

# THE NATIONAL GALLERY

## ANTI FRAUD, BRIBERY AND CORRUPTION RISK MANAGEMENT STATEMENT

## Anti Fraud, Bribery and Corruption 2011

### Introduction

The National Gallery requires all those to whom this policy applies at all times to act honestly and with integrity and to safeguard the public resources for which the Gallery is responsible. It is the Gallery's policy to conduct all its dealings in an honest and ethical manner. The Gallery will not accept any level of fraud, bribery or corruption. Any instance or suspected instance of fraud, bribery or corruption will be investigated thoroughly and dealt with appropriately.

This policy applies to all Trustees and employees of the National Gallery and all consultants, contractors, agency staff, interns, agents, sponsors or any other person associated with the Gallery (collectively referred to in this policy and the Annex to this policy as "staff").

### Definitions

For practical purposes "fraud" may be defined as dishonest conduct with the intent of obtaining an advantage, avoiding an obligation or causing a loss to another party.

The Fraud Act 2006 introduced a single offence of fraud, which can be committed in three different ways:

- False representation
- Failure to disclose information when there is a legal duty to do so
- Abuse of position.

"Bribery" may be broadly defined as a financial or other advantage given, offered or accepted as an inducement to perform, or reward for performing, public or official duties improperly.

The Bribery Act 2010 contains the offences of:

- Offering, promising or giving a bribe
- Accepting a bribe
- Bribing a foreign official
- Failure of a commercial organisation to prevent bribery.

References in this document or the Annex hereto to fraud and/or bribery include all manner of fraud, bribery or corruption.

### Risks

The risks of failing to comply with the policies and procedures outlined here include:-

- Financial loss, in the case of fraud perpetrated on the Gallery or fines imposed on the Gallery;
- Reputational loss;
- Criminal liability for individuals found guilty of fraud or bribery, including under the Bribery Act 2010 unlimited fines or 10 years imprisonment;
- Criminal liability for the Gallery if it is found guilty of failing to prevent bribery, with the possibility of an unlimited fine;
- Criminal liability for senior officers of the Gallery who consent to or connive in a bribery offence committed by the Gallery.

### **Policies and Procedures**

- The Prevention of Fraud Bribery and Corruption Procedure annexed to this Policy sets out the procedure for reporting suspicions and conducting and concluding investigations.
- The Code of Conduct for staff sets out the responsibilities of Gallery staff when offered gifts, rewards and hospitality.
- The Disciplinary Policy and Procedure sets out procedures which will be followed where disciplinary action is being considered.
- This policy should also be read in conjunction with the document entitled Raising concerns in the Workplace: Whistleblowing Policy and Procedure (in this document and the Annex to it referred to as the "Whistleblowing Policy") Ethical Fundraising and Investment Policy and the Policy on Relations with Lenders and the Art Trade.

### **Responsibilities**

The Director, as Accounting Officer, is responsible for managing the Gallery's risks, including the risk of fraud and/or bribery. This is done by establishing and maintaining a sound system of internal control, designed to respond to and manage the whole range of risks the Gallery faces.

The Internal Controls Committee is responsible for actively reviewing the system of internal controls reviewing the risk register and ensuring that an effective system of internal control is maintained and operated within the Gallery.

Specific responsibility for managing the risk of fraud and/or bribery is delegated to the following officers of the Gallery:-

#### **Director of Operations and Administration**

- Ensuring the development of a risk profile and undertaking a regular review of the risks associated with each of the key areas to keep the profile current;
- Ensuring the carrying out of vigorous and prompt investigation if fraud and/or bribery is suspected to have occurred;
- Ensuring that appropriate corrective action is taken should fraud and/or bribery be detected.
- Ensuring the taking of appropriate legal action to e.g. recover assets against perpetrators of fraud and/or bribery.

#### **Directors**

- Ensuring there are effective controls within their Directorate to prevent and detect fraud and/or bribery
- Ensuring the taking of appropriate disciplinary action against perpetrators of fraud and/or bribery or staff within their Directorates who fail to report fraud and/or bribery;
- Ensuring the taking of disciplinary actions where management or supervisory failures have contributed to the commission of fraud and/or bribery.

### Secretary to the Board

- Advising on the inclusion of anti-corruption clauses in the Gallery's contracts.

### Head of Finance

- Developing and maintaining effective controls to prevent and detect fraud and/or bribery;
- Liaising with the Internal Controls Committee and Audit Committee to ensure that the risk register takes account of all fraud and/or bribery risks and has been subject to regular review;
- Establishing and maintaining appropriate mechanisms for reporting fraud and/or bribery risk issues and reporting to Treasury in accordance with Annex 4.7 of *Managing Public Money*;
- Making sure staff are aware of the Gallery's Anti fraud, bribery and corruption policy and their responsibilities in relation to combating fraud and/or bribery;
- Monitoring the gifts and hospitality register.

### Heads of Department

- Identifying the risks to which their department's systems and procedures are exposed;
- Developing and maintaining effective controls to prevent and detect fraud and/or bribery;
- Ensuring that controls are being complied with and that systems continue to operate effectively;
- Preventing, detecting and reporting fraud and/or bribery.

