

Anti-Bribery Policy



Version 1.1

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Approved by: Executive Committee

Version	Date	Comment
1.0	May 2015	Version 1 published. September 2016: Links to iEthics amended to reflect migration of iEthics from Sharepoint to Oracle
1.1	March 2018	Version 1.1 published. Refresh of wording, amend to company approach to dealing with charitable contributions in section eight, addition of sections two and eleven, and one new Q&A.

1. Policy statement

Bribery is the practise of offering or receiving an incentive, in order to gain a reward or an advantage. Bribes can take a variety of forms and might include cash, gifts and hospitality, a contract award, securing a rental unit, or gaining inside information about up and coming work. They're given to someone with the intention of influencing them to act in a way that favours an individual or a company. Network Rail does not tolerate any form of bribery in its business.

No-one employed by, or doing business on behalf of a company under Network Rail control, should ever offer, make, ask for, or accept a payment, gift or favour in return for favourable treatment, or to gain a business advantage.

Under the [UK Bribery Act 2010](#) it is illegal to:

- offer a bribe
- agree to offer a bribe
- accept a bribe
- agree to accept a bribe
- request a bribe
- bribe a foreign public official in order to obtain or retain a business advantage
- fail to prevent bribery in a commercial organisation (this means a company failing to have adequate procedures in place to prevent anyone associated with a company – employees, or anyone working on the company's behalf, such as a contractor or agent – committing offences against the UK Bribery Act).

The UK Bribery Act applies to all our employees, or those working on our behalf, regardless of whether you're working in the UK or overseas. More information on this is included in section three.

2. Responsibility for this policy

This policy is owned by the Transparency, Ethics and Data Protection team and is endorsed by Network Rail's Chief Executive Officer, and the Executive Committee.

Network Rail's Chief Executive Officer has overall accountability for managing the risk of bribery, ensuring this policy complies with our legal obligations, and that all those under our control comply with it. Day-to-day responsibility for managing bribery risk in Network Rail has been delegated to the Chief Financial Officer.

All managers are responsible for communicating this policy to their local organisation.

3. Scope

This policy applies to everyone that works for or on behalf of Network Rail in every wholly-owned Network Rail company and in every joint venture company under Network Rail control. This includes, but is not limited to:

- Employees
- Agency staff
- Contractors
- Consultants
- Suppliers
- Employees and committee members of organisations funded by the organisation.

Anyone working on our behalf, or in our name, through outsourcing of services, processes or any business activity, will be required to act consistently with this policy when acting on our behalf.

Joint venture companies not under Network Rail control and joint venture partners must adopt a similar policy and adequate procedures to prevent bribery.

4. The consequences of breaching the UK Bribery Act 2010

The consequences of committing offences prohibited by the UK Bribery Act include:

- unlimited fines for both the individual and Network Rail

- imprisonment for up to ten years
- significant reputational damage to both the individual and Network Rail.

5. Reporting instances of bribery

The prevention, detection and reporting of bribery is everyone's responsibility. If you think you may have been offered a bribe, or have received an inappropriate request from someone we do business with:

1. Don't accept the bribe/decline the request
2. Tell your line manager that you think you may have been offered a bribe/an inappropriate request
3. Record the incident on [iEthics](#)¹ (if you have access). Please use the 'register hospitality from someone outside of Network Rail' tab
4. Report the incident via Speak Out (please see Speak Out section below for contact details). Please remember to provide as much information as possible in your report, including your iEthics reference number (if applicable). Alternatively, you can contact the Ethics team (ethics@networkrail.co.uk) who can report the incident directly to our investigating team, the Business Integrity Department, on your behalf.

Speak Out

Speak Out is Network Rail's reporting service for raising concerns about wrongdoing taking place in Network Rail. Speak Out can be contacted:

- via phone (you can either speak to a call handler, or leave a voicemail) by phoning Freephone number 0808 143 0100; or
- online by visiting www.intouchfeedback.com/networkrail.

You can make a report to Speak Out anonymously, if you wish.

Network Rail supports employees who raise concerns and does not tolerate retaliation against people who speak out. For more information, please read our [Speak Out \(whistleblowing\) policy](#).

Nobody will be penalised in any way for refusing to participate in, or for turning down a business opportunity, if they think there is a risk of bribery.

¹ iEthics can be found in the Oracle E-Business Suite, within 'Employee Self-Service'. If you're an employee of Network Rail Consulting, you should use NRC's gifts and hospitality register instead.

6. Facilitation payments

Facilitation payments (sometimes referred to as 'grease payments') are also a form of bribery and are illegal under the UK Bribery Act.

Facilitation payments are small amounts of cash or gifts intended to either speed up, or ensure a legitimate process happens. Examples of this might include being asked to pay an unofficial fee to speed up the process of obtaining a licence or permit, or a customs official in an airport asking you to pay a fee to obtain access to a certain country.

