

Ethical Business: Fraud and Bribery Prevention Policy

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POLICY

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**HERIOT-WATT UNIVERSITY
ETHICAL BUSINESS: FRAUD AND BRIBERY PREVENTION POLICY**

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POLICY

1. INTRODUCTION

Heriot-Watt University values its reputation for ethical business practice, honesty, financial probity and reliability. This includes the University being, and being seen to be, honest and opposed to fraud, bribery and corruption in the way it conducts its business and across all of its activities.

We recognise that the University's good reputation is a significant asset. In our determination to protect our reputation, the University is committed to the Nine Principles of Public Life in Scotland (see Appendix B)

In the conduct of our business the University aims at all times to:

- act with honesty, integrity and transparency;
- act in an ethical and lawful manner;
- act in compliance with all relevant laws and regulations: in the UK and in other countries in which we carry out business activities, complying with the spirit as well as the letter of these laws and regulations;
- foster an ethical business culture within the University and communicate this to others with whom we engage and associate; and
- demonstrate our zero-tolerance towards fraud and bribery.

This policy is one of a suite of policies that the University has in place to support the conduct of ethical business. The full list of those policies can be found at section 9.

2. PURPOSE

This policy sets out the University's commitment to the prevention of fraud, bribery and corruption associated with its business activities, in particular, compliance with relevant legislation, and to developing an anti-fraud, bribery and corruption culture across the University in all parts of the Heriot-Watt Group and at all campuses.

The summary legal definitions and legislation relevant to fraud, bribery and corruption at the principal territories within which the University operates are contained at Appendix A. Similar legal definitions of fraud and bribery are in operation at these locations; however, UK legal definitions of fraud, bribery and corruption have been used throughout to develop this policy. All University staff are expected to comply with this policy at all times and at all locations; however, if any member of staff has any concerns about compliance with relevant legislation in their territory and any potential conflicts with this policy, they should contact the University Secretary in the first instance for advice on how to proceed.

In meeting our commitment to ethical business practice, the University shall:

- ensure that the *Ethical Business: Fraud and Bribery Prevention Policy* is appropriately implemented, communicated, monitored, evaluated and reviewed, and ensure that other University policies, which have relevance to fraud and bribery prevention and reporting, also reflect, as appropriate, the legislation and the University's stated fraud and bribery prevention objectives.
- ensure that the underpinning policies and procedures that the University has in place to prevent fraud and bribery being committed on our behalf are effective in delivering our fraud and bribery prevention objectives, and are informed by the set of **six principles** set out in the Bribery Act and adapted for the University's purpose:

Principle 1: Proportionate procedures

- In pursuing our fraud and bribery prevention objectives, the University will put in place underpinning policies and procedures which are proportionate to the fraud and bribery risks associated with our business activities, as informed by appropriate regular ongoing risk assessment processes within the University.

Principle 2: Commitment of senior management

- The senior management of the University, which is known as the University Executive (UE), is committed to preventing fraud and bribery by persons associated with the University and is responsible to the University Court, which has ultimate authority for ensuring that the University has adequate controls and procedures in place to identify and manage fraud and bribery, as well as other associated business risks.

Through the office of the University Secretary, the UE will ensure that the University's fraud and bribery prevention stance is communicated effectively and that any formal communications issued by the University carry appropriate senior management endorsement. Through the office of the University Secretary, the UE will also ensure senior management involvement and oversight of the development, implementation, communication, monitoring, evaluation and review of the University's *Ethical Business: Fraud and Bribery Prevention Policy*.

Principle 3: Risk Assessment

- The University shall ensure, in line with its approved risk management processes, that regular assessments are undertaken of the nature and extent of our exposure to internal and external risks of fraud and bribery, and shall ensure timely actions in response to identified risks including, as necessary, making alterations to its policies and procedures to mitigate the risks and communicating these changes.

Principle 4: Due diligence

- The University shall ensure that due diligence procedures in relation to fraud and bribery prevention are incorporated within the University's wider due diligence procedures. In determining whether, and the extent to which, due diligence should be undertaken as a proportionate step to mitigate fraud and bribery risks, the University's decisions shall be informed by the outcomes of regular processes of risk assessment. Fraud and bribery prevention objectives will be reflected in due diligence in relation to the appointment or commissioning of: agents, intermediaries, contractors, suppliers of goods, consultancy and other services, as well as appraisal of prospective business partners.

