



## **ANTI BRIBERY POLICY**

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## Purpose of the policy

JCALondon Fashion Academy (JCA) hereafter referred to as ‘the Academy’ is committed to ethical standards of business conduct and will not tolerate bribery, corruption or abuse of position for personal or institutional gain in all jurisdictions. This commitment is underpinned by the Academy’s values of transparency and accountability.

The Academy will uphold relevant laws for countering bribery and corruption, in particular the Bribery Act 2010. This policy sets out the Academy’s approach to monitoring, identifying and ultimately avoiding incidents and/or risks of bribery.

## Scope

This policy applies to all members of The Academy staff and members of the Board of Governors and its Committees.

This policy also applies to other associated persons such as agency and self-employed workers working for the Academy, agents, contractors and all other persons acting for the Academy, whether directly or indirectly.

This policy applies as far as possible within the law to wherever the Academy operates in the world. Even where bribery may be seen as part of the way business is done or as a “local practice” it must be clear that the Academy will not participate in or condone any form of bribery.

## Links to other The Academy policies

Staff should ensure that they follow the financial regulations which set out the requirements in relation to use of the Academy’s monies.

Breach of this policy may constitute a disciplinary offence for staff and will be subject to investigation under the Academy’s staff disciplinary procedures.

Staff or other individuals who have concerns are required to report these to the Academy Registry and Compliance Officer. Where this policy is being potentially being breached they may use the public interest disclosure policy (whistleblowing) for this purpose.

The declaration of interests policy requires declarations of interest, gifts and hospitality

which must be declared each year.

## Sanctions for breaching the policy

As outlined above, a breach of the policy may result in disciplinary sanctions for members of the Academy staff and in the most severe instances this could result in dismissal/exclusion.

For other associated persons, breach of this policy may result in contractual, legal or other sanctions.

Criminal penalties may also apply. Individuals found guilty of a bribery offence can face fines or prison sentences of up to ten years.

The Academy may also face unlimited fines if it is found to have “failed to prevent” bribes being made or received by staff or associated persons. This is why this policy extends to individuals and companies who, whilst not directly employed by the Academy, are acting on its behalf. The Academy may also find itself excluded from certain public contracts, potentially affecting its income.

## What are the offences under the Bribery Act 2010?

There are two general forms of bribery where individuals are personally criminally liable:

- offering, promising or giving of a bribe – *active bribery*; or
- requesting, agreeing to receive or accepting of a bribe – *passive bribery*.

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; and
- corporate liability where a body like the Academy fails to prevent bribery.

## What constitutes bribery?

Offering, promising or giving a financial or other advantage to another person (either directly or indirectly) with the intent to induce a person or knowing or believing that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

Requesting, agreeing to receive or accepting a financial or other advantage (either directly or indirectly) intending that a relevant function or activity will be improperly performed or as a reward for the improper performance of a relevant function.

In this context for the above, ‘Improper performance’ generally means where someone, in performing their activity, does not meet expectations by not acting in good faith, not acting impartially or otherwise does not act properly in accordance with a position of trust. The test of what is improper is based upon what a reasonable person in the UK would expect.

Offering, promising or giving any financial or other advantage (either directly or indirectly) to a foreign public official with the intention of influencing that official in order to obtain or retain business or other advantage in the conduct of business.

So-called “facilitation payments,” whereby payments to government officials to facilitate special treatment, such as prioritisation in an approval process, are also examples of bribes.

Bribery does not have to involve just payment of money. Other benefits can be an illegal inducement e.g. the acceptance of a donation to the Academy on condition that a

member of the donor's family is offered a student place at the Academy. The money or other benefit need never materialise. The mere offer or acceptance is enough.

