

Ethical Conduct: Bribery, Fraud, Gifts, Hospitality and Conflict of Interests Policy

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Department:	Secretariat & Legal
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Related policies:	<u>Public Interest Disclosure Policy (Whistleblowing Policy), Staff Expenses Policy, Donations Policy, Purchase Card Policy, Code on Good Research Practice, Data Security Policy, Sustainable Procurement Policy, Staff Handbook (staff conduct), Risk Assessment and Procedures</u>
Policy History	

Version History

Version	Author	Revisions Made	Date
1			1 October 2011
2		Update to Secretariat contact details	September 2013
3		Revisions to policy and Secretariat contact details. Updated annexes.	October 2014
4		Policy Review	January 2017

Approval History

Equality Analysis

Version	Reviewed by	Comments	Date
4	Jo McCarthy-Holland	Version 3 was reviewed 17 September 2014 for equality relevance and is in keeping with the requirements for non-discriminatory and inclusive practices as outlined in the University Equality, Diversity and Inclusion Scheme. This is subject to ongoing review and data will be monitored to ensure that any issues relating to particular protected groups are addressed. There are no significant amendments and therefore no requirement for Version 4 to be reviewed.	10 January 2017

Committee Sign Off

Version	Committee Name	Date of Final Sign Off
1	Executive Board	23 September 2011
1	Council	29 September 2011
3	Executive Board	15 October 2014
4	Executive Board	26 January 2017

1 Introduction

1.1 Purpose

The University values its reputation for ethical behaviour and financial probity and seeks to conduct its affairs in a manner which limits the risk of exposure to **bribery** and **fraud**. As excessive **gifts** or hospitality may constitute **bribery**, University staff or **associated persons** shall not give or receive **gifts** or hospitality otherwise than in accordance with this Policy and the Donations Policy.

Staff shall never use their office or employment for personal gain and must at all times act in good faith with regard to the University's interests. It is therefore committed to preventing **bribery** and **fraud** by its staff and any third party acting for or on behalf of the University.

1.2 Scope

This policy is binding on all staff, including but not limited to Members of Council and its Committees and students. Refusal to observe it will be grounds for disciplinary action in accordance with the University's Disciplinary Procedures.

It should be noted that this policy does not cover Ethical Conduct in Research. This is covered in the [Code of Practice on Handling Allegations of Misconduct](#).

1.3 Definitions

Words in bold are defined at Annex 1.

1.4 Regulatory and Legislative Context

This document is intended to assist the University in:

- a) complying with the **Bribery** Act 2010;
- b) complying with the **Fraud** Act 2006;
- c) meeting its obligations to HEFCE under the Memorandum of Assurance and Accountability; and
- d) demonstrating compliance with the good practice set out in the CUC Guide for Audit Committee members (2008) and Governing Bodies (2009).
- e)

1.5 Clarification

Genuine hospitality or similar business expenditure that is reasonable and proportionate will not be caught by the above legislation.

2 Policy

2.1 Principles

The University has no tolerance of **bribery** or **fraud** within its operations and University employees and **associated persons** must not engage in any form of **bribery** or **fraud** with regard to activity carried out on behalf of the University. The University will take appropriate action to prevent **bribery** and all forms of **fraud** in the University. No University employee or **associated person** shall seek a financial or other advantage for the University through **bribery**. No University employee or **associated person** shall offer, promise, give, request, agree to receive or accept a bribe for any purpose.

The payment or acceptance of **facilitation payments** by University employees and **associated persons** is unacceptable. The only exceptions are where the employee or **associated person** is in a vulnerable position. In such cases, the payment should be reported in advance or as soon as is reasonably practicable in accordance with the procedures in Section 2.2. (The Reporting / Investigation Procedures).

The University has established systems and procedures which are designed to minimise the incidence of **fraud**, limit its impact and ensure its prompt detection. These systems and processes are embodied in the Financial Regulations.

