



# Anti-fraud and bribery Policy

IIED Policy: Anti-Fraud and Bribery Policy

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## Policy Statement

In carrying out its work, IIED is committed to preventing fraud and bribery, and has a commitment to zero tolerance of fraud and bribery from its staff and partners.

## Synopsis

Fraud is a form of dishonesty, involving either false representation, failing to disclose information, or abuse of position, undertaken in order to make a gain, or cause loss to another<sup>1</sup>.

A bribe is a financial or other type of advantage, that is offered or requested with the intention of inducing or rewarding improper performance of a function or activity; or knowledge or belief that accepting such a reward would constitute the improper performance of such a function or activity<sup>2</sup>. For the avoidance of any doubt, this also explicitly prohibits the practice of facilitation payments, both by IIED and its partners. A facilitation payment is a small payment, also called a “speed” or “grease” payment, made to secure or expedite the performance of a routine or necessary action to which the payer has legal or other entitlement. A common example is where a government official is given money or goods to perform (or speed up the performance of) an existing duty. The policy also covers the practice of gifts and hospitality, whether intended or not to influence behaviour.

This policy document outlines the risks of fraud and bribery to which IIED is exposed to by the nature of our operations. It explains the standards and criteria, set out in the Bribery Act 2010, to which all employees and associates are required to comply.

The document also sets out the procedures for reporting suspected fraud or bribery, and for declaring an interest, if there is a connection between you and another party associated with IIED.

## Scope

This policy applies to all employees and officers of IIED, and to temporary workers, consultants, contractors, agents and subsidiaries acting for, or on behalf of, IIED (“associated persons”) within the UK and overseas. Every employee and associated person acting for, or on behalf of, IIED is responsible for maintaining the highest standards of business conduct. Any breach of this policy is likely to constitute a serious disciplinary, contractual and criminal matter for the individual concerned and may cause serious damage to the reputation and standing of IIED.

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<sup>1</sup> Charity Commission: “Compliance Toolkit: Protecting Charities from Harm”

[http://www.charity-commission.gov.uk/Our\\_regulatory\\_activity/Counter\\_terrorism\\_work/compliance\\_toolkit\\_3.aspx#c1](http://www.charity-commission.gov.uk/Our_regulatory_activity/Counter_terrorism_work/compliance_toolkit_3.aspx#c1)

<sup>2</sup> Bribery Act 2010

IIED may also face criminal liability for unlawful actions taken by its employees or associated persons under The Act. All employees and associated persons are required to familiarise themselves and comply with this policy, including any future updates that may be issued from time to time by IIED.

Note: This Policy was developed and approved by the International Institute for Environment and Development (IIED) for internal use. It is believed to be an accurate reflection of the legislation and other regulatory requirements at the time it was approved. It should not be incorporated into or used by other organisations without permission. It applies to all staff and volunteers working for IIED.

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# Policy

## The need for an Anti-Fraud and Bribery Policy

By instituting an active anti-fraud and bribery policy we shall:

- Rehearse action in the event of discovery of suspected fraud or bribery
- Actively engage staff and partners in fraud and bribery awareness, which may encourage better project management
- Help to protect IIED and partners against charges of complacency in the face of this risk – indeed the institution of “adequate procedures” is the only effective defence to the offence under the Bribery Act of failing to prevent associated persons from engaging in bribery.

## Fraud and bribery risk at IIED

The types of fraud to which IIED is exposed by the nature of its operations include:

1. **Inflated expenses and costs** – such fraud is difficult to detect and could arise in a number of ways:
  - Misreporting or reporting costs up to budget without regard to actual costs
  - For example, there are instances of partners misconstruing the nature of grant funding and treating budgets as entitlements rather than limits to spend, and submitting reports identical to budget. This is fraudulent use of donor funds, albeit the partner may misconstrue the nature of the grant as a full payment for output, and needs to be addressed in the development of the partnership relationship and/or in developing clearer terms of reference or requirements, e.g. the requirement for transaction listing may be considered, depending on the nature and materiality of the report
  - Over claiming by trustees, staff, partners or consultants on costs and expenses
  - Rigged procurement procedures (faked documentation, nepotism).
2. Non-compliance with local tax and employment law
3. Money laundering
4. Misappropriation of project assets

The types of Bribery to which IIED is exposed by the nature of its operations could, in theory, arise where:

- IIED is seeking to influence donors to make funding decisions in IIED’s favour where the expenditure was lavish or on activities irrelevant to the purpose making the business case
- Facilitation payments are made, both by IIED (and/or its partners)
- Any gifts or hospitality are accepted or given by IIED (and/or its partners) that are disproportionately generous or that could be seen as an inducement to affect a business decision.

IIED is inherently in a riskier position on many of the above items because:

- Operations are remote and IIED staff only visit partners periodically
- Many partners are small and therefore do not have established systems or audit
- We often operate in a milieu of passing grants through intermediary partners to smaller implementing organisations
- IIED is reliant on restricted donor funding. Where the objective is to spend grant funds, the desire to spend can outweigh decisions as to who, how and when.

The risk to IIED is not limited to internal fraud or fraud on IIED's funds. Should a partner be shown to be involved in fraud, IIED's management of grants through that partner could be called into question and have an indirect reputational impact on IIED.

On the other hand, risks are less where we have

- Built up a long-standing relationship which allows for open interaction
- An independent ability to justify the quality of work, are well networked into overlapping relationships with multiple checks and balances.

IIED should thus work to develop and maximise the value of such relationships.

