Scottish Funding Council: Antibribery and corruption policy

Purpose

1. The public is entitled to expect the highest standards of conduct and service from a Non-Departmental Public Body (NDPB) such as the Scottish Funding Council (SFC). The Ethical Standards in Public Life (Scotland) Act 2000 brought in a statutory Code of Conduct for Board members of Devolved Public Bodies and set up the Standards Commission for Scotland to oversee the ethical standards framework. The then Scottish Executive identified nine key principles underpinning public life in Scotland, which incorporates the seven Nolan Principles and introduced two further principles:
    a. Selflessness
    b. Integrity
    c. Objectivity
    d. Accountability
    e. Openness
    f. Honesty
    g. Leadership
    h. Duty
    i. Respect

2. The 'Integrity' principle requires all in public positions to avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. This is also reflected within the Board Code of Conduct[1], which is modelled on the Scottish Government's Model Code of Conduct and makes reference to Bribery within the context of Gifts and Hospitality (see SFC's separate policy on Gifts, Hospitality and Awards).

4. SFC adopts a zero-tolerance policy to bribery and corruption of any kind.

Scope

5. This policy is for:
    a. Board members
    b. Committee members

[1] Our governance (sfc.ac.uk)

c. all members of staff and others directly involved in delivering its business activities (including retained consultants or contracting third parties acting on behalf of the Scottish Funding Council (SFC))

This policy does not form part of any contract of employment or other contract to provide services, and we may amend it at any time.

Bribery Act 2010

6. It is a criminal offence under the Bribery Act 2010 for anyone to give or receive any financial or other advantage which encourages improper performance or is intended to do so.

7. Organisations can also commit a criminal offence if they fail to prevent bribery by an associated person, which means that organisations unable to demonstrate that they have implemented "adequate procedures" to prevent corrupt practices within their organisation, or by their associated persons, could be found guilty of an offence under the Act.

8. The offence of bribery can be committed by an individual or by a 'body corporate'. It follows that SFC, as a 'body corporate', can itself commit offences under the Act. Additionally, if it can be shown that a bribery offence has been committed with the consent, or connivance, of a senior officer of the body then that person is also guilty of the bribery offence.

9. The principal provisions of the Bribery Act include:
    - two general criminal offences covering the offering, promising or giving of a bribe (active bribery) and the requesting, agreeing to receive or accepting of a bribe (passive bribery)
    - a discrete offence of bribing a foreign public official in order to obtain or retain business or an advantage in the conduct of business
    - an offence which can be committed by commercial organisations which fail to prevent bribery committed on their behalf
    - the maximum sentence for bribery committed by an individual is 10 years imprisonment. The maximum sentence for an offence committed by a corporate body is an unlimited fine
    - penalties from more than one jurisdiction may also apply in a single case of bribery or corruption

10. Further guidance on the Bribery Act 2010 can be obtained from the Ministry of Justice website[2].

Proportionate procedures

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[2] Bribery Act 2010 guidance - GOV.UK (www.gov.uk)

11. The UK Government provides guidance on procedures organisations should put in place if they are wishing to prevent bribery being committed on their behalf and this policy is informed by that guidance. This guidance sets out that the approach should be proportionate to the organisation.

- Top level commitment. The top-level manage of SFC (Board, Chief Executive, Executive Team, Deputy Directors and other equivalent) are committed to preventing bribery by persons associated with it.
- Risk Assessment. SFC assesses the nature and extent of its explores to potential external and internal risks of bribery by persons associated with it. The assessment is periodic and documented and includes financial risk and other risk such as reputational risk.
- Due diligence. SFC applies due diligence procedures, taking a proportionate approach, in respect of persons who will perform services for or on behalf of SFC.
- Communications (including training). SFC seeks to ensure that this policy (and associated policies such as Counter Fraud and Financial Conduct policy) are embedded and understood throughout SFC through communications and training.
- Monitoring and review. SFC monitors and reviews procedures set out in this policy and makes improvements where necessary. An annual review and a review if an incident takes place is included in this policy.

Active Bribery

12. As an NDPB SFC prohibits any internal action which encourages, implies, bestows, tolerates or promises an unfair, unlawful, improper or unethical advantage to any individual, group or organisation, regardless of whether there is a financial inducement or not, and this is covered within SFC's Gifts, Hospitality and Awards policy.

13. Board, Committee and staff members should make themselves aware of this policy and its implications in terms of the prevention of bribery and corruption.

14. Key measures designed to eliminate or reduce the likelihood of active bribery includes:

- existing financial controls and constraints, the transparent reporting of all payments over £25,000 (as required by the Public Services (Scotland) Reform Act 2010).
- a gifts, hospitality and awards policy which sets out that gifts and hospitality must not be accepted other than in specific circumstances (acceptance of gifts should be limited to items of insignificant intrinsic value (such as promotional

pens, diaries, calendars or mugs for example). Other items must be recorded in the register.