University employees who suspect that **bribery** or **fraud** have occurred are required to report such instances internally, through the channels described in Section 2.2. The University will investigate, report and record in accordance with these procedures. Managers should familiarise themselves with the types of **fraud** and dishonesty that might occur within their areas. Managers should be aware that certain patterns of behaviour may indicate a desire for concealment, for example:

- Taking few holidays
- Resistance to delegation
- Resentment to normal discussions of work issues
- Frequently working alone late or at weekends

Managers should consider the risk of **fraud/bribery** when these patterns of behaviour are apparent in their staff.

Staff should not accept any **gifts** or hospitality which would put them in a position where they might be, or might be deemed by others to have been, influenced in making a business decision as a consequence of accepting the **gift** or hospitality. Any **gifts** or hospitality the University and its staff offers or receives will always be reasonable, appropriate and proper.

Staff are responsible for disclosing any personal, financial or beneficial interest which may lead to a **Conflict of Interest**.

Bribery and **fraud** by University employees will be treated as a serious disciplinary offence resulting potentially in dismissal and/or legal action.

2.2 Reporting and Investigation Procedures

2.2.1 Corporate hospitality

Where **corporate hospitality** involves representatives from a number of other client companies and is directed at other guests, broadly at the level of the University employee concerned, the potential **Conflict of Interest** is not considered high. This is always subject to the level of corporate hospitality being appropriate for the event, e.g. hospitality should not include the company providing accommodation or significant travel provisions free of charge.

- a) All **corporate hospitality** should be pre-authorized in writing by the employee's line manager using the online [Record of offer of hospitality](#) form or a hard copy attached at Annex 2. If the hard copy is completed, the approved form should be submitted to the Secretariat via email to secretariat@surrey.ac.uk (with a copy to the employee).
- b) **Corporate hospitality** should never be accepted from an organisation (or its parent company) which is in receipt of or has recently submitted tender documents to the University.
- c) Discretion should always be exercised when accepting **corporate hospitality**

as the company (including other divisions or the parent company thereof) may be tendering to another part of the University.

2.2.2 Individual Hospitality

- a) Individual hospitality is acceptable if it simply reflects the facilitation of business in hand, e.g. a business meal when University staff are visiting a company. In such cases, no pre-authorisation or declaration is required.
- b) Individual hospitality on a larger scale should not be accepted, as it could represent an attempt by the company to secure favourable treatment by the University.

2.2.3 Acceptance of Gifts

- a) No member of staff in the course of his or her employment may accept any **gift** of money or vouchers, such as book tokens.
- b) Reasonable small tokens (e.g. inexpensive promotional items or seasonal **gifts**), from an organisation or individual (including students) may be accepted provided they do not give rise to the risk of influencing the business or academic judgement of the recipient of the **gift** or place the recipient under any obligation. If there is any doubt, the **gift** must be refused. Such small tokens are defined as being less than £50 in value for an individual item or below £100 cumulative value per annum. There is no requirement to declare **gifts** below these thresholds or where these are philanthropic gifts (and the policy for accepting philanthropic gifts has to be followed as applicable) if not connected to commercial activity.
- c) Any **gifts** received above these values should be returned to the donor concerned. Where, exceptionally, it is considered that this might cause offence, the matter should be referred to the University Secretary and Legal Counsel (USLC) at the earliest opportunity. The USLC, liaising where appropriate with other members of the Senior Management Team, will determine what further action should be taken, for example whether the **gift** can be accepted as University property.
- d) Any **gifts** above the thresholds in (b) should be reported to the Secretariat using the online [Record of Gifts](#) form or a hard copy in Annex 3, even where these are returned. If the hard copy is completed, the approved form should be submitted to the Secretariat via email to secretariat@surrey.ac.uk. The USLC will keep a record of such **gifts** to identify trends that may give rise to concerns.
- e) *Reciprocation*: Should staff be offered hospitality or **gifts**, it should be borne in mind that it is standard practice to reciprocate. Therefore, any hospitality or **gifts** that cannot be reciprocated should not be accepted.

