

# **ESB ANTI-BRIBERY, CORRUPTION AND FRAUD POLICY**

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<b>Approved by</b>	<b>Audit and Risk Committee</b>
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# 1. PURPOSE AND KEY PRINCIPLES

- 1.1 In ESB, we strive to carry out our business activities in accordance with the highest standards of honesty, loyalty, fairness, and discretion and to comply with all applicable legal and regulatory requirements. A culture of openness and accountability is essential to prevent improper situations occurring and to address them promptly when they do occur. We have a zero-tolerance policy in relation to bribery, corruption, fraud and other wrongdoing. This Policy aims to facilitate those goals.
- 1.2 This Policy should be read in conjunction with the ESB Code of Ethics 'Our Code' (which sets out the principles and standards we must adhere to when conducting our business), the ESB Policy on Respect and Dignity for the Individual and ESB's Whistleblowing and Protected Disclosure Policy.
- 1.3 The aims of this Policy are:
  - to encourage a culture of awareness and vigilance and ensure that preventative and detection measures are in place to recognise and minimise the risk of fraud, bribery or corruption or any other unlawful activity or other wrongdoing, malpractice or impropriety in the workplace (all of which are referred to collectively below as "wrongdoing").
  - to define what is meant by bribery, corruption, fraud and wrongdoing.
  - to summarise the standards of behaviour expected from staff (read in conjunction with Our Code – Code of Ethics) in how they work and in preventing and detecting bribery, corruption, fraud and other wrongdoing.
  - to re-iterate ESB's zero tolerance approach to bribery, corruption, fraud and other wrongdoing.
  - to outline the roles and responsibilities in managing, investigating and reporting of bribery, corruption, fraud and other wrongdoing.
  - to reflect the requirements of Irish law prohibiting bribery, corruption and fraud.

# 2. SCOPE AND KEY DEFINITIONS

This Policy covers bribery, corruption, fraud and other wrongdoing. It applies to all Board members, employees, contractors, casual workers and agency workers (collectively referred to in this Policy as "staff") in the ESB Group and to third parties with whom we do business, including suppliers. As a general matter, all staff, as well as third parties doing business with ESB are expected to comply at all times with the laws of Ireland and any other country in which they may be working.

## 2.1 Definitions and examples

- Corruption:
  - 'Active' corruption, is corruptly offering or giving a gift, consideration or advantage to any person as an inducement to, or reward for, doing an act in relation to that person's office, employment, position or business.
  - 'Passive' corruption, is corruptly requesting or accepting a gift, consideration or advantage as an inducement to, or reward for, doing an act in relation to the recipient's office, employment, position or business.
  - Active trading in influence is corruptly offering, giving, requesting, accepting or obtaining a gift, consideration or advantage to induce another person to exert an improper influence over an Irish or foreign official.
- Bribery: The giving or receiving, for advantage (including personal, commercial, regulatory, contractual), of anything of value and is not limited to cash. This could include providing business opportunities or favourable contracts.
- Fraud: Wrongful or criminal deception intended to result in financial or personal gain.
- Wrongdoing: A broad collective term for fraud, bribery or corruption or any other unlawful or dishonest activity, malpractice or impropriety in the workplace.

Bribery, corruption and fraud are criminal offences under Irish law. The commission of these offences can result in a fine and/or prison sentence being imposed. Examples of bribery, corruption and other wrongdoing prohibited by this policy include (but are not limited to, the following):

- Giving or receiving of cash or a gift, or some other form of consideration (e.g. a hotel voucher) or other advantage to a person knowing that it will be used to facilitate an offence of the above type.
- Corruptly creating or using a document (which includes documents in electronic format and emails and texts held electronically on devices such as smartphones) knowing or believing it to contain a false or misleading statement with the intention of inducing another person to do an act in relation to his/her office, employment, position or business to the prejudice of that other person.
- Threatening harm to a person with the intention of corruptly influencing that person or another person to do an act in relation to that person's office employment, position or business.
- Stealing/theft/embezzlement of money and/or goods belonging to ESB or others.
- Defrauding ESB by any means (including for example by submitting false expense claims or fraudulently recording working time).
- Forgery, for example, altering a document or a forging a signature (e.g. forging an invoice in the name of an ESB company, or forging the signature of an ESB authorised signatory on a document).
- Misuse or misappropriation of ESB funds or assets, or purchasing items for personal and non-business use using ESB funds (for example by creating a purchase order or using a company procurement card to purchase and pay for non-business-related goods and services).
- False accounting (e.g. preparing fake invoices).
- Fraudulently evading tax (i.e. using dishonest means to avoid a tax liability imposed on an ESB company or facilitating tax evasion by another party (i.e. by aiding, abetting or inducing the evasion of tax by that third party)).
- Any attempt to engage in any of the above activities or to conceal or destroy information relating to any of the above.

