



ANTI- CORRUPTION

HANDBOOK

Content

I	Introduction	01
II	Corruption in our business environment	04
III	Definition and various forms of corruption	08
IV	Anti-corruption laws	10
	1. Anti-corruption conventions	11
	2. Provisions against corruption in the Norwegian Penal Code	11
	3. Other countries' laws	14
	4. The US Foreign Corrupt Practices Act	14
	5. Personal and corporate liability	18
V	Situations	18
	1. Facilitation payments	20
	2. Business courtesies – gifts, hospitality and expenses	21
	3. Dealing with public officials	24
	4. Charitable donations and sponsorships	25
	5. Recruitment	26
	6. Dealing with business partners	27
	7. Conflict of interest	30
VI	Corruption risk map	32
VII	Handling cases of doubt and breaches of the rules	34
	1. What to do when confronted with corruption	35
	2. Where to look for advice	35
	3. Where to report concerns or breaches of the rules	36

1. Introduction

SN Power does not tolerate, and works actively against, corruption in all its forms in the public and private sector.

But what is corruption? Are there typical examples of situations where we risk being confronted with corruption? If ever faced with corruption, how should we react and where can we find advice? How do we report corruption if we encounter it? This handbook provides you with answers, as well as with tips, definitions, examples and other tools.

Corruption is a criminal offence. As an individual, the consequences of being involved in corruption can include termination of employment, criminal prosecution, fines, confiscation or imprisonment. The consequences of corrupt activities can also be very damaging to our company and lead to criminal prosecution, fines, confiscation, major financial and reputational loss, blacklisting, loss of project opportunities and loss of morale and loyalty among employees. While corruption is detrimental to business, it also damages societies and increases poverty: Corruption threatens the rule of law, democracy and human rights, undermines good governance and social justice, distorts competition and hinders economic development.

SN Power has demonstrated proper business conduct and awareness in all its years of operation. We will continue to operate responsibly and sustainably as well as develop our business in a way that adds value not only for our shareholders, but also for the societies in which we operate.

Making this handbook available to all its employees, its subsidiaries, Joint Ventures, suppliers, contactors and consultants is part of SN Power's active work against corruption.

The SN Power Anti-Corruption Handbook is based on the CSR policy of SN Power.

STATEMENT BY THE CEO



Bribery and corruption are substantial threats to good governance, sustainable development, the democratic process and fair business practices. Bribery and corruption undermine attempts to achieve higher levels of economic and social welfare and impede efforts to reduce poverty. Corrupt actions also lead to loss of confidence in the public and private sector.

SN Power is committed to enshrining a zero tolerance culture for corruption, through active training and prevention, throughout our organization, our partners and supply-chain.

I encourage everyone to have active and open discussions about ethical challenges. At SN Power, we give business integrity priority and we will give full backing to employees who raise ethical issues.

Torger Lien, CEO and President



“Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organised crime, terrorism and other threats to human security to flourish. This evil phenomenon is found in all countries – big and small, rich and poor – but it is in the developing world that its effects are most destructive.

Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a Government’s ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and investment. Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development.”

United Nations Convention Against Corruption,
FOREWORD BY KOFI ANNAN, Former Secretary General of the United Nations

II. Corruption in our business environment

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“It is the policy of SN Power to conduct all our business in an honest and ethical manner. We stand firm with a zero tolerance approach to bribery and corruption and we are committed to operating professionally, fairly and with integrity in all our business negotiations and relationships. There are no exceptions.”

KJELL MARTIN GRIMELAND Chief Commercial Officer



TIP Corruption levels in countries and business sectors, have to be looked at in conjunction with other important parameters such as governance, rule of law, security, human rights and labour rights, environmental, health and safety issues, economy and market.

Corruption at country level

Corruption occurs in all countries and markets, with varying degrees. It is particularly important to take into account the levels of corruption:

- In countries where we are present or intend to be based
- In the countries where our business partners, such as suppliers or contractors, operate

SN Power can contribute to the fight against corruption in affected markets through systematic and proper business conduct.

Corruption in business sectors

No business sector or industry is unaffected by corruption, although some are hit harder than others.