2.2.4 Making Gifts – Students

Students are advised that, should they wish to make a personal **gift** to a member of staff, they should do so after their programme of study has been completed and the results have been announced. Students should be aware of the relevant guidelines to staff on the acceptance of **gifts** as set out at section 2.2.3 above.

2.2.5 Commercial Interests

- a) All staff must avoid personal situations which may lead to a **Conflict of Interest**. This may specifically relate to an interest, involving the employee or

close relative, or partner, outside the University which could make it advantageous for the employee to place any such personal considerations above their obligation to the University. Such potential conflicts should be reported to the employee's line manager as soon as they are identified.

- b) University staff should record all interests and **Equity Interests** they hold in companies or other trading organisations that the University or its related companies do business with or are likely to do business with using the online [Declaration of Interest](#) form found at Annex 4. If the hard copy is completed, the approved form should be submitted to the Secretariat via email to secretariat@surrey.ac.uk.
- c) The USLC will keep a register of relevant interests and, in conjunction with the employee's line manager and other senior staff, ensure that any appropriate additional measures are put in place. This might, include, for example, additional measures with regard to the procurement process.
- d) Former students or employees may be potential suppliers. It is important that they do not receive or expect to receive special consideration. If their 'inside knowledge' for instance, appears to give them an unfair competitive advantage, it may be desirable to take additional steps to ensure fair competition among all suppliers.

2.2.6 Conflict of Interests – Personal Conflicts

University staff should avoid dealing with the University's suppliers in their private affairs if there is potential for this to put them under some obligation to the supplier.

Where such arrangements are unavoidable, it is essential that staff are not offered a deal which is not commonly available, and which could be construed as a reward for actions taken in the course of their employment.

2.2.7 Bribery and Fraud

Duty to Report Suspicions:

All officers, members of staff and students are required to notify immediately the USLC (s.litchfield@surrey.ac.uk) of any suspicion of **bribery** or **fraud**. Such notifications should be made in writing (in strict confidence) and should include a brief description of the alleged irregularity, the estimated scale or scope for loss, any evidence supporting the alleged irregularity, and details of the suspected perpetrator (the respondent).

Any report made to the USLC under the above procedures will be treated as a disclosure under the University's [Public Interest Disclosure Policy](#).

Ethical Conduct Investigating Procedures will be undertaken in accordance with Annex 5 and 6.

3 Governance

Overall responsibility for the implementation of this Policy lies with Executive Board. The commitment to preventing **bribery** and **fraud** shall be clearly communicated to staff and **associated persons** by Executive Board or by its nominees.

The nature and extent of risk relating to **bribery** and **fraud** shall be regularly assessed by way of a risk assessment and appropriate procedures to prevent **bribery** and **fraud**, including proportionate preventative and detective internal controls and effective reporting procedures shall be implemented to reflect the outcomes of the risk

assessment.

Where risk assessments indicate a significant risk of **bribery** and/or **fraud**, due diligence shall be conducted prior to proceeding with the relevant transaction. Specific training for those deemed most likely to encounter **bribery** and **fraud** will be given.

Council, through Audit and Assurance Committee has oversight to ensure the University has a satisfactory policy on fraud and irregularity in place, including being notified of any significant action taken under that policy and to be aware of patterns and trends as they develop.