Principle 5: Communication and training

- The University shall ensure that a range of tailored communications and awareness raising activities are undertaken which take account of the nature and extent of fraud and bribery risks and which promote understanding of the University's fraud and bribery prevention stance both within and outwith the University.

Principle 6: Monitoring and review

- The University shall ensure that regular processes of monitoring, evaluation and review of the effectiveness of its *Ethical Business: Fraud and Bribery Prevention Policy* are in place. These processes, and any

required adaptation of the Policy, will be informed by any future changes to fraud and bribery prevention legislation, the external environment in which we conduct our business, best practice guidance and the outcomes of the University's regular risk assessments.

3. PRINCIPAL POLICY OBJECTIVES

In order to minimise the risk and impact of fraud and bribery, the University's objectives are:

- firstly, to create a strategy and culture which deters fraudulent and corrupt activity including bribery, encourages its prevention, and promotes its detection and reporting, and
- secondly, to ascertain and document its response to cases of fraud, bribery and corrupt practices.

The University **prohibits** any action which is intended to bring about gain of any commercial, contractual or other advantage for the University in a way which is unethical, or which is intended to bring about gain, financial or otherwise, to an individual operating for or on behalf of the University or anyone connected with that individual, in a way which is unethical.

The University shall rigorously investigate instances of alleged fraud or bribery and shall assist the police and other relevant authorities in any resulting prosecution.

The University **prohibits**:

1. the **offering or giving** of any direct or channelled bribe, whether this be a financial or other inducement by any individual employee, agent or other person or body acting on behalf of the University,
2. the **solicitation or acceptance** of any direct or channelled bribe, whether this be a financial or other inducement received or receivable by any individual employee, agent or other person or body acting on behalf of the University, from any individual or company, whether they are situated in the UK or overseas, whether the individual is operating in an official capacity (e.g. a public official or employee of an organisation), or in an individual capacity.
3. the **offering or giving** of any direct or channelled bribe to a foreign public official, whether this be a financial or other inducement by any individual employee, agent or other person or body acting on behalf of the University. A foreign public official includes officials, elected or appointed who hold a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside of the UK.

The University is committed, within the scope of its fraud and bribery prevention objectives, to act with the aim of reducing, as far as possible, the risk that an individual or body associated with the University engages in bribery. Under the terms of the Bribery Act, a commercial organisation may be acting illegally if it fails to prevent bribery by a person associated with it who intends to obtain or retain business or an advantage in the conduct of business for that organisation. This part of the legislation applies to the following commercial activities of the University:

- consultancy (both academic and professional service);
- contract research;

- wholly-owned subsidiary companies of the University;
- joint ventures, partnerships, strategic alliances and technology licences;
- arrangements for collaborative, joint, dual degrees and articulations;
- commercial leases and construction contracts;
- relationships with recruitment agents; and
- procurement

For the purposes of the Act, the 'associated' person includes individuals or an incorporated or unincorporated body. This includes employees of the University, agents, intermediaries subsidiaries, contractors, suppliers and other party in a joint venture where that party is performing services for the University and the bribe is paid with the intention of benefiting the University.

4. SPECIFIC POLICY OBJECTIVES

The following policy objectives apply to each member of staff and all other individuals who are operating for and on behalf of the University.

4.1 Gifts and hospitality

This section should be read in conjunction with the *Financial Regulations* and the *Ethical Business: Gifts and Hospitality Policy*.

The University **will only** give and accept gifts or hospitality for business purposes. Permissible hospitality and gifts will include, for example, ceremonial or promotional gifts, mementos or relatively low value gifts which are proportionate to circumstances and not of a scale or frequency that these might reasonably be judged inducements to undertake business or to influence business decisions.

The University recognises that what is considered customary and appropriate may vary significantly from country to country, and from one area of University business activity to another. The recipient must always be entitled to receive the gift or hospitality under the law of the recipient's country. Members of staff should refer to the guidance for accepting gifts and hospitality contained within the *Ethical Business: Gifts and Hospitality Policy*.

