

# Anti-Bribery Policy

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Reviewed October 2018



# **NI GUARDIAN AD LITEM AGENCY**

## **Anti-Bribery Policy**

## 1. Introduction

The Bribery Act 2010 (the Act) introduces a new, clearer regime for tackling bribery that applies to all commercial organisations in the UK, including those in the healthcare sector, to ensure that they have adequate procedures in place to prevent bribery from occurring within their organisation.

The Bribery Act 2010 covers all sorts of bribery, the offering and receiving of a bribe, directly or indirectly and there are four specific offences, three that relate to the individual and one relates to the organisation and penalties for noncompliance are serious.

Bribery is a criminal offence for both individuals and commercial organisation and punishable with imprisonment of up to ten years or unlimited fines.

The Act introduces a corporate offence of failing to prevent bribery by the organisation not having adequate preventative procedures in place. The NI Guardian ad Litem Agency (NIGALA) is committed to the prevention, deterrence and detection of bribery just as we are to combating fraud and have a zero tolerance attitude towards bribery. We aim to manage bribery risks and to maintain anti-bribery compliance as part of the NIGALA Risk Management process.

NIGALA aims to conduct all of its services in an honest and ethical manner and is committed to acting with integrity in all our business dealings and relationships and to implementing effective systems to prevent bribery.

NIGALA expects its business associates to comply with all applicable laws, regulations relating to anti-bribery, anti-corruption including but not limited to the Bribery Act 2010. NIGALA is committed to compliance with the Act and this policy explains the steps that the NIGALA has put in place.

## 2. Scope

This policy applies to all staff of the NI Guardian ad Litem Agency, regardless of position held, as well as technology partners, contractors, vendors and /or any other parties who have a business relationship with the NIGALA. This policy will be brought to the attention of all staff and will form part of the induction process for new staff.

## 3. Objectives

The key objectives of this policy are to provide the framework for achieving:

- increased awareness about the risk of bribery within the NIGALA and its unacceptability;
- a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly;

- communicating the NIGALA's responsibilities in terms of deterrence, prevention, detection and investigation of bribery and corruption.

#### 4. What is Bribery?

A bribe is an inducement or reward of a **financial or other advantage** that is offered, promised or provided to a person in order to gain any commercial, contractual, regulatory or personal advantage through the **improper performance** of a **relevant function or activity** as a result of the bribe.

**Financial or other advantage**, means payments, gifts, hospitality or anything else that could be reasonably perceived as an advantage as understood by its normal, everyday meaning.

**Improper performance** means performance in breach of an expectation that a person will act in good faith, impartially, or in accordance with a position of trust.

**A relevant function or activity** means any function of a public nature, connected with a business, performed in the course of a person's employment or performed by or on behalf of **an associated person(s)**.

**An Associate Person** could include any party relevant to the delivery of NIGALA's services i.e. performs services for the NIGALA in business. This will include technology partners, contractors, subcontractors, vendors, advisors, agents, distributors, representatives and intermediaries. It is unlikely to include someone who supplies goods to the NIGALA.

#### 5. The Four Offences under the Bribery Act

The following business practices constitute criminal offences under the Bribery Act 2010 and are therefore prohibited:

- 5.1 Bribing another person (Section 1 of the Act)
- 5.2 Being Bribed (Section 2)
- 5.3 Bribery of a foreign public official (Section 6)
- 5.4 Failure of commercial organisations to prevent bribery (Section 7)

#### 6. Facilitation Payments

A bribe could take the form of a facilitation payment. Facilitation payments are small payments made to secure or expedite the performance of a routine action to which the payer has legal or other entitlement to. Facilitation payments are prohibited under the Bribery Act.