4 Responsibilities of the USLC

The USLC has responsibility for implementing the Policy, monitoring compliance and ensuring that it is regularly reviewed. As such her responsibilities will be:

- a) to ensure that reported incidents of **bribery** and **fraud** are recorded in the Corruption Report log and that incidents are investigated and reported in accordance with Section 2.2 above;
- b) to compile a report for each Audit & Assurance Committee meeting on the implementation of this Policy and the outcomes of any risk assessment, due diligence and any incidents of reported **bribery** and **fraud** and to recommend any changes to this Policy which may become appropriate;
- c) to ensure that University documents and procedures (including those relating to procurement, fundraising and terms and conditions of employment) reflect this Policy;
- d) to co-ordinate the University's response to any investigation or charge under anti-**bribery** or **fraud** legislation;
- e) to ensure communication of the University's zero tolerance on **fraud** and **bribery** to all staff or **associated persons** and to deliver training to them where appropriate;
- f) to oversee the Ethical Conduct **bribery** and **fraud** risk assessment and the conduct of due diligence into significant transactions;
- g) to maintain and monitor a register of **Gifts** and Hospitality;
- h) to maintain and monitor a register of Employees' Commercial Interests;
- i) to review HEFCE and NAFN Fraud Updates on a regular basis;
- j) to monitor the effectiveness and implementation of this Policy.
- k) the USLC has delegated some of the above responsibilities to the Ethical Conduct Officer

5 Implementation, communication and training

The University supports the concept of anti-bribery awareness training for employees to ensure that their responsibilities and duties in respect of anti-bribery are current and their understanding reinforced.

All external members of Council and Audit and Assurance Committee undertake

regular and relevant bribery training. Annually the University reviews its Risk Assessment which it presents to both Committees.

The University will seek to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal communication and training to staff and employees and external communication to third parties acting on the University's behalf.

Staff are also required to undertake the [Bribery Act 2010 and Fraud E-learning module](#) on the Staff Development site. Training records are maintained on the employees' HR Self Service records.

Annex 1

Definitions

Associated person

A person, company or other legal entity that performs services for or on behalf of the University and which may include for example, agents, subsidiaries and subcontractors, recipients of grants, joint ventures or collaborative working arrangements of any kind and supplies of fundraising, professional or other services to the University.

Bribery

- a) offering, promising, giving, requesting or accepting a financial or other advantage in circumstances occurring inside or outside the UK which are intended to induce or reward improper performance of a function or activity that:
- is of a public nature, performed in the course of a person's employment, connected with a business or trade, or performed on behalf of a body of people; and
 - a reasonable person in the UK would expect to be performed in good faith, impartially or in accordance with a position of trust.
- b) offering, promising or giving a financial or other advantage to a public official outside the UK (or somebody else nominated by that official) intending to influence the official in the performance of their official functions in order to obtain or retain business or a business advantage.

Facilitation payments can fall within a) and b) above

Conflict of interest

may arise where an individual's personal or family interests and/or loyalties conflict with those of the University.

Corporate hospitality

an entertainment event given by an organisation and aimed at its clients in general. Such events are aimed at PR and gaining introductions to relevant client staff.

Individual hospitality which is entertainment directed principally at one or more persons from the University.

Equity interests

An investment by way of shares or other securities of more than 5% of the total issued share capital of any company (whether or not it is listed or dealt in on a recognised stock exchange).

Facilitation payments

Payments intended to secure or expedite routine or necessary government action by a public official. A facilitation payment includes a payment to a public official to do

their job properly as well as payment to do their job improperly.

Fraud

An act or omission made with the intent of making a financial gain or causing a financial loss, or exposing another to the risk of a financial loss, in which a person:

- dishonestly makes a false representation; or
- dishonestly fails to disclose information which he or she is under a legal duty to disclose; or
- occupies a position in which he or she is expected to safeguard or not act against the interests of another person; and
 - dishonestly abuses that position; and
 - intends, by means of that abuse of that position, to make a gain for him or herself or another, or to cause loss to another or to expose another to the risk of loss.

Gift

- a gift or loan of money, goods or services or combination of these
- the receipt of beneficial terms that are not generally available regarding the procurement of goods or services

Improper

- a) A failure to perform a function or activity in good faith, impartially or in accordance with a position of trust; or
- (b) not performing the function at all.

In deciding whether a function or activity has been performed improperly outside the UK, any local custom or practice must be disregarded unless it is permitted or required by the written law of the country in which it is performed.