All members of staff who accept or offer hospitality or a gift in the course of their duties are required to provide a written record of such exchanges in the approved form. A record of hospitality and gifts will be maintained by the relevant Heads of School or Directors of Professional Services which will be reported annually to the University Secretary.

4.2 Expenses

The University **will only** pay expenses to cover costs of legitimate business activities, in accordance with the University's *Travel and Expenses Policy*. For the purposes of this policy, legitimate business activities extend to include routine business courtesies which accord with the recognised, reasonable and proportionate norms established within the University. Where a member of staff, or other individual acting for on behalf of the University, is in doubt they must seek the advice and approval of the relevant Head of School or Directors of Professional Services. Expenses submitted are subject to review to ensure they comply with University's Travel and Expenses and other applicable policies.

4.3 Political and charitable donations

The University **forbids** the giving of any political or charitable contribution or donation on its behalf, either financial or in kind. This policy does not apply to charitable funds set up by the University in the course of its development and alumni relations activities.

The University aims to ensure that the reputations of all parties, i.e. donors and all parts of the University are wholly protected from any real or perceived impropriety in the relationship that is established through the offer and receipt of a charitable gift. Charitable donations and gifts include but are not limited to cash or cheques, property, shares or bonds, tangible personal property (gifts in kind), legacy gifts, corporate sponsorship and charitable foundation gifts. This part of the Policy should be read alongside the *Ethical Business: Charitable Gift Acceptance Policy*.

4.4 Facilitation payments

The University **forbids** the offering or giving of any facilitation payment, recognising that such payments are illegal under the terms of the Bribery Act. A facilitation payment is defined as an unofficial payment made to a public official in order to secure or expedite an action (See payments to foreign public officials below).

This policy is not intended to prohibit the use of any recognised fast-track process which is available to all on payment of a fee, or to prohibit a reasonable and proportionate offer of resources to assist efficient decision making, provided that these resources are supplied for that purpose only.

Where a member of staff, or other individual acting for on behalf of the University, is in doubt they must seek the advice of the relevant Heads of School or Directors of Professional Services. The University Secretary must be consulted where uncertainty remains.

4.5 Payments to foreign public officials

The University **forbids** any member of staff, or person acting for and on behalf of the University, to make any kind of direct or channelled payment, including a bribe or other inducement to a foreign public official, or at the official's request or assent, to another individual, in order to influence or reward any action by that public official. Prohibited payments include any facilitation payment or payment made to expedite action with the purpose of securing proper performance of the official's duties.

Where a member of staff, or other individual acting for on behalf of the University, is in doubt they must seek the advice of the relevant Heads of School or Directors of Professional Services. The University Secretary must be consulted where uncertainty remains.

4.6 Finance, procurement and contracting

The University **will ensure** that our commitment to the prevention of fraud and bribery is reflected in appropriate and effective policies, policy procedures and *Financial Regulations* in relation to our sales, procurement and financial/accounting and contracting practices.

4.7 Disclosure of known or suspected unethical business practice

Known or suspected unethical business practices should be disclosed using the University's *Public Interest Disclosure (Whistleblowing) Policy*. This policy allows individuals to raise a concern knowing that their disclosure will be treated appropriately, in confidence, and that they will be supported, provided they are acting in good faith.

If the officer designated to investigate the concern, usually the University Secretary, identifies that the concern relates to an instance of actual or suspected fraud or bribery, they will determine the next steps to be taken and will be guided by the Fraud Response Plan at Appendix C which outlines the general process for investigation of suspected fraud or bribery incidents.

5. SCOPE

This policy applies to all of the University's activities at all campuses and conducted anywhere in the world and all employees*. (*for the purposes of this policy, this includes individuals who have been hired or commissioned by the University through a third party agent, or in a freelance capacity, and volunteers.) This Policy also applies to all members of the University's governing body (the Court) and those serving on its committees.

Heads of Schools and Directors of Professional Services are responsible for ensuring that newly appointed employees are briefed appropriately and provided with access to the *Ethical Business: Fraud and Bribery Prevention Policy* as part of the induction process.

