

ANTI-BRIBERY POLICY STATEMENT

1 Introduction

- 1.1 NILGOSC values its reputation for ethical behaviour, financial probity and reliability and is committed to conducting business in an honest and ethical manner. Committee Members and staff are required at all times to act with integrity and to safeguard the public resources for which they are responsible.
- 1.2 NILGOSC takes a zero-tolerance approach to acts of bribery and corruption, by its staff or anyone acting on its behalf, and will investigate all suspected or detected incidents. NILGOSC is committed to implementing and enforcing effective systems to counter bribery.
- 1.3 NILGOSC is committed to complying with all laws relevant to countering bribery and corruption, particularly the UK Bribery Act 2010, which applies to individuals and all organisations carrying on a business in the UK.
- 1.4 The purpose of this policy is to:
 - set out the responsibilities of Committee Members and staff in observing and upholding the NILGOSC position on bribery and corruption; and
 - provide information and guidance to those working for NILGOSC on how to recognise and deal with bribery and corruption issues.
- 1.5 In developing this policy, NILGOSC has reviewed the following best practice guidance published by the Northern Ireland Audit Office (NIAO): *Managing the Risk of Bribery and Corruption: a Good Practice Guide for the NI Public Sector, 2017* and *Internal Fraud Risk Guide, 2022*.

2 Scope

- 2.1 This policy applies to all NILGOSC's activities. For partners, joint ventures, suppliers and other third-party providers, NILGOSC will seek to promote the adoption of practices consistent with the principles set out in this policy.
- 2.2 This policy applies to all Committee Members, permanent and temporary staff at all levels and grades, contractors, suppliers, advisers, government representatives, and any other third-party providers who act on behalf of NILGOSC.
- 2.3 Within NILGOSC, the responsibility to control the risk of bribery occurring resides at all levels of the organisation and across all business functions.

3 What is Bribery?

- 3.1 Bribery is a criminal offence. The UK Bribery Act 2010 came into effect on 1 July 2011. It seeks to provide a framework of offences to combat bribery in the public and private sectors.
- 3.2 The Act defines bribery as "a financial or other advantage intended to induce or reward the improper performance of a person's function or activity, where benefit

could create a conflict between personal interests and business interests". The Act is wide-ranging in relation to the form a bribe can take. For example:

- The bribe can take the form of a financial or other advantage - it does not have to be cash.
- Offering or requesting is enough - the bribe does not have to be paid or otherwise put into effect.
- The bribe does not have to go to the person being influenced – it could benefit a third party which induces the corrupt conduct on the part of the person being influenced.
- The bribe does not have to be substantial – there is no materiality threshold in the Act.

3.3 The Act outlines four offences:

- a) Bribing another person (active bribery) (Section 1);
- b) Being bribed (passive bribery) (Section 2);
- c) Bribing a foreign public official (Section 6); and
- d) Failure of a commercial organisation to prevent bribery by persons associated with them (Section 7).

3.4 The Act applies equally to individuals in the public service of the Crown as it applies to all other individuals. Individuals who are British citizens or ordinarily resident in the UK can be charged with the general offences a-c above, while corporate bodies can also be charged with the fourth offence.

3.5 Under the Bribery Act, an organisation may be liable if a person "associated" with it offers a bribe to another person with the intention of obtaining or retaining business or a business advantage for that organisation. An associated person is defined as someone who "performs services" for or on behalf of the organisation and may include third parties such as agents, subsidiaries and contractors. As a public sector organisation working in partnership, NILGOSC must therefore exercise due diligence in its dealings with third parties.

3.6 Corporate bodies found to have committed any bribery offence could face unlimited fines. In addition, they may be excluded from tendering for Government contracts under Article 57 of the EU Public Sector Procurement Directive 2014/24/EU. Individuals could face a maximum 10-year prison sentence and/or an unlimited fine. This includes personal liability for senior officers of companies held liable through their consent or connivance with one of the offences by their company.

