



TEESSIDE UNIVERSITY

ANTI-BRIBERY AND CORRUPTION POLICY (INCLUDING GIFTS & HOSPITALITY)

Document Title: Anti-Bribery and Corruption Policy (including Gifts & Hospitality)			
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1. Introduction

- 1.1 The University and its subsidiary companies (the University) is committed to the highest standards of integrity, probity and ethics in all of its dealings - wherever they may take place and in whatever context. The University is committed to implementing and enforcing systems that ensure bribery is prevented. Bribery is both illegal and unethical, and brings with it the potential for criminal liability and severe penalties - at both University and individual level. Under the Bribery Act 2010, individuals found guilty can be punished by up to 10 years' imprisonment and/or an unlimited fine. The University, if found guilty could face an unlimited fine, exclusion from tendering for public contracts and severe damage to its reputation. The legislation is extensive and, crucially, the University's anti-bribery responsibilities do not end at the office door or campus gate. Those responsibilities potentially extend to any associated person, representative, agent, subsidiary, partnership or body engaged on University business, including those within and outside of the UK.
- 1.2 The University has a zero tolerance approach to bribery and serious action will be taken against anyone found to be involved in bribery, up to and including dismissal under the University's disciplinary processes. For associated persons, breach of this policy may result in contractual, legal and/or other sanction(s).

2. Definitions

- 2.1 **Bribery** can be defined as the offering, giving, promising, demanding, agreeing, receiving or soliciting something of value (money, goods, favours or other forms of recompense) so as to induce or influence the actions of an official or other person in charge of a public or legal duty.
- 2.2 **Corruption** can be defined as dishonest or fraudulent conduct, typically involving bribery.

3. Purpose and Scope of this Policy

- 3.1 This Anti-Bribery and Corruption Policy sets out the responsibilities of the University and those who work for us in regards to observing and upholding our zero-tolerance position on bribery and corruption. This Policy is based on the anti-bribery legislation (the Bribery Act 2010) and covers all employees, students, Governors, consultants, contractors, volunteers, interns, casual workers, agency staff and self-employed workers working for the University, and all other persons associated with and acting for the University, whether directly or indirectly. This definition includes external members of University Committees, representatives, agents, subsidiaries, individuals appointed as directors of any company, consultants, contractors and partners. To the fullest extent permissible by law, this policy shall apply in all jurisdictions in which the University operates.

3.2 The aims of this Policy are to:

- (a) improve the knowledge and understanding of everyone in and associated with the University, irrespective of their position, about the risk of fraud, bribery and corruption within the organisation and its unacceptability.
- (b) provide individuals with guidance as to how to report any suspicion of bribery, providing them with suitable channels of communication and ensuring that sensitive information is treated appropriately.
- (c) provide guidance about accepting gifts and hospitality

3.3 This Policy does not form part of any contract of employment and the University may amend it at any time.

4. Policy statement

4.1 The University values its reputation for ethical behaviour and recognises that any involvement in bribery is illegal and will reflect adversely on its hard-earned image and reputation.

4.2 The University prohibits the offering, giving, soliciting or the acceptance of any bribe in whatever form to, or from, any person or company (public or private) by anyone associated with the University.

4.3 The University expects any person or company (public or private) associated with the University to act with integrity and without any actions that may be considered an offence within the meaning of the Bribery Act 2010.

4.4 The University requires any potential breaches of this policy and bribery offers to be reported under the University's reporting processes (see 12, below).

4.5 The prevention, detection and reporting of bribery is the responsibility of everyone associated with the University.

4.6 The University expects individuals to comply with this policy and they should be assured that no University employee or associate will be penalised in the event that the University loses a contract, bid or other interest as a result of refusing a bribe.

4.7 We are committed to acting professionally, fairly and with integrity in all our business dealings and relationships wherever we operate and implementing and enforcing effective systems to counter bribery. We will uphold all laws relevant to countering bribery and corruption in all the jurisdictions in which we operate.

5. Personnel responsible for the Policy

5.1 The University's Audit Committee has overall responsibility for this Policy and for reviewing the effectiveness of actions taken in response to concerns raised

under this Policy. This Policy has been endorsed by the University's Executive Team.

- 5.2 The Director of Finance & Commercial Development has day-to-day operational responsibility for this Policy.