According to international studies, sectors where bribes are most likely to be requested or extorted include sectors which are directly relevant for SN Power, such as:

- In energy
- In construction

In relation to infrastructure, construction and engineering sectors, corruption can occur at all stages of a project:

- In the identification of the project
- In the financing of the project
- During the planning and design phases
- During the pre-qualification and tendering phases
- During the project execution phase
- During the operation and maintenance phase

Vulnerable processes

Processes that are particularly vulnerable to corruption include:

- Interaction with public officials
- Licensing and permitting processes
- Acquisition of land and assets
- Interaction with customs
- Engaging contractors
- Procurement processes

Examples of corrupt practices during different phases of a project

Manipulation of pre-qualification

A project owner appoints an engineer to manage a pre-qualification for a project so as to obtain a short-list of five suitable contractors who can then bid for the contract. A contractor who wishes to be short-listed pays a cash bribe to the engineer to ensure that key competitors of the contractor are eliminated from the short-list on artificial grounds. The engineer produces a short-list which does not contain several key competitors. The engineer falsely informs the project owner that he has selected the best five competitors. The project owner relies on the engineer's advice. The contractor who bribed the engineer wins the project.

Bribery during sub-contract procurement

A procurement manager of a contractor is managing a competitive tender between sub-contractors. One of the sub-contractors offers a free holiday to the procurement manager if the procurement manager awards the contract to the sub-contractor. The procurement manager does so.

Corruptly negotiated contract

A senior government official who is in charge of the construction of new infrastructure projects wishes to enrich himself. He therefore decides to initiate a project which could conceal a major bribe for himself. In order to maximise the bribe potential, he ensures that the design will result in a project which is unnecessarily large and complex. He then informs a major company that he will ensure that the company is awarded the project on a non-competitive basis if the company includes in the contract price a payment for him personally of an amount equal to 30% of the contract price. The company agrees. The contract is awarded and the company pays the official.

False invoicing: supply of inferior materials

A concrete supplier is obliged to supply concrete to a particular specification. The concrete supplier deliberately supplies concrete of a cheaper and inferior specification, but invoices the contractor for the required specification.



TIP Many believe that corruption is “normal” in some cultures and part of “how things are done”. Cultural differences can never justify corruption. Corruption is illegal. There is no culture in the world where corruption is considered as a good business practice.

TIP Transparency International regularly surveys and analyses situations and trends in a large number of countries and industries and publishes results in reports and indexes. For updated “Corruption Perceptions Index” (see next page), “Global Corruption Barometer” or “Bribe Payers Index”, check: www.transparency.org.

TIP You can find a comprehensive summary of forms of corrupt practices that can take place during different phases of an infrastructure project on the website of the Global Infrastructure Anti-Corruption Center: www.giaccenter.org

Facilitation payment

A customs official demands a payment from a contractor in return for speeding up the issue of an import permit which the contractor is entitled to. The contractor makes the payment.