Refer to the ESB Whistleblowing and Protected Disclosure Policy for further examples of wrongdoing.

## **2.2 Examples of "Red Flag" Scenarios**

Not all payments or the provision of gifts and entertainment to government or commercial associates are bribes. An important element of any successful business arrangement is the ability to effectively engage in key relationships with existing and potential customers, suppliers, government or regulatory officials and other third parties. In particular, reasonable (i.e. relatively low value) bona fide gifts and hospitality are permissible if they are given or received in connection with the marketing of our products or services. Whether a particular action or payment violates this Policy (and the law) may depend on the facts and circumstances in which it was done. While it is impractical to anticipate all of the possible scenarios that should raise red flags or corruption concerns, below are a few common examples to look out for:

- Accepting gifts or other rewards in return for sharing confidential information with a person outside the organisation.
- Submitting poorly documented or incomplete expense claims.
- Accepting kickbacks or payment of any type for preferential treatment, for example in supplier selection, tender process and/or work allocation processes.
- Insistence by an employee on dealing with a particular service provider/supplier/bank account him/herself, or insistence of a service provider/supplier on dealing only with a specific employee.
- Third party requests to be paid in cash (e.g. for goods or services provided to ESB).
- Third party requests that payments be made to another party, to a third-country bank account, to a specific person's personal bank account, or through other unusual financial arrangements.

- The submission of incomplete or inaccurate information by a third party in required disclosures or due diligence questionnaire.
- Third party requests for payments to an intermediary to facilitate a transaction with an ESB company (unless done pursuant to a valid contract that has been reviewed by ESB's legal department). Staff should be particularly careful in doing business in countries where "facilitation payments" might traditionally have been seen as standard practice. This Policy prohibits facilitation payments/consideration; if you are asked to make or accept such a payment you should immediately request full details of the payment proposed before accepting it, and then discuss the matter with your line manager or a member of the ESB legal department.

### **2.3 Anti-Bribery and Corruption Laws**

The application of anti-bribery and corruption laws in Ireland and other countries affects a range of activities and operations across ESB. While anti-bribery and corruption laws in different countries generally reflect similar principles, there are differences, both in the laws themselves and in what is considered best practice in complying with those laws. To provide additional guidance, the main principles of these laws are considered in more detail below but if you are ever in doubt as to whether an action is appropriate or not, you should seek guidance from your line manager or ESB's legal department.

### **2.4 Gifts, Hospitality and Entertainment: (see also ESB Policy on Code of Ethics – 'Our Code')**

- Staff should not accept or offer gifts or hospitality that could influence or be perceived by others as influencing a business decision. This means that staff should not accept such gifts or hospitality if this means that the giver might expect preferential treatment from ESB in return. Equally, staff should not offer gifts or hospitality in order to gain preferential treatment for ESB.
- Bona fide hospitality and promotional or other business expenditure aimed at improving a commercial organisation's image or establishing cordial relations, is recognised as an established and important part of doing business but it is important that this is limited and is compliant with the following Policy rules
- Gifts of cash or cash equivalents such as vouchers, gift cards or shares are always considered inappropriate and should neither be offered nor accepted by staff.
- All gifts/hospitality received by staff (other than low value gifts/hospitality – such as reasonable value lunches etc) should be approved by their relevant line manager.
- Any offer of gifts/hospitality with a value of greater than €200 should be approved only in exceptional circumstances.
- All approved gifts/hospitality greater than €200 should be recorded in a register established by each business unit to record the receipt of gifts and hospitality. The notification register has not been established to prevent acceptance of gifts and hospitality but to ensure transparency and assist staff in adhering to this Policy. Confirmation that a gift register is in place should be provided as part of the annual year end internal control sign off from each business unit to the Chief Executive. Separately, a gift register will be maintained by the Company Secretary detailing gifts or hospitality received by the ESB Board members.
- No gift or offer of hospitality or entertainment may be provided to an employee of any regulatory authority or to a public official (including a TD, Senator, MEP or County Councillor), in an amount greater than €200 without prior approval from the Company Secretary, who will consult as he/she sees fit with the Chief Executive, Group Head of Legal, etc. Staff should also be familiar with ESB's Policy for Complying with the Regulation of Lobbying Act 2015, available on the ESB intranet.
- Invitations which involve the provision of travel and/or accommodation should be politely declined. If such a trip is required for business reasons ESB will pay the associated costs, in line with the normal line manager approval process applying to business travel.
- Employees acting in a personal capacity, or on behalf of a club or society in ESB, should not solicit or request a gift, donation, support or sponsorship from suppliers/contractors of goods or services to ESB or from customers of ESB. Unsolicited gifts, donations or sponsorship should only be accepted on behalf of a club or society in ESB with prior manager/supervisor

