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| | PAPER NO: AC.25(12) | |
| Board/Committee: | Audit Committee | |
| Date: | 20 June 2012 | |
| Paper title: | Internal Audit – Bribery Act 2010 | |
| Author: | PricewaterhouseCoopers | |
| Executive sponsor: | Richard Flatman, Executive Director of Finance | |
| Recommendation by the Executive: | The Executive recommends that the Audit Committee note the attached report. | |
| Aspect of the Corporate Plan to which this will help deliver? | | |
| Matter previously considered by: | N/A | On: |
| Further approval required? | N/A | On: |
| Communications – who should be made aware of the decision? | N/A | |

Executive summary


The internal audit report on the Bribery Act 2010 is attached. The overall report was given a 'High Risk' rating.

The committee is requested to note the report.

Attachment:

- Bribery Act 2010 report

1. Executive Summary

| | | | | |
|--|--|---|---|--|
| <p>Department: Procurement Audit Sponsor: James Stevenson Distribution List: Penny Green, Richard Thomson, Katie Boyce, Stephen Wells</p> | <p>Overall report classification</p> <p>High risk </p> <p>See section 3B for overall report classification criteria</p> | <p>Direction of Travel</p> <p>N/a this is the first year of review</p> | <p>Control Design findings identified</p> <p>0 Critical risk 1 High risk 1 Medium risk 0 Low risk 0 Advisory</p> | <p>Control Effectiveness findings identified</p> <p>0 Critical risk 0 High risk 0 Medium risk 3 Low risk 0 Advisory</p> |
|--|--|---|---|--|

| | |
|---|--|
| <p>Scope of the Review: Limitation of scope:</p> | <p>Review of the sub-processes of risk assessment, staff awareness and anti-bribery and gifts & hospitality policies. The review did not include testing of transactions.</p> |
|---|--|

Summary of findings (See section 3A for individual finding ratings criteria):

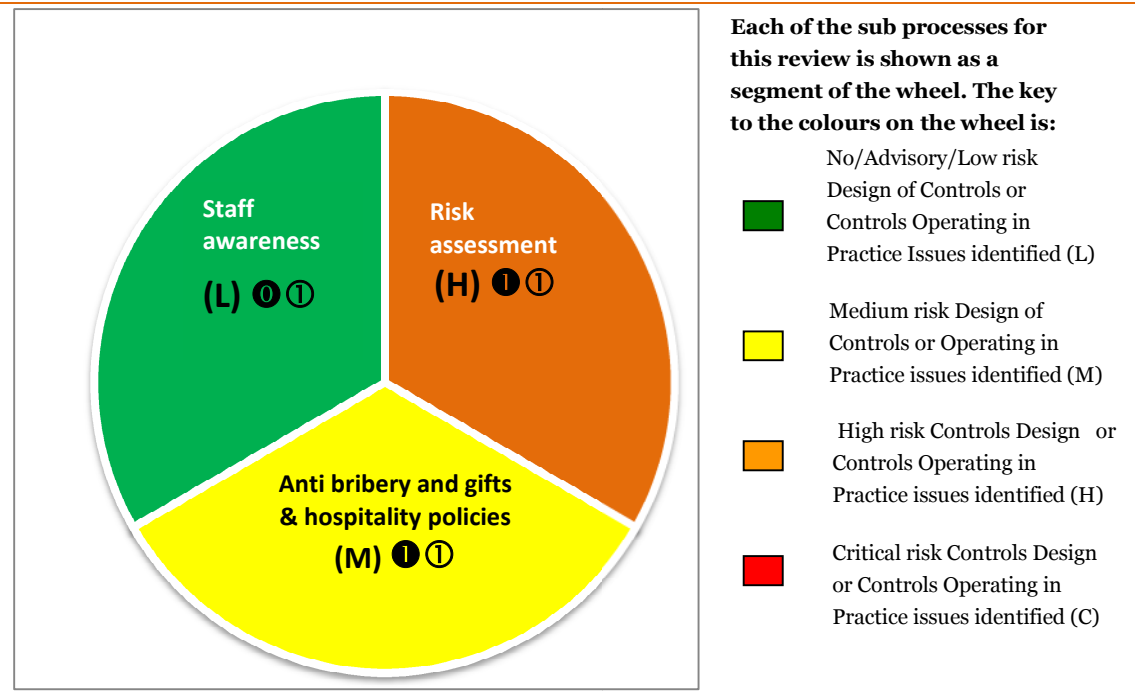
A risk assessment was performed by LSBU through a questionnaire sent to senior management. From this, LSBU have identified the higher risk areas as being:

- the priority countries for the international strategy: China, India, Nigeria;
- international recruitment representatives that recruit students in defined territories; and
- academic risk – for example, a gift offered prior to an academic assessment.




