
CAIRNGORMS NATIONAL PARK AUTHORITY

FOR INFORMATION

Title: ANTI-BRIBERY POLICY

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Purpose

To inform the Board of their responsibilities under the terms of the Authority's Anti-Bribery Policy.

Recommendations

That Board members note the Anti-Bribery policy and its application to Board Members as well as to staff of the Cairngorms National Park Authority.

Executive Summary

The Anti-Bribery Policy was considered and approved by the Board's Staffing and Recruitment Committee (S&RC) at its meeting on 23rd November 2012. The S&RC recommended that the policy should be drawn to the attention of all Board members as an Information paper, and that the Authority maintains a record showing that all members have read and will adhere to the policy. In addition, the policy will be included in the Induction Pack for all new Board Members as a matter of course.

ANTI-BRIBERY POLICY – FOR INFORMATION

Introduction

1. The National Park Authority is committed to the highest standards of ethical conduct and integrity in its business activities. This policy outlines the Authority's position on preventing and prohibiting bribery, in accordance with the Bribery Act 2010. The Authority will not tolerate any form of bribery by, or of, its employees, Board members, agents or consultants or any person or body acting on its behalf. The Authority is committed to implementing effective measures to prevent, monitor and eliminate bribery.

Scope of this Policy

2. This policy applies to all employees and officers of the Authority, and to Board Members, temporary workers, consultants, contractors, and agents acting for, or on behalf of, the Authority ("associated persons"). Every employee and associated person acting for, or on behalf of, the Authority is responsible for maintaining the highest standards of business conduct. Any breach of this policy is likely to constitute a serious disciplinary, contractual and criminal matter for the individual concerned and may cause serious damage to the reputation and standing of the Authority.
3. Bribery and corruption are punishable for individuals by up to ten years' imprisonment and if the Authority is found to have taken part in corruption we could face an unlimited fine, be excluded from tendering for public contracts and face damage to our reputation. The Authority therefore takes its legal responsibilities very seriously. All employees and associated persons are required to familiarise themselves and comply with this policy, including any future updates that may be issued from time to time by the Authority.
4. This policy covers:
 - a) The main areas of liability under the Bribery Act 2010;
 - b) The responsibilities of employees and associated persons acting for, or on behalf of, the Authority; and,
 - c) The consequences of any breaches of this policy.

Relationship to Other Policies

5. The Anti-Bribery policy sits alongside the Authority's Gifts and Hospitality Policy, which provides advice to Park Authority staff who, in the course of their day to day

work or as a result of their employment, either receive offers of gifts and hospitality or provide gifts and hospitality to others on behalf of the Park Authority.

6. The Anti-Bribery policy is related to the Whistleblowing policy, which sets out the procedure for employees to raise concerns about suspected unlawful conduct or financial malpractice of other members of staff or Board.

Bribery Act 2010

7. The Bribery Act 2010 came into force from 1 July 2011.
8. For the purposes of the Act, a bribe is an inducement or reward offered, promised or provided in order to gain any commercial, contractual or personal advantage.
9. Under the Bribery Act (2010) there are four possible offences:
 - a) Bribing another person: - the offering, promising or giving of a reward to induce a person to perform a relevant function or activity improperly.
 - b) Being bribed: - the accepting of, agreeing to accept or requesting of a reward in return for performing a relevant function or activity improperly.
 - c) Bribing a foreign public official: - this is a specific offence of trying to influence a foreign public official with the intention of obtaining or retaining business in a situation where the public official was not permitted or required by law to be influenced.
 - d) Failure to prevent bribery: - occurs when an organisation fails to stop people who are operating on its behalf from being involved in bribery.
10. The Authority is committed to complying with the Bribery Act 2010 in its business activities in the UK and abroad

What is Prohibited?

11. The Authority prohibits employees or associated persons from offering, promising, giving, soliciting or accepting any bribe. The bribe might be cash, a gift or other inducement to, or from, any person or company, regardless of whether the employee or associated person is situated in the UK or abroad. The bribe might be made to ensure that a person or company improperly performs duties or functions (for example, by not acting impartially or in good faith or in accordance with their position of trust) to gain any commercial, contractual or regulatory advantage for the Authority in either obtaining or maintaining Authority business, or to gain any personal advantage, financial or otherwise, for the individual or anyone connected with the individual.

12. This prohibition also applies to indirect contributions, payments or gifts made in any manner as an inducement or reward for improper performance.

Records

13. Employees and, where applicable, associated persons, are required to take particular care to ensure that all company records are accurately maintained in relation to any contracts or business activities, including financial invoices and all payment transactions with clients, suppliers and public officials.
14. Due diligence should be undertaken by employees and associated persons prior to entering into any contract, arrangement or relationship with a potential supplier of services, agent, consultant or representative (in accordance with the Authority's Financial Management Framework and Regulations for the Cairngorms National Park Authority (June 2010)).
15. Employees and associated persons are required to keep accurate, detailed and up-to-date records of all corporate hospitality, entertainment or gifts accepted or offered.