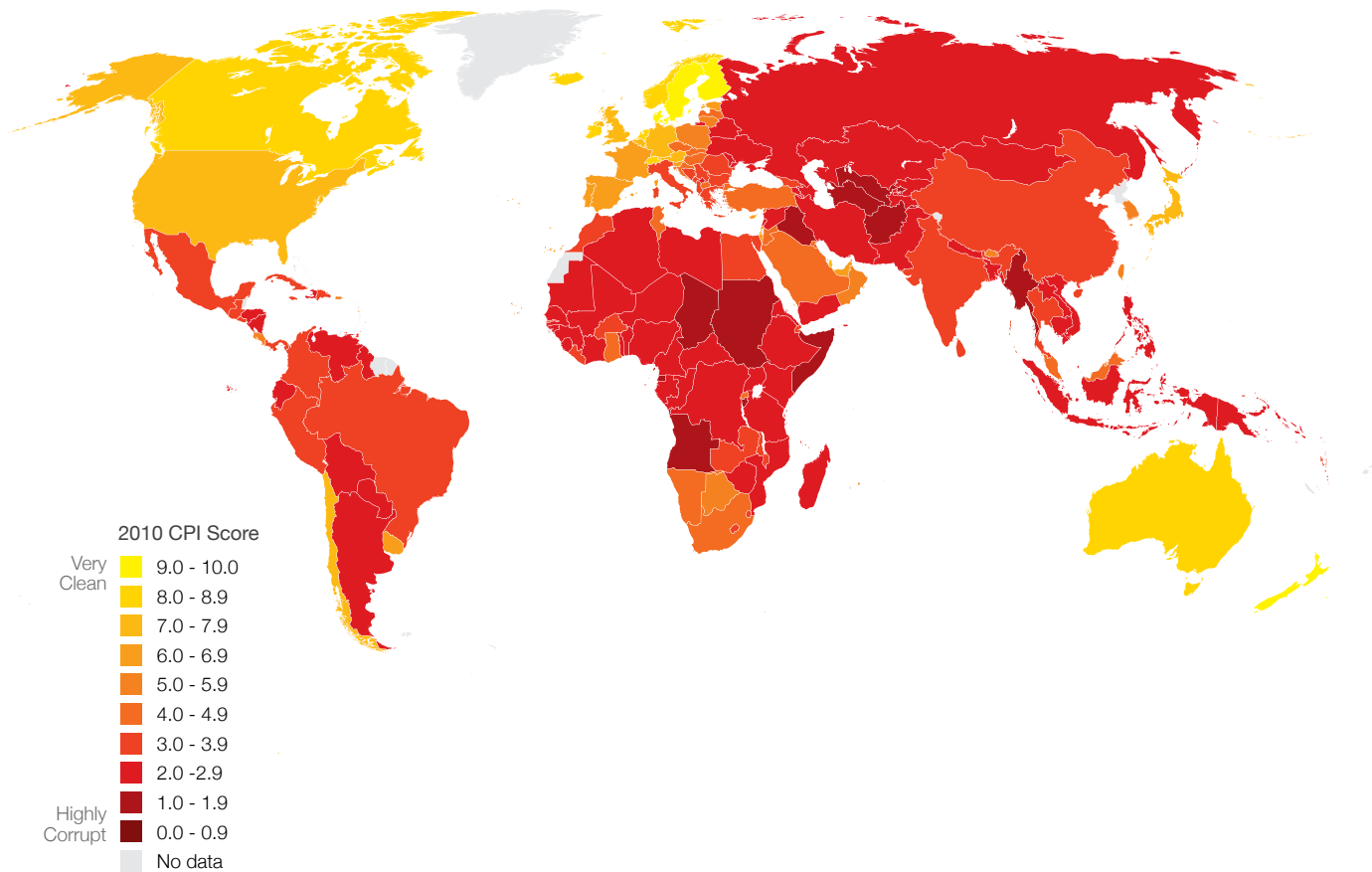
False variation claim

A contractor carries out work that is not in compliance with the contract specification. Under the contract, the architect is responsible for issuing variations. The contractor offers the architect a bribe if he confirms in writing that the work he carried out pursuant to a variation issued, and is therefore acceptable. The architect agrees.

These examples are illustrative and have been adapted from GIAA/TI(UK)’s Anti-Corruption Training Manual written by Catherine Stansbury and Neil Stansbury.

The Corruption Perceptions Index measures the perception of the degree of public sector corruption as seen by business people and country analysts; ranging between 10 (highly clean) and 0 (highly corrupt).

Source: Transparency International.



III. Definition and various forms of corruption

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“Businesses should work against corruption in all its forms, including extortion and bribery.”

UNITED NATIONS GLOBAL COMPACT – Principle 10 on anti-corruption

Chapters III and IV are based on extracts from the Transparency International publication entitled "Protect your business! Anti-Corruption Handbook for the Norwegian Business Sector", December 2009. SN Power would like to thank Transparency International Norway for allowing the reproduction of this material.

Corruption includes a wide variety of activities, all with the aim of obtaining illicit benefits. When a public or private sector position is abused for private benefit, this may involve bribery, nepotism, favouritism or other forms of corruption. The most common form of corruption is bribery, and bribery itself occurs in many different forms and disguises.

