

Fraud and Corruption - Bribery Prevention Procedure

Section 1 - Background and Purpose

(1) La Trobe University is committed to ensuring it operates within a sound ethical culture and seeks to proactively manage the risk of bribery.

Section 2 - Scope

(2) These procedures apply to staff at La Trobe University.

Section 3 - Policy Statement

(3) Refer to the [Fraud and Corruption Management Policy](#).

Section 4 - Procedure

Principles

(4) The University's [Code of Conduct](#) outlines that the highest standards of professional integrity are expected of all staff. In respect to bribery of foreign public officials there are also important legislative requirements contained in the [Criminal Code Act 1995](#). Bribing, or attempting to bribe, a foreign public official is a serious crime, subject to severe penalties. Australian entities or individuals that bribe an official in a foreign country can be prosecuted under Australian law and the laws of foreign countries. Any failure by staff to comply with this procedure may result in disciplinary action.

Considerations

(5) Regardless of the value, staff should consider the following when deciding if a gift, benefit or advantage to a foreign public official is appropriate:

- a. Is the gift, benefit or advantage offered or given to a foreign public official one of money or readily exchanged for money?
- b. Is it offered with the intention of influencing a foreign public official in the exercise of his or her official duties to obtain or retain business or a business advantage that is not legitimately due to the University?
- c. Could the gift, benefit, promise or advantage be construed by others to be a bribe?

Commercial Agreements

(6) Agreements with overseas entities may involve a commercial relationship and custom may include the exchange of gifts. Caution should be taken when giving gifts of value, which are not considered reasonable in the circumstances and which could be perceived as being given with the intent of influencing a foreign official in conducting business

with the University.

(7) Under Australian law, it is an offence to bribe a foreign public official even if a bribe may be seen to be customary, necessary or required in the situation, and even if there is official tolerance of the bribe.

Seeking Guidance

(8) If staff are unsure about their obligations under these Procedures, they should seek clarification from their supervisor. In addition, all staff and affiliates can obtain guidance from the Director, Risk Management.

Reporting Bribery - Protected Disclosure

(9) Any member of the University community, visitor to the University or member of the general public that wishes to make a complaint or report an incident involving the University or an officer of the University may do so as a protected disclosure under the [Public Interest Disclosures Act 2012](#).

(10) If you wish to make a protected disclosure please refer to La Trobe University [Protected Disclosure Policy](#).

Reporting Bribery to the University - non-Protected Disclosure

(11) Reports of fraud or corrupt behaviour by members of the University may also be made to the University's Risk Services or Internal Audit Office.

(12) Any person who wishes to report an incident may complete the LTU [Fraud Allegation Form](#) and forward it to the Risk Services or to the Internal Audit Office. Reports can be made anonymously. Persons should ensure that as much information regarding the incident is provided to enable full investigation of the report.

Section 5 - Definitions

(13) For the purpose of this Procedure:

- a. bribery: providing, causing, offering or promising to provide any advantage to another person where the advantage is not legitimately due. The intention of the bribe must be to influence a foreign public official in the exercise of his or her official duties to obtain or retain business or a business advantage that is not legitimately due to that Australian person or Australian company.
- b. foreign official: the definition of 'foreign public official' is very broad, and includes:
 - i. An employee/official of a foreign government
 - ii. A member of the executive, judiciary magistracy of a foreign country
 - iii. A person who performs official duties under a foreign law
 - iv. A member/officer of the legislature of a foreign country, or
 - v. An employee/official of a public international organisation (such as the United Nations)
- c. offence: the offence of bribing a foreign public official has three elements which can be divided into steps. All of these elements must be present for the offence to apply:
 - i. the person:
 - provides a benefit to another person, or
 - offers or promises to provide a benefit to another person, or
 - causes a benefit to be provided, offered or promised to another person, and
 - ii. the benefit is not legitimately due to the other person, and
 - iii. Step 1 was carried out with the intention of influencing a foreign public official (who may or may not be the other person) in order to obtain or retain business or obtain or retain a business advantage which is

not legitimately due.

Status and Details

Status	Current
Effective Date	1st November 2016
Review Date	23rd April 2020
Approval Authority	University Council
Approval Date	27th October 2016
Expiry Date	Not Applicable
Responsible Policy Officer	Natalie MacDonald Vice-President (Strategy and Development) +61 3 9479 1862
Author	Vanessa Cover Director, Risk Management
Enquiries Contact	Stacey Conlin Director, Risk Management