

The session emerged from concerns around the implications of the Bribery Act 2010, particularly in relation to overseas fieldwork – something of relevance to many within GeoSciences. Some background to the Bribery Act is given here, followed by a summary of the session discussion and then links to further resources. The resources provide details of the legality of the Act and how it might effect us in our own research at the University of Edinburgh, however the point of the discussion was to share experiences and suggestions – to deal with the reality of how we might act in the field, but also through preparation and planning before we go. *The ideas shared during the discussion do not constitute official advice or policy, nor an academic account of ‘bribery’.*

### **A BIT ABOUT THE BRIBERY ACT 2010**

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University of Edinburgh policy on bribery states (see ‘resources’ for link):

The Bribery Act contains four main offences:

1. **Paying bribes** - It is an offence if a person offers, promises or gives a financial or other advantage with the intention of inducing another person to *perform a function or activity improperly* or to reward that person for doing so.
  2. **Receiving bribes** - It is an offence if a person requests, or agrees to accept, or receives a financial or other advantage intending that a *function or activity should be performed improperly* as a result.
  3. **Bribery of a foreign public official** - It is an offence if a person offers or gives a financial or other advantage to a foreign public official with the intention of influencing the foreign public official and to obtain or retain business or a business advantage. Foreign public officials include persons performing functions at state owned or controlled enterprises and agencies - and therefore could potentially include those working for public universities outside of the UK.
  4. **Failure of a commercial organisation to prevent bribery** - It is an offence for the University in relation to its commercial activities if a person associated with the University bribes another person intending to: obtain or retain business for the University; or obtain or retain an advantage in the conduct of business for the University
- The offences under the Bribery Act are extensive in scope, broadly defined and, in some circumstances, also allow for crimes committed anywhere in the world to be prosecuted in UK courts.
  - The UK law has serious consequences for anyone found guilty of an offence. For individuals, a maximum prison sentence of ten years and/or an unlimited fine can be imposed.

University of Exeter provides the following example (of relevance to bribery during fieldwork) (see ‘resources’ for link):

*While on a field trip to country XYZ with students, the member of staff organising the trip makes a payment in cash to immigration officials at the airport to enable the students to move through immigration and begin their trip more quickly. This is a **facilitation payment** which is likely to be unlawful under the Act. The member of staff and the University would be liable for prosecution and the University may take disciplinary action against the employee.*

### **DISCUSSION**

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**Legal or moral issue?**

We started by discussing the legal and moral cases for being aware of bribery. We have legal responsibilities as part of the University of Edinburgh and it was argued we have moral responsibilities too to people in countries where corruption is rife, to help reduce that. An in-depth reading on bribery was suggested: *'Everyday Corruption and the State. Citizens And Public Officials In Africa'* by Giorgio Blundo, Jean-Pierre Olivier De Sardan, And N. B. Arifari (ZED Books).

### ***How to know if something is 'bribery' or not?***

We discussed the problem of knowing whether/when something was 'bribery' or not. This may be related to knowing whether something was 'official' or not. It was generally thought that if you were given a receipt for a payment then this was official – but it can still be hard to know – it may be that you can ask for an official price-list of service charges to check further.

Examples were shared of instances which were considered bribery:

- Coming across a roadblock at which police asked for a 'facilitation payment' in order to let you pass through without delay
- Coming off a long-flight with incorrect paperwork and being asked by airport officials for 'facilitation payment' to allow you into the country
- Customary institutions in a semi-autonomous region of a country asking for payments from researchers to work in that area

We also discussed the culture of organisations providing 'per diems' (i.e. daily payments) for officials attending workshops at another organisation etc. This is a widely accepted practice around the world, but was discussed with regards bribery given the large sums of money sometimes involved (e.g. by the World Bank). The fact that these payments may encourage attendance by those more interested in the money than the research was noted. An attempt to halt per diems by an NGO in sub-Saharan Africa was relayed, and that whilst this was met with much resistance, it was deemed a success by the NGO.

Other situations were discussed, including where large sums of money were paid for vehicle/driver hire into a remote field area. This left the researcher feeling exploited, but overall this was felt not to be corruption, but merely capitalism.

Another situation raised was the giving of gifts to local chiefs i.e. not official public figures, but customary leaders. We discussed 'gifts' further, see below.

### ***How to deal with bribery?***

Suggestions for how to deal with bribery included:

- Not paying a facilitation payment – but allowing yourself to be held up at a road block for a few hours instead
- Pretending you don't know the language in the hope that that stops requests for bribes
- Making sure you work with a good local field team and/or local colleagues who will be able to advise and help and make good decisions in such circumstances
- Making sure that you know about the country you are travelling to in advance – asking the advice of other colleagues that have experience there if you are unsure
- Making sure everyone in the team knows about the Bribery Act and its implications

It was pointed out that colleagues from other countries may not be covered by the UK Bribery Act and as a result are happy to pay a bribe (i.e. facilitation payment).

### ***Gifts not bribes?***

We talked about the common practice of giving small gifts to colleagues and research participants – which is certainly NOT prohibited through the Bribery Act. We discussed the ways in which gift-giving can merge into bribery in practice however. The appropriateness of giving small gifts needs to be decided in context however as we discussed potential problems of raising expectations over the giving of gifts for future researchers; but also how it can address problems of ‘researcher fatigue’.

Ideas of gifts to give included:

- Hold a BBQ/meal for people within a community who participated in research – but expect other members of the community to come along too!
- If working in a community, give to the local school, asking the teachers what would be appropriate and buying this locally if at all possible
- Giving small bars of chocolate to participants in cocoa-growing areas who have never actually tasted chocolate before!

## RESOURCES

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Government website:

- <https://www.gov.uk/government/publications/bribery-act-2010-guidance>

University of Edinburgh

- Policy: <http://www.docs.csg.ed.ac.uk/HumanResources/Policies/Bribery-Anti Bribery and Corruption Policy.pdf>
- Training: <http://www.ed.ac.uk/human-resources/learning-development/courses/anti-bribery>

Other University’s resources

- <http://www.exeter.ac.uk/staff/employment/codesofconduct/bribery/>