Public official

Someone who holds a legislative, administrative or judicial position of any kind, whether appointed or elected; someone who exercises a public function for any country or territory (or any subdivision or such a country or territory); or an official of or agent or a public international organisation.

Annex 2 Record of Offer of Hospitality

PART A – For completion by Employee

Date of Offer	
Name of Employee	
Job Title	
Faculty / Department	
Description of Hospitality	
Estimated Value of Hospitality	
Name of Donor	
Address of Donor	
Relationship of Donor to the University	

PART B – For Completion by Line Manager

Approved / Not Approved	
Comments (if relevant)	
Line Manager (Name)	
Date of Approval	

This form should be completed whenever an employee is offered any form of corporate hospitality (see Section 2.2.1 of this Policy). Employees do not need to declare offers of individual hospitality which simply reflects facilitation of business in hand e.g. a business meal (see Section 2.2.2 of this Policy).

The employee should complete Part A and his/her line manager should complete Part B, with a copy to the employee.

This form can be submitted electronically and sent via email to secretariat@surrey.ac.uk or you can complete the online [Record of offer of hospitality](#) form.

Annex 3

Record of Gifts

PART A – For completion by Employee

Date of Offer	
Name of Employee	
Job Title	
Faculty / Department	
Description of Gift and Estimate of Value	
Name of Donor	
Address of Donor	
Relationship of Donor to the University	
Whether Gift was Returned	
Reason Given for the Return	

This form should be completed whenever an employee is offered any form of gift other than a small token inexpensive promotional item or seasonal gift (see Section 2.2.3 of this Policy).

This form can be submitted electronically and sent via email to secretariat@surrey.ac.uk or you can complete the online [Record of Gifts](#) form.

Annex 4

Declaration of Interests

The University requires information about activities that may represent a conflict of interest. The University does not require information about private activities which:

- do not affect the impartial discharge of his/her University and Faculty or Administrative/Service Department duties
- do not involve a potential conflict of interest

If in doubt, you are advised, for your own protection, to disclose.

Any personal information provided on this form will be will be processed in accordance with the Data Protection Act 1998. Except to the extent that information is required for statutory reporting purposes or is subject to disclosure under the Freedom of Information Act, all information will be treated in the strictest of confidence.

1. Do you occupy a position as a Director or Partner?

Yes No

Staff who hold board appointments in University Companies (one in which the University holds 50% or more of the voting shares and therefore has a majority controlling interest) need not declare this interest. Staff who hold any other board appointment must declare that interest.

Nature of Interest [Executive Director/ Non-Executive Director/ Partner]	Name & Address of Organisation	Date of Appointment / Contract	Does the Organisation have other dealings with the University YES/NO/ DON'T KNOW

2. Equity Interests in companies that have dealings with the University or its subsidiaries
 Yes No

(Equity interests are interests of more than 5% of the issued share capital of any company)

NAME AND COMPANY NUMBER:					
Description of Security (Ordinary Shares/Options)	Number Acquired	% of Share Capital	Price Paid/Exercise Price/Share	Market Value/Share	Date Acquired

3. Do you or persons connected with you (spouse or partner, children or close relatives) have any other interests that you should report, e.g. a significant financial interest in or a contract with any company or organisation trading with the University
 Yes No

Signed:

Name:

Faculty (and Department) or Administrative/Service Department:.....

Date:

Please complete and return this form to the University Secretary and Legal Counsel, can be submitted electronically and sent via email to secretariat@surrey.ac.uk or you can complete the online [Declaration of Interest](#) form.

Annex 5

Ethical Conduct Investigating Group - Terms of Reference

1 Introduction

- 1.1 The University Secretary and Legal Counsel (USLC) has established an Ethical Conduct Investigating Group (Investigating Group) to investigate bribery and fraud.

2 Membership

- 2.1 Members of the Investigating Group comprise the USLC, Ethical Conduct Officer, Chief Financial Officer, Head of Security and Chief Internal Auditor. Other people will be invited to attend as required.

