

Anti Bribery Policy Update

1. INTRODUCTION

- 1.1 The purpose of this report is to present the Performance and Audit Committee with a copy of the Anti Bribery Policy for review. The policy is attached as an **Appendix** to this report.

2 BACKGROUND

- 2.1 The [Internal Audit Report](#) presented to the Performance and Audit Committee in March 2022 raised one low level finding and consequently made recommendations for an appropriate process to be developed and implemented that would enable staff to declare any conflicts of interest, including the provision of guidance that ensured conflicts of interest are clearly defined and understood.
- 2.2 Management agreed to make changes to the Anti Bribery Policy to reflect the recommendations made in the report.

3. ANTI BRIBERY POLICY CHANGES

- 3.1 The policy has been updated to include a new section on Conflicts of Interest. The following is a summary of the changes made to the policy:
- Definition of conflict of interest provided
 - Examples of a conflict of interest listed
 - An explanation on types of action to be taken, what happens when a conflict is not declared and what to do when a conflict arises
 - A new conflicts of interest declaration form which will be required to be completed at least annually

4. ANNUAL HR POLICY REVIEW

- 4.1 The Committee are advised that the Partnership's HR Adviser has commenced the annual review of SEStran's HR policies and will be subject of a future report upon completion.

5. RECOMMENDATIONS

It is recommended that the Performance and Audit Committee:

- 5.1 Approves the amendments made to the Anti Bribery Policy for implementation, and:
- 5.2 Notes that a report on the annual HR policy review will be presented to Committee at a future meeting.

Angela Chambers
Business Manager
22 February 2023

Appendix: Anti Bribery Policy

Policy Implications	Inclusion of a new section within the policy on Conflicts of Interests and a declaration form that will be required to be completed at least annually by staff and Officers' of SEStran.
Financial Implications	Failure to comply with the Anti Bribery Act could result in unlimited fines and financial losses.
Equalities Implications	None
Climate Change Implications	None



ANTI-BRIBERY POLICY
(covering all employees)

DOCUMENT VERSION CONTROL

Date	Author	Version	Status	Reason for Change
Oct 2012	SEStran	1.0	FINAL	Policy Adopted
Oct 2017	SEStran	1.1	FINAL	Adoption of version control
<u>Jan 2023</u>	<u>SEStran</u>	<u>1.2</u>	<u>Draft</u>	<u>Inclusion of Conflicts of Interests section</u>

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1 Introduction

- SEStran is wholly committed to preventing bribery and corruption in all our dealings and relationships, and upholding all relevant laws, including the Bribery Act 2010.
- Bribery and corruption in any form are unacceptable and will lead to disciplinary action where allegations are substantiated. SEStran operates a zero tolerance approach to these matters.
- This Policy sets out key principles to achieve these aims, and details SEStran's corporate and employee responsibilities required to ensure compliance with the Act.
- This Policy should be read in conjunction with SEStran's Anti Bribery Procedure, Anti-Fraud and Corruption Policy and HR policies.
- This Policy and associated Procedure also provide information and guidance for employees on how to prevent, recognise and deal with bribery and corruption issues.
- This Policy provides information and guidance for employees to ensure all potential Conflicts of Interest (Col) are declared and managed appropriately.

2 Scope

- This Policy applies to all employees and covers all activities undertaken by SEStran.
- In our dealings with third parties¹, we will promote the adoption of practices and arrangements consistent with the principles set out in this policy.

3 Compliance

- In order to ensure all employees are aware of their responsibilities under this Policy, each employee will be required, at the point of commencing employment with SEStran, and annually thereafter to confirm that they have read and understood the requirements of this Policy and related Anti-Bribery Procedure.

¹ A "third party" is an individual or organisation that engages for business with SEStran e.g. external service providers, suppliers and contractors.

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- Failure to adhere to this Policy may result in disciplinary action being taken against you, up to and including dismissal.

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4 What is Bribery?

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- Bribery is an inducement or a reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage and can take various forms such as
 - bribery of another individual or organisation;
 - accepting a bribe from an individual or organisation.

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- Bribes may not always be monetary and may include gifts or hospitality.
- Bribery is a criminal offence.
- Additionally, failure by SEStran to put in place adequate procedures to prevent bribery can also constitute an offence.
- The maximum penalty for individuals under the Act is 10 years imprisonment and/ or unlimited fines. Failure by an organisation to prevent bribery carries an unlimited fine.

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5 What is SEStran's position on Bribery?

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- SEStran expressly forbids employees or associated persons² from offering or accepting bribes or unlawful inducements to or from anyone for any purpose.
- The use of an associated person or third party as a 'go-between' to channel bribes to others is also unacceptable.
- SEStran is committed to the prevention, deterrence and detection of bribery by:
 - ensuring procedures are in place to prevent bribery;
 - making all employees aware of their responsibilities through this Policy, the associated Anti-Bribery Procedure and HR policies;
 - training all employees so that they can recognise bribery and corruption and enable them to take any subsequent action that may be required;
 - ensuring training on this policy forms part of the induction process for all new employees, and that all employees are reminded annually of their responsibilities regarding bribery as part of the Performance, Review and Development process.