For the purpose of this handbook, corruption is defined in the same way as in the Norwegian Penal Code:

To accept, request, receive, give or offer an improper advantage or an offer thereof in connection with a position, office or assignment.

The following are descriptions of various types of corruption to help gain an understanding of its nature. These are not exhaustive, mutually exclusive, or intended as definitions of corruption.

Grand corruption

This expression includes the most dangerous and covert type of corruption, where external interests illegally abuse the highest levels of a political system to achieve private ends. Grand corruption is the distortion of central functions of government by senior public officials. It is found where public officers, in the process of making decisions of significant economic value, demand bribes or kickbacks for ensuring that contracts are awarded. It is often called corruption by greed. It also includes the practice of bypassing bureaucratic and/or political hurdles to achieve business results. Proponents see it as a customary means of doing business rather than as a crime; cynics have little regard for the good of the country or its people, and accept that decisions are governed by private gain, which is fuelled by bribes from companies.

Small corruption

Corruption which involves small values is a widespread practice in many countries. It is often called facilitation payments, grease money or petty corruption and is the use of

public office and position for private benefit in the course of delivering a public service. The public servant, who is often seriously underpaid, abuses his/her position by demanding or accepting a benefit for what is a routine transaction, service or approval. It is often called corruption by need, but should not be condoned. Both as a matter of principle, and because of the large scale of systematic small corruption encountered in many places, it is just as bad as grand corruption.

The direct victim of this abuse of power is the citizen. Inexpensive corruption for rich foreign companies and individuals is expensive corruption for poor citizens.

Public sector and private sector corruption

These are often two sides of the same issue. In public-private business relationships, public sector officials normally act as the demand side of bribery and private companies are usually the supply side. Several large corruption cases in Norway in recent years have involved bribes paid by private sector companies to municipal sector employees.

Private-to-private corruption

Corruption where the private sector is both the demand side and the supply side is treated in the same manner as private to public sector corruption in Norwegian law and in many other countries' laws. An example is when a purchaser in a privately-owned company accepts a bribe from a supplier in return for favourable treatment in a bidding competition.

Corruption versus other economic crimes

Sometimes corruption cannot be easily distinguished from other types of economic crimes such as fraud, embezzlement, theft, money laundering, tax evasion and insider trading. Such criminal acts often occur together in large and complex cases.

IV. Anti-corruption laws

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“When a penal provision is contravened by a person who has acted on behalf of an enterprise, the enterprise may be liable to a penalty. This applies even if no individual person may be punished for the contravention.

In deciding whether a penalty shall be imposed on an enterprise and in assessing the penalty vis-à-vis the enterprise, particular consideration shall be paid to: the preventive effect of the penalty, the seriousness of the offence, whether the enterprise could by guidelines, instruction, training, control or other measures have prevented the offence, whether the offence has been committed in order to promote the interest of the enterprise, whether the enterprise has had or could have obtained any advantage by the offence, the enterprise's economic capacity, whether other sanctions have a consequence of the offence has been imposed on the enterprise or any person who has acted on its behalf, including whether a penalty has been imposed on any individual person.”

Extracts of the **NORWEGIAN PENAL CODE**, Section 48 a and b

1. ANTI-CORRUPTION CONVENTIONS

International conventions are agreements between states that are negotiated and signed by governments, ratified by parliaments and come into force when a sufficient number of states have ratified them.

There are a number of international conventions dealing with corruption in the public, private and political sectors. A common feature of conventions is that they require the signatory states, through their national legislation, to launch a comprehensive and concerted attack on corruption. States are required to criminalise corrupt acts, step up enforcement, increase legal and judicial cooperation with other states, and strengthen preventive measures.

