

<b>Committee(s):</b> Risk Committee of the Barbican Centre Board	<b>Date(s):</b> 29 June 2016
<b>Subject:</b> Bribery and Corruption: Policies	<b>Public</b>
<b>Report of:</b> Chief Operating & Financial Officer	<b>For Information</b>
<b>Report authors:</b> Nadine Rodrigues – Barbican Centre; Neil McConnon – Barbican Centre; Niki Cornwell – Barbican Centre	

### **Summary**

The Risk Committee of the Barbican Centre Board previously considered the implications of the Bribery Act on the Centre, particularly in the context of touring exhibitions and the potential situations that Barbican International Enterprise (BIE) staff might find themselves in. A further paper was subsequently submitted outlining the policies and training currently in place for all Barbican staff.

This report lays out the clauses included in all BIE contracts in order to safeguard against the risks related to the Bribery Act 2010, and denotes the uptake of required training in order to ensure the team which oversees the touring enterprise are adequately informed and equip to deal with potential threats which may arise during their usual course of Business.

### **Recommendation(s)**

Members are asked to:

- Note the report.

### **Main Report**

#### **Background**

1. In October 2015, the Risk Committee of the Barbican Centre Board received a report setting out the implications of the Bribery Act 2010 for the Barbican. In January 2016, the Risk Committee of the Barbican Centre Board then received a further report clarifying the guidance and training in place for Barbican staff.
2. The BIE Department is led by Neil McConnon who was previously sought for comments regarding the existing guidance in place. Further to this, it was suggested a formal structure be implemented which would ensure all relevant members of the team are inducted onto all advised training.

#### **The Bribery Act and its impact on the Barbican**

3. The Bribery Act came in to force on 1 July 2011. It provides a modern and comprehensive scheme of bribery offences that will enable courts and prosecutors to respond more effectively to bribery in the UK or abroad.

4. The legislative requirements bind all individuals and organisations defined with the Act.
5. Consequences of not implementing adequate procedures should bribery be found at the Barbican include:
  - a. Risk of organisation being penalised with an unlimited fine.
  - b. Serious reputational damage sustained, impacting on the standing of the organisation amongst its peers, staff morale, public image and regulatory bodies through revealing an ineffective governance framework.
  - c. Financial loss sustained through non-award of contracts which represent best value for money as a result of contracts awarded subjectively from inducements.
  - d. Conviction of the corporate offence can result in disbarment under both EU and US rules.

### **Policies**

6. The City of London Corporation has in place a number of relevant policies and strategies in relation to the Bribery Act.

#### *Code of conduct: Bribery and Corruption*

7. First of these is the Code of Conduct, by which all employees are contractually bound. This Code contains a specific section on Bribery and Corruption, setting out the expectations on all staff. This is attached at Appendix 1 for Members' information.
8. As with the Whistleblowing Policy, all new starters are required to familiarise themselves with the Code of Conduct as part of their induction process, sign a document confirming this familiarisation, and also note that they are contractually bound to comply with the Code of Conduct.
9. All members of the BIE team (including those on short term contracts & guest curators) have returned signed contracts, binding them to the Code of Conduct and contents therein. Additionally, the relevant sections of the code (as per appendix) have been recirculated to the team for review.
10. The Barbican intranet site (BIZ) and City Corporation intranet also have links to the Code of Conduct through the Employee Handbook.
11. The Code of Conduct also contains an associated section on gifts and hospitality, clearly setting out the expectations and requirements for registering or accepting any such offers. This guidance is also set out at Appendix 1.
12. The guidance around conflicts of interest, gifts and hospitality was reviewed and updated following the implementation of the Bribery Act.

### Training

13. Fraud awareness is a mandatory course for all staff, including Barbican staff (but excluding Police civilian staff, who receives different but comparable training). The training course includes a substantial section specifically on the Bribery Act 2010, its implications and the requirements for staff.
14. Of the 10 employees currently working under the BIE remit, 6 have completed the training. The remaining 4 members of the team will undergo training in coming weeks.
15. The City hosts a “lunchtime learning” course covering the Bribery Act routinely throughout the year. Core members of the team will enrol on this course in the coming months, with reiteration of its contents to be reviewed regularly during team meetings.

### **Contractual Safeguards**

16. All contracts issued in relation to BIE tours are thoroughly reviewed and amended by Neil and the City Solicitor’s department on a case by case basis, taking into account the specifics arising during the course of negotiations and related to the continent to host the exhibition.
17. The Comptroller & City Solicitor’s Office have confirmed the template which forms the basis of each BIE exhibition contract includes the following clauses:
  - a) The Producer shall comply with the following anti-corruption conditions:
    - i. Any person or body engaged or appointed by the Barbican either to provide services or execute works or supply goods or materials of any kind or nature whatsoever or who hires or uses any Barbican property who shall give offer or allow any gratuity gift or benefit of any kind to any person in the Barbican’s employ (whether under a contract of or for services) shall not be engaged or appointed by the Barbican in respect of any further such provision execution or supply nor permitted any further hire or use.
    - ii. The provisions of paragraph (i) shall apply whether or not the giving offer or allowance was (a) made by an employee, agent or sub-contractor of the person or body and (b) authorised by the person or body.
    - iii. Persons and bodies to whom paragraph (i) applies shall have their attention drawn to the provisions of the National Code of Local Government Conduct (as amended from time to time).
  - b) The Producer shall comply at all times with the provisions of the Bribery Act 2010, in particular Section 7 thereof in relation to the conduct of its employees, or persons associated with it. Any breach by the Producer of this provision shall entitle the Barbican to terminate this Agreement with immediate effect and recover from the Producer any losses arising from such termination

- c) Any breach by the Producer of condition (a) or (b) shall entitle the Barbican to terminate this Agreement with immediate effect and recover from the Producer any losses arising from such termination.