6. What is Bribery? The Bribery Act 2010 & other legislation

- 6.1 Bribery can take many forms, including money, unreasonable gifts, entertainment or hospitality, 'kickbacks', excessive commissions, 'facilitation' payments, political/charitable contributions, unwarranted expenses, or anything else of value. It does not have to be the person to whom the bribe is offered, or who receives it, who is deemed to act improperly.

6.2 Bribery risks

It should be stressed that, in common with other Higher Education Institutions (HEIs), the University faces a range of bribery risks throughout its activities, operations and geographies. These risks include, but are not limited to, bribery in relation to admissions, examinations, awards, procurement, construction and field trips. Particular risks are set out in section 7.

6.3 The Bribery Act

- 6.3.1 The Act came into force in July 2011. It is a cleverly worded and comprehensive piece of legislation which has extensive scope and geographic reach.

- 6.3.2 According to the Act, bribery is where someone requires, gives or promises financial (or other) advantage with the intention of inducing or rewarding *improper performance*. Improper performance is a key concept and generally means where an individual does not act in good faith, impartially and/or properly. The test of what is proper is based upon what a person in the UK would reasonably expect.

- 6.3.3 A typical example of improper performance could involve work being continually directed to a particular construction contractor at the expense of other qualified contractors as a result of bribery - work that has invariably been overpriced to allow for the bribery payments required.

- 6.3.4 Under the Act, there are two general forms of bribery where, in addition to a corporate liability, individuals are also personally criminally liable:

- Offering, promising or giving of a bribe (either directly or indirectly) with the intent to induce a person to improperly perform a relevant function - known as *active bribery*.
- Requesting, agreeing to receive or accepting a bribe (either directly or indirectly) such that a relevant function is, or will be, improperly performed - known as *passive bribery*.

6.3.5 There are two other related offences:

- Bribing a foreign public official in order to obtain or retain business or an advantage to the conduct of business (applicable to both corporate organisations and individuals).
- Corporate liability where a body, such as a University, fails to prevent bribery.

6.3.6 It is important to note that:

- So-called 'facilitation payments' - payments typically to government officials to facilitate special treatment, such as prioritisation in an approval process - are also bribes. The University does not offer or make, and shall not demand or accept, facilitation payments of any kind. Advice should be sought from Legal & Governance Services if required in order to distinguish between properly payable fees and disguised requests for facilitation payments.
- The timing of bribery payments - before, during and/or after a relevant function - does not affect the offence.

6.4 Overseas reach

The Bribery Act has extensive global reach and holds UK organisations liable for failing to implement *adequate procedures* sufficient to prevent such acts by those working for the University or on its behalf, no matter where in the world the act takes place. In addition, current US legislation (Foreign Corrupt Practices Act or FCPA) offers similar prohibitions and potential penalties, and is enforced robustly by the US authorities, supported by extensive inter-agency co-operation on an international basis.

6.5 Mitigation

6.5.1 There is a statutory defence against the Act if the University can demonstrate that it had in place appropriate adequate procedures designed to prevent bribery. The UK government considers that these adequate procedures should be informed by the following six principles:

Principle 1 – Proportionate Procedures (use of guidance developed specifically for the HE sector and section 7)

Principle 2 – Top-level Commitment (section 5)

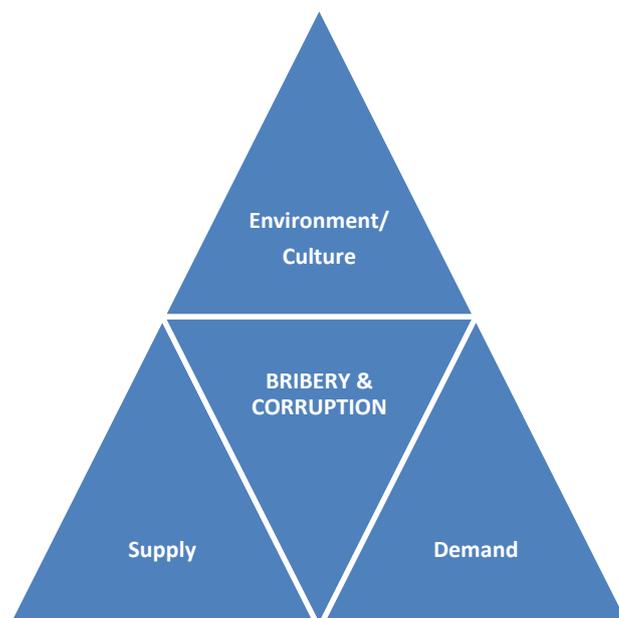
Principle 3 – Risk Assessment (section 7)