approval and then only in circumstances where there is no risk of that gift being perceived as requiring the giving of preferential treatment to the donor.

- When deciding whether to accept a gift or offer of hospitality, use these tests to decide if it is appropriate<sup>1</sup>:
  - *Is it bona fide – in other words made for the right reason? If a gift or hospitality, it should be given clearly as an act of appreciation.*
  - *Is it proportionate? The value and nature of the should be proportionate to the purpose and occasion.*
  - *Is it infrequent? The giving or receiving of gifts and hospitality should not be overly frequent between the giver and the recipient.*
  - *Will it create an obligation? The activity should not create any obligation or expectation on the recipient.*
  - *Is it made openly? No gift should be given or received in secret – if it is, then its purpose becomes questionable. Gifts received by ESB employees should be recorded in line with the guidance above.*
  - *Is it legal? All gifts should be compliant with relevant laws.*
  - *How will it be perceived? How would the offer or acceptance of the gift be perceived by ESB's stakeholders or competitors if they know about it? A gift should not influence, or be perceived by others as influencing, a business decision.*
- If you are still unsure as to whether a particular course of action complies with this Policy, you should seek advice from a Senior HR manager or from a member of the ESB legal department.

## **2.5 Financial Reporting**

- To ensure compliance with anti-bribery laws and this Policy, all business transactions must be properly authorised and must be completely and accurately recorded in ESB's and its operating companies' company books, records and accounts. Accurate record keeping is important to establish that ESB has adequate procedures in place to prevent corruption. These books and records must be maintained with sufficient detail to reflect transactions accurately and fairly, including recording a proper measure of value and the time period when the transaction occurred.
- It is expressly forbidden to make false or misleading entries that fail to reflect improper transactions e.g. kickbacks or payment and/or entries that are falsified to disguise bribes and/or failing to make entries for payments by or to an ESB Group company. Controls are in place to ensure these requirements are met, including detailed financial procedures, budgets, finance system automated workflows, external audit process, internal audit process and Audit and Risk Committee oversight of the financial statements. Staff are reminded that they must liaise with Group Internal Audit where necessary e.g. during internal audits and investigations and adhere to all financial controls and approval procedures.

## **2.6 Supply Chain Activities**

- ESB expects all sales agents, vendors, contractors, representatives, advisors and other third parties acting on behalf of, or providing services to, ESB companies to conduct themselves in accordance with the principles outlined in this Policy.
- With this in mind, as part of ESB's risk management and procurement procedures, all goods and services to be provided to ESB Group companies must be procured in accordance with ESB's Procurement Policy and Procedures (available on the ESB intranet) and all third parties providing such goods and services or acting on behalf of ESB must agree to be bound by the "Requirements for agents, suppliers, contractors, advisers and other third parties" as set out at <https://esb.ie/what-we-do/procurement/supplier-information>. These Requirements set

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<sup>1</sup> These tests are adapted from Transparency International UK guidance.

out obligations for third parties in relation to compliance with ESB Policies (including this Policy), employment standards, and anti-slavery and human trafficking laws.

