



BRATHAY TRUST

ANTI BRIBERY POLICY

POLICY & MANAGEMENT GUIDELINES

DOCUMENT MANAGEMENT RECORD

Policy Name: Anti Bribery Policy

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Policy Owner: Finance Director

Distribution: Internal and External; Website

SUMMARY POLICY STATEMENT

Brathay is committed to the practice of responsible corporate behaviour and to complying with all laws, regulations and other requirements which govern the conduct of our operations. Our commitment includes:

- instilling a strong anti-corruption culture and compliance with all anti-bribery and anti-corruption legislation including, but not limited to, the Bribery Act 2010 (“the Act”) and
- ensuring that no bribes or other corrupt payments, inducements or collusive arrangements are made, offered, sought or obtained by us or anyone working on our behalf.

The purpose of this policy is to:

- set out the responsibilities we and those working for us have, in observing and upholding our position on bribery and corruption; and
- provide information and guidance to those working for us on how to recognise and deal with bribery and corruption issues.

POLICY DETAILS

APPLICATION

This policy applies to all employees, agents, contractors, subcontractors, consultants, business partners and any other parties including individuals, partnerships and corporate bodies associated with Brathay or its subsidiaries (hereafter referred to as the staff).

It is made available internally via the Brathay intranet and externally via the Brathay website www.brathay.org.uk.

AREAS OF PARTICULAR CONCERN

Brathay is involved in a wide range of activities which carry differing degrees of risk of bribery, corruption or collusion. Key areas of risk are:

- The awarding of contracts (to or by Brathay).
- Receipt of grants and donations.
- Grant funding.

WHAT IS BRIBERY?

The Bribery Act 2010 sets out two general offences of bribing and being bribed, which are committed when someone:

- offers, promises or gives another person a bribe.
- requests, agrees to receive or accepts a bribe.

When a person offers, promises or gives a bribe, it is called 'active bribery' and when a person requests, receives, or accepts a bribe, it is known as 'passive bribery'.

A bribe is described as the provision of a financial or other advantage in connection with a person performing a function "improperly". More generally bribery is defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so. This includes the offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of money, gifts, loans, fees, rewards or other advantages (taxes, services, donations, favours etc.).

WHAT IS COLLUSION?

This policy covers acts which may be perceived as corruption or collusion and references to bribery include corruption and collusion (unless excluded at law). A collusive practice is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

EXPECTED BEHAVIOURS

Brathay staff are expected to always behave with honesty and integrity.

Staff must:

- Be aware and alert at to the risk of bribery.
- Exercise due diligence when dealing with third parties on behalf of Brathay.

Staff may not:

- Actively bribe others by giving or promising any financial or other advantage to another party (directly or indirectly) on Brathay's behalf where that advantage is intended to induce the other party to perform a particular function improperly, to reward them for the same, or where the acceptance of that advantage will in itself constitute improper conduct.
- Accept passive bribery by requesting or agreeing to receive any financial or other advantage from another party where that advantage is intended to induce the improper performance of a particular function, where the acceptance of that advantage will in itself constitute improper conduct, or where the recipient intends to act improperly in anticipation of such an advantage.
- Collude with other parties to achieve an improper purpose, including influencing improperly the actions of another party specifically in relation to a bid or tendering process.

REPORTING CONCERNS

It is the responsibility of all staff to ensure that bribery and collusion are prevented, detected and reported. Where a member of staff becomes aware of any inappropriate behaviour under this policy, it is their responsibility to ensure that bribery/collusion is prevented, detected and reported and all such reports should be made in accordance with Brathay's Whistleblowing Policy.

It is important that you tell your line manager as soon as possible if you are offered a bribe, are asked to make one, suspect that this may happen in the future, or believe that you are a victim of another form of unlawful activity.

In the case of non-employees identifying possible bribery, they should contact their normal point of contact within Brathay. If that person is implicated, they should contact a member of the Leadership team (Chief Executive, Finance Director or Head of Children and Young People's Services) who can be contacted on 015394 33041 or via email addresses on the Brathay's website.

THE CONSEQUENCES OF BEING INVOLVED IN BRIBERY

Individuals found guilty of bribery, corruption or collusion will face disciplinary action which may result in dismissal.

Any individual or any organisation found guilty of bribery under the Act may face fines and/or prison terms. Bribery and corruption are punishable for individuals by up to ten years' imprisonment and if Brathay is found to have taken part in corruption we could face an unlimited fine and face damage to our reputation. In addition, high legal costs and adverse publicity are likely to result from any breach of the Act.

TRAINING

Brathay's Anti-Bribery Policy can be found on the intranet and is included in the induction programme. Updates are communicated to managers for sharing with their team via the Business Support team.

RESPONSIBILITIES

Trustees

Responsible for:

- Overall responsibility for a policy which ensures compliance with the relevant statute.