Norway has ratified and implemented the following anti-corruption conventions:

- The 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions – is a common framework for establishing equal competitive conditions for companies in all Convention countries
- The 1999 Council of Europe Criminal Law Convention on Corruption – encompasses active and passive corruption in both the private and the public sector
- The 1999 Council of Europe Civil Law Convention on Corruption – deals with the civil law aspects of corruption. Its measures include enabling persons who have suffered damage as a result of corruption to claim compensation
- The 2003 UN Convention Against Corruption – is the first global convention to deal with preventive measures, criminalisation, international cooperation and asset recovery

2. PROVISIONS AGAINST CORRUPTION IN THE NORWEGIAN PENAL CODE

Before the amendments in 2003, corruption was not a prominent issue in the Norwegian Penal Code. The word "corruption" was not used anywhere in the Code. There were provisions dealing with bribery of public officials in Norway and abroad, but the provisions used terms such as "threats", "consideration" and "offers of advantages". Corruption not involving public officials was mainly dealt with in the general provisions on fraud.

In 2003, the Penal Code was significantly strengthened on the subject of corruption, by the implementation of the Council of Europe Criminal Convention on Corruption, and by the addition of three new provisions on corruption. Today, Norway's corruption legislation is among the strictest legislation in the world.

The Penal Code has three sections on corruption, covering:

- Corruption
- Gross corruption
- Trading in influence

Both the person who offers an improper advantage (active corruption) and the person who accepts it (passive corruption) may be prosecuted for corruption under the Penal Code. The Code criminalises:

- Corruption involving Norwegian public officials and private actors
- Corruption involving foreign public officials and private actors
- Complicity in corruption

The provisions apply to Norwegian companies and citizens, and also to foreign companies and citizens residing in Norway, for corruption committed in Norway and abroad, regardless of whether the act is a criminal offence in the other country.

It is not necessary for the prosecutors to provide evidence that the active briber has achieved the objective of the corrupt act, i.e. that he or she obtained the advantage or that the passive briber did what he or she was paid or induced to do.

To offer or give an improper advantage, and to request, receive or accept an offer of an improper advantage, in connection with a position, office or assignment will suffice.

“As a Norwegian entity, with its headquarters in Oslo, SN Power complies with Norwegian anti-corruption laws as well as with applicable anti-corruption laws of countries where we operate.

Where differences exist between Norwegian anti-corruption laws, and the anti-corruption laws of the country where we operate, we follow the norm which sets the highest standard of behaviour.”

EXTRACTS OF THE NORWEGIAN PENAL CODE, SECTION 48 A AND B

The Penal Code also applies to bribes paid indirectly through agents, consultants or other intermediaries. For instance, a payment, fee or commission will be at risk of being an improper advantage, if, for example, the payment is a disproportionate, large payment for the services, or if the services are either non-existent or not clearly defined.

Corruption

The Penal Code provision on corruption covers “ordinary” corruption. The penalties are fines or imprisonment for up to three years.

Any person who

a) for himself or other persons requests or receives an improper advantage or accepts an offer thereof in connection with a position, office or assignment, or

b) gives or offers any person an improper advantage in connection with a position, office or assignment shall be liable to a penalty for corruption.

Norway's Penal Code, Section 276 a

Gross corruption

The Penal Code provision on gross corruption covers “serious” corruption. The penalty is imprisonment for up to 10 years.

In deciding whether the corruption is gross, importance shall be attached to, inter alia, whether the act has been committed by or in relation to a public official or any other person in breach of the special confidence placed in him as by virtue of his executive position, office or assignment, whether it has resulted in a considerable economic advantage, whether there was a risk of considerable damage of an economic or other nature, or whether false accounting information has been recorded, or false accounting documents or false annual accounts have been prepared.

Norway's Penal Code, Section 276 b

Trading in influence

The Penal Code provision on trading in influence covers corrupt acts between two persons influencing a third person. The penalties are fines or imprisonment for up to three years.