The prevention, detection and reporting of fraud, bribery or any other form of corruption is the responsibility of all employees of the University. **All staff must:**

- ensure that they read, understand and comply with the University's *Ethical Business: Fraud and Bribery Prevention Policy*; and
- raise concerns as quickly as possible if they believe or suspect that this policy has been breached or may be breached in the future.

In addition to the possibility of criminal and civil prosecution, employees in breach of this policy will face disciplinary action by the University which could extend to dismissal for gross misconduct. Disciplinary action will also apply to any employee who has been found to retaliate against or threaten another member of staff who has refused to act in a way that would put that member of staff in breach of this policy or who has raised concerns in relation to this policy.

It is the aim of the University to promote the adoption of policies, consistent with the principles set out in its own *Ethical Business: Fraud and Bribery Prevention Policy*, by our partners, joint venture bodies and suppliers. A suite of ethical business policies has been developed by the University to support this aim and these are outlined at Section 9.

6. LINES OF RESPONSIBILITY

The University Secretary has overall responsibility for the *Ethical Business: Fraud and Bribery Prevention Policy* and its implementation in compliance with all relevant legislation, and the common law in relation to fraud and corruption, and also the Bribery Act 2010. Other senior officers with particular responsibilities include:

- Global Chief Financial Officer, in relation to the development, promotion of and compliance with the *Financial Regulations* and associated processes.
- Global Director of Governance and Legal Services, in relation to compliance activities.
- Global Chief Operating Officer, assisted by the Chief Operating Officers at Dubai and Malaysia Campuses in relation to the University's International Strategy and associated processes.
- Global Director of HR, in relation to employee awareness, training and discipline.
- Head of Procurement Services, in relation to procurement regulations and associated processes.
- Deputy Principal (Business and Enterprise) and Chief Entrepreneurial Executive, in relation to business associations / partnerships, technology transfer and enterprise related activities.
- Deputy Principal (Research and Innovation) and Global Director of Research Engagement in relation to research activities.
- Global Chief Operating Officer in relation to student recruitment related activities.
- Global Academic Registrar in relation to student admissions.
- Head of Development and Alumni, in relation to alumni relations, donations and institutional development.
- Heads of Schools, in relation to their respective academic partnerships (both teaching and research based).

7. MONITORING AND EVALUATION

- 7.1 This policy will be reviewed every two years.
- 7.2 The procedures associated with this policy will be reviewed annually in the light of the outcomes of the University's risk assessments.
- 7.3 The University's record of hospitality and gifts, signed off, as required, by the relevant Heads of School/Directors of Professional Services, will be reviewed annually.
- 7.4 A report will be submitted to the University Court annually which provides monitoring and review evidence of the effectiveness of the *Ethical Business: Fraud and Bribery Prevention Policy* in meeting fraud and bribery prevention aims and objectives.

8. IMPLEMENTATION

The University Secretary is responsible for ensuring the effective implementation of this policy and the associated policy procedures, delegating authority as appropriate to the senior managers set out in 6 above.

The University **will ensure** that implementation of this policy is supported by effective procedures guidance and appropriate generic and role-based communications, training and awareness-raising measures, applicable to all individuals and bodies referred to in 5 above.

9. RELATED POLICIES, PROCEDURES AND FURTHER REFERENCE

Conflict of Interest Policy (staff)

<https://www.hw.ac.uk/uk/services/docs/hr/policies/conflict-of-interest-policy.pdf>

Ethical Business: Conflict of Interest Policy (Governors)

<https://www.hw.ac.uk/uk/services/docs/ethicalbusinessconflictinterestpolicy-1.pdf>

Public Interest Disclosure (Whistleblowing) Policy

<https://www.hw.ac.uk/documents/public-interest-whistleblowing-policy.pdf>

Travel and Expenses Policy

<https://www.hw.ac.uk/documents/travel-expenses-policy.pdf>

University Financial Regulations

<http://www1.hw.ac.uk/reference/financial/regulations.pdf>

Ethical Business: Gifts and Hospitality Policy

<https://www.hw.ac.uk/documents/ethical-business-gifts-hospitality-policy.pdf>

Ethical Business: Charitable Gifts Acceptance Policy

<https://www.hw.ac.uk/documents/ethical-business-charitable-gifts-acceptance-polic.pdf>