7. Gifts & hospitality

Regular, or routine, giving and receiving of gifts and hospitality is not considered to be an acceptable business practise within the public sector. However, in line with Network Rail's Gifts and Hospitality policy, the offering and accepting of occasional, modest gifts and hospitality is permitted, where there is a justifiable reason for doing so.

In the vast majority of cases, accepting or offering gifts and hospitality won't be bribery but there are certain red flags to look out for, which could indicate you're being offered a bribe.

These red flags include:

- gifts and hospitality that are particularly lavish, or excessive in value
- gifts and hospitality that are timed inappropriately (for example, to coincide with the renewal of a contract or award of a tender)
- if you think that the person making the offer is only doing it to try to influence you, or a decision you're responsible for making.

For further information, please view our [Gifts and Hospitality policy](#).

8. Charitable contributions

Charitable contributions are considered to be higher risk transactions when assessing bribery risk, as they can sometimes be used to 'cover-up' acts of bribery or may be perceived as improper. This is especially the case when working abroad as it might be difficult to check the legitimacy of charitable organisations.

Since being reclassified, as an organisation, Network Rail does not make any contributions to any charities.

9. Political donations

At Network Rail, we regularly meet representatives of the major political parties to explain what we're doing and the issues we're facing, but that's as far as contact goes. We don't

make financial contributions to the parties, nor do we allow our employees to make any form of political donation or contribution on our behalf.

The same applies when working abroad. We might come into contact with political representatives, but we must never appear to support, or favour, any one party, or individual, over another.

10. Use of third parties

Under the UK Bribery Act 2010, Network Rail has an obligation to prevent bribery on its behalf by 'associated persons'. Associated persons include all staff, but also third parties who do work on our behalf, or represent us in a business transaction, such as suppliers, contractors, consultants, agents, or joint venture partners.

Preventative measures should always be proportionate to the level of risk the associated person poses – for instance, if they interact with government officials or operate abroad on behalf of Network Rail, the risk is inherently higher. Network Rail has a set of processes and procedures in place to assess and mitigate the risk posed by its associated persons, which includes things like due diligence, contractual provisions and communications and training, and any form of procurement activity must follow the standard Network Rail procedure.

However, before engaging a third party to do business on Network Rail's behalf, we should all think about the bribery and corruption risks, and keep an eye out for any red flags.

Here are a few things you should consider:

- Will the third party perform services on behalf of Network Rail, or be authorised to represent Network Rail when dealing with other third parties, especially government officials? Will it be in a position to influence decisions or the conduct of other third parties for the benefit of Network Rail?
- Does the third party have a known history of misconduct, especially bribery and fraud?
- Does it operate (on Network Rail's behalf) in a geographic location perceived to have high corruption risks? – Transparency International's Corruption Perceptions Index can help with this
- Is the project for which you're engaging them particularly large or complex (e.g. involving many parties, phases or transactions), in a way that could potentially create an opportunity or incentive for bribery or fraud? Does it involve charitable contributions, lobbying or political sponsorship?
- Are there any other red flags present – such as unusually high commissions or expenses, frequent corporate hospitality, unusual payment methods, exceptional bypassing of bureaucratic hurdles, goods or services which seem disproportionately priced, involvement of third parties where there doesn't appear to be a clear reason for their contribution, procurement of goods or services where the purpose is unclear, or generally opaque behaviour?
- Are there any significant reputational risks for Network Rail that the association with the third party could cause?

11. Assessing bribery risk

Guidance produced by the Ministry of Justice says that procedures put in place by organisations to prevent bribery being committed on their behalf, should be informed by the following six principles:

1. Proportionate procedures
2. Top level commitment
3. Risk assessment
4. Due diligence
5. Communication (including training)
6. Monitoring and review.

Network Rail's Ethics team conducts an anti-bribery appropriate measures assessment biennially, based on these six principles. More information on the six principles is available on page five of [this](#) document.

In addition to this, Network Rail's Finance team carries out an annual fraud risk assessment, which includes assessment of bribery risk.

Functional heads and Route Managing Directors are responsible for assessing bribery risk in their business area, and where necessary, putting in place appropriate measures to mitigate the risk of their employees being bribed, or making a bribe. As a minimum, all business owners are expected to make sure that:

- everyone, including any new starters, complete the mandatory ethics training modules, which cover bribery
- everyone records gifts and hospitality (whether offered, accepted or declined) and conflicts of interest on iEthics
- your employees speak out if they think they have been offered a bribe – either to a line manager, or via the Speak Out service
- you follow appropriate due diligence procedures for all potential suppliers and contractors, where relevant
- you manage and record the risk of bribery through existing risk registers, in high risk areas where there is an increased likelihood of bribery
- you embed this approach in your business area with consistent tone from the top.

In business areas where you believe there is a higher risk of you, or your employees encountering bribery, you can use [this](#) anti-bribery risk assessment tool to further assess the risks.