Meetings were held with Heads of Procurement and Student Recruitment & Partnerships; and Directors of Estates and Facilities, ICT and Internationalisation in order to gauge the effectiveness of guidance, training and any further requirements.



We noted one high risk finding as part of the review. Although management have carried out a risk assessment, no formal analysis has been carried out to identify any mitigating controls and to assess whether these controls are sufficient. The risk areas identified under the Bribery Act should be included on the University risk register and monitored on a regular basis.

All other recommendations were medium or low risk findings.



2. Detailed Findings, Recommendations and Action Plan

| | Finding | Potential Risk Implications | Recommendations | Finding rating | Management Response and agreed actions |
|--|--|--|---|---|--|
| Risk Assessment – control design | | | | | |
| 1 | <p>The University identified areas of high risk in relation to bribery through a questionnaire sent to the executives and senior management team. Results were then collated into a spreadsheet held centrally by procurement.</p> <p>However, there is no framework to show what controls are in place that mitigate these risks or any gaps in the control framework.</p> <p>For example, through discussion with the International department we have noted that there are missing controls in relation to institutional partner contracts, which do not contain the appropriate reference to the Bribery Act. The anti-bribery webpage and training presentation were reviewed. The Bribery Act policy document was produced after the high risk areas were identified. However, there is no explicit link between the high risk areas identified and the examples given in the policy document. See recommendation 4 for further details.</p> | Risks have not been appropriately addressed or mitigated. | <p>Management should formally include the high risk areas identified in relation to the Bribery Act on the risk register.</p> <p>Mitigating controls should be noted against these high risk areas and management should monitor these risks as part of the monthly risk management process.</p> |  High risk | <p>Agreed: Yes/No</p> <p>Action to be taken: The risk register will be reviewed /amended prior to the board meeting of 19 July 2012.</p> <p>Responsibility for action: Relevant members of the Executive</p> <p>Target Date: 19 July 2012</p> |
| Gifts and hospitality register - control design | | | | | |
| 2 | <p>There is no pre-approval process in place for staff acceptance of gifts and hospitality. Reliance is placed on staff being aware and understanding their responsibilities in relation to the acceptance of gifts and hospitality.</p> <p>A central gifts and hospitality register is maintained. At present, any member of staff can edit entries made on the register and the 'Version History' option is currently unavailable to view changes made to entries.</p> <p>The user declaring the gift is required to manually enter the name of the approver. For the single entry made on the register at the time of testing, an inappropriate level of authorisation was entered for approval</p> <p>The approval status differs on the detailed breakdown screen and the summary screen.</p> | <p>Entries made of the register are inappropriately altered before approval.</p> <p>Confusion may arise as to whether authorisation has been granted.</p> <p>Entries do not receive sufficient authorisation before acceptance and may therefore be inappropriate.</p> | <p>Prior to approval, edit access should be restricted to administrators and the individual making the declaration. The 'Version History' option should be made available so that any changes can be checked.</p> <p>Approvers should review the entry on the register and ensure they have appropriate levels of authority. Procurement should also review authorisation quarterly to check for appropriate sign-off.</p> |  Medium risk | <p>Agreed: Yes</p> <p>Action to be taken: ICT is working with the procurement team to ensure that modification controls in relation to the procedures are put in place.</p> <p>Responsibility for action: Penny Green, Head of Procurement and ICT</p> <p>Target Date: 30 September 2012</p> |
| Anti-bribery website - control effectiveness | | | | | |
| 3 | <p>An email was sent to all staff on 28 February 2012 informing them of the anti-bribery website, gifts & hospitality register and non-mandatory training. As at 26 March 2012, the website had been viewed 149 times.</p> <p>There has been a low uptake of the online training with only 12 people completing the training and there was a feeling amongst those interviewed that online training would not be effective.</p> <p>A lack of awareness was also indicated through interviews with Heads of Department where they requested training on aspects of the gifts & hospitality register which are in fact already available for staff on the Staff Gateway.</p> | <p>Staff are not using the information and training made available to them so are unaware of their responsibilities under the Bribery Act 2010.</p> | <p>a) LSBU should create an action plan for training to be rolled out to areas noted as having a high risk in relation to the Bribery Act.</p> <p>b) A briefing should be prepared for senior staff explicitly stating the importance of all staff completing the online training.</p> <p>c) We note that management are aware that some departments would like more specific training and they are in the process of enacting this for key Departments. Scenario led training was noted as a useful training method.</p> |  Low risk | <p>Agreed: Yes</p> <p>Action to be taken: Action plan and briefing to be developed and scenario training to be provided.</p> <p>Responsibility for action: Penny Green, Head of Procurement & James Stevenson, University Secretary</p> <p>Target Date:</p> <p>a) Action plan: by 19 July 2012</p> <p>b) Briefing: by 19 July 2012</p> <p>c) Scenario training for high risk areas: 31 December 2012</p> |