3 Meetings

- 3.1 A meeting can be called at any time where the USLC and /or the Ethical Conduct Officer has determined that there is a case concerning Ethical Conduct that should be considered by the Investigation Group.

4 Responsibilities

- 4.1 In accordance with the Procedures at Annex 6, the Investigating Group will:
- Put in place arrangements to investigate concerns;
 - Put in place arrangements to minimise further loss;
 - Put in place arrangements for recovering losses;
 - Comply with any requirements of the University's insurance cover;
 - Establish and secure evidence necessary for criminal and disciplinary action;
 - Ensure that appropriate action is taken against those responsible and;
 - Communicate with internal personnel and outside organisations with a 'need to know', in particular considering:
 - Whether there are issues that should be referred to the appropriate funding body under the terms of any grant to which the allegations relate;
 - Whether the incident should be reported to HEFCE under the terms of the Memorandum of assurance and accountability;
 - Whether the matter should be reported to HMRC;
 - Whether the matter should be reported to the police;

and will take steps to ensure that the relevant actions are undertaken as soon as is reasonably practicable.

- 4.2 The actions of the Investigating Group will be recorded in a confidential log, to be kept and maintained by the Ethical Conduct Officer.
- 4.3 The Ethical Conduct Officer shall maintain a register of all the allegations of bribery or fraud which are reported within the University including those where there was found to be no case to answer under the Ethical Conduct Policy*
- 4.4 Without prejudice to any other action that may be deemed to be necessary (for example where the matter is referred to the police), the Investigating Group will ensure that any allegation concerning the conduct of a member of staff is dealt with in accordance with the University's HR policies and procedures.

- 4.5 In cases which involve or may involve students, the Director of Student Services and Administration will be informed at the outset of the investigation. Without prejudice to any other action that may be deemed to be necessary (for example where the matter is referred to the police), if a student is the subject of an allegation of bribery or fraud, this will be dealt with by the Director of Student Services and Administration /OSCAR under the relevant student policy processes.
- 4.6 In any case where a member of the Investigating Group is the subject of an investigation under the Policy, the Chief Operating Officer and President and Vice-Chancellor will be informed and will establish leadership of the Ethical Conduct Investigating Group.
- 4.7 Preliminary investigations will normally be carried out by the Ethical Conduct Officer and/or the Chief Internal Auditor. Where preliminary investigations reveal reasonable grounds for suspecting that there is a case to answer *, the Investigating Group will appoint an investigator to carry out further investigations as necessary.
- 4.8 The investigator will keep the Investigating Group informed as to the progress of the investigation and will complete the investigation as soon as reasonably possible.
- 4.9 All persons involved with the investigation must treat the information in strict confidence. Where necessary, information will be transmitted in confidence to relevant regulatory bodies.
- 4.10 In the case of insured claims, the Investigating Group will ensure that any requirements of the University's insurance cover are observed.
- 4.11 On the completion of the internal investigation, the Investigating Group will decide what further actions are necessary including whether the matter has to be referred to external agencies such as the police or HEFCE.