Principle 4 – Due Diligence (section 7)

Principle 5 – Communication (section 9)

Principle 6 – Monitoring and Review (section 10)

6.5.2 The 'Bribery Triangle', below, shows the three key drivers of bribery and corruption; environment and culture, supply of money, goods, services and favours as the currency of bribery, and demand for that currency:



6.5.3 The University's anti-bribery and corruption procedures are intended to directly mitigate its risk of bribery and corruption by impacting the three elements of the bribery triangle - by changing the organisational environment and culture, by removing/restricting the supply of money, goods, services and favours and/or reducing the demand for bribery. Reducing the demand for bribery, although clearly challenging, can be achieved in a number of ways including collaboratively creating a 'level playing field' or 'no bribery' approach in the higher education sector.

7. Identifying the Risk of Bribery

7.1 Risk Management

7.1.1 Effective risk management lies at the very heart of this policy. Risk management is a crucial element of the University's overall governance process. It facilitates identification of the specific areas where the University does, or could, face bribery and corruption risks and allows mitigation plans, actions and protections to be put in place.

7.1.2 Global custom and practice in business can be deeply rooted in the attitudes, cultures and economic prosperity of a particular region, any of which can change at any time. Moreover, UK or European norms may not be applicable in some parts of the world where the University has interests; for example, the definition of 'foreign public official' may be technically significantly different in those countries where there is extensive nationalisation.

7.2 Risk Assessment

Certain areas of the University's business are subject to particular risks and require proportionate vigilance. The University keeps its risk assessment under regular review and will update the policy as necessary. The following have been identified as particular risks:

- Use of Agents and Intermediaries, particularly those who operate in jurisdictions where bribery is prevalent or endemic. Transparency International publishes a Corruption Perceptions index by jurisdiction which ranks 180 countries and territories by their perceived levels of public sector corruption, according to experts and business people. The index can be found at:
<https://www.transparency.org/cpi2020>
- Gifts, Entertainment and Hospitality
- Joint Ventures and consultancies, where the University could be held liable for any bribery or corruption committed by a third party with whom the University is associated by means of a joint venture or consultancy agreement.
- Contracts, particularly construction contracts where the values involved are likely to be high - All aspects of procurement of services (particularly) and goods undertaken by the University.
- Philanthropic donations

The University has implemented appropriate due diligence procedures in respect of the above particular risks including policies and processes.

8. Gifts, Hospitality and Entertainment

8.1 Outline

Gifts, Hospitality and Entertainment is a collective term for the receipt or offer of gifts, meals, travel costs, entertainment, tokens of appreciation and gratitude, or invitations to events, functions, or other social gatherings, in connection with matters related to the University. It should be noted, however, that travel costs would only exceptionally be borne by a third party, and that the travel authorisation process is a key element of the University's overall corporate governance infrastructure and best practice.

8.2 Scope

- 8.2.1 Normal, reasonable and proportionate hospitality given or received as part of the University's wider student, commercial, promotional and marketing activities which is genuinely aimed at building a good business relationship or improving the profile of the University is allowable, within limits (see 8.3 below).
- 8.2.2 Hospitality must not be accepted by employees of the University in circumstances that may allow the employee to appear to be unduly influenced in favour of the provider of that hospitality. Those circumstances might, for example, include the proximity of the hospitality to the award of a contract. The gift or receipt of hospitality which is aimed at securing an improper business or other advantage, or which may affect the recipient's independence is obviously not permissible.

8.2.3 Clearly, hospitality can amount to real or perceived bribery, and caution should always be exercised. If there is any doubt about the propriety of hospitality, it should not be accepted or offered.

8.2.4 Unfortunately, policy and real events can be different, and it is not unknown for a purported 'quick bite' with a supplier to be turned into a lavish five-star lunch, with all its potential connotations. In general, the simple 'acid' test for hospitality can be phrased as *'Is it reasonable, and could I reciprocate?'*

8.3 Register and Declarations

8.3.1 The University maintains a gift and hospitality register process, for both inbound and outbound gifts and hospitality, and it is essential that each occurrence is accurately recorded. Gifts and hospitality of an estimated value of up to £25 may be accepted at the discretion of the recipients. Staff must declare any gifts or hospitality received valued in excess of £25. A declaration form (see Appendix 1) should be completed and returned to the University Secretary within four weeks of receipt of the gift or hospitality.