Ethical Business: Anti-Money Laundering Policy *[October 2020: Under development]*

The Bribery Act 2010

<http://www.legislation.gov.uk/ukpga/2010/23/contents>

Protect At Work – The Whistleblowing Charity

[Protect - Speak up stop harm \(protect-advice.org.uk\)](http://protect-advice.org.uk)

10. POLICY VERSION AND HISTORY

Version No	Date of Approval	Approving Authority	Brief Description of Amendment
V4.4	July 2011	PME	
V5	November 2013	Court and the UE	Minor amendments to approving authority (UE replaces PME). Strengthened statement re penalties associated with violation of the Act.
V6	March 2017	Court	Minor updates. The Policy is now explicit in its scope extending to members of the Court and Court Committees.

V7	Dec 2020	Court	Re-development of the policy to cover fraud as well as bribery objectives as well as the changed leadership structure of the University.
V8	March 2021	Court	Final amendments to incorporate legal definitions of fraud and bribery at UAE and Malaysia, clearer links with Whistleblowing policy and incorporate results of review by RSM

POLICY

APPENDIX 1 - Legal definitions of fraud, bribery and corruption for UK, United Arab Emirates and Malaysia

Fraud definition

This appendix sets out the broad legal definitions of fraud, corruption and bribery in the principal locations the University operates in Scots Law (fraud), and the UK Bribery Act 2010 (bribery and). These definitions have been used to develop this policy. At the other principal locations the University operates, the United Arab Emirates and Malaysia have similar definitions of fraud and bribery to the UK and these are outlined below also for reference.

Fraud – Scots Law:

Fraud is a crime with a broad definition in Scots Law. The term 'fraud' is commonly used to describe a wide variety of dishonest behaviour and includes acts such as: deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation and concealment of material facts. It is usually used to describe the act of depriving a person of something by deceit, which may involve the misuse of funds or other resources, or the supply of false information. Fraud can be perpetrated by persons outside as well as inside an organisation and by collusion. Attempted fraud is treated as seriously as accomplished fraud. For practical purposes, fraud may be defined as the use of false pretence with the intention of achieving a definite practical result.

Bribery – UK legislation:

The Bribery Act 2010 (the Act) which extends to all parts of the UK came into force on 1 July 2011. The Act is available at: <http://www.legislation.gov.uk/ukpga/2010/23/contents>

The Act sets out **four** offences:

- the **general offence** of paying bribes (active bribery);
- the **general offence** of receiving bribes (passive bribery);
- the bribery of foreign officials; and
- the failure of commercial organisations to prevent bribery

In terms of the **general offences** under the Act:

1. **paying bribes:** it is an offence to offer or give a financial advantage with the intention of inducing that person to perform a 'relevant function or activity' 'improperly' or to reward that person for doing so. (*Section 1 of the Act*)
2. **receiving bribes:** it is an offence to receive a financial or other advantage intending that a 'relevant function or activity' should be performed 'improperly' as a result. (*Section 2 of the Act*)

'Relevant function or activity' includes any function of a public nature and any activity connected with a business. 'Improper performance', as described in Guidance to the Act, 'means performance which amounts to a breach of expectation that a person will act in good faith, impartially, or in accordance with a position of trust', and is judged by whether it breaches the expectation of 'what a reasonable person *in the UK* would expect in relation to the performance of that function or activity.' In terms of the Act, the function or activity need have no connection to the UK.

