

# Anti-bribery & corruption policy

---

Date 10 September 2015

Version 2.0

# 1 Documentation and approvals

## 1.1 Revision history

This document is subject to revision control. The master electronic copy can be found at INVU185357

Version	Revision date	Summary of changes	Author
1.0	25 Feb 2014		
2.0	10 Sep 2015	Restructure of the document to the new policy format and make it user friendly including a clear separation between policy and procedures	PDR

## 1.2 Intended audience

This policy applies to all individuals working at all levels and grades, including Trustees, the management team, senior staff, employees, consultants, interns, or any other person associated with us, or any of our subsidiaries or their employees, wherever located (collectively referred to as “staff” in this policy).

# 2 Purpose

It is ClientEarth’s policy, actively promoted and supported by the Trustees and the management team, to conduct all of our business in an honest and ethical manner. We take a zero-tolerance approach to bribery and corruption. We are committed to acting professionally, fairly and with integrity in all our business dealings and relationships wherever we operate and to implementing and enforcing effective systems to counter bribery. The only exemption to this would be where payments are made to protect staff members’ personal safety or the safety of others.

ClientEarth will uphold all laws relevant to countering bribery and corruption in all the jurisdictions in which we operate. The law of England and Wales, including the Bribery Act 2010, reflects the highest standards at EU level and therefore is applied across all our offices. We expect all staff to reflect it in their conduct both at home and abroad.

The purpose of this policy is to:

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

## 3 Scope and definitions

### 3.1 Scope

We have identified that the following are particular risks for our business: working in countries that score poorly in Transparency International's "Corruption Perceptions Index". Furthermore, our work in our focus regions aims to influence policy on potentially very large flows of international development aid and international investment. To address those risks, we have ensured our staff members working in these regions have received the appropriate training to identify and avoid corruption and bribery.

### 3.2 Definitions

**Third party** - any individual or organisation you come into contact with during the course of your work for us, and includes actual and potential clients, partners, suppliers, donors, business contacts, advisers, and government and public bodies, including their advisors, representatives and officials, politicians and political parties.

**Bribery** – an inducement or reward offered, promised or provided in order to gain an improper commercial advantage or to secure the improper performance of a relevant function or activity.

**Facilitation payment** – unofficial payments made to secure or expedite a routine government or administrative action by a government official or intermediary.

**Kickbacks** – payments made in return for a business favour or advantage. You must avoid any activity that might lead to, or suggest, that a facilitation payment or kickback will be made or accepted by us.

### 3.3 Examples

**Offering a bribe:** You offer a potential donor tickets to a Michael Bubl  concert, but only if they agree to award us a grant. This would be an offence (as you are making the offer to gain a commercial and contractual advantage). ClientEarth may also be found to have committed an offence because the offer has been made to obtain funds for us. It may also be an offence for the potential donor to accept your offer.

On the other hand, if you invite the potential donor to the concert with no indication of a quid pro quo and in accordance with the appropriate policies, this would not be considered improper or illegal, just unwise.

**Receiving a bribe:** A businessman gives your whole family new luxury yachts, but makes it clear that in return they expect you to use your influence in our organisation to ensure we advocate a certain policy position.

It is an offence for someone 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 ClientEarth to make an additional payment to a foreign official to speed up an administrative process, such as clearing our application for eligibility for a tendering process.

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 contractual advantage for us. ClientEarth may also be found to have committed an offence.

It is also an offence for senior managers to consent to or connive in bribery.

## 4 The Policy

### 4.1 Principles

1. ClientEarth takes its legal responsibilities very seriously and expects those working for it to do the same. Bribery and corruption are punishable for individuals by up to ten years' imprisonment and if ClientEarth is found to have taken part in corruption it could face an unlimited fine, be excluded from tendering for public contracts and face damage to our reputation.

It would be no defence that:

- a) The offence was committed overseas; or
  - b) Senior management of ClientEarth was unaware of what was going on; or
  - c) "That's how business is done" in the relevant country; or
  - d) Competitors are engaging in bribery.
2. It is not acceptable for staff members, or someone acting on their behalf, to:
    - a) Give, promise to give, or offer, a payment, gift or hospitality with the expectation or hope that a political or financial advantage will be received, or to reward a political or financial advantage already given;
    - b) Give, promise to give, or offer, a payment, gift or hospitality to a government official, agent, intermediary or representative to "facilitate" or expedite a routine procedure;
    - c) Accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
    - d) Accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
    - e) Threaten or retaliate against another staff member who has refused to commit a bribery offence or who has raised concerns under this policy;
    - f) Engage in any activity that might lead to a breach of this policy.
  3. Payment requests from third parties must be scrutinised with care. Proper paperwork should be provided backed up with an explanation of legitimate services rendered. Unexplained

services or payments must be questioned and referred to a senior manager. Be particularly careful about business partners who request payments to be made to third parties, without an obvious and lawful explanation, or about requests for payments to offshore accounts. These can all be a front for bribery and corruption.