The following all could be considered bribery (this list is not exhaustive):

- Donations to the Academy, sponsorship arrangements, personal gifts, hospitality and entertainment can be bribes if they are intended to influence the Academy decision making.
- Payments/favours as part of tendering, appointing preferred suppliers, contractors and agents, awarding licences, grading student work or in awarding the Academy places.
- Provision of lavish hospitality by the Academy for public officials.
- A payment to see an official or as a top level donation to secure a contract.
- Use of Academy funds, in the form of payments or gifts and hospitality for any unlawful, unethical or improper purpose.
- Authorisation of, making, tolerating or encouraging, or inviting or accepting, any improper payments in order to obtain retain or improve business.
- Permitting anyone to offer or pay bribes or make facilitation payments on behalf, of the Academy or do anything else the Academy would not be permitted to do itself.
- Offering or giving anything of value to a public official (or their representative) to induce or reward them for acting improperly in the course of their public responsibilities.
- Awarding a the Academy place where a student has not fulfilled admissions requirements on the basis of acceptance of a donation.
- Offering or accepting gifts or hospitality, where this might impair objective judgment, improperly influence a decision or create a sense of obligation, or if there is a risk it could be misconstrued or misinterpreted.

It is not acceptable for anyone to whom this policy applies to engage in bribery (whether giving or receiving) as defined above, or otherwise engage in any activity that might lead to a breach of this policy.

In addition, it is not acceptable for those who have any concerns to fail to report them.

## Gifts and hospitality

Modest gifts (under £50) and hospitality form a normal part of developing Academy relationships. However, excessive gifts and hospitality can be perceived as bribes. To this end gifts and hospitality must be transparently recorded, proportionate and reasonable. There must never be a suggestion that a gift or hospitality was offered or received on the assumption of certain favours being granted.

A member of staff who receives a gift and is not sure what action to take should seek advice from Registry. In some circumstances, where the offering and receiving gifts is expected practice, it might be appropriate to accept the gift to avoid offence but to donate it to the Academy or other appropriate charity.

## The Academy action to prevent bribery

**Commitment:** The Board of Governors and Senior Management Team is committed to supporting activity which prevents bribery.

**Risk assessment and due diligence:** Where there are activities that constitute a risk (for example, trans-national partnerships and agents) there must be appropriate risk assessment and a thorough due diligence process.

**Contracts:** All contracts with agents, academic partners or where there is some element of risk must include provisions requiring their adherence to UK anti-bribery law.

**Accurate books and record-keeping:** Accurate records and financial reporting must be maintained for all activities and for all third party representatives acting on our behalf. False, misleading or inaccurate records of any kind could potentially damage the reputation of the Academy.

**Conflict of interest declarations:** The Academy requires appropriate declarations of interest by Academy staff, including the declaration of major gifts and hospitality. The Academy may accept philanthropic gifts in accordance with the CASE (Council for Advancement and Support of Education) guidelines, CASE Europe: Ethical Principles Behind the Acceptance of Gifts and has in place a due diligence procedure for gift acceptance.

**Training and communication:** The policy is made available to all staff through publication on the website. All staff are required to undertake training on the anti-bribery during their first three months at the Academy.

### Roles and responsibilities

The Board of Governors has overall responsibility for the implementation, monitoring and review of the anti-bribery policy. This is overseen through the Audit and Risk Committee.

The CEO exercises responsibility for the implementation of this policy through monitoring and review.

The Registrar and Compliance Officer is responsible for maintaining the policy framework (including the Declaration of Interests Policy) and that contracts include reference to anti-bribery.

The Head of Finance is responsible for ensuring accurate financial records and reporting and that there are appropriate provisions in the financial regulations to cover expenses, gifts and hospitality.

The Human Resources Department is responsible for ensuring the provision of appropriate training.

The CEO is responsible for ensuring that gifts and donations go through an appropriate due diligence process in accordance with sector best practice.

Heads of Departments are responsible for ensuring that:

- Staff are aware of and implement the policy and declare any interests, gifts or donations
- Staff follow the financial regulations
- Appropriate arrangements are in place for due diligence when working with agents, contractor's and academic partners

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