² An "associated person" is a person who performs services for or on behalf of SEStran, and can therefore include agents, suppliers and contractors.

- encouraging employees to be vigilant and to report any reasonably held suspicions of bribery or corruption, using SEStran's Public Interest Disclosure (whistleblowing) policy if necessary;
- investigating instances of alleged bribery and assisting police and any other appropriate authorities in any resultant prosecution;
- taking disciplinary action up to and including dismissal against any individual involved in bribery or other corrupt activity;
- including appropriate clauses in employment and commercial contracts to prevent bribery.

6 Preventing Bribery – Adequate Procedures

- An organisation will have a statutory defence against prosecution for bribery offences if it puts in place “adequate procedures” designed to prevent bribery. What is “adequate” depends on the bribery risks, the nature, size and complexity of the business. Adequate procedures need to be applied **proportionately**, based on the level of risk.
- In determining such procedures, the Government has indicated that organisations should be informed by six principles:
 - Top Level Commitment
 - Risk Assessment
 - Proportionate Procedures (proportionate to the bribery risks faced).
 - Due Diligence
 - Communications (the anti-bribery policy and procedure are embedded and understood).
 - Monitoring and Review

SEStran's arrangements embody these six principles.

- A separate **Anti-Bribery Procedure** has been developed which provides a tool for assessing and mitigating risk of bribery, and reflects these principles.

7 Employee Responsibilities

- Employees must read and understand this Policy, the Anti-Bribery Procedure and HR policies. Management will ensure that all employees are given a copy for this purpose.
- The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all employees working for SEStran.

Therefore, all employees **must**:

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- comply with this policy;
- avoid any activity that breaches this Policy or could be seen as a breach of this Policy;
- Seek advice **before** accepting gifts or hospitality;
- Raise any concerns as soon as possible if you believe or suspect that a breach of this policy has occurred or may occur in the future.
- Declare any potential Conflicts of Interest

Employees **must not**:

- give or promise to give, or offer a payment, gift or hospitality with the expectation or hope that a personal, commercial, regulatory or contractual advantage will be received, or to reward any such advantage already given;
 - give or promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to facilitate or speed up 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 SEStran in return;
 - retaliate against, threaten or victimise anyone who has refused to be involved in bribery or corrupt practices, or who has raised concerns under this policy.
- The list above is not exhaustive but is intended to provide examples of conduct likely to breach this policy.
 - If employees have any doubt at all about circumstances that they find themselves in, advice should be sought from their line manager **before** it becomes an issue to be dealt with.

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8 Consequences of Improper Behaviour

- All allegations relating to bribery or corrupt practices will be investigated.
- Where the investigation concludes that improper behaviour may have occurred, SEStran's Disciplinary procedures will be applied. This may result in dismissal.
- In all circumstances where a criminal offence may have been committed, SEStran will notify the Police.

- SEStran will seek, wherever possible, to recover any losses suffered as a result of an act of bribery or corruption.

9 Conflicts of Interest

- What is a Conflict of Interest
- A Conflict of Interest arises in any situation that has the potential to undermine the impartiality of a person because of the possibility of a clash between the person's self interest and professional interest, or public interest. It can occur when a person has a duty to more than one person or organisation but cannot do justice to the interests of both parties. This includes when an employee's personal interests are contrary to their loyalty to public service/business.

Examples of Conflicts of Interest include:

- Having a financial interest (e.g. holding shares or options in a potential supplier or any entity involved in any tendering consortium)
- Having a financial or any other personal interest in the outcome of the evaluation process
- Being employed by (as staff member, official officer or volunteer) or providing services to any potential tenderer
- Being a member of a potential tenderer's management/executive board
- Receiving any kind of monetary payment or non-monetary gift or incentive (including hospitality) from any tenderer or its representatives
- Canvassing, or negotiating with, any person with a view to entering into any of the arrangements outlined above
- Having a close member of your family (which includes unmarried partners) or personal friends who falls into any categories outlined above
- Having any other close relationship (current or historical) with any other potential supplier or member of staff

9.4 What Action to Take

- All employees who engage with external suppliers as part of their work or responsibilities are required to complete the Conflicts of Interest declaration form at Annex B annually or for specific procurement exercises.
- It is important to declare any potential Conflicts of Interest at the earliest opportunity, but especially prior to any interaction with external parties, in order to protect both the employee and the organisation and to provide a clear audit trail should any issue arise.
- If you are unsure whether you have a Conflict of Interest, or you have reason to believe a Conflict of Interest has not been declared by someone else, please contact the Partnership Director.