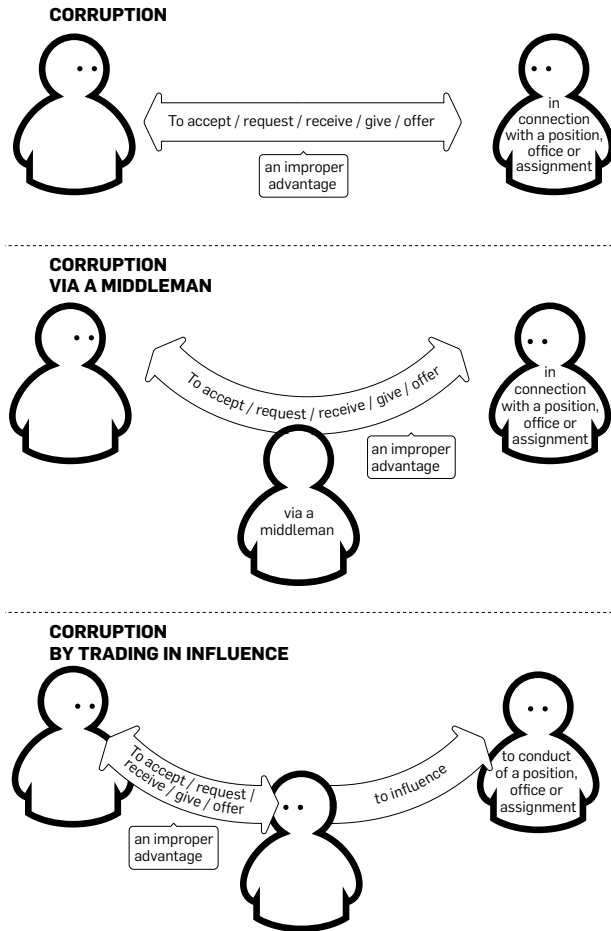
Any person who

a) for himself or other persons, requests or receives an improper advantage or accepts an offer thereof in return for influencing the conduct of any position, office or assignment, or

b) gives or offers any person an improper advantage in return for influencing the conduct of a position, office or assignment shall be liable to a penalty for trading in influence

Norway's Penal Code, Section 276 c

This provision deals with cases where a person gives or offers a middleman an improper advantage in return for exercising influence on a decision-maker, without the decision-maker receiving any advantage. A central point in the assessment of the legality of the behaviour is the extent to which the middleman has been open about his activities, relationships and intentions.



This broad definition covers:

- Economic advantages, such as money in cash or in bank accounts, cars, free trips, entertainment and shares in a company
- Non-economic advantages with no direct material value, e.g. the passive party is awarded an honour, is promised a future holiday or a contract, is admitted to an association with restricted membership, receives sexual services, or where his/her child is accepted by a private school

A number of factors will count in the assessment, on a case-by-case basis, of the impropriety of the advantage. These may include:

- The purpose of the advantage
- The positions (public official, executive, etc.) of the giver (active briber) and the receiver (passive briber)
- The value and nature of the advantage
- Whether or not the principal (of the giver or receiver) is aware of the advantage offered or received
- Whether or not there has been a breach of internal rules (code of conduct, etc.) or a contract

Facilitation payments

The practice of making or requesting facilitation payments, i.e. payment for a service to which one is already entitled or has a legal entitlement to without extra payment, is a form of corruption covered by the Penal Code, even though it does not specifically mention the term "facilitation payment". If a facilitation payment constitutes or intends to create an improper advantage, then criminal sanctions apply. In the preparatory works to the 2003 amendment of the Penal Code, it is stated that facilitation payments for services that an individual has an entitlement to will not always constitute an improper advantage under the Penal Code, and hence not necessarily be corrupt.

This provision covers trading in influence both in the private and the public sector. Lobbying activities are one form of trading in influence that in certain cases may be considered improper and illegal, for instance if concealed.

Improper advantage

A key issue in the Penal Code is:

Which actions, contributions or services may constitute "an improper advantage" and hence incur liability for corruption?

An "advantage", according to the preparatory works leading up to the 2003 amendment of the Penal Code, is "everything that the passive party finds in his/her interest or can derive benefit from".

Extortion

The business community at times points out that payments that might fall under the heading of corruption are actually payments made in response to extortion (blackmail), a threat to life and health, or a risk of significant economic loss. The Penal Code provisions on self-defence may then apply. Whether or not payment under such circumstances is prohibited will depend on an individual assessment of the actual case. The person who is the victim of the extortion, or who acts in self-defence, may have a defence argument against corruption charges if the threat is significantly severe.