3.7 Section 7 of the Act refers to the offence of failure of commercial organisations to prevent bribery by persons associated with them. The Ministry of Justice (MoJ) defines a commercial organisation as one that is incorporated, by whatever means, and engages in commercial activities, irrespective of the purpose for which profits are made. It does not matter if it pursues primarily charitable or educational aims or purely public functions. Therefore, NILGOSC is considered a commercial organisation and Section 7 of the Act is applicable.

4 Anti-Bribery Procedures

- 4.1 There is a full defence under Section 7 of the Act if an organisation can show it has adequate procedures in place designed to prevent bribery by persons associated with it. The burden of proof rests with the organisation and procedures will need to be evidenced in practice. The involvement of the organisation's top management will be taken into account when assessing the adequacy of the procedures in place.
- 4.2 The Ministry of Justice sets out six guiding principles for implementing anti-bribery policies and procedures, which NILGOSC aims to comply with:
- **Proportionality:** NILGOSC has procedures in place to prevent bribery by persons associated with it. These are proportionate to the bribery risks faced by NILGOSC and to the nature, scale and complexity of NILGOSC's activities. They are also clear, practical, accessible, effectively implemented and enforced.
 - **Top level commitment:** The Committee and Senior Management Team are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.
 - **Risk Assessment:** The nature and extent of NILGOSC's exposure to potential external and internal risks of bribery on its behalf by persons associated with it has been assessed. The assessment determined that NILGOSC has a low exposure to bribery risk, but this will continue to be monitored via the routine risk management review process.
 - **Due diligence:** NILGOSC takes a proportionate and risk-based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.
 - **Communication (including training):** NILGOSC seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training, that is proportionate to the risks it faces.
 - **Monitoring and review:** Procedures designed to prevent bribery are monitored and reviewed and improvements are made where necessary.
- 4.3 In accordance with the above principles, NILGOSC has adopted a risk-based approach to managing bribery risks and has put in place procedures which it considers to be proportionate to the risks it faces.

5 Managing the Risk of Bribery

- 5.1 Bribery risk is the vulnerability or exposure NILGOSC has towards bribery and corruption. It combines the probability of bribery occurring and the corresponding impact measured in monetary and reputational terms.
- 5.2 In respect of bribery risks, prevention is almost always preferable to detection and the strongest defence is a sound system of internal control. NILGOSC manages the risk of

bribery through its risk management, governance and internal control processes in order to improve controls in problem areas and be pro-active in detection.

5.3 Bribery risk is considered in NILGOSC's corporate risk register, which is reviewed on a quarterly basis by the Senior Management Team and any areas of concern are reported to the Audit & Risk Assurance Committee (ARAC). The Internal Audit function also provides a level of assurance on the system of internal control operating within NILGOSC.

6 What is Not Acceptable?

6.1 Bribery is not tolerated by NILGOSC. It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given.
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure
- accept payment from a third party that you know, or suspect is offered with the expectation that it will obtain a business advantage for them
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by NILGOSC in return
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- engage in activity in breach of this policy.
- to influence a tender/procurement process, provide a favourable inspection outcome, collude with contractors/suppliers in negotiating changes in price or specification or fail to declare an interest in a situation where they could use their professional position for personal gain.¹

6.2 Facilitation payments

6.2.1 Facilitation payments are not tolerated. Facilitation payments are unofficial payments made to officials in order to secure or expedite actions or induce them to perform routine functions they are otherwise obliged to perform.

6.3 Gifts and hospitality

6.3.1 An employee may be subject to undue influence if they accept gifts, hospitality or other benefits that could be considered as generous.² Genuine hospitality or similar

¹ *Internal Fraud Risks, 2022 (NIAO)*

² *Internal Fraud Risks, 2022 (NIAO)*

business expenditure that is reasonable and proportionate is allowable and not covered by the UK Bribery Act 2010. This policy does not prohibit giving and receiving promotional gifts of low value or normal and appropriate hospitality which are clearly a token of appreciation, are made openly and place no obligations or expectations on either party. NILGOSC will not provide or accept gifts or hospitality with the intention of causing anyone to act improperly in the performance of their duties.