4. This policy does not prohibit modest and appropriate **entertaining and hospitality** (given and received) to or from third parties. Rather, it puts in place checks and balances to try and ensure the hospitality is not excessive and is not being offered for unlawful or illegal purposes. For example, inviting a donor to a one-off concert, to the theatre, or to dinner, without the quid pro quo of having to place business with us, would be acceptable. At the other extreme is flying a potential donor/project partner/policymaker first class across continents and putting them up in lavish hotels. This would be completely disproportionate and open to suspicion.
5. Staff who believe it is appropriate to make a small **gift** to a third party, or who are offered a gift by any such person, must, in the first instance, disclose the position to their line manager for guidance. Whilst ClientEarth does not encourage the giving or receiving of gifts, it may be permitted, if the following requirements are met:
  - a) the permission of a senior staff member has been sought and given;
  - b) the gift is not made with the intention of influencing a third party, to obtain or retain a political or financial advantage, to reward the provision or retention of political or financial advantage, or in explicit or implicit exchange for favours or benefits;
  - c) it complies with local law;
  - d) any gift from ClientEarth is given in ClientEarth's name, not in the staff member's name;
  - e) it does not include cash or a cash equivalent (such as gift certificates or vouchers);
  - f) taking into account the reason for the gift, it is of an appropriate type and value and given at an appropriate time - for example a token gift at Christmas (we do not expect gifts to exceed £30);
  - g) it is given openly, not secretly.
6. If ClientEarth considers the gift inappropriate, it should not be given and, if a staff member is the recipient of the gift, it should be returned with a polite letter thanking the sender but explaining that it runs contrary to our policy for staff to accept gifts.
7. ClientEarth does not make, and will not accept, facilitation payments or "kickbacks" of any kind. If a staff member is asked to make a payment, they should always be mindful of what the payment is for and whether the amount requested is proportionate to the goods or services provided. Staff should always ask for a receipt which details the reason for the payment. If there is any suspicion, concern or query regarding a payment, staff members should raise this with a senior manager or HR.
8. The prohibition on facilitation payments and kickbacks does not prohibit payments made to preserve or protect an employee's personal safety or the safety of others.

9. In the course of employees' duties, they may be approached for donations by charities or other organisations, which may be legitimate but may also be a front for corruption. Any requests for donations should be referred to a senior manager or HR who will evaluate whether the cause is legitimate, whether ClientEarth wishes to support it and whether the payment could unlawfully influence business we are doing. No donation may be offered or made without the prior approval of the CEO.

## 4.2 Obligation to follow the policy

**All staff members and associates must follow the procedures set out in this document.**

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for us or under our control. All employees are required to avoid any activity that might lead to, or suggest, a breach of this policy.

Failure to follow the procedure or respect the principles set out in this policy are disciplinary matters which may be considered gross misconduct and result in dismissal.

## 4.3 Anti-corruption and bribery training

Training on this policy will form part of the induction process for all new employees and other staff. All existing staff and workers will receive regular, relevant training on how to implement and adhere to this policy. Especially rigorous training will be provided for staff members whose work takes them to countries identified as high risk in terms of corruption and bribery.

## 4.4 Operating in different environments

ClientEarth's programme activities tend to be focussed in European Union member states and some overseas countries, however, we appreciate that practices vary between countries and regions and what may be normal and acceptable in one region may not be in another.

The test to be applied is whether, in all the circumstances, the gift or hospitality is reasonable, justifiable and lawful. The intention behind the gift should always be considered. The fact that bribery may be endemic in a particular country does not justify ClientEarth or its staff making or receiving bribes.

# 5 Responsibilities

## 5.1 Responsibilities of individual staff members and associates

**Due diligence.** Every ClientEarth staff member should conduct basic due diligence on third parties when setting up business relationships to ensure, so far as practicable, that they are honest and reliable.

**Anti- corruption policies and procedures.** Every ClientEarth staff must ensure they read, understand and comply with this policy. Lapses in conduct can jeopardise our activities and the success of ClientEarth’s mission.

**Reporting bribery and corruption incidents or suspicions.** This policy obliges ClientEarth personnel to report incidents, including suspicions, to a senior manager or HR both immediately when they occur, and as soon as possible following the incident by email or in person.

You must ensure all expenses claims relating to hospitality, gifts or expenses incurred by third parties are submitted in accordance with our expenses policy and specifically record the reason for the expenditure.

