

# Facilitation Payments Guidance

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## 1. Introduction

The UK Bribery Act has made it a clearly defined criminal offence for an individual or company within a UK presence to give or receive a bribe. This includes facilitation payments which are small, unofficial financial payments or other advantages (either directly or indirectly) made to secure or expedite the performance of a routine or necessary action to which the payer of the facilitation payment has legal or other entitlement. They are made to secure or speed up routine actions, usually by public officials, such as issuing permits, immigration controls, providing services or releasing goods in customs.

Facilitation payments do not only arise in relation to government officials – any payment to “smooth the way” that is not legally and ethically justifiable is potentially relevant.

Facilitation payments offered, paid, demanded or accepted, by an employee or someone on behalf of the University is a bribe and is prohibited.

Some countries present a heightened risk of bribery and employees travelling abroad should be vigilant and prepared to identify and resist bribery.

Further advice should be sought to distinguish between properly payable fees and disguised requests for facilitation payments. Where there is any doubt or suspicion that a payment might be considered a facilitation payment, then payment should be made only if the official or third party can provide a formal receipt or written confirmation of its legality (known as Local Law or written law). Wherever practicable, obtain senior management approval for the payment.

Where demands for payment are accompanied by actual or implied threat to personal safety, then safety should be the first priority. In these exceptional emergencies, payment should be made and the incident reported immediately to the Foreign and Commonwealth Office (FCO) via the local embassy or consulate. Copies of any information supplied to the FCO and any acknowledgement from them should be retained. If it not possible to inform the FCO, then the circumstances should be reported to the University Secretary, Chief Auditor and relevant PRO immediately on return to the UK, using the Facilitation Payments Declaration Form and with the claim for reimbursement. The Chief Auditor will then report the incident to the FCO for onward reporting to the SFO.

No disciplinary action will be taken against employees who have made a facilitation payment where their personal safety has been at risk.

Employees and associated persons are required to report any facilitation payment made or requested and successfully resisted by completing the Facilitation Payments Declaration Form.

## 2. How do I know if something is a bribe?

In most cases, common sense will determine when a bribe is being suggested or requested. However, if in doubt, ask yourself:

- Am I being asked to pay something or provide any other benefit over and above the cost of services being performed, for example an excessive commission, a lavish gift, a kickback or make a contribution to a charity or political organisation?
- Am I being asked to make a payment for services to someone other than the service provider?
- Are the amounts requested proportionate to the goods or services provided?
- Will a bona fide receipt be provided which details the reason for payment?
- Am I being asked to pay cash? Will they only accept cash payment?
- Has the request been made in a transparent way and are details of the payment included in any official documentation or notice?
- Is there a Local Law or written law that legitimately allows additional payments or investment (usually in the local community or benefit the local community)?

## 3. Useful References

Anti-Bribery and Corruption Policy

Declaration of Facilitation Payment Made or Requested and Resisted Form

Hospitality and Gifts Policy

Declaration of Hospitality, Gifts and Other Benefits Form