6.3.2 NILGOSC's policy regarding the requirements for gifts and hospitality is set out within the Acceptance of Gifts, Services and Hospitality Policy.

6.4 Public Procurement

6.4.1 Under the Public Contracts Regulations 2015 (which gives effect to EU law in the UK), a company is automatically excluded from competing for public contracts where it is convicted of a corruption and/or bribery offence. Organisations that are convicted under section 7 of the Bribery Act 2010 (failing to prevent bribery) are not automatically excluded from participating in tenders for public contracts. NILGOSC has however the discretion to exclude organisations convicted of this offence.

6.4.2 As a Non-Departmental Public Body, NILGOSC is required to comply with the Department of Finance for Northern Ireland's Public Procurement Policy and has an agreed Financial Memorandum and Purchasing Policy in place, which is strictly adhered to.

6.5 Charitable and Political Donations

6.5.1 NILGOSC does not make or accept charitable or political donations.

7 Penalties

7.1 An individual guilty of an offence under sections 1, 2 or 6 of the Bribery Act 2010 is liable:

- On conviction in a magistrates court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both.
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or to both.

7.2 NILGOSC, if convicted under sections 1, 2 or 6 will also face the same level of fines and, if guilty of an offence under section 7, is liable to an unlimited fine.

8 Responsibilities

8.1 Bribery and corruption can occur where there are deficiencies in management control systems. It follows therefore that the primary responsibility for prevention and detection lies with management. In particular, management is charged with taking all reasonable steps to limit the possibility of corrupt practices.

8.2 Specifically NILGOSC through the Secretary is responsible for:

- developing and maintaining effective controls to prevent bribery or corruption and ensuring that if it does occur it will be detected promptly
- carrying out vigorous, prompt and independent investigations if bribery or corruption occurs
- taking appropriate legal and/or disciplinary action against managers where management failure has contributed to the commission of the bribery or corruption
- where incidents of bribery or corruption have been identified, making the necessary changes to the systems and procedures to ensure that similar breaches will not happen again
- establishing systems for recording and subsequently monitoring all discovered cases of bribery.

8.3 Although the Secretary bears overall responsibility and is liable to be called to account for specific failures, these responsibilities fall directly on line management and involve all staff. The role of Investigating Officer in any bribery related investigations will be undertaken by the Deputy Secretary.

8.4 Managers are responsible for:

- identifying the risks to which systems and procedures are exposed
- developing and maintaining effective internal controls to prevent and detect bribery or corruption
- reviewing and testing the internal control systems to ensure that controls are being complied with and that the systems continue to operate effectively.

8.5 Individual members of staff are responsible for:

- acting with propriety in the use of official resources and in the handling and use of public funds whether they are involved with cash or payments systems, receipts or dealing with contractors or suppliers
- alerting their line manager where they believe the opportunity for bribery or corruption exists, for example due to poor internal controls or procedures
- reporting details immediately to their line manager or next most senior manager if they suspect that a bribery or corruption has been committed or see any suspicious acts or events
- making available all relevant information and cooperating fully with any investigation.

8.6 NILGOSC outsources its internal audit function and is subject to external audit by the Local Government Auditor. Whilst it is not the Auditors' function to prevent bribery, they should plan, perform and evaluate their work in order to have a reasonable expectation of detecting material misstatement in the financial statements arising from bribery or corruption. The auditors must review measures taken to prevent bribery or corruption.