No person may be punished for any act that he has committed in order to save someone's person or property from an otherwise unavoidable danger when the circumstances justified him in regarding this danger as particularly significant in relation to the damage that might be caused by this act.

No person may be punished for an act of self-defence.

Norway's Penal Code, Section 47 and 48

3. OTHER COUNTRIES' LAWS

Norwegian companies doing business abroad must respect the laws in each country of operation. They are advised to base their anti-corruption standards on the most stringent corruption legislation that they are exposed to and to apply them in all countries. Using the Norwegian legal standard is a good start, but companies should also secure local legal advice to enable them to be observant of the differences in what is illegal and what the penalties are in other countries.

Some countries (like Norway) have laws that criminalise corruption committed abroad and allow for the prosecution of both its own and other countries' citizens and companies in such cases. One such law that is important for many Norwegian companies is the USA's Foreign Corrupt Practices Act.

4. THE U.S. FOREIGN CORRUPT PRACTICES ACT

The Foreign Corrupt Practices Act (FCPA) was created in 1977 as a result of 400 US companies admitting to making questionable or illegal payments to foreign government officials, politicians and political parties.

The FCPA describes the anti-bribery provisions as follows:

"It is a crime for any US person or company to directly or indirectly pay or promise anything of value to any foreign official to obtain or retain an improper advantage."

Recipient: The prohibition extends only to corrupt payments to a foreign official, a foreign political party official, or any candidate for foreign political office. A "foreign official" means any officer or employee of a foreign government, a public international organisation or any department or agency thereof, or any person acting in an official capacity.

A foreign official must be a person, and cannot be a party or an organisation. Applicable persons include:

- Political party candidates and employees
- Government employees
- Employees of government-owned companies
- Employees of public international organisations
- Any other official capacity

Business purpose: The FCPA prohibits payments made in order to assist the company in obtaining or retaining business for or with, or directing business to, any person. The Department of Justice interprets "obtaining or retaining business" broadly, such that the term encompasses more than the mere award or renewal of a contract.

While facilitation payments are permitted under the FCPA, two risk areas should be considered. Firstly, the FCPA requires companies to account for these payments accurately. Secondly, the payments may violate the laws of the country in which they are made or in the home country of the company or its parent company, outside the USA.



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“We recognize that bribery and corruption are damaging to legitimate business interests and to the society as such. We conduct all our business across the globe , in an honest and ethical manner and we want to be sure that all associates and business partners do the same. Our ant-corruption frameworks reflects the expected commitments from our partners.”

KRISTIAN HANEBOG Chief Commercial Officer

5. PERSONAL AND CORPORATE LIABILITY

Both companies and individuals can be liable for a criminal offence. The exact extent of criminal liability will depend on the law of a particular country. However, the principles stated below will apply in a number of jurisdictions.

Individual liability

An individual may incur liability for corruption as follows:

1. Those directly involved: Any individual who is directly involved in committing a corruption offence may be liable for the offence.

2. Those indirectly involved: An individual may be liable for a corruption offence where he is indirectly involved in committing the offence. For example, an individual may be liable where he has used another person to act on his behalf.

3. Those in authority: A person in authority, such as a chief executive, director, manager, may be liable for a corruption offence even where he was not directly involved in committing the offence, but either he expressly authorised the offence or that type of offence, or knew of the offence and either consented to it or turned a blind eye to it. Such liability may arise where, for example, a chief executive suspects that the company's employees may be paying bribes on a project, but takes no action to prevent them doing so.

4. Aiding and abetting: An individual may also be liable for the offence of aiding and abetting where he has somehow facilitated the committing of the offence.