Facilitation Payments

Principle

16. The Authority prohibits its employees or associated persons from making or accepting any facilitation payments. These are payments made to government officials for carrying out or speeding up routine procedures. Facilitation payments are distinct from an official, publicly available fast-track process. Facilitation payments, or offers of such payments, will constitute a criminal offence by both the individual concerned and the Authority concerned under the Bribery Act 2010, even where such payments are made or requested overseas.

Procedure

17. Where a public official has requested a payment, employees or associated persons should ask for further details of the purpose and nature of the payment in writing. If the public official refuses to give these, this should be reported immediately to the Authority's Business Services Manager
18. If the public official provides written details, the Business Services Manager will consider the nature of the payment. Local legal advice may be sought by the Authority.

19. If it is concluded that the payment is a legitimate fee, for example part of a genuine fast-track process, or is permitted locally, the Authority will authorise the employee to make the payment.
20. Where the Business Services Manager considers that the request is for a facilitation payment, the employee or associated person will be instructed to refuse to make the payment and notify the public official that the employee or associated person is required to report the matter to the Authority and the public official's company.
21. The Authority will seek the assistance of the relevant employee in its investigation and may determine that the matter should be referred to the prosecution authorities.
22. If an employee or associated person has any other concerns about the nature of a request for payment, he/she should report it to the Business Services Manager using the reporting procedure set out in this policy (and in accordance with the NPA's Whistleblowing policy).

Risk Management

Principle

23. The Authority has established risk management procedures to prevent, detect and prohibit bribery, including rigorous procurement and financial procedures. The Authority will assess the risks of its key business activities on a regular basis and, where relevant, will identify activities and/or employees or associated persons of the Authority who are in positions where they may be exposed to bribery.

Procedure

24. The Authority will identify high-risk areas, for example tenders for work and those working on high-value projects. Employees and associated persons are required to consider risks of bribery with the Business Services Manager when commencing a new project.
25. The Authority will:
 - a) Regularly monitor "at risk" employees and associated persons;
 - b) Regularly communicate with "at risk" employees and associated persons;
 - c) Undertake extensive due diligence of third parties and associated persons;
 - d) Communicate its zero-tolerance approach to bribery to third parties, including actual and prospective customers, suppliers and joint-venture partners; and,
 - e) All staff and Board will be required to read the policy and sign a register verifying they have read and understood the policy.

Reporting Suspected Bribery

Principle

26. The Authority depends on its employees and associated persons to ensure that the highest standards of ethical conduct are maintained in all its business dealings. Employees and associated persons are requested to assist the Authority and to remain vigilant in preventing, detecting and reporting bribery.
27. Employees and associated persons are encouraged to report any concerns that they may have to the Business Services Manager as soon as possible. Issues that should be reported include:
 - a) Any suspected or actual attempts at bribery;
 - b) Concerns that other employees or associated persons may be being bribed;
or
 - c) Concerns that other employees or associated persons may be bribing third parties, such as clients or government officials.

Procedure

28. Employees should record any incidents of suspected bribery using the form in Annex 2. Any such reports will be thoroughly and promptly investigated by the Business Services Manager in the strictest confidence. Employees and associated persons will be required to assist in any investigation into possible or suspected bribery.
29. Employees will also be required to comply with the Company's Whistleblowing policy.
30. Employees or associated persons who report instances of bribery in good faith will be supported by the Authority. The Authority will ensure that the individual is not subjected to detrimental treatment as a consequence of his/her report. Any instances of detrimental treatment by a fellow employee because an employee has made a report will be treated as a disciplinary offence. An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, employees and associated persons should not agree to remain silent. They should report the matter to Human Resources.

Action by the Authority

31. The Authority will fully investigate any instances of alleged or suspected bribery. Employees suspected of bribery may be suspended from their duties while the investigation is being carried out. The Authority will invoke its disciplinary

procedures where any employee is suspected of bribery, and proven allegations may result in a finding of gross misconduct and immediate dismissal. The Authority may terminate the contracts of any associated persons, including consultants or other workers who act for, or on behalf of, the Authority who are found to have breached this policy.

32. The Authority may also report any matter to the relevant authorities, including the Director of Public Prosecutions, Serious Fraud Office, Revenue and Customs Prosecutions Office and the police. The Authority will provide all necessary assistance to the relevant authorities in any subsequent prosecution.

Review of Procedures and Training

33. The Authority will regularly communicate its anti-bribery measures to employees and associated persons. The Authority will set up training sessions where applicable. The Head of Finance and IT, responsible for managing the Organisational Excellence Programme is responsible for the implementation of this policy.
34. The Head of Finance and IT will monitor and review the implementation of this policy and related procedures on a regular basis, including reviews of internal financial systems, expenses, corporate hospitality, gifts and entertainment policies.
35. Employees and those working for, or on behalf of, the Authority are encouraged to contact the Head of Finance and IT with any suggestions, comments or feedback that they may have on how these procedures may be improved.
36. Any Employee who breaches this policy will face disciplinary action, which could result in dismissal for gross misconduct. We reserve our right to terminate our contractual relationship with other workers if they breach this policy.
37. The Authority reserves the right to amend and update this policy as required. For the avoidance of doubt, this policy does not form part of employees' contracts of employment.