- 8.7 The role of external audit is primarily to give an opinion on whether the financial statements of NILGOSC are true and fair and expenditure and income has been applied to the intended purposes. In doing so, external auditors require assurance that the financial statements are free from material levels of fraud, including the potential impact of bribery and corruption.³

9 Reporting Bribery

- 9.1 NILGOSC is committed to ensuring that all staff have a safe, reliable and confidential way of reporting any suspicious activity. All Committee Members and staff have a responsibility to help detect, prevent and report instances of bribery and to avoid activity that might lead to, or suggest, a breach of this policy.
- 9.2 NILGOSC has in place a Fraud & Corruption Response Plan for reporting suspicions of fraud, bribery or corruption, which is available on the staff intranet. Staff should refer to this procedure and follow the reporting process in the event of any suspicious activity.
- 9.3 Alternatively anyone who has a concern about such matters can raise them through NILGOSC's Raising Concerns Policy, which sets out the procedures and protections, which will apply to staff, making such disclosures. Further advice on the matter can be taken from the Secretary of the Committee and is contained in the Staff Code of Conduct, or from Protect (Telephone 020 317 2020, website www.protect-advice.org.uk). All matters will be dealt with in confidence and in strict accordance with the Public Interest Disclosure (Northern Ireland) Order 1998. This is designed to encourage employees and external parties to disclose information about alleged wrongdoing in defined circumstances and to specific persons. A copy of the Raising Concerns Policy is available on the NILGOSC website.
- 9.4 NILGOSC will report immediately to the Department for Communities and the Local Government Auditor all cases of bribery or corruption, proven or suspected, including attempted bribery.

10 Ethics and Conduct of Staff

- 10.1 Staff owe a duty of care to NILGOSC and to the public at large. As stewards of public funds, staff must have and be seen to have high standards of honesty, propriety and integrity in the exercise of their duties. Accordingly, staff should avoid activity that might lead to, or suggest, a breach of this policy. In particular, they should not accept gifts, hospitality or benefits of any kind from a third party which would, or could be seen to, compromise their integrity. Staff should refer to the Staff Code of Conduct, the Purchasing Policy and the Acceptance of Gifts, Services and Hospitality Policy for further advice and information.

11 Disciplinary Action

- 11.1 A full investigation will be carried out into all incidents of suspected or detected bribery and corruption conducted by NILGOSC staff. If it is proven in the course of the investigation

³ *Managing the Risk of Bribery and Corruption: A Good Practice Guide for the Northern Ireland Public Sector, 2017*

that members of staff have been involved in corrupt practices, disciplinary action will be taken to its fullest conclusion.

- 11.2 If the investigation uncovers a failure of supervision, disciplinary action may be taken against those responsible.
- 11.3 If a Committee Member is suspected of bribery or corruption, the matter will be referred to the Department for Communities to conduct an investigation.

12 Fraud and Corruption Response Plan

- 12.1 NILGOSC has developed a Fraud & Corruption Response Plan which should act as a guide for staff to follow in the event that bribery or corruption is suspected. The Fraud & Corruption Response Plan covers the following areas:
 - who to report to
 - how to conduct preliminary enquiries
 - responsibility for investigations
 - how to secure evidence
 - when and how to contact the police
 - how to prevent losses
 - how to initiate recovery action.

- 12.2 It is the responsibility of all staff to familiarise themselves with the guidance contained within the Fraud & Corruption Response Plan.

13 Conclusion

- 13.1 The circumstances of bribery and corruption will vary. NILGOSC has assessed its risk of exposure to bribery as low but continues to take bribery very seriously. All cases of actual or suspected bribery will be vigorously and promptly investigated and appropriate action will be taken.
- 13.2 Where there has been an instance of bribery or corruption, management will review the systems and procedures and make any necessary changes to ensure that similar acts should not recur. Internal Audit may be asked to report on matters relating to internal control if considered appropriate.

14 Review

- 14.1 The Committee will review and update its Anti-Bribery Policy Statement every three years, or more often as required.

Reviewed: July 2022

Due for Review: July 2025