

PRINCIPLES FOR POLICIES AND PROCEDURES FOR PUBLISHERS AND SUBSCRIPTION AGENTS – COMPLIANCE WITH ANTI-CORRUPTION PROGRAMME UNDER THE UK ANTI-BRIBERY ACT 2010

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INTERNATIONAL ASSOCIATION OF
SCIENTIFIC, TECHNICAL AND MEDICAL PUBLISHERS (STM)

Introduction & Scope

These anti-corruption principles (“the principles”) address some of the requirements under the UK Bribery Act 2010 and related guidelines¹ (“the legislation”), specifically in the context of appointing and maintaining subscription agent relationships in the publishing industry.²

The principles are **not comprehensive but illustrate key concepts** offering practical assistance for organisations seeking to prevent bribery. The principles do not obviate the need for procedures tailored to particular business risk profiles.³

Due Diligence Procedure and Key Concepts

The Bribery Act includes a new offence which can be committed by commercial organisations which fail to prevent persons associated with them (associated persons) from committing bribery on their behalf. It is a full defence for such organisations to prove that adequate measures are in place to prevent bribery. All organisations should therefore take steps to ensure that anti-bribery measures are in place and are understood and adhered to by associated persons.

Associated persons (eg employees, consultants/contractors, agents, distributors, subscription agents, joint venture partners) should:

- undergo initially and periodically a due diligence procedure using a risk-based approach (level of perceived risk based on objective criteria)
- be encouraged to adopt specific anti-corruption provisions in agreements with the organisation
- subscribe to the same rigorous standards as the organisation to prevent corruption

¹¹ www.justice.gov.uk/guidance/docs/bribery-act-2010-guidance.pdf;
www.sfo.gov.uk/media/167348/bribery%20act%20joint%20prosecution%20guidance.pdf.

² Criminal liability of commercial organisations is very wide under the legislation and includes responsibility for bribery by “associated persons”, eg employees, agents or suppliers, unless the organisation has put in place “adequate procedures” designed to prevent such conduct..

³ The Principles presuppose ongoing Risk Assessments at the appropriate level and the communication by top management of its full commitment to the core values and ideals of anti-bribery legislation and compliance.

- commit to internal training and external monitoring (eg audits).

Payments to officials or persons connected to such persons by associated persons need to be assessed in advance as to legality and value⁴.

Gifts and hospitality policies and procedures must reflect the assessed risk.

An organisation should have a policy on the receipt and provision of gifts and hospitality; under the policy, reasonable, proportionate and bona fide hospitality or promotional expenditure may be an established part of business. Gifts and hospitality should be recorded on a central register where the value falls above a certain threshold and the register should be checked regularly by Top Level Management.

Promotional expenditure involving public officials will usually be acceptable, if managed and reviewed and found to be limited to transparently reported, reasonable and bona fide expenditure.

Sponsorship and donations, especially to political parties, need to be strictly guided by policy and, where appropriate, amounts should be tied or ring-fenced to intended legitimate purposes.

Acquisitions by the organisation of new business units should entail, as part of the pre-acquisition due diligence, a review of the target's corruption risks.

Training & Communication

Anti-corruption commitment requires an effective communication strategy and policies and procedures that are clear and readily understandable and communicated on an on-going basis.

Staff training should be appropriate to meet the risk exposure level and involve periodic refresher training through appropriate mediated training and also through an organisation's communication and IT channels.

Staff training should be clear on screening, disciplinary procedures and on reporting and notification structures and facilities, including non-retaliation policies.

Monitoring & Review

An organisation's policy should itself be re-evaluated periodically.

Implementation and compliance with anti-corruption principles and procedures must be monitored and compared to changes in exposure to risk.

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⁴ For instance, any payment to facilitate entering into a contract is likely to be illegal.