### Head of Human Resources

Advising on disciplinary policy and procedure in cases of actual or suspected fraud and/or bribery.

### Staff

- 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 payment systems, receipts, budgets, assets or dealing with suppliers or contractors;
- Being alert to the possibility that unusual events or transactions could be indicators of fraud and/or or bribery;
- Reporting details immediately to their line manager and/or to the Director of Operations and Administration if they suspect that fraud and/or bribery has been committed or see any suspicious acts or events;
- Complying with the Gallery's Code of Conduct in relation to gifts and hospitality;
- Being aware of the Whistleblowing Policy, which can be found in the Staff Handbook and might be appropriate in relation to the reporting of fraud and/or bribery, or suspicion of fraud and/or bribery.

### Externally provided Head of Internal Audit

- Delivering an opinion to the Accounting Officer on the adequacy of the arrangements for managing the risk of fraud and/or bribery and ensuring the Gallery promotes an anti- fraud , bribery and corruption culture;

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- Assisting in the deterrence and prevention of fraud and/or bribery by examining and evaluating the effectiveness of control commensurate with the extent of the potential exposure/risk in the various areas of the Gallery's operations;
- Ensuring that management has reviewed its risk exposures and identified the possibility of fraud and/or bribery as a business risk;
- Assisting management in conducting fraud and/or bribery investigations;
- Regularly reviewing and testing the control systems.

### Annex

#### Prevention of Fraud Bribery and Corruption Procedure

This plan has been developed to support the Gallery's Anti Fraud Bribery and Corruption Risk Management Statement. It sets out how staff should report suspicions of fraud and/or bribery and how investigations will be conducted and concluded.

The plan has been developed with reference to the Gallery's Whistleblowing Policy which can be found in the Staff Handbook.

#### Action required at the point of discovering fraud and/or bribery

If a member of staff discovers fraud and/or bribery or has reasonable belief that fraud and/or bribery is occurring within the Gallery, he or she should inform their Head of Department immediately. If it is not appropriate to take the matter to the Head of Department in the first instance, he or she should inform the Director of Operations and Administration or the Director of the Gallery.

The Director of the Gallery should be immediately informed of any case of suspected fraud and/or bribery unless the Director is under suspicion. If the Director of the Gallery is under suspicion the Chairman or Chair of the Audit Committee should be informed.

It is important that the member of staff does not take any action to forewarn the alleged perpetrator. Under no circumstances should a member of staff attempt to investigate the suspected fraud and/or bribery personally.

#### Investigation process

The Head of Department will consult the Director of Operations and Administration and other senior managers as appropriate, to decide whether an investigation will be carried out. The Head of Human Resources will be informed of any investigation involving Gallery staff.

(It should be noted that the investigation process outlined below does not preclude a further process undertaken in accordance with the Gallery's Disciplinary Process and Procedure.)

The investigation process will usually be led by the Director of Operations and Administration and performed by Internal Audit or a suitable alternative and will include:

- Clarifying and documenting the nature and circumstances surrounding the suspect activity;
- Securing any evidence in a legally admissible form (where possible, evidence should be photographed in the location where found before being handled, it

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- should then be carefully handled, with no marks made on original documents, and kept securely. A record must be kept of anyone handling evidence);
- Ensuring the threat of further fraud and/or bribery and any possible future losses is removed, for example by changing procedures, suspending payments, or suspending an employee under suspicion (although in the last such case any decision would be taken in consultation with the Head of HR);
  - Informing the Chair of the Audit Committee and the Chair of the Trustees immediately in relation to any concern as to the conduct of the Director. In this instance the Chair of the Trustees shall advise and consult with the Permanent Secretary of DCMS as appropriate;
  - Advising the Chair of the Audit Committee, Chair of the Trustees, DCMS and the NAO where serious fraud has been detected (judged principally by the potential financial value of any loss) or where any instance of bribery has been detected;
  - Consideration of whether to advise the police. Any decision to advise the police should be taken in consultation with the Director of the Gallery and the Chair of the Audit Committee;
  - Where police involvement has been sought, the investigation process will follow the advice of the police;
  - Where police involvement is not considered necessary, the investigation will be managed internally;
  - Producing an investigation report and acting on the report recommendations, for example taking disciplinary action in accordance with guidelines set out in the Disciplinary policy and procedure;
  - Consideration as to how best to recover assets lost or misappropriated, which might include repayments by agreed arrangement, possibly through payroll deductions where fraud has been committed by employees.

### Applying the lessons learnt

The Gallery is committed to ensuring that opportunities for fraud, bribery and corruption are reduced to the lowest possible level of risk. In the event that fraud, and/or bribery are discovered the Gallery will take steps to ensure lessons learnt from the event are applied to existing policies and practices. This might include implementing changes to the existing system of controls, increasing awareness of the risk of fraud and/or bribery, disseminating lessons learnt where there may be implications for the organisation as a whole.

### Reporting losses

All losses resulting from frauds or thefts are recorded by the Finance department and reported annually to DCMS.