8.3.2 If a gift or hospitality is not in keeping with circumstances then every effort must be made to refuse the offer, without offending the person or organisation making the offer. If the gift cannot be refused, it should be declared on return to the University Secretary. The University Secretary shall decide whether or not the recipient may retain the gift, whether it should be retained by the University, whether it should be disposed of e.g. to a charity or, exceptionally, returned to the donor with an explanatory letter.

8.3.3 Under no circumstances must any gift of money be made or received by an employee or official of the University.

9. Communication and Training

9.1 It is the responsibility of all Deans and Directors to ensure that this policy is fully communicated to those involved with University business within their area. Crucially, this will include communication not only to staff but other external agencies e.g. agents, representatives and contractors. The University will continue to provide regular training to identified high risk areas, particularly procurement and where overseas activities are involved. Staff are required to confirm, through MyCompliance, that they have understood and comply with this Policy on an annual basis. The University also subscribes to the training available from British Universities Finance Directors Group website.

9.2 This policy is published on the University's intranet under Financial Regulations and is communicated to staff via internal communication, such as Update and through MyCompliance.

10. Monitoring & Review

10.1 This policy and related procedures will be reviewed annually by the University Secretary, the Director of Finance & Commercial Development and the Audit

Committee. Risk identification (7, above) will form a key element of the overall monitoring and review process. Any incidents of bribery and corruption reported to, and recorded by, the University Secretary will be incorporated into that review.

11. Associated Policies

The following policies are also available on the University Intranet:

- Counter Fraud Policy
- Anti-Money Laundering Policy
- Public Interest Disclosure Policy (“Whistleblowing”)
- Criminal Finances Act (Anti-Tax Evasion) Policy
- Policy and Guidance on the Acceptance of Donations

12. Reporting concerns

12.1 All employees and others associated with the University are encouraged to report any concerns that they may have regarding potential breaches of this policy, including incidents relating to external agencies and third parties. This includes any instances where you may be the victim of attempted bribery.

12.2 The University is fully committed to ensuring that there is a safe and confidential method of reporting any suspected wrongdoing to nominated officers. The University’s Public Interest Disclosure Policy (“Whistleblowing”) which is available on

<https://unity3.tees.ac.uk/Departments/USEC/UniversityRegulations/University%20Regulations%20Documents/Forms/New%20or%20Revised%20Regulation%20since%20September%202012.aspx>

also permits employees and anyone contractually associated with the University to raise concerns of malpractice in the University, and those involving partners or competitors.

12.3 The University offers mentoring, advice or counselling to those who have reported a concern, where appropriate. Further information is available from the HR department.

12.4 Any allegations of misconduct under this policy within the jurisdiction the University will be taken very seriously. If appropriate, action may be taken under the University’s disciplinary process. Attempted bribery or acceptance of a bribe may be considered as gross misconduct and, where it is considered that a criminal offence has occurred, the police may be informed. A summary procedural flow chart is included in Appendix 2.

13. Procedures for making a disclosure

13.1 In many cases it will be appropriate for an individual to raise any concerns informally (with, for example, their line manager) in the first instance, either in

person or in writing. It may be possible to agree a way of resolving the concern quickly and effectively. However, where the matter is more serious, or the individual feels raising the matter informally has not addressed the concern, or they prefer not to follow that informal step for any reason, they should contact the University Secretary as set out below.

- 13.2 An individual wishing to make a formal disclosure under this Policy should do so in writing to the University Secretary (who will be responsible for keeping the Vice-Chancellor & Chief Executive and Chair of the Audit Committee informed where necessary) unless the disclosure involves the University Secretary, in which case the disclosure should be made to the Vice-Chancellor & Chief Executive. Where the disclosure involves both the Vice-Chancellor & Chief Executive and the University Secretary, the disclosure should be made to the Chair of the University's Audit Committee.
- 13.3 The disclosure should explicitly state that the concern is being raised under this policy.
- 13.4 Although an individual making a disclosure will not be expected to prove the truth of any allegations, sufficient information should be contained in the disclosure to demonstrate that the individual has a genuine concern of suspected wrongdoing.
- 13.5 The University Secretary will decide whether the matter should be dealt with under this Policy. If the University Secretary considers that the matter should be dealt with under a different University policy or procedure, they will advise the individual as to the appropriate steps which should be taken and/or as appropriate may make a direct referral to another policy or procedure.