## 7. Liability

There are 3 levels of liability that are relevant to the NIGALA and its staff:

- 7.1 Individual Liability**- as an individual if you commit any of these offences: Bribing another person/ Being bribed you are liable and will be prosecuted.  
***If found guilty an individual is liable to imprisonment for a term of up to 10 years or a fine or both***
- 7.2 Senior Officer Liability** – Non Executive Directors and senior officers of the NIGALA must be cognisant of section 14 of the ACT. This provides that if an offence under sections 1,2 and 6 (bribes given or received) is proved to have been committed by a body corporate with the consent or connivance of a director or senior officer then the director or senior officer would be guilty of an offence as well as the body corporate which paid the bribe.  
***If found guilty an Individual is liable to imprisonment for a term of up to 10 years or a fine or both.***
- 7.3 Organisational Liability** - The NIGALA will have a defence if it can show that it has **adequate procedures** in place to prevent associated persons, (staff, agents or third parties) from committing bribery. This defence cannot be used where it has been proved that a senior officer of the organisation has consented to the offence and both the organisation and senior officer will be guilty of the offence. ***A person other than an individual, guilty of an offence is liable on conviction to an unlimited fine.***

## 8. NIGALA Anti-Bribery Policy Statement

The NIGALA is committed to supporting anti-bribery and corruption initiatives and recognises the importance of ensuring that there are appropriate policies and procedures in place to ensure that all staff are aware of their responsibilities.

The NIGALA does not, and will not, pay bribes or offer improper inducements to anyone for any purpose; nor do we, or will we, accept bribes or improper inducements. This approach applies to everyone who works for us, or with us. To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in, or otherwise encourage bribery.

**Furthermore we hereby make the following anti-bribery commitments:**

- a. We will take a Zero Tolerance approach towards any act of bribery within the organisation and by any others connected with it, whether staff member or external companies.
- b. We will deliver our services fairly, honestly and openly.
- c. We will seek assurance from whom we contract.

- d. We will embrace the business benefits of rejecting bribery to protect our reputation and provide assurance to our customers that we are an organisation with integrity.
- e. We will demonstrate and communicate the processes in place to prevent bribery to our staff and others to avoid any risk of involvement in bribery and corruption.
- f. We will work with others in the HSC to develop an integrated anti-bribery approach.

## **9. Roles and Responsibilities**

### **9.1 The Board**

The Board has a duty to ensure that it provides a secure environment in which to work, and one where people are confident to raise concerns without worrying that it will reflect badly on them. This extends to ensuring that staff feel protected when carrying out their official duties and are not placed in a vulnerable position. If staff have concerns about any procedures or processes that they are asked to be involved in, the NIGALA has a duty to ensure that those concerns are listened to and addressed.

The Board and/or the Senior Compliance Officer will be liable to be called to account for failing to prevent bribery. The NIGALA therefore has a duty to ensure staff receive adequate training and support in order to carry out their responsibilities. Therefore the Chief Executive and the Head of Corporate Services will monitor and ensure compliance with this policy.

### **9.2 Staff**

For the purposes of this policy, "Staff" include all NIGALA employees, self-employed Guardian ad Litem contractors and Board members. It is expected that staff must act with integrity and in accordance the NIGALA's Policies and Procedures, with particular reference to the NIGALA Code of Conduct and Gifts and Hospitality Policy.

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the NIGALA.

### **9.3 The SMT and Managers**

Managers at all levels have a responsibility to ensure that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively. The responsibility for the prevention and detection of bribery primarily rests with managers but requires the co-operation of all staff.

As part of that responsibility, line managers need to:

- Inform their staff of the relevant procedures and policies such as the NIGALA Code of Conduct, Gifts and Hospitality, Whistleblowing, Disciplinary etc.
- Ensure that their staff are made aware of the requirements of this policy and strategy.

- Record bribery risks and resultant action plans to mitigate the risk(s) in their Risk Register/s and where relevant escalate risks in accordance with agreed process to the Head of Corporate Services. .
- Ensure that controls are being adhered to and contribute to the assessment of the risks and controls within their service, which feeds into the NIGALA Assurance Statements; Mid-Year Assurance Statement and the annual Statement on Internal Control.