An individual may incur criminal liability even where:

- He was not aware that the activity constituted a crime
- He did not or would not make any personal gain from the activity
- He did not pay or receive the bribe personally, and instead the bribe was paid or received through or by another person, such as an agent, subsidiary company, joint venture partner, friend, spouse or other third party
- He did not commit a fraud personally, and instead the fraud was committed by or through another person
- He was following the instructions of a superior in the organisation

- He believed that his actions were in the interests of his employer
- There were threats of adverse consequences made to him in order to make him commit the offence (unless he feared imminent physical harm)
- The bribe or fraudulent activity did not involve money, but instead involved the provision of a non-cash advantage, for example, a future contract, a holiday, jewellery or other gift
- The person who had been offered or who had received the bribe did not act in the way intended when the bribe was agreed
- The bribe was offered, but was never actually paid
- The amount of the bribe was less than the financial damage which could result from failure to pay the bribe
- The conduct constituting the offence was widely practised and considered to be normal business practice
- The conduct constituting the offence was believed to be necessary for a party to remain competitive
- The offence did not succeed (as the person could be liable for an attempt to commit the offence)

Corporate liability

In many jurisdictions, companies can be liable for criminal offences. This liability may arise in a number of ways including:

1. Through the acts of its employees: A company may incur criminal liability through the corrupt act of an employee (whatever his position) if the employee was acting within the course of his employment.

2. Through the acts of its agents: A company may incur criminal liability through the corrupt act of an individual or company who has been appointed to act on its behalf and where the corrupt act is committed in the course of that appointment.

3. Through the acts of its related companies or business partners: A company could be liable for a corrupt act committed by a subsidiary or associated company, joint venture or consortium partner, sub-contractor or supplier, where that corrupt act could benefit the company's business. Such liability could arise where the company authorised, approved, condoned or turned a blind eye to the corruption.

4. “Turning a blind eye” or “wilful blindness” occurs where a party in authority (such as an officer or manager of a company) suspects corruption in relation to a business transaction in which the company is involved, but deliberately refrains from making further inquiries and taking preventive steps. In such situations, even if the officer or manager has not been expressly told that a business partner is paying a bribe which may benefit the company, a court may infer that the company must have known that a bribe would probably be paid. This inference may arise where the circumstances would be likely to put the officer or manager on notice. Such circumstances would include, for example, where an agency commission is significantly disproportionate to the legitimate scope of services which the agent is to undertake, or where the agent has no capability for undertaking those services, or where the agency commission is to be paid, without good reason, in foreign currency into an off-shore bank account. The existence of a formal agency agreement will not prevent an inference of corruption. The courts would look at the circumstances surrounding the agreement and at its true effect, not merely at its form. It is, therefore, extremely important for company officers and managers to make proper inquiries, should they suspect corruption in relation to the company's affairs, and to take steps to prevent or stop the corruption. Otherwise their inaction may make the company liable (in addition to causing them to incur personal liability).

Range of persons (both individuals and companies) who may be liable: A wide range of persons could be liable for a corruption offence. For example, a bribe is agreed to be paid by a contractor to a government employee and, in order to conceal the bribe, it is paid by the contractor through a subcontractor who in turn appoints an individual agent to pay the bribe.

In such circumstances, the following may incur liability where they are aware of or are wilfully blind to the corrupt circumstances:

- Those directors and managers of the contractor and sub-contractor who authorise payment of the bribe, or who authorise the general policy of payment of bribes, whether tacitly or expressly
- Those directors and managers of the contractor and sub-contractor who are involved in the decision to conceal the bribe by payment through the sub-contractor and agent
- The director or manager of the sub-contractor who directly negotiates the payment of the bribe with the agent
- Those directors and managers of the contractor and sub-

contractor who suspect that there may be corruption but do not make proper enquiries and take preventive steps

- The accounting employee of the sub-contractor who implements payment of the bribe to the agent and charges the contractor with the cost of the bribe
- The accounting employee of the contractor who implements reimbursement of the cost of the bribe to the sub-contractor
- The lawyer who drafts the agency or other agreement which was used as a cover for the bribe mechanism
- The agent who acts as intermediary for payment of the bribe
- The government employee who receives the bribe
- The contractor and sub-contractor (where they are companies), their liability being incurred through the knowledge and actions of their directors and managers
- The company, who is using the services of the contractor since his acts could be attributed to the company

Section 5 of this Chapter contains extracts and has been adapted from GIAA/TI(UK)'s Anti-Corruption Training Manual written by Catherine Stansbury and Neil Stansbury.

V. Situations