14. Process and Investigation

- 14.1 When a disclosure is made, the University Secretary (the 'Designated Person') will normally consider the information and decide whether there is a prima facie case to answer. The University Secretary will decide whether an investigation should be conducted and what form it should take. This will depend on the nature of the matter raised and may be:
 - investigated internally;
 - referred to the Internal Auditors;
 - the subject of independent enquiry

Some matters may need to be referred to the relevant outside body, e.g. the Police, Office for Students. If the University Secretary decides not to proceed with an investigation, the decision will be explained as fully as possible to the individual who raised the concern.

- 14.2 Where an investigation is deemed necessary, it will be conducted sensitively and promptly. The University Secretary may authorise an initial investigation to establish the relevant facts. The investigator will report their findings to the University Secretary, who will then decide if there is a case to answer and what

steps, if any, should be taken. This may include setting up a special internal independent investigation or reference to some external authority, such as the Police, for further investigation. The decision may be that the matter would be more appropriately handled under existing policies and procedures for grievance or disciplinary.

- 14.3 Where a disclosure is made any person or persons potentially implicated in wrongdoing will be told at an early stage of it and of the evidence supporting it, and they will be allowed to respond.
- 14.4 Should an investigation or referral conclude there has been a breach of University discipline, the member or members of staff or student(s) responsible may, in addition to any civil or criminal proceedings, be subject to disciplinary action in accordance with the appropriate disciplinary procedures.
- 14.5 The individual making the disclosure will be informed of what action is to be taken where possible although the need for confidentiality means it may not be possible to share some of the details including, for example, specific information about any disciplinary action taken against a member of staff or student.
- 14.6 Individuals should treat any information about the disclosure, the investigation or its outcome as confidential.
- 14.7 Any member of staff wishing to make a disclosure is free to seek the assistance of their trade union and can be accompanied by their trade union representative, or a colleague in any subsequent investigatory meetings. Any other individual wishing to make a disclosure can be accompanied to any subsequent investigatory meetings, so long as no conflict of interest arises as a result of their choice of companion. Similarly, any member of staff implicated following a disclosure is free to seek the assistance of their trade union and can be accompanied in any subsequent investigatory meetings.

15. Outcome

- 15.1 The results of any formal investigation should be reported to the Audit Committee. If disciplinary or other action is taken (following a formal investigation) the feedback to the individual making the disclosure will take account of data protection requirements and may be limited to a statement that action is being taken.
- 15.2 An official written record will be kept of the outcome of any formal investigation under this Policy. Such records will normally be kept for a period of at least five years.

16. Malicious and/ or Vexatious Disclosures

- 16.1 If an individual raises a genuine concern, which is not confirmed by a subsequent investigation, no action will be taken against that individual.

16.2 If, however, an individual makes malicious or vexatious disclosure(s), and particularly if they persist in making them, disciplinary action may be taken against the individual in question (in accordance with the relevant staff/student procedure).

17. External Disclosure

17.1 The aim of this Policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing at the University. In most cases individuals should not find it necessary to alert anyone externally.

17.2 External bodies are likely to ask whether a matter raised has been brought to the University's attention and, if not, why not. The University recommends, therefore, that consideration is had as to whether internal routes have been exhausted or why they are inappropriate.

18. Third Party Complaints

18.1 Disclosures made under this Policy usually relate to the conduct of University staff or students, but they may sometimes relate to the actions of a third party, such as a supplier or a service provider. The law allows individuals to raise a concern with a third party directly, where the individual reasonably believes it relates mainly to the third party's conduct or something that is legally their responsibility. However, the University encourages individuals to report such concerns internally first following the procedure set out above.

19. Contact Details

19.1 Any formal disclosure made under this Policy should be submitted, in writing, to the University Secretary:

Helen Cutting
University Secretary
Legal & Governance Services
Teesside University
TS1 3BX