#### **9.4 Senior Compliance Officer**

The Head of Corporate Services will report directly to the Chief Executive and will be responsible for:

- implementing the NIGALA Anti-Bribery Policy and Strategy, providing guidance and training, monitoring compliance and sanctioning violation of the policy.
- review annually the suitability, adequacy and effectiveness of the NIGALA's anti-bribery arrangements and implement improvements as and when appropriate.
- provide a report to the Audit and Risk Committee on the suitability, adequacy and effectiveness of the NIGALA's anti-bribery arrangements.
- Investigate any alleged breaches, calling upon the Counter-Fraud Unit as required.

## **10. NIGALA Business Practices and Policies and Practices**

The NIGALA already has a number of policies and practices already in place that will support this anti-bribery policy:

### **10.1 Gifts and Hospitality Policy**

The Bribery Act 2010 does not prohibit hospitality so organisations can continue to provide bona fide hospitality, promotional or other expenditure provided it is reasonable and proportionate.

Gifts and hospitality must not be given or received in return for services provided or to obtain or retain business but shall be handled openly and unconditionally as a gesture of esteem and goodwill. Gifts and hospitality should always be of symbolic value, appropriate, reasonable and proportionate in the circumstance and in accordance with the NIGALA Gifts and Hospitality Policy.

The Gifts and Hospitality Policy provides advice to NIGALA 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 NIGALA.

In order to counter any possible accusations or suspicions of breach of the rules of conduct, a record will be kept by NIGALA in the Chief Executive's Office and at Senior Manager level of all offers of gifts above £20.

## **10.2 Whistleblowing Policy**

The NIGALA Whistleblowing Policy provides advice on the procedures for raising concerns in the workplace, particularly where those concerns relate to unlawful conduct, financial malpractice or dangers to the public or the environment.

Any breaches of this policy could be raised via this route – please refer to specific section on Raising Concerns.

## **10.3 Disciplinary Policy**

The NIGALA Disciplinary Policy is designed to help and encourage all staff to achieve and maintain appropriate standards of conduct, performance and behaviour. Unacceptable conduct which leads to disciplinary action is categorised under the headings of Misconduct and Gross Misconduct. An allegation of Bribery would fall into the category of Gross Misconduct and would lead to disciplinary action being undertaken in accordance with the NIGALA Disciplinary Policy – please refer to specific section on “Investigation”.

These policies are supported by written procedures for internal control within each NIGALA Service Area.

## **10.4 Recruitment**

NIGALA Recruitment practices will be conducted in a fair and transparent manner demonstrated by:

- Ensuring that recruitment panels are independent and objective.
- Ensuring that applicants are vetted in that they have no prior convictions for bribery or corruption or fraud.
- Existing and New Starts at relevant grade complete the annual Related Party Transactions Declaration.
- Changes to Contracts - contractual obligation in the employment contracts not to engage in bribery as defined in this policy.

## **10.5 Financial Transactions / Record Keeping**

NIGALA Financial payment transactions will be conducted in a fair and transparent manner demonstrated by:

- Maintaining financial records and having appropriate internal controls to ensure and demonstrate proper business reasons for payments to third parties
- Transactions are accurately reflected, in accordance with NI HSC Accounting Manual, tax, and other applicable laws and regulations.
- Off the book accounts and false or deceptive bookkeeping entries are strictly prohibited
- Gifts and Hospitality is maintained and recorded at directorate level in accordance with the NIGALA Gifts and Hospitality Policy.