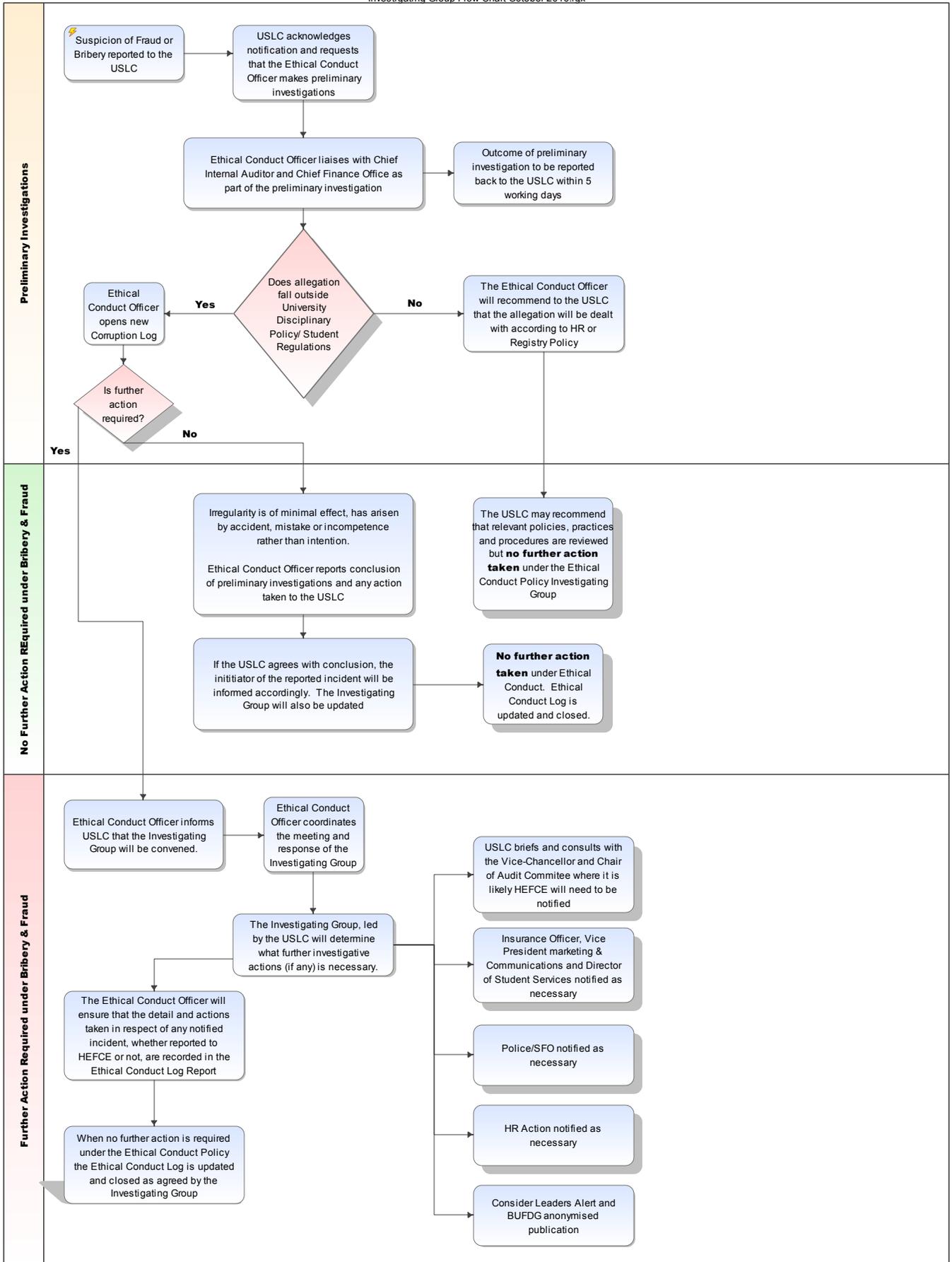
** No case to answer means that it has been determined to the reasonable satisfaction of the USLC or Investigating Group, as the case may be, that the alleged breach of the Ethical Conduct Policy was of minimal effect and occurred as a consequence of mistake or incompetence. A case to answer means that it has been determined to the reasonable satisfaction of the USLC or Investigating Group, as the case may be, that the alleged breach of the Ethical Conduct Policy is not of minimal effect and did not arise as a consequence of mistake or incompetence.*

5 Reporting responsibilities

- 5.1 A report of all matters referred to the Investigating Group will be provided at each Audit & Assurance Committee in the most appropriate format.

6 Review of Terms of Reference

- 6.1 The Investigating Group shall review and reassess the Terms of Reference as it deems appropriate.



Preliminary Investigations

No Further Action Required under Bribery & Fraud

Further Action Required under Bribery & Fraud