In terms of the **further two offences** under the Act:

3. **Bribery of foreign officials:** it is an offence to offer promises or give a financial or other advantage to a foreign public official with the intention of *influencing* the official in the performance or his or her official functions. In creating the offence, the person

offering, promising or giving the advantage must also intend to obtain or retain business or an advantage in the conduct of business by so doing. (*Section 6 of the Act*)

4. **Failure of a commercial organisation to prevent bribery:** a commercial organisation will be liable to prosecution if a person associated with it bribes another person intending to obtain or retain business or an advantage in the conduct of business for that organisation. This section of The Act is applicable to the activities of companies and partnerships and applies to employees, agents or other third parties acting on the corporates' behalf. (*Section 7 of the Act*) This section of the Act applies to certain activities of the University which are set out in section 3 below.
5. A violation of the Act may result in some or all of the following consequences and penalties for the University:
 - Criminal penalties and possible unlimited fines for the University
 - Members of Court could face unlimited fines themselves and/ or jail sentences of up to 10 years
 - Indefinite debarment from public procurement contracts
 - Damage to reputation
6. A violation of the Act may result in some or all of the following consequences and penalties for individuals:
 - Prosecution
 - Unlimited fines and/ or jail sentences of up to 10 years
 - Disqualification from holding a directorship for up to 15 years

United Arab Emirates (UAE) – Anti-Fraud legislation

The UAE has similar legislation and case law to the UK in relation to Anti-Fraud and bribery:

In relation to Fraud, Article 399 of the UAE Penal Code states:

Any person who has been successful in procuring movable property, or a signature, or a deed or has been able to succeed in cancellation, destruction or modification of such things, by using deceptive methods, or by providing falsified information or misrepresenting one's capacity, name or details. Further, it extends the inclusion of fraudulent disposal of immovable or movable property. Any person who disposes of another person's property, or disposes such property without a valid legal capacity to do so, or disposes of a property which has been sold already, in a manner causing damage to the persons involved, shall be deemed to have committed fraudulent disposal of property. Where the property or deed is owned by the state or government employees, military members, employees of security bodies or any other such persons as specified in article 5 of the Penal Code, it shall result in even more grave offense of fraud. Let us look into the interpretations laid down by the UAE's courts on what elements must be present to constitute a crime of fraud.

Case law has further clarified that a person can be held liable for committing an offense of fraud, only if monetary benefits or properties have been obtained from the victim, and the following legal elements are established:

- Intention to deceive the victim, in order to acquire the funds;
- By using deceitful or fraudulent methods like: concealing one's true identity or capacity or any such misrepresentation of facts or information;
- Where such fraudulent methods have resulted in the victim to believe in the existence of a false project or forged incidents, and thereby, wilfully engages in giving anything of value to the person deceiving.

United Arab Emirates (UAE) – Anti-Bribery legislation

The UAE uses proactive measures to indict individuals who violate the Federal Penal Code's anti-bribery legislation. The regulations were enacted in the 1980s. Numerous legislative texts beyond the Federal Penal code, such as the Dubai Penal Code, Human Resources Law, Commercial Companies Law, and Federal Money Laundering Law have been established to curtail bribery within both private and public sectors. Collectively, these governmental efforts have aided the UAE in maintaining a commendable corruption perception rank of 23 by Transparency International.

Below is an overview of UAE anti-bribery legislation, assessing federal, state, and international standards.

The UAE's Federal Penal Code - Articles 234 through Article 239 of the Federal Penal Code (the 'Code') comprises rules prohibiting bribery for employees working in either private or public sectors. These provisions are located under Part Two- Crimes Pertaining to Public Office (Bribery).

The UAE Penal Code bears the capacity to penalize all dimensions fuelling a bribery act. Although both GAN Integrity and Transparency International have estimated the UAE's corruption status to be minute, corruption cases are not unfamiliar to Emirates' courts.

UAE Bribery Legislation: Beyond the Federal Penal Code - While the Federal Penal Code provides a backbone to UAE anti-bribery legislation, it is not the only legal text forbidding the act. Emirates such as Dubai and various other Federal decrees have established strict mandates banning bribery practices:

Federal Decree Law Number 11 of 2008 - This legislation as amended by Federal Decree Law Number 9 of 2011 and Federal Decree Law Number 17 of 2016, outlines the UAE's Human Resources Law. Establishing a variety of responsibilities for federal entities, employees, and regulations for workplace health and safety, the Human Resources Law also provides policies surrounding 'Gifts & Bribes.' Under Article 70 of the Decree, five stipulations are presented for employees.