ANNEX I

Checklist of High Risk Activities/Transactions

If any of your activities or transactions are on this non-exhaustive list, ensure you are mindful of potential risks, and take mitigating action to counter the risk and probability of bribery occurring. In certain cases, it may be necessary to stop certain operations or transactions occurring. The Business Services Manager will assist you with identifying further action. If you are aware of an activity that is not on this list, please liaise with the Business Service Manager accordingly

Activity	Risk	Mitigation
Planning Officer meeting with a planning applicant to discuss an application	Applicant will offer an inducement for making a positive recommendation/ decision	Where possible, ensure you have a colleague with you. Report any inappropriate behaviour/actions to the Business Services Manager
Board member lobbied by a planning applicant	Applicant will offer an inducement for making a positive recommendation/ decision	All planning decisions are determined through the Authority's decision making procedures/full Planning Committee
Officer discussion with landowner/potential developer during Local Pal development process	Inducement will be made to Officer to include/put forward for inclusion in any development plan or related guidance land to be allocated for development	All correspondence relating to development plan to be logged as per legal /Scottish Government requirements. All decisions relating to policy wording and land allocations to be decided through the Authority's procedures/ Board/full Planning Committee
Enforcement Officer meeting with someone who has contravened a planning decision	Inducement made to Enforcement Officer not to take action or to take lesser action	Report any inappropriate behaviour Filenote all meetings
Awarding contracts	Applicant will offer and inducement for winning the contract	All contracts should be tendered through Authority's procurement procedures, which involve analytical scoring. In addition, there is a clause in the contract which effectively

Activity	Risk	Mitigation
		invalidates the contract if corruption occurs.
Grant awards	Applicant will offer an inducement for getting the grant	All grants should be awarded through the Authority's Financial Regulations and procedures, particularly the Expenses Justification process.
Recruitment	Applicant will offer inducement to encourage a job offer	Interview and selection Panel for both the initial application shift and actual interview is made up of a minimum of 3 people, including HR, the line manager of the post, and a third person connected to but not responsible for the post.
Officer of policy/strategy for National Park Partnership Plan or other plan/strategy that influences people or land	Inducement will be made to Officer to influence plan/strategy to benefit of another party	All decisions relating to plan and strategy content to be decided through the Authority's procedures and Board.
Board member lobbied by party interested in plan or strategy	Inducement will be made to board member to influence plan/strategy to benefit of another party	All decisions relating to plan and strategy content to be decided through the Authority's procedures and Board.
Awards or competitions run by the CNPA (eg Design Awards)	Inducement will be made to officer, board member or other member of judging panel to favour a particular entry or organisation	All decisions relating to awards and competition will be made and reported according to pre-defined criteria.

Annex 2

Form for an Individual to Report Suspected Bribery Practices

This form is intended for use by any employee of the organisation, or if you work for, or on behalf of, the organisation, in any other capacity including as a consultant, contractor or agent or as a temporary member of staff. This form should be used to report any incident of suspected bribery that has arisen during the course of performing services for the organisation, whether in the UK or overseas.

This form should be used in conjunction with the organisation's anti-bribery policy, which is available on the share drive.

All suspected incidents should be reported to the organisation using this form and the organisation's anti-bribery investigation procedure will be invoked.

You should complete and deliver this form to the Business Services Manager in an envelope marked "confidential" or sent as an email attachment with "confidential" in the subject line.

You should use this form if you suspect, or have witnessed or experienced:

- Practices of bribery, or attempted bribery, being undertaken by other employees or workers;
- Practices of bribery, or attempted bribery being made by third parties, either directly to you or to other employees or workers;
- A request to make a facilitation payment or other form of bribery to a foreign official, either to accelerate a routine process or to carry out any other activity in an improper way; or
- Other employees or workers making a facilitation payment to a foreign official, either to accelerate a routine process or to carry out any other activity in an improper way.

Any report will be treated promptly and in the strictest confidence by the organisation. You will be protected by the organisation during and following investigations of such allegations, including where such allegations are not substantiated, provided that such concerns are raised in good faith.

You have a duty to the organisation to report any incidents of suspected bribery, even where a more senior manager has asked you not to do so.

Formal report

Individual's name:

Individual's job title:

Individual's directorate:	
Date:	
Does your report relate to your line manager?	Yes/No
Summary of complaint:	
Please set out the details of your complaint (providing as much detail as possible, particularly dates, times, locations and the identities of those involved). You may attach additional sheets if required.	
Individuals involved in the alleged incident/complaint:	
Please provide the names and contact details of any people involved in your complaint, including witnesses.	
Outcome requested:	
Please set out how you would like to see your complaint dealt with, and why and how you believe that this will resolve the issue.	
Declaration:	
I confirm that the above statements are true to the best of my knowledge, information and belief. I understand that making any false or malicious allegations in bad faith may result in [disciplinary action being taken against me by the organisation/the organisation reviewing our future relationship].	
Form completed by:	
Signature:	
For completion by the organisation:	
Date form received by the organisation:	
Name of recipient and job role:	
Signature:	