## Standards

### The Bribery Act 2010

IIED is committed to complying with The Bribery Act 2010 in its business activities in the UK and overseas. Under The Act, a bribe is a financial or other type of advantage that is offered or requested with the:

- Intention of inducing or rewarding improper performance of a function or activity; or
- Knowledge or belief that accepting such a reward would constitute the improper performance of such a function or activity.

A relevant function or activity includes public, state or business activities or any activity performed in the course of a person's employment, or on behalf of another company or individual, where the person performing that activity is expected to perform it in good faith, impartially, or in accordance with a position of trust.

A criminal offence will be committed under The Act if:

- An employee or associated person acting for, or on behalf of, the Company offers, promises, gives, requests, receives or agrees to receive bribes; or
- An employee or associated person acting for, or on behalf of, IIED offers, promises or gives a bribe to a foreign public official with the intention of influencing that official in the performance of his/her duties (where local law does not permit or require such influence); and
- IIED does not have the defence that it has adequate procedures in place to prevent bribery by its employees or associated persons.

### Criteria

1. For the purposes of deciding whether a function or activity has been performed improperly the test of what is expected is a test of what a reasonable person in the UK would expect in relation to the performance of that function or activity.
2. A 'foreign public official' includes officials, whether elected or appointed, who hold a legislative, administrative or judicial position of any kind of a country or territory outside the UK. It also includes any person who performs public functions in any branch of the national, local or municipal government of such a country or territory or who exercises a public function for any public agency or public enterprise of such a country or territory, such as professionals working for public health agencies and officers exercising public functions in state-owned enterprises. Foreign public officials can also be an official or agent of a public international organisation, such as the UN or the World Bank.
3. The offence of bribery of a foreign public official does not require proof of improper performance or an intention to induce it; the payment of a bribe is sufficient to establish the offence.

4. "Reasonable and proportionate" hospitality and promotional expenditure "made in good faith" as an "established and important part of doing that business" will not be penalised (see further guidelines below).

All employees and associated persons are required to comply with this policy, in accordance with The Act.

## IIED's Obligations

- IIED trustees need to protect the organisation against fraud and the risk of involvement in bribery
- IIED is required to report any actual or suspected serious (there is no threshold stipulated) incidents of fraud or theft to the charity commission
- Additionally many donor contracts also require IIED to report to them fraud or suspicion of fraud
- The Act requires that commercial organisations (IIED is included in the definition) have **adequate procedures in place to prevent bribery by its employees or associated persons**.

## Procedures

### Reporting and Managing suspected fraud and bribery

It is the responsibility of IIED staff to report at the earliest opportunity to the COO – or alternatively to the Director - any suspected cases of fraud or bribery relating to IIED's business (including the use of IIED funds by a contractee for these purposes).

Where staff member is in any doubt about the legitimacy of any payment to a third party, they should seek advice from their Line Manager or a Group Director, or otherwise the COO. Any decisions arising should be recorded, with a copy made available to the HR department.

The Director, COO or Group Director will meet to agree and monitor the follow-up action for any suspected case of Fraud or Bribery involving IIED's business.

The COO will maintain a register of suspected Fraud and Bribery incidents, which will record actions and outcomes. The register will be reported to the Board's Finance, Risk & Audit Committee (FARA).

## Guidance

### Staff Interests

Where staff (or their immediate families) have professional or personal relationships with partners or consultants other than those relating to normal IIED business, these will need to be declared so appropriate decisions can be taken about managing the relationships. It is especially important to do this as it will protect the staff member where a partner is involved in a case of suspected fraud or bribery.

Staff interests should be declared where there is a relationship between the Institute and an organisation with which a staff member has a separate relationship, for example as employee, consultant or trustee, or, where a member of the staff member's immediate family<sup>3</sup> has such a current relationship with the organisation.

The declaration should be made to the COO.

### Gifts and hospitality

The following is intended to help staff to judge what sort of gift, and what level of hospitality is acceptable (whether giving or receiving):

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<sup>3</sup> Defined here as "partner, parents, siblings, children, parents, and, parents, siblings and children of partner"

- To accept or give gifts or hospitality should always be the exception, however in general gifts or hospitality of a token value of less than £25.00 are acceptable and so any member of staff should notify the COO of any gifts or hospitality above this value for entry on the Gifts and Hospitality Register. Exceptions to this are:
  - Where IIED is recipient, the offer should always be rejected where:
    - It is believed the giver has an ulterior motive; or
    - The offer is from anyone who is, or may be in the foreseeable future, tendering for any contract with, seeking employment with or is in dispute with IIED, even if the specific recipient is not directly involved in that area.
  - Where IIED is the giver, the offer should not be made where:
    - It could be perceived by a reasonable observer that IIED has an ulterior motive; or
    - The recipient is someone who is, or may be in the foreseeable future, offering donor funding for which IIED may be interested in applying, even if the specific recipient is not directly involved in that area.
- It is recognised that given the nature of IIED's relationships with its partners, it will regularly pay for accommodation, subsistence, etc. as part of project delivery (or occasionally provide these things in kind). Staff must therefore assess each specific set of circumstances and use their discretion in determining either that:
  - Any of the above exceptional circumstances could apply in which case the offer should not be made; or
  - The offer either cannot be categorically linked to the specific aims of the project or it could be construed by an observer as disproportionate in which case it should be reviewed by the line manager involved and if the offer goes ahead then it must be added to the Gifts and Hospitality Register.
- If any member of staff is in doubt about the acceptability of any gift or offer of hospitality it is their responsibility to consult the COO.

## Related policies

Whistleblowing Policy

## Status

Policy approved by Operations Management Team on 24/03/16.

Anti-Fraud and Bribery Mitigation Measures will be reviewed and updated by OMT.

To be reviewed and updated every three years by OMT and FARA.

## Related Forms

None