Federal Law Number 8 of 1984 (the Commercial Companies Law) – This law prohibits acts of bribery in context to financial statements and external UAE company auditors. Article 197 of the Federal law outlines restrictions for public and private joint-stock companies. This article 'restricts a company from offering [or guaranteeing] any type of cash loan to the chairman of the company or a member of the board of directors.' Further, in Article 198, public and private joint-stock companies are forbidden to create 'any loans or donations within two years of incorporation of the company unless these donations are made by way of customary gifts from the profits of the company.'

Federal Law Number 4 of 2002 (the Federal Money Laundering Law) – This law denotes in Article 2(1) that participation in any of the following property related acts will constitute an offense of money laundering: 'a. The conversion, transfer or deposit of Proceeds, with intent to conceal or disguise the illicit origin of such Proceeds, b. The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership or Proceeds, c. The acquisition, possession or use of such Proceeds.' The Federal Money Laundering Law constitutes Property as a means which can be derived from an act of bribery (Article 2(2))

The Dubai Penal Code – This code comprises provisions on the illegalization of bribery and misuse of public office. Per the 1970 Code, an individual caught either receiving or offering a bribe will be reprimanded.

Within the Dubai Penal Code, Article 118 prohibits 'the taking of a gratification by a public servant in respect of an official act,' Article 119 forbids 'taking a gratification in order, by corrupt or illegal means, to influence a public servant in respect of an official act,' and Article 121 outlaws 'the obtaining of any valuable thing by a public servant, without consideration, from a person concerned in any proceeding or business transacted by such public servants.'

According to the Penal Code, should an individual violate any of the three articles cited above, punishment via incarceration or fine will ensue. Breach of Articles 118 or 119 will result in either maximum imprisonment for no more than three years or a maximum fine of 5,000 riyals. Violation of Article 121 will result in either maximum one-year imprisonment, or a fine not exceeding 1,000 riyals.

The UAE and the United Nations Convention Against Corruption (UNCAC) –

Establishing status as a signatory to the United Nations Convention Against Corruption in 2005, the UAE declared alignment with the United Nation's (UN) concern surrounding the 'seriousness of problems and threats posed by corruption to the stability and security of societies' (Preamble). Upon becoming a Member Party, the UAE agreed to a series of provisions combatting the corrosive effects of corruption. Specifically, pertaining to bribery, Member Parties agree to the importance of focusing on the criminalization of bribery for both the public and private sectors. The Convention contains four articles which articulate regulations on acts of bribery: Articles 12, 15, 16, and 21.

Malaysia – Anti-Fraud legislation

The key legislation relevant to fraud-related civil asset recovery includes the Companies Act 2016, Contracts Act 1950, Sales of Good Act 1957, Trustee Act 1949 (Revised 1978), Evidence Act 1950, Limitation Act 1953 and the Rules of Court 2012. In respect of criminal offences and liabilities, the relevant legislation would be the Penal Code and the Criminal Procedure Code.

The Malaysian Penal Code (Act 574) is the principal legislation describing criminal offences relating to fraud. A fraudulent act may give rise to offences of theft, criminal misappropriation of property, criminal breach of trust, cheating, fraudulent deeds and dispositions of property, and forgery under the Penal Code.

Malaysia – Anti-Bribery legislation

There are a number of key pieces of legislation relating to bribery in Malaysia. The most relevant ones and their key points are listed below.

Penal Code (Act 574) - The Malaysian Penal Code (Act 574) is the principal legislation describing criminal offences relating to fraud and bribery

Malaysian Anti-Corruption Commission (Amendment) Act 2018 (Act A1567) – Under Section 17A, the law imposes liability on any person associated with the organization including the company's directors, officers, partners, employees or anyone who performs services on behalf of the organization could be held personally responsible. The individual could face prosecution and imprisonment of up to 20 years if the company did not have adequate procedures in place to prevent corruption. Companies could be fined 'not less than 10 times the value of the gratification or RM1million, whichever is higher.'

APPENDIX 2 - THE NINE PRINCIPLES OF PUBLIC LIFE

PUBLIC SERVICE

Holders of public office have a duty to act in the interests of the public body or which they are a board member and to act in accordance with the core tasks of the body.

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY AND STEWARDSHIP

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

RESPECT

Holders of public office must respect fellow members of their public body and employees of the body and the role they perform, treating them with courtesy at all times.