- requesting, agreeing to receive or accepting a bribe (i.e. being bribed)
- bribing a foreign public official
- businesses failing to prevent bribes being made on their behalf.

The Act applies both to the business and to individuals themselves. The consequences of breaching the Act are extremely serious and could result in:

- unlimited fines for the individual/s and the company
- up to 10 years imprisonment for the individual
- exclusion from tendering for public contracts, which could significantly jeopardise NCFE's future commercial opportunities.

Please see Appendix 2 for further information.

### Example criteria to test if gifts, hospitality or reimbursed expenses comply with the anti-bribery and corruption policy.

In determining whether the gifts or hospitality comply with the anti-bribery and corruption policy, the following should be considered. Please note, these illustrations are for guidance only and are neither prescriptive nor exhaustive.

<b>Made for the right reason</b>	If a gift or hospitality, it should be given clearly as an act of appreciation. If travel expenses it should be for a bona fide business purpose.
<b>No obligation</b>	The gift, hospitality or reimbursement of expense does not place the recipient under any obligation.
<b>No expectations</b>	Expectations are not created by the giver or an associate of the giver or have a higher importance attached to it by the giver than the recipient would place on such a transaction.

<b>Made openly</b>	If made secretly and undocumented then the purpose will be open to question.
<b>Accords with stakeholder perception</b>	The transaction would not be viewed unfavourably by stakeholders if it were made known to them.
<b>Reasonable value</b>	The size of the gift is small and the value of the hospitality or reimbursed expenses accords with general business practice in the charitable sector.
<b>Appropriate</b>	The nature of the gift, hospitality or reimbursed expense is appropriate to the relationship and accords with general business practice in the charitable sector.
<b>Legality</b>	It is compliant with relevant laws.
<b>Conforms to the recipient's rules</b>	The gift, hospitality or reimbursement of expenses meets the rules or code of conduct of the recipient's organisation.
<b>Infrequent</b>	The giving or receiving of gifts and hospitality is not a regular happening between the giver and the recipient.
<b>Reported</b>	The gift, hospitality or reimbursed expense should be recorded and reported to management where required in line with this policy.
<b>Documented</b>	The gift, hospitality or reimbursed expense is fully documented including purpose and approvals given.

## **Appendix 2 - Types of offences under the Bribery Act 2010**

### **Active offence**

A person is guilty of an active offence if they offer, promise or give a financial or other advantage to another person, intending that such an advantage will induce the other person to improperly perform a relevant function or activity, or reward that person for the improper performance of such a function or activity.

An offence can also be committed where a person offers, promises or gives a financial or other advantage to another person, with the knowledge or belief that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

### **Example of an active offence**

***You offer a potential client tickets to a major sporting event, but only if they agree to do business with us.***

This would be an offence as you are making the offer to gain a commercial and contractual advantage. NCFE Group may also be found to have committed an offence because the offer has been made to obtain business for us. It may also be an offence for the potential client to accept your offer.

You must not therefore make, or promise to make a payment, or provide any other advantage, if such a payment is intended to induce a person to either improperly perform a function or activity or reward them for doing so, or with the knowledge that acceptance of such a payment or advantage would in itself constitute the improper performance of a relevant function or activity.

### **Passive offence**

A person will be guilty of a 'passive' offence in a number of ways:

- By requesting, agreeing to receive, or accepting a financial or other advantage, with the intention that as a consequence they or another person, will improperly perform a relevant function or activity.
- By requesting, agreeing to receive, or accepting a financial or other advantage, and this in itself would constitute the improper performance of a relevant function or activity.
- By requesting, agreeing to receive or accepting a financial or other advantage as a reward for the improper performance (either by them or another person) of a relevant function or activity.
- Where in anticipation of or in consequence of requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly (either directly or by another person at their request or with their assent or acquiescence).

### **Example of a passive offence**

***A supplier gives your nephew a job, but makes it clear that in return they expect you to use your influence in our organisation to ensure we continue to do business with them.***

It is an offence for a supplier 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.

You must not therefore request, receive, or agree to receive a financial or other advantage which would result in you or another person improperly performing a relevant function or activity, or reward you or another person for such improper performance.

### **Foreign public official offence**

A person will be guilty of bribing a foreign public official if a bribe is made with the intention of influencing a foreign public official in their capacity as a foreign public official and it is intended to obtain or retain business or an advantage in the conduct of business.

A foreign public official will include individuals who hold a legislative, administrative or judicial appointment outside of the UK, and also officials or agents of public international organisations.

The offence is committed where the bribe is made directly to the foreign public official or through a third party, or even to another person at the request of the foreign public official, or with their assent or acquiescence.

'Facilitation payments' would also fall under this offence.

The only exception to such offers, promises or gifts, is where the foreign public official is permitted or required by written law to be influenced in their official capacity. This exception will only apply in limited circumstances.

### **Example of a foreign public official offence**

***You arrange for our organisation to pay an additional payment to a foreign official to speed up an administrative process, such as obtaining a licence.***

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 organisation. NCFE Group may also be found to have committed an offence.

If you are dealing with a foreign public official, no payments should be made to them either directly or indirectly, without prior approval from an Executive member.