## **2.7 Payments to third party landowners and disposals of ESB property, and access to ESB assets**

- ESB has procedures (including approval procedures) in place relating to landowner compensation payments associated with wayleaves and licences and the entry by ESB onto private land. Payments to landowners relating to the entry onto and/or placing of ESB infrastructure onto such land should be made only in accordance with these procedures.
- The disposal of assets (including but not limited to land) which are surplus to ESB's requirements should be conducted only in accordance with all relevant ESB policies and approval procedures (including ESB's Consolidated Authority Levels).
- ESB's assets, including facilities, vehicles and equipment, should be used by authorised ESB staff only for ESB's business purposes. ESB assets should not be used for non-business related purposes or made available to third parties except for legitimate business purposes and in line with applicable approval processes.

## **3 ROLES AND RESPONSIBILITIES**

3.1 The key roles and responsibilities across ESB in relation to this Policy are as follows:

### **Staff**

- All staff (including ESB employees and all current and past employees, officers, contractors, casual workers and agency workers, as noted above) are responsible for the successful implementation of this Policy and compliance with its requirements.
- All staff are expected to familiarise themselves with this Policy, to participate in related training programmes provided by ESB, and to comply with related policies. All new employees must receive specific training as part of their induction process.
- All staff must, at all times, ensure compliance with applicable laws in carrying out their duties in ESB.
- All staff are expected to be vigilant, to play an active part in preventing bribery, corruption and/or fraud and to report known or suspected instances of bribery, corruption or fraud in accordance with the reporting procedures below. Staff should also ensure that others who do so are not subjected to any form of penalisation as a result of doing so.

### **Board (supported by the Audit & Risk Committee)**

- Communicating a clear commitment to this Policy through leading by example ("Tone at the Top")
- Determination of corporate policy in respect of the prevention of bribery, corruption and fraud and other unlawful activities (i.e. this Policy).
- Facilitating a culture of openness and respect in the organisation that supports the disclosure of wrongdoing.
- Supporting the ongoing implementation of this Policy including:
  - Reviewing the procedures for preventing and detecting fraud;
  - Reviewing and monitoring of the systems and controls for the prevention of bribery and corruption; and by
  - Receiving reports on any non-compliance as notified to Group Internal Audit or as included in the annual internal control reporting.

### **Management**

- Taking overall responsibility for ensuring that adequate measures and controls are in place to minimise the risk of incidents of bribery, corruption or fraud occurring. This includes taking day-to-day operational responsibility for the implementation of this Policy.

- Allocating sufficient and appropriate resources to implement and ensure compliance with this Policy, including training and awareness, so as to ensure that staff know what to do if they encounter any instance(s) of bribery, corruption or fraud or other wrongdoing.
- Operating and maintaining an effective governance framework to promote the prevention, detection and investigation of bribery, corruption, fraud and/or other wrongdoing.
- Encouraging openness and transparency, fostering an environment that is supportive of staff who raise concerns under the reporting arrangements referred to below and in which penalisation of any person who makes a Protected Disclosure is not tolerated.
- Considering exposure to the risk of wrongdoing and implementing initiatives to enhance risk management effectiveness. This should include the identification of fraud risks and related controls in risk registers / risk control matrices for processes which are at high risk of fraud.
- Ensuring that all employees for whom they are accountable are made aware of the requirements of this Policy and are made aware of bribery, corruption and fraud risks in their business unit.
- Reporting incidents of wrongdoing to Group Internal Audit and supporting the investigation of those incidents.

### **Group HR**

- Arranging and providing, in consultation with the Group Compliance Manager and Group Internal Audit, ongoing training and awareness in relation to this Policy, including for new hires.
- Ensuring employment policies, including this Policy are included in induction programmes for new employees at all levels.
- Overseeing implementation of disciplinary procedures arising in instances of breach of this Policy.

### **Group Internal Audit**

- Independently assessing the governance framework in place for managing and detecting instances of bribery, corruption or fraud.
- Incorporating fraud assessments into individual audit reviews.
- In consultation with management, agreeing the terms of reference of, and appointing investigators for, investigating breaches of this Policy and for providing independent oversight of all investigations undertaken.
- Maintaining a register of all instances of breach of this Policy as notified to them by Staff, Management, Financial Controllers or any other source.
- Reporting to the Executive Director, Finance and Commercial and the Audit and Risk Committee on instances of breach of this Policy. The Executive Director, People and Organisational Development and the Deputy chief Executive are also briefed as required.
- Providing advice and insights to ESB management on all instances of breach of this Policy and incidents of any wrongdoing.