**Notification.** Staff must notify a senior manager or HR as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future. Please refer to “red flags” list below that may indicate bribery or corruption. Staff members are invited to comment on this policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to HR.

**Attending anti-corruption training.** Staff must attend anti-corruption training when it is booked for them at a mutually convenient time.

## 5.2 Responsibilities of ClientEarth

**Staff orientation.** When hired, new staff will be trained on ClientEarth’s anti-corruption policy and procedures.

**Record of corruption data.** A record of cases of corruption and bribery will be kept centrally on INVU. Management at all levels are responsible for ensuring those reporting to them are made aware of, and understand, this policy and are given adequate and regular training on it.

**Finance records.** We must keep financial records and have appropriate internal controls in place which will evidence the business reason for making payments to third parties. All accounts, invoices, memoranda and other documents and records relating to dealings with third parties, such as partners, suppliers and business contacts, donors, should be prepared and maintained with strict accuracy and completeness. No accounts must be kept “off-book” to facilitate or conceal improper payments.

**Analysis and review.** ClientEarth will review the effectiveness of this policy considering suitability and adequacy of this policy annually and implement appropriate modifications.

**Support.** ClientEarth will provide assets and support as appropriate to ensure effective corruption-related systems for staff carrying out activities on its behalf.

**Protection.** Staff members who refuse to accept or offer a bribe, or those who raise concerns or report another’s wrongdoing, are sometimes worried about possible repercussions. ClientEarth aims to encourage openness and will support anyone who raises genuine concerns in good faith

under this policy, even if they turn out to be mistaken. Employees will suffer no detrimental treatment as a result. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If a staff member believes that they have suffered any such treatment, they should inform a senior manager or HR immediately. Employees may raise this issue formally using our grievance procedure if the matter is not remedied.

Where the concerns refer to another employee of the organisation and the member of staff considers the matter to be of public interest, and staff feel the issue cannot be addressed internally, Staff should contact the prescribed people and bodies to disclose your concerns according to the Public Interest Disclosure Act.

**Anti-bribery and corruption policies and procedures.** The responsible Director will develop policies and procedures to ensure respect of the legal requirements and good practices by ClientEarth and its staff.

## 6 Policy review and updating

This policy will be reviewed annually by the responsible Director in consultation with HR. This policy does not form part of any employee's contract of employment and it may be amended at any time.



# Anti-corruption procedures

---

Date 10 September 2015

Version 1.0

## 1 Due diligence for establishing business relationships

When establishing new relationships with third parties (partners, suppliers, donors, business contacts, advisers, and government and public bodies) you should consider the following questions:

- a) Do the third parties have any record of corruption?
- b) Can the qualifications they claim to have be verified?
- c) Are they recommended by a trustworthy source?
- d) Do they have a proven track record?
- e) Do they have connections with any public officials or politicians who may be in a position to influence relevant business and where, therefore, there may be a risk of corruption?
- f) Is there a sound business case for the appointment of a particular agent or intermediary?
- g) Are our agents or intermediaries providing valuable and transparent services? It should be clear what services are being rendered.
- h) Do any of these third parties, themselves, have anti-corruption measures in place? It is perfectly permissible to request sight of any relevant policies.

## 2 Potential risk scenarios – red flags

Whilst ClientEarth has a valued reputation for honesty in its business dealings, we have put together a list of red flags - scenarios which we hope will never arise, but which if they do, should cause alarm bells to ring and lead staff to report their suspicions.

The list is not intended to be in any way exhaustive. Corruption can arise in many shapes and guises:

- a) The staff member becomes aware that a third party with whom we do business, engages in, or has been accused of engaging in, improper business practices.
- b) Staff member learns that a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having a “special relationship” with foreign government officials.
- c) A third party insists on receiving a commission or fee payment before committing to sign up to a contract with ClientEarth, or carrying out a government function or other process for us.
- d) A third party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made.
- e) A third party requests that payment is made to a country or geographic location different from where the third party resides or conducts business.
- f) A third party requests an unexpected additional fee or commission to “facilitate” a service.
- g) A third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services.
- h) A third party requests that a payment is made to “overlook” potential legal violations.
- i) A third party requests that you provide employment or some other advantage to a friend or relative.
- j) A staff member receives an invoice from a third party that appears to be non-standard or customised.
- k) A third party insists on the use of side letters or refuses to put terms agreed in writing.
- l) A staff member notices that ClientEarth has been invoiced for a commission or fee payment that appears large given the service stated to have been provided.
- m) A third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to us.
- n) A staff member is offered an unusually generous gift or offered lavish hospitality by a third party.