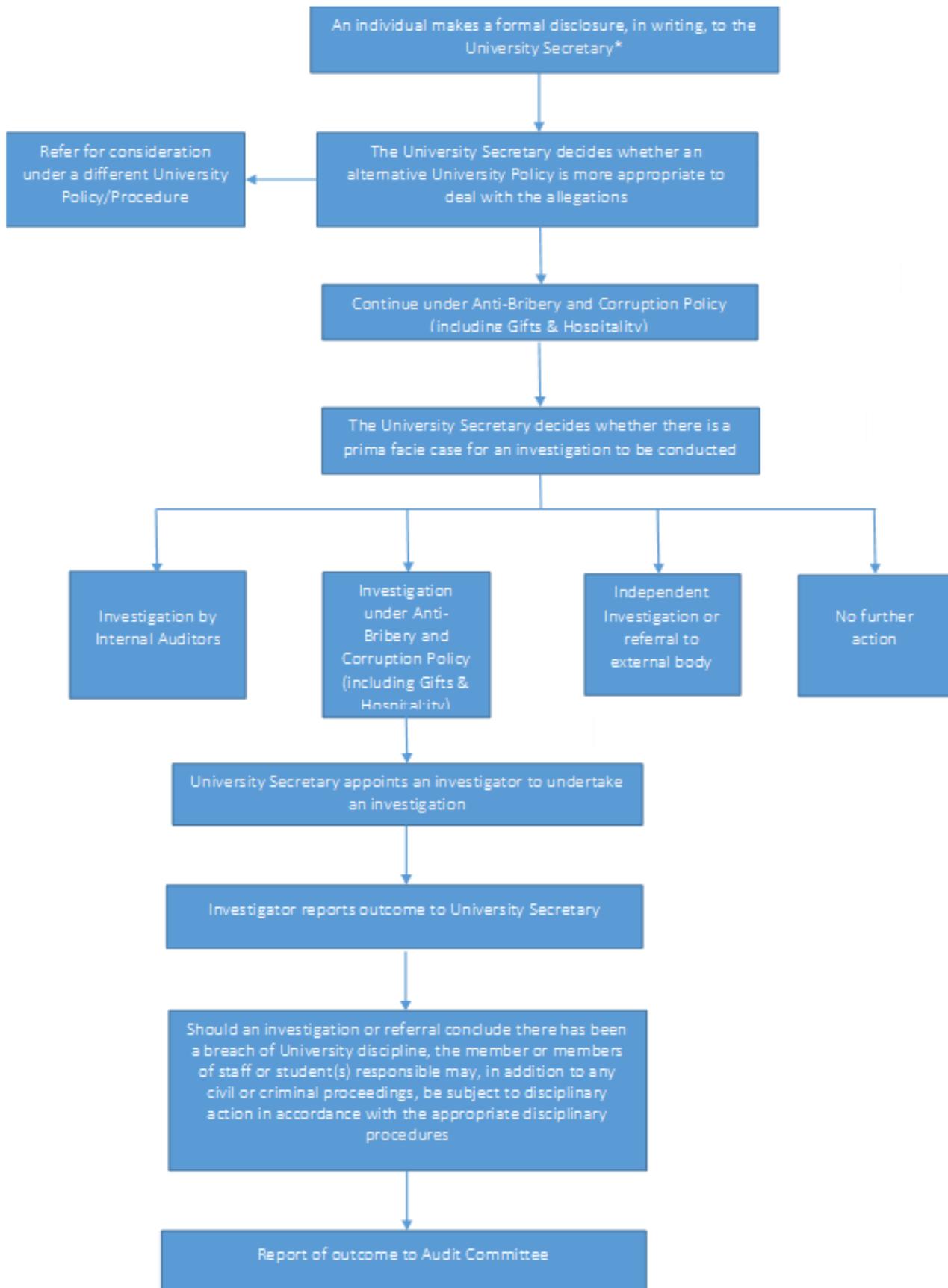
UniversitySecretary@tees.ac.uk

DECLARATION OF GIFTS AND HOSPITALITY
(Only required for gifts/hospitality over £25.00)

In accordance with the University's Financial Regulations, staff must declare any gifts or hospitality received valued in excess of £25.00. Please complete the form below and return it to the Executive Director of Legal Services & University Secretary within four weeks of receipt of the gift or hospitality..

Staff Name :	
Staff Number:	
Recipient of Offer/Gift: (if different from above staff member)	
School/Service:	
Date/Gift or Hospitality Received:	
Details of Gift/Hospitality Offered:	
Received from:	
Estimated/actual value of gift (£)	
Signed (staff member):	
Date:	
Approved by (Dean/Director/USMT member):	

ANTI-BRIBERY AND CORRUPTION PROCEDURE Procedural Flowchart



*Unless the disclosure involves the University Secretary, in which case the disclosure should be made to the Vice-Chancellor & Chief Executive.
Where the disclosure involves both the Vice-Chancellor & Chief Executive and the University Secretary, the disclosure should be made to the Chair of the University's Audit Committee