

**Introduction**

The Bribery Act 2010 became law on 1st July 2011 and has been enacted to enable robust action to be taken against such activity. Active Essex Foundation is committed to protecting the funding and donations received and the services it provides from being abused. We have a zero-tolerance approach towards bribery and promote the prevention, deterrence and detection of bribery.

**What is bribery?**

Bribery is defined as the offering, giving, receiving or soliciting of any item of value to influence the actions of an official or other person in charge of a public or legal duty. The act of bribery is the intention to gain a personal, commercial, regulatory or contractual advantage.

**Policy statement**

Active Essex Foundation is committed to the prevention, deterrence and detection of bribery.

Active Essex Foundation commits to:

* Making all employees, trustees and delivery partners aware of their responsibilities to adhere strictly to this policy at all times
* Training all employees so that they know what we expect
* Encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
* Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
* Taking firm and vigorous action against any individual(s) involved in bribery
* Provide information to all employees to report breaches and suspected breaches of this policy
* Include appropriate clauses in contracts to prevent bribery and deal with the consequences if it occurs

**Objective of this policy**

This policy provides a clear and consistent framework for employees, trustees and representatives of Active Essex Foundation to ensure compliance with the law. This policy details the types of offences within the Bribery Act 2010 and in conjunction with related policies and key documents provides guidance to staff and members should they identify a potential offence.

This policy is not meant to change the requirements of our Gifts and Hospitality policy or the AEF Member Code of Conduct. All staff and trustees must comply with the Officer Gifts and Hospitality Policy. All Members must comply with the AEF Member Code of Conduct.

**Scope of this policy**

This policy applies to all of Active Essex Foundations activities and all personnel (permanent and temporary employees, agency staff, volunteers, consultants and partners)

HM Government published the UK Anti-Corruption Plan in December 2014, putting in place new arrangements requiring local authorities in England to adopt a Code of Conduct compliant with the seven ‘Nolan’ principles of standards of public life; selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for and with Active Essex Foundation. All staff are required to avoid activity that breaches this policy.

We require that all employees and members:

* read, understand and comply with this policy
* raise concerns as soon as possible if it is believed or suspected that a conflict with this policy has occurred, or may occur in the future.
* act honestly and with integrity at all times and safeguard Active Essex Foundation’s resources for which they are responsible
* comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Active Essex Foundation’s operates, in respect of the lawful and responsible conduct of activities

As well as the possibility of civil and criminal prosecution, employees breaching this policy will face disciplinary action, which could result in dismissal in cases of gross misconduct.

**Key points of the Bribery Act 2010**

There are four key offences under the Act:

**Section 1** Offence of bribing another person:

This section makes it an offence when a person:

• Offers, promises or gives a financial or other advantage to another person and intends the advantage to induce a person to perform improperly a relevant function or activity or to reward a person for the improper performance of such a function or activity

or

• Offers, promises or gives a financial or other advantage to another person and knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity

**Section 2** Being bribed

This section makes it an offence when a person:

• Requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly

• Requests, agrees to receive or accepts a financial or other advantage and the request, agreement or acceptance itself constitutes the improper performance of the person of a relevant function or activity

• Requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance of a relevant function or activity; or

• In anticipation of or in consequence of the person requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly

**Section 6** Bribery of foreign public officials

Under this section an offence is committed where a person:

• Intends to influence a foreign official in their official capacity and intends to obtain or retain business or an advantage in the conduct of business; or

• Offers, promises or gives any financial or other advantage to a foreign public official

**Section 7** Failure of commercial organisation to prevent bribery

A relevant commercial organisation is guilty of an offence:

• If a person associated with the organisation bribes another person intending to obtain or retain business for the organisation or to obtain or retain an advantage in the conduct of business for the organisation and the organisation fails to take reasonable steps to implement adequate procedures to prevent such activity

**What are ‘adequate procedures’?**

In the first instance it is for each organisation to determine procedures which it considers proportionate. Ultimately, if bribery occurs, a court will decide whether the procedures are adequate

In determining procedures we need to have regard to the following six principles which are set out in guidance produced by the Department of Justice:

**Proportionate procedures**

An organisation’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation’s activities. They are also clear, practical, accessible, effectively implemented and enforced.

**Top level commitment**

The top-level management (be it a board of directors, the owners or any other equivalent body or person) are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.

**Risk assessment**

The organisation assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented.

**Due diligence**

The organisation applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

**Communication (including training)**

The organisation seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

**Monitoring and review**

The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

Active Essex Foundation is committed to proportional implementation of these principles.

**Public contracts and failure to prevent bribery**

Under the Public Contracts Regulations 2015 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. However, Active Essex Foundation has the discretion to exclude organisations convicted of this offence.

**Penalties**

An individual guilty of an offence under sections 1, 2 or 6 is liable:

* On conviction in a magistrates court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both
* On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both

A person guilty of an offence under section 7 is liable on conviction on indictment to a fine.

**How do I raise a concern?**

Active Essex Foundation ensures that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member of staff to know how they can raise concerns.

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

Employees who raise concerns or report wrongdoing (eg that they have been offered a bribe or who have been asked to bribe a third party) can understandably be worried about whether there will be repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if those concerns turn out to be mistaken.

We are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

Concerns can be anonymous. In the event that an incident of bribery, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. We have clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier and quicker if concerns raised are not anonymous as enquiries can be made to ensure the allegation is correctly interpreted.

**What should you do if someone reports a concern to you?**

Your first port of call should be your manager, who will then if necessary, pass this information on to the Board of Trustees.

If you have any questions about these procedures, please contact Rob Hayne, Rob.Hayne@activessex.org

**Useful links**

The Bribery Act

Bribery Act 2010

Bribery Act statutory guidance <http://www.cipfanetworks.net/fileupload/upload/briberyact2010guidance142011261754.pdf>

Guidance published by Public Concern at Work, a charity which aims to provide support in this area:

Public Concern at Work - Making Whistleblowing Work - 0207 404 6609

Department for Business Innovation and Skills (Blowing the whistle to a prescribed person) [http://www.direct.gov.uk/prod\_consum\_dg/groups/dg\_digitalassets/@dg/@en/@employ/documents/digitalasset/dg\_177605.pdf](http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/%40dg/%40en/%40employ/documents/digitalasset/dg_177605.pdf)

HM Government UK Anti- Corruption Plan

<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/388894/UKantiCorruptionPlan.pdf>