12. Breaches

Bribery is a criminal offence under the UK Bribery Act 2010 and Network Rail will investigate any actual or suspected breach of this policy.

Any employee who breaches this policy will face disciplinary action, which could result in dismissal for gross misconduct. Any non-employee who breaches this policy may have their contract terminated with immediate effect. Additionally, breach of the legislation is likely to result in criminal proceedings and possible imprisonment for the convicted perpetrator.

Q&A's

Q. What is a bribe?

A. A bribe is a something that is offered with the intention of influencing someone to act in a certain way, or make a decision that will benefit a particular person or organisation. Some examples of bribes are:

- being offered frequent, or high-value gifts or hospitality at times when business decisions are being made (e.g. during a tender)
- being offered gifts or hospitality from, for example, a contractor, in exchange for information about other bidders, or to tailor a project specification specifically to a particular bidder (also known as 'bid-rigging')
- being offered tickets to a sporting event from a tenant, in exchange for a more favourable rent review
- being offered personal services or home improvements from a supplier (e.g. a conservatory or a new bathroom suite) in exchange for awarding them a contract
- being offered a share of the money a supplier earns from false labour charges in return for 'turning a blind eye' (otherwise known as a 'kickback payment')
- being offered cash, or a few crates of beer from a lineside neighbour in exchange for rescheduling some engineering work to a time when they're not at home
- Giving a supplier the opportunity to bypass a procurement process in the future if they make their current offer more 'competitive'
- Offering extravagant hospitality to a foreign public official or a large donation to their chosen charity, in order to secure a government contract.

Q. What is a facilitation payment?

A. Often referred to as 'grease payments', facilitation payments are small amounts of cash or gifts intended to either speed-up, or make sure a legitimate process happens. Facilitation payments are a form of bribery and are illegal under the UK Bribery Act 2010. If someone asks you for a fee like this you should:

1. ask for proof that the payment is legitimate – obtaining a receipt is a good way of checking
2. if unable to provide proof, or you still think the payment is suspicious, you should refuse to pay
3. if still requesting payment, and appropriate, you could ask the requestor of the fee to speak to a senior manager
4. phone your line manager, another senior manager, or your HR team to ask for advice
5. report the situation via Speak Out (Freephone number: 0808 143 0100 or Online: www.intouchfeedback.com/networkrail).

If your personal safety is threatened, you should make the payment, and then report the situation to the Speak Out service as soon as is practically possible. Even if you don't end up making the payment, you should still report it to Speak Out.

Q. I have been offered a gift that I suspect was intended as a bribe. How do I report it?

A. You should decline the offering – you can explain that Network Rail has a strict Gifts and Hospitality policy and that it would be a breach of policy to accept. You should then make sure you let your line manager know that you think you have been offered a bribe, register the gift on iEthics, regardless of whether you intend to accept or not, and then report the incident via Speak Out (Freephone number: 0808 143 0100 or Online: www.intouchfeedback.com/networkrail).

Q. Some local residents offered my team a few crates of beer to reschedule some night work to take place when they're on holiday. What should I do?

A. Apart from the obvious difficulties of getting the work moved, this sort of offer is a bribe. You must never accept a bribe from anyone, no matter who they are, or what position of power or influence that they seem to hold. It's illegal and you could be guilty of a criminal offence. Let your line manager know and use the Speak Out service (Freephone number: 0808 143 0100 or Online: www.intouchfeedback.com/networkrail) to report it.

Q. I was authorised to hire a consultant to help us with a new project we are working on which involves local government. The consultant has asked for a £4,000 'administrative fee' in order to 'help move things along'. Should I agree to this payment?

A. Before engaging the consultant you need to discuss this with your contact in the Contracts and Procurement team. Before agreeing to make any payment, you need to know how the money will be used, so you can be sure that it isn't a bribe or facilitation payment in disguise. Asking for a receipt for the payment will help in deciding whether it is a facilitation payment, or a legitimate fee.

Q. One of the tenants in a Network Rail managed station frequently offers you free products. Their rent review isn't taking place for another six months and the value of their offers is very low. Can I accept their offers?

A. No. Although the rent review isn't taking place for another six months, accepting offers of free products could cause feelings of obligation when the time comes. If you accept the offers, it could create the appearance of favouritism, bias and potential bribery. See Network Rail's [Gifts and Hospitality policy](#) for guidance on offering and receiving corporate hospitality.

Q. You're responsible for evaluating a tender for a new retailer at one of our managed stations. As part of a company's tender submission, they've sent you some samples of their products for you to try. What should you do?

A. We have to be really careful about how our actions may look to those outside of Network Rail. If the company who sent the samples were awarded the contract, this may look suspicious to other bidders if they found out that you had been supplied with samples of their products to try. In these situations, you should always return any samples to the sender, explaining that during times when business decisions are being made, such as tenders, Network Rail employees aren't permitted to accept gifts or hospitality.