| | Finding | Potential Risk Implications | Recommendations | Finding rating | Management Response and agreed actions |
|--|---|--|--|--|--|
| Policies and procedures – control effectiveness | | | | | |
| 4 | The anti-bribery and gifts & hospitality policies give 'potential red flag situations' and guidance examples for the acceptance of gifts and hospitality, but do not explicitly cover the areas identified as higher risk by the risk assessment; e.g. the academic risk example of gifts being offered prior to academic assessment is not addressed through the policy documents. | Staff are unclear on the requirements of the Act that are relevant to their role so are not acting in accordance with University policy. | Amend policies to ensure that guidance offered addresses areas identified as high risk so that staff are clear on what is required of them. |  Low risk | Agreed: Yes Action to be taken: The “red flags” will be updated as they are guidance and not part of the formal policy, which was only approved recently. Responsibility for action: James Stevenson, University Secretary Target Date: 19 July 2012 |
| Risk Assessment results – control effectiveness | | | | | |
| 5 | The areas of higher risk identified as part of management's procedures relate to student recruitment, international and academic risk. The Estates team have not recognised any additional risk areas within their remit. There is significant capital works being carried out at LSBU and there is a risk that the risk assessment performed by senior management is not complete. | High risk areas have not been appropriately identified. | Given the large volume of capital works being carried out this should be considered as a risk area by management and mitigating controls put in place to ensure the risk is appropriately managed. |  Low risk | Agreed: Yes Action to be taken: High value estates contracts are placed through an extensive procurement procedure and not reliant on one individual. The risk of bribery will be greater in the period prior to completion of a contract. The risk of bribery will be added to the estates local risk register during the procurement process, so the risk can be monitored. Procurement procedures explicitly refer to the risk of bribery. The need for scenario training will be reviewed with Estates & Facilities. Responsibility for action: Steven Wells, Director of Estates and Facilities & Penny Green, Head of Procurement Target Date: 30 September 2012 |

3. Basis of our report classification and finding ratings





A. Individual finding ratings

| Finding rating | Points | Assessment rationale |
|-----------------|-----------------------|---|
| Critical | 40 points per finding | <p>A finding that could have a:</p> <ul style="list-style-type: none"> • Critical impact on operational performance resulting in inability to continue core activities for more than two days; or • Critical monetary or financial statement impact of £5m; or • Critical breach in laws and regulations that could result in material fines or consequences over £500k; or • Critical impact on the reputation or brand of the organisation which could threaten its future viability, e.g. high-profile political and media scrutiny i.e. front-page headlines in national press. |
| High | 10 points per finding | <p>A finding that could have a:</p> <ul style="list-style-type: none"> • Significant impact on operational performance resulting in significant disruption to core activities; or • Significant monetary or financial statement impact of £2m; or • Significant breach in laws and regulations resulting in significant fines and consequences over £250k; or • Significant impact on the reputation or brand of the organisation, resulting in unfavourable national media coverage. |
| Medium | 3 points per finding | <p>A finding that could have a:</p> <ul style="list-style-type: none"> • Moderate impact on operational performance resulting in moderate disruption of core activities or significant disruption of discrete non-core activities; or • Moderate monetary or financial statement impact of £1m; or • Moderate breach in laws and regulations resulting in fines and consequences over £100k; or • Moderate impact on the reputation or brand of the organisation, resulting in limited unfavourable media coverage. |
| Low | 1 point per finding | <p>A finding that could have a:</p> <ul style="list-style-type: none"> • Minor impact on the organisation's operational performance resulting in moderate disruption of discrete non-core activities; or • Minor monetary or financial statement impact £500k; or • Minor breach in laws and regulations with limited consequences over £50k; or • Minor impact on the reputation of the organisation, resulting in limited unfavourable media coverage restricted to the local press. |
| Advisory | 0 points per finding | A finding that does not have a risk impact but has been raised to highlight areas of inefficiencies or good practice. |

Each individual finding is given points, based on the rating of the finding (Critical, High, Medium, Low or Advisory). The points from each finding are added together to give the overall report classification of Critical risk, High risk, Medium risk or Low risk, as shown in the table on the next page.

B. Overall report classification

The overall report classification is determined by allocating points to each of the findings included in the report

| Report classification | Points |
|---|--------------------|
|  Low risk | 6 points or less |
|  Medium risk | 7– 15 points |
|  High risk | 16– 39 points |
|  Critical risk | 40 points and over |

Responsibilities of management and internal auditors It is management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud. Internal audit work should not be seen as a substitute for management's responsibilities for the design and operation of these systems. We shall endeavour to plan our work so that we have a reasonable expectation of detecting significant control weaknesses and, if detected, we shall carry out additional work directed towards identification of consequent fraud or other irregularities. However, internal audit procedures alone, even when carried out with due professional care, do not guarantee that fraud will be detected. Accordingly, our examinations as internal auditors should not be relied upon solely to disclose fraud, defalcations or other irregularities which may exist, unless we are requested to carry out a special investigation for such activities in a particular area. Our internal audit work has been performed in accordance with CIPFA's Audit Code of Practice. As a result, our work and deliverables are not designed or intended to comply with the International Auditing and Assurance Standards Board (IAASB), International Framework for Assurance Engagements (IFAE) and International Standard on Assurance Engagements (ISAE) 3000.