Chief Executive & Leadership Team

Responsible for:

- Development and maintenance of such procedures as are necessary to ensure implementation of the policy.
- Maintenance of the policy.
- Reporting to Trustees.

Management

Responsible for:

- Design of procedures.
- Implementation of procedures.
- Dissemination throughout their team.
- Ensuring day to day operational compliance.
- Reporting to the Leadership Team.

Individual Responsibility (Workers and Contractors)

Responsible for:

- Compliance with procedures.
- Identifying potential improvements through day-to-day work.
- Reporting to the management.

APPENDIX 1 – detailed guidance

BRIBERY RISKS

Charitable donations received

As Brathay is a registered charity. No charitable donations will be accepted in cash of more than £1,000 without evidence to support the source of the donation. Public collections and fundraising events operate to ensure there is maximum accountability over income received.

Charitable donations given

Charitable donations are permitted only to other registered charities and when in accordance with Brathay's own charitable objects. Proof of receipt of all charitable donations must be obtained from the recipient organisation. Under no circumstances may charitable donations be made in cash.

Facilitation payments

We do not make, and will not accept, facilitation payments or "kickbacks" of any kind. Facilitation payments are typically small, unofficial payments made to secure or expedite a routine action by an official.

If you are asked to make a payment on Brathay's behalf, you should always be mindful of what the payment is for and whether the amount requested is proportionate to the goods or services provided. You should always ask for a receipt which details the reason for the payment. If you have any suspicions, concerns or queries regarding a payment, you should raise these with your line manager.

The only time you should make facilitation payments is where your safety or life is in danger. Any payment so made must be reported to the relevant person in accordance with Brathay's Whistleblowing Policy or, in the case of non-employees, their normal point of contact within Brathay, as soon as is reasonably possible and practicable.

Political Donations

Brathay does not make political donations and Brathay is not affiliated with any political party, independent candidate, or with any other organisation whose activities are primarily political.

Employees and other associated parties are free to make personal donations provided such payments are not purported to be made on behalf of Brathay and are not made to obtain any form of advantage in any business transaction.

APPENDIX 1 – detailed guidance

GIFTS AND HOSPITALITY

Gifts and hospitality remain a legitimate part of conducting business and should be accepted only in compliance with Brathay's Hospitality and Gifts Policy. Gifts and hospitality can, when excessive, constitute a bribe and/or a conflict of interest. Care and due diligence should always be exercised when giving or receiving any form of gift or hospitality on behalf of Brathay.

The following general principles apply:

- Gifts and hospitality may neither be given nor received as rewards, inducements or encouragement for preferential treatment or inappropriate or dishonest conduct.
- Neither gifts nor hospitality should be actively sought or encouraged from any party, nor should the impression be given that the award of any business, custom, contract or similar will be in any way conditional on gifts or hospitality.
- Cash should be neither given nor received as a gift under any circumstances.
- Gifts and hospitality to or from relevant parties should be generally avoided at the time of contracts being tendered or awarded.
- The value of all gifts and hospitality, whether given or received, should be proportionate to the matter to which they relate and should not be unusually high or generous when compared to prevailing practices in our industry or sector.

DUE DILIGENCE AND RISKS

The following issues are considered with care in transactions, dealings with officials, and other business matters concerning third parties:

- Territorial risks, particularly the prevalence of bribery and corruption in a particular country
- Cross-border payments.
- Requests for cash payment, payment through intermediaries or other unusual methods of payment.
- Activities requiring Brathay and / or any associated party to obtain permits or other forms of official authorisation.
- Transactions involving the import or export of goods.
- In relation to the participation in a bidding or tendering process, the suggestion of action which would lead to the elimination of competition resulting in a higher price of the services.

APPENDIX 1 – detailed guidance

APPENDIX 2 - EXAMPLES OF BRIBERY

Receiving a bribe

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.

Bribing a foreign official

You arrange for the organisation to pay an additional payment to a foreign official to speed up an administrative process, such as clearing items through customs.

You have committed 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 Brathay. Brathay may also be found to have committed an offence.

Offering a bribe

You offer a potential business partner tickets to a major sporting event, but only if they agree to do business with Brathay.

You have committed an offence as you are making the offer to gain a commercial and contractual advantage. Brathay may also be found to have committed an offence because the offer has been made to obtain business for Brathay.

It may also be an offence for the potential client to accept your offer.

ASSOCIATED GUIDANCE AND DOCUMENTS

External guidance:

Transparency International UK <https://www.antibriberyguidance.org>

Government website www.gov.uk

Related policies:

- Acceptance of gifts and donations (fundraising)
- Conflict of interest
- Disciplinary
- Hospitality and Gifts
- Procurement
- Whistleblowing

DOCUMENT HISTORY

Issue	Date	Notes	Author	Status
1.	July 2021	Document rewritten	Finance Director	In consultation
2.	July 2021	Document presented to FinCo and Trustees for approval	Finance Director	Approved