### **Financial Controllers**

- Monitoring, managing and reporting on the effectiveness of ESB's internal control framework in preventing and detecting breaches of this Policy. This should include ensuring that processes which are at high risk of fraud are identified and that reporting is taking place via the quarterly internal control reporting process regarding the operation of these controls.
- Reporting to Group Internal Audit on instances of breach of this Policy and during follow up investigations as required.
- Managing implementation of follow-up actions.
- Maintaining a gift/hospitality register for their business unit through their Governance Managers.



### **Group Compliance**

- Ensuring an adequate compliance framework is established to minimise the risk of instances of bribery, corruption or fraud in ESB’s business and providing assurance on the adequacy of the framework.

### **Company Secretary**

- Reviewing and deciding whether or not to approve the provision of gifts or offers of hospitality or entertainment to any regulator or public official, including a TD, in an amount greater than €200.
- Maintaining a gift/hospitality register for the ESB Board.

### **Legal**

- Providing legal advice to the Board, management, Group Compliance and Group Internal Audit on legal requirements relating to bribery, corruption and fraud and in relation to any breaches of this Policy, including the investigation thereof and any external reporting obligations arising; and
- Providing advice to Group HR as required in relation to any disciplinary actions arising from or in connection with the investigation of any breaches of this Policy.

## **4 RAISING A CONCERN**

- 4.1 Every staff member has a duty to report any incident of bribery, corruption or fraud that he or she becomes aware of. In the case of ESB employees, any such incident should be reported in the first instance to the employee’s line manager or otherwise in accordance with ESB’s Whistleblowing and Protected Disclosures Policy (available on the ESB intranet). Contractors and third parties should report such incidences to any ESB manager. ESB’s Whistleblowing and Protected Disclosure Policy provides detailed guidance on how to raise concerns, including by way of a confidential hotline. This can be found on the ESB intranet on the following page: <https://thehub.esb.ie/corporate-centre/Purpose-Strategy/Pages/Our-Code.aspx>.

There are many ways to report your concerns but the most important thing of all is to speak up.

## **5. POLICY VIOLATIONS**

- 5.1 Any action in breach of this Policy by an employee is a disciplinary matter and will result in disciplinary procedures being invoked. This may result in penalties being imposed (up to and including dismissal).
- 5.2 Any action in breach of this Policy by a contractor, casual or agency worker will be reported to the relevant person’s employer and may result in termination of the contract between ESB and the relevant third party company.
- 5.3 In the case of either of the above, ESB may also take action to recover any losses incurred, which may include the issuing of civil and/or criminal proceedings against the employee / contractor and/or other individual or company concerned.
- 5.4 Finally, the matter will also be reported to An Garda Síochána or other authority, where ESB is required (or elects) to do so.

## **6 POLICY AMENDMENTS**

- 6.1 This Policy will be maintained and regularly reviewed by the Executive Director, Group Finance and Commercial.
- 6.2 This Policy reflects obligations arising under legislation including:
- the Criminal Justice (Corruption Offences) Act 2018
  - The Bribery Act 2010 (UK) (which applies to ESB as an entity which carries on a business in the UK)
  - the Ethics in Public Office Act 1995
  - the Standards in Public Office Act 2001

- the Protected Disclosures Act 2014 (as amended by the Protected Disclosures (Amendment) Act 2022)
- the Criminal Justice Act 2011
- the Companies Act 2014
- the Taxes Consolidation Act, 1997 and the Criminal Finances Act 2017 (in the UK)
- the Regulation of Lobbying Act 2015

This Policy may be revoked, replaced or changed at any time whether to reflect new laws or otherwise. Staff will be informed of any material changes made to the Policy.

## Version History

### Document Control, Review and Approval

Version No.	Date	Document Developer	Description of Change / Review	Approved by
1.0	November 2019	William Young	Policy Update	Pat Fenlon & Audit and Risk Committee
2.0	December 2022	Ronan Byrne & Paul O'Riordan	Policy Update	Paul Stapleton & Audit and Risk Committee