- due diligence measures when taking on new suppliers.
- procurement guidelines.
- internal and external auditing procedures and the publication of financial accounts.

Passive Bribery

15. As a NDPB SFC prohibits the acceptance of bribes to induce a favorable contractual decision, grant allocation or other business outcome. At all times SFC expects its Board Members, Committee members, staff and any other third party acting on its behalf to conduct their work ethically and to fully comply with their terms and conditions of employment and SFC policies and procedures.

16. Board members, Committee members, staff and any other third party acting on its behalf should ensure they understand the implications of the Gifts, Hospitality and Awards policy to ensure compliance with this Anti Bribery and Corruption Policy.

Bribing officials

17. SFC primarily engages with Scottish Government and UK Government officials. However, there are occasions when Board, Committee and staff members may meet representatives from foreign governments in undertaking SFC business (both in the UK and abroad). SFC will not tolerate bribery to produce a favorable outcome.

18. SFC's policy on Gifts, Hospitality and Awards does not permit the bestowal of lavish hospitality or expensive gifts. However, modest, proportionate activities and token gifts may occasionally be offered to organisations and their officials and offence could be taken if gifts are not accepted. This is covered in more detail in the Gifts, Hospitality and Awards Policy.

19. Corruption of a Public Official is a serious offence under section 6 of the Bribery Act 2010 and carries particular reputational and legal risks.

Reporting

20. Board, Committee and Staff members are encouraged to raise concerns about any issue or suspicion of bribery or corruption at the earliest possible stage. They may do so in accordance with SFC's Whistleblowing Policy if applicable or alternatively under this policy. Under this policy, in the first instance:

    - staff should report any suspicions of occurrence of bribery, or attempted bribery, to their line manager.

- If they feel unable, or it would not be appropriate, to raise the matter with their line manager, they should contact another line manager or a member of the Senior Management Team.
- If it is not possible to safely and satisfactorily eliminate the suspicion, or if there is a good reason for not raising a concern within the line management chain, the matter should be formally reported directly to the Chief Executive
- If staff have a particularly serious and urgent concern, or for whatever reason an issue cannot be raised via the management chain or the Chief Executive, they should report the matter to the Chair of the Board and the Chair of the Audit and Risk Committee (ARC).
- If staff have a concern about the Chair of the Board, they should report the matter to the Head of Internal Audit and the Scottish Government and the Board will be informed. However, it is at the discretion of the Scottish Government to consider the circumstances of the case and determine when and if the Board should be fully informed. For example, if it is particularly sensitive and/or confidential in nature. Legal advice may be sought.

21. Bribery and corruption concerns will be handled in line with the procedures for managing reports of Fraud. Further details are available in the Counter Fraud and Financial Conduct Policy and Fraud Response Plan. Anyone who receives a report can contact the Director of Finance and/or the Secretary to the Board who can provide support in how they handle the report as outlined in the Fraud Response Plan.

22. Where actual bribery has taken place, this is a criminal offence and will be reported to the police.

23. All suspicions, allegations of bribery received will be thoroughly investigated and may result in appropriate disciplinary action where substantiated.

24. Should any concerns raised under this policy amount to a Qualifying disclosure under SFC's Whistleblowing Policy, the protections against detriment suffered by the individual making the allegations set out in that policy may apply.

25. Names and contact information for individuals wanting to make a report:

    - Deputy Director, Governance and Planning: Louisa Baker, lbaker@sfc.ac.uk.
    - Chief Executive: ceo@sfc.ac.uk.
    - Chair of the Board and Chair of the Audit and Risk Committee: chair@sfc.ac.uk.
    - Secretary to the Director-General Education and Justice at the Scottish Government (ceu@gov.scot).

Awareness

26. This policy will be available to all staff on the SFC intranet and when changes are made those changes will be communicated to all staff and Board and Committee members.

27. As a Board and/or Committee member, this policy will be made available on appointment.

28. Board, Committee and staff members attention is drawn to the fact that complicity with or willful blindness[3] to bribery or corruption is a criminal offence.

Central register

29. The Deputy Director, Governance and Planning will maintain a central register of all reports made under this policy, and include a record of any investigation and the outcome of those investigations.

Links to other policies

30. Other relevant polices include:

- Whistleblowing policy
- Counter fraud and financial conduct policy
- Gifts, hospitality and awards policy
- Register of interest policy

Further information

31. SFC staff, Board and Committee members should speak to the SFC Governance and Planning Team.

Monitoring and review

32. This policy will be available to SFC staff via the intranet, Board and Committee members will receive a copy on appointment and reviewed annually, or if there has been an incident of bribery.

Document history

Owner:	**Deputy Director, Governance and Planning**
Version number:	1.2
Approval date:	Board approval December 2024 Reviewed by Audit & Risk Committee 5 September 2025

[3] Where a person tries to avoid any liability for a wrongful act by intentionally keeping themselves unaware of the facts that would render them liable or implicated.

Approved by:	SFC Board
Next review date:	Reviewed annually