### **Conclusion**

18. This report sets out the various policies, guidance and training courses in place for all staff to ensure that all individuals working within BIE are aware of the implications of the Bribery Act 2010. It also details the BIE department's uptake of detailed courses.
19. Furthermore, this report clarifies the legal clauses currently included in all BIE final contract agreements to safeguard against the financial risks and threats related to the Bribery Act 2010.

### **Appendices**

- Appendix 1: Code of Conduct (relevant extracts)

#### **Nadine Rodriques**

Commercial Analyst, Barbican Centre  
T: 020 020 7382 5257  
E: [nadine.rodriques@barbican.org.uk](mailto:nadine.rodriques@barbican.org.uk)

#### **Neil McConnon**

Head of Barbican International Enterprise, Barbican Centre  
T: 020 020 7638 4141 (Ext: 7572)  
E: [neil.mcconnon@barbican.org.uk](mailto:neil.mcconnon@barbican.org.uk)

#### **Niki Cornwell**

Head of Finance, Barbican Centre  
T: 020 7382 6119  
E: [niki.cornwell@barbican.org.uk](mailto:niki.cornwell@barbican.org.uk)

**Code of Conduct: Relevant Extracts**

**Corruption and Bribery**

45. Employees must be aware that it is a serious criminal offence (and an act of gross misconduct) for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained. Such acts may compromise the impartiality of the City Corporation and cause reputational, legal and financial damage.
46. It is important to avoid the perception as well as the fact of corruption or bribery and employees must comply with all applicable bribery and corruption laws.
47. Employees will not offer, promise, give, request, or agree to receive, or accept any bribes:
- in the course of their employment;
  - when conducting City Corporation business; or
  - when representing the City Corporation in any capacity.

A bribe means a financial payment or other forms of reward or advantage, whether direct or indirect, that is intended to induce or influence, or has the effect of inducing or influencing, an individual, company or public body (whether in the UK or abroad) to perform their functions, including business and public duties, improperly. Improper performance includes:

- not acting in good faith
  - not acting impartially; and
  - not acting in accordance with a position of trust.
48. Employees must not act fraudulently, particularly in relation to The City Corporation's resources or assets.

**Hospitality and Gifts**

54. There can be little doubt that the acceptance of gifts by employees from persons who have, or may seek to have, dealings with the City Corporation would be viewed by the public with grave suspicion and would make the employee concerned and the City Corporation extremely vulnerable to criticism.
55. An employee should tactfully refuse any personal gift which is offered to him/her or a close relative by, or indirectly attributable to any person or body who has, or may have, dealings of any kind whatsoever with the City Corporation or, who has applied, or may apply, to the City Corporation for any kind of decision.
56. The only exceptions to this rule that have been agreed are:-
- Small gifts of only token value often given by way of trade advertisements to a wide range of people, e.g. calendars, diaries, pens, pencils and similar articles of use in the workplace (up to a maximum value of £20)

- Small gifts of only token value given on the conclusion of a courtesy visit or visit by/to dignitaries, (up to maximum value of £20)
  - Working meals which are permissible, provided the employee has the approval of the Chief Officer
  - Chief Officers or appropriate employee nominated to represent them can attend work related functions as the City Corporation representative
57. When acting under this dispensation, employees must complete the appropriate declaration (e-form available on the intranet). The completed form will need to be sanctioned by the Line Manager in advance.
58. If there is any doubt about whether a gift may be accepted the gift should be politely and tactfully refused.
59. Employees are reminded that they are forbidden under the terms of their office and employment to accept any fee or reward other than their proper remuneration and any person who contravenes this provision would be liable to Court proceedings.
60. In the event of an employee receiving a gift without warning, which does not fall in any of the exceptions mentioned above, this should immediately be reported to a Chief Officer who will be responsible for deciding whether the gift should be returned.
61. Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the City Corporation in the community, establish or maintain good business relationships, and/or improve the image and reputation of the City Corporation; provided that this is in good faith and not likely to secure advantage or have an intention to induce. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the City Corporation should be seen to be represented.
62. When acting under this dispensation, employees must complete the appropriate declaration e-form, which is accessible from the City Corporation's Intranet site before the hospitality is taken up. The completed form will automatically be forwarded to the employee's line manager for approval and copied to the Town Clerk's Department for monitoring purposes.
63. When hospitality has to be declined the offer should be courteously but firmly declined and it should be explained to the other party the procedures and standards operating within the City Corporation.
64. When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation, for example, to decisions which the City Corporation may be taking affecting those providing the hospitality.
65. Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the City Corporation gives consent. Where visits to inspect equipment or review services by undertaking site visits etc. are required,

employees should ensure that the City Corporation meets the cost of such visits to avoid jeopardising the integrity of subsequent procurement decisions.

66. Hospitality should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and not extravagant and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of hospitality.