Limitations inherent to the internal auditor's work We have undertaken this review, subject to the limitations outlined below. Internal control, no matter how well designed and operated, can provide only reasonable and not absolute assurance regarding achievement of an organisation's objectives. The likelihood of achievement is affected by limitations inherent in all internal control systems. These include the possibility of poor judgment in decision-making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances. The assessment of controls relating to this review is for the period 1 October 2011 to 31 January 2012. Historic evaluation of effectiveness is not relevant to future periods due to the risk that: the design of controls may become inadequate because of changes in operating environment, law, regulation or other; or the degree of compliance with policies and procedures may deteriorate.

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4. Terms of reference

London South Bank University

Terms of reference – Bribery Act 2010- final

To: Richard Flatman

From: Justin Martin

This review is being undertaken as part of the 2011/2012 internal audit plan approved by the Audit Committee.

Background

The Bribery Act 2010 came into force on 1 July 2011. The Act outlines four corporate offences, three of which also apply to individuals. These are: paying or offering a bribe; receiving or requesting a bribe; bribing a foreign public official; and failing to prevent bribery. These offences apply regardless of where in the world the bribes are offered or received, and can apply regardless of whether the bribery is direct or indirect, e.g. through a connected party such as an agent. Any University that is found to have committed a bribery offence could face unlimited fines and may come under additional scrutiny from HEFCE. Individuals could face a 10 year prison sentence and an unlimited fine.

The University has taken actions to ensure it complies with the Act, such as developing an anti-bribery policy and revising its gifts and hospitality policy. The University has also undertaken a risk assessment to understand which areas are likely to be at higher risk for non-compliance with the Act.

This review is to assess the adequacy of the actions taken to date by the University to ensure that the Act is complied with.

Scope

The sub-processes and related control objectives included in this review are:

| Sub-process | Control objectives |
|---|--|
| Risk assessment | High risk areas in relation to potential non-compliance with the Bribery Act 2010 have been identified. |
| Anti bribery and gifts & hospitality policies | Staff understand their responsibilities in respect to the Bribery Act 2010. Policies address the risks identified in the risk assessment. |
| Staff awareness | Staff understand the requirements of the Bribery Act 2010 and comply with it. |

Limitations of scope

We will not perform testing on transactions.

Audit approach

Our audit approach is as follows:

- Review the risk assessment performed by the University and consider if there are additional risk areas that should be included.
 - Review the anti bribery policy and gifts & hospitality policy to understand if risks identified in the risk assessment have been mitigated by these policies.
 - Evaluate the awareness and training needs of staff in relation to the anti bribery policy and gifts & hospitality policy.
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Internal audit team

| | | | |
|-------------------------|-----------|--------------------|-------------------------------|
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| Kathryn Westmore | Manager | Specialist | kathryn.m.westmore@uk.pwc.com |
| Emily Wright | Associate | Auditor | emily.l.wright@uk.pwc.com |

Key contacts – London South Bank University

| | | | |
|------------------------|------------------------------------|---------------|----------------------------|
| James Stevenson | University Secretary | Audit Sponsor | stephenj7@lsbu.ac.uk |
| Penny Green | Head of Procurement | Key contact | greenp7@lsbu.ac.uk |
| Richard Thomson | Solicitor | Key contact | richard.thomson@lsbu.ac.uk |
| Katie Boyce | Head of Human Resources | Key contact | katie.boyce@lsbu.ac.uk |
| Stephen Wells | Director of Estates and Facilities | Key contact | stephen.wells@lsbu.ac.uk |

Timetable

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|-------------------------------|---------------|
| Fieldwork start | 26 March 2012 |
| Fieldwork completed | 30 March 2012 |
| Draft report to client | 17 April 2012 |
| Response from client | 1 May 2012 |
| Final report to client | 9 May 2012 |

Agreed timescales are subject to the following assumptions:

- All relevant documentation, including source data, reports and procedures, will be made available to us promptly on request.
 - Staff and management will make reasonable time available for interviews and will respond promptly to follow-up questions or requests for documentation.
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Appendix 1, Information request

- Risk assessment
- Anti Bribery policy
- Gifts and hospitality policy
- Access to the online gifts register
- Training available to staff on the Bribery Act 2010
- List of Heads of Departments