## **10.6 Procurement**

NIGALA Procurement practices will be conducted in a fair and transparent manner demonstrated by:

- Refusing to deal with contractors or suppliers known or reasonably suspected to be paying bribes.
- Undertake properly documented due diligence before engaging contractors and suppliers.
- Having the following clause in our contracts –

*The contractor shall have and operate an anti-bribery policy which is in accordance with the government guidance issued in respect of the Bribery Act 2010. Failure to do so may result in termination of this agreement by the customer forthwith. If the contractor is charged under The Bribery Act 2010 the customer may terminate the agreement forthwith. No termination charge will be payable by the customer in either event.*

### **10.7 Information Technology Services**

The NIGALA recognises the value of the information held in our systems and has security and protocols in place to restrict access accordingly. ITS will contact the Senior Compliance Officer immediately in all cases where there is suspicion that IT is being used for bribery purposes and by whom.

### **10.8 Internal and External Audit**

Internal and External Audit provide assurances to the NIGALA Board and in the course of their work any incident or suspicion that comes to Internal or External Audit's attention will be passed immediately to the Senior Compliance Officer.

## **11. Raising Concerns**

If you suspect that any staff member, or any other person acting for or on behalf of the NIGALA, may have engaged in conduct inconsistent with this policy, please report this to the Senior Compliance Officer who will then ensure that procedures are followed. Concerns can also be raised through the NIGALA Whistleblowing Policy.

Any unfounded or malicious allegations will be subject to a full investigation and appropriate disciplinary action.

## **12. Investigation**

All staff should be aware that bribery will normally, dependent upon the circumstance of the case, be regarded as gross misconduct thus warranting summary dismissal without previous warnings. However, no such action will be taken before a proper investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.

The Human Resources Department will liaise closely with the Senior Compliance Officer and relevant senior managers where a staff member is suspected of being involved in bribery or corruption in accordance with agreed liaison protocols. The Director of Human Resources at BSO and the Head of Corporate Services NIGALA are responsible for ensuring the appropriate use of the NIGALA's Disciplinary Procedure.

The Human Resource Department at BSO shall advise those involved in the investigation in matters of employment law and in other procedural matters such as disciplinary and complaints procedures. Close liaison between the Senior Compliance Officer and Human Resources at BSO will be essential to ensure that any parallel sanctions i.e. disciplinary and criminal are applied effectively and in a coordinated manner.

### **13. Training**

The NIGALA will provide anti-bribery training to all (its relevant) staff.

The NIGALA will ensure that the delivery of training will take into account the diverse needs of staff.

### **14. Monitoring and Review of this Policy**

Monitoring and review of this policy will take place at both Corporate and Operational Level.

At Corporate level the Senior Compliance Officer will conduct:

- an annual review of the suitability, adequacy and effectiveness of the NIGALA's anti-bribery arrangements and implement improvements as and when appropriate.
- provide report (s) to the Audit and Risk on the suitability, adequacy and effectiveness of the PCC's anti-bribery arrangements.

At Operational level, The Assistant Director's will be responsible for:

- ensuring that bribery risks are added to the Risk Registers along with any new planned actions to mitigate the risks
- a bribery risk assessment is carried out regularly and when changes in procedures are introduced.
- provide relevant information to the Senior Compliance Officer to support the annual review of the suitability, adequacy and effectiveness of the NIGALA's anti-bribery arrangements.

### **15. Links with other NIGALA Policies**

This policy is supported by a number of NIGALA Policies and Practices:

- NIGALA Code of Conduct
- Code of Conduct for HPSS Managers

- Gifts and Hospitality Policy
- Whistleblowing Policies
- Disciplinary Policy
- NIGALA Risk Management Process
- Declaration of Interest (Board Members)
- Related Party Transactions (as part of Annual Final Accounts).

## **16. Equality Screening**

This strategy has been screened for equality implications as required by Section 75 of the Northern Ireland Act 1998 and for compliance with human rights and disability legislation. Documentation to evidence the screening has been produced and is publicly available.

## **17. Review**

This strategy is subject to regular revision as anti-bribery risk programme becomes embedded within the NIGALA Risk Management Process and any other Legislative or Environmental change.