9.5 Where Conflicts Are Not Declared

- Deliberate concealment of a Conflict of Interest will be construed as unethical, will be treated very seriously and may constitute a matter of gross misconduct

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under the Disciplinary Policy. Such a breach of this policy may also be dealt with as a criminal offence and lead to legal action.

9.6 When and Where a Conflict Arises

- If a Conflict of Interest is present, employees are required to update the Conflicts of Interest declaration form explaining the nature of the conflict to protect themselves and the organisation. This will then be assessed by the Partnership Director.
- The decision as to whether the identified conflict is material, and whether any mitigating arrangements are required, is to be made by the Partnership Director.

9.10 Gifts & Hospitality

- Gifts, offers of hospitality or favours from or to a third party, a contractor, client or partner organisation of SEStran are capable of being perceived as constituting a bribe.
- Therefore, you should never accept or offer a gift, hospitality, favour or any other form of inducement which may influence or be perceived as influencing actions or decisions related to your job.
- In certain limited circumstances, and in connection with your official duties, it may be appropriate for you to offer or receive gifts of low value or small tokens of gratitude, such as merchandise / branded items which have been designed for the purpose of being given away e.g. pens, post-its etc. Similarly, small gifts such as sweets etc given to a team at Christmas will be acceptable.
- Gifts of alcohol or offers of hospitality, however small, should not be automatically accepted by SEStran employees. Similarly, such gifts or offers should not be made by SEStran employees.
- Advice should be sought from your manager on the appropriateness of offering or accepting **any** such hospitality or gifts. Other than in circumstances similar to those set out in paragraph 9.3 you should not accept a gift unless you are satisfied, following discussion with your manager, that to do so would not lead to your actions as a SEStran employee being called into question.
- Other than the small gifts indicated in paragraph 9.3 all gifts and hospitality received should be recorded in the register of gifts and hospitality, in accordance with arrangements.

9.11 Review

- The procedure and associated policy will be reviewed annually by SEStran, to reflect organisational changes, best practice, operational experience and legislative updates, to maintain its effectiveness.

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Appendix A

Agreement Form

I have read and understand SEStran's Anti-Bribery Policy and agree to comply with these guidelines. I understand that any deliberate breach of these will be viewed seriously and may result in action being taken under SEStran's disciplinary procedures.

Please complete the details on this form and return to the **Business Manager, SEStran**

Name: _____

Job Title: _____

Signature: _____

Manager's Signature: _____

Date: _____

Annex B– Conflict of Interest Declaration Form

You must complete this on annual basis and every time you partake in a procurement.

Name:	Job Title:
Tel:	Annual or Specific Procurement
Conflict of Interest	
<p>A Conflict of interest refers to situations *in which a person has a duty to more than one person or organisation, but cannot do justice to the interests of both parties. This includes when a public official’s personal interest are contrary to their loyalty to public business.*</p> <p>Examples of conflicts of interest include:</p> <ul style="list-style-type: none"> • Having a financial interest (e.g. holding shares or options in a potential supplier or any entity involved in any tendering consortium • Having a financial or any other personal interest in the outcome of the evaluation of any tender evaluation process • Being employed by (as staff member or volunteer) or providing services to any potential tenderer. • Being a member of a potential tenderer’s management/executive board • Receiving any kind of monetary payment or non-monetary gift or incentive (including hospitality) from any tenderer or its representatives • Canvassing, or negotiating with, any person with a view to entering into any of the arrangements outlined above • Having a close members of your family (which includes unmarried partners) or personal friends who falls into any of the categories outlined above • Having any other close relationship (current or historical) with any potential supplier or member of staff <p>It is the employees responsibility to ensure that any and all potential or perceived conflicts of interest are disclosed to the Partnership Director, in writing, on an annual basis AND prior to them becoming involved in any procurement process. Individuals will be excluded from the procurement process where the identified conflict is material and cannot be mitigated. The decision as to whether the identified conflict is material, and whether any mitigating arrangements are required, is to be made by the Partnership Director.</p>	

You must complete at least two of the following sections INCLUDING Section 3:

1. No Conflict of Interest Exists

I do **not** have any Conflicts of Interest that prevent my full and unprejudiced participation in my duties, including any reason why I should not participate in any procurement exercises.

Signature and Date:

2a. A Conflict of Interest Exists (about me)

I do have a conflict of interest that may prevent my full and unprejudiced participation in a procurement exercise or my duties. The nature of this conflict of interest is described below.

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2b. A Conflict of Interest exist (not directly related to me)

I **want to declare** where I believe a conflict to exist that is not directly linked to me. The nature of this Conflict of Interest is described below:

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3. I also declare that I will inform the Partnership Director and my Line Manager should my/any circumstances change in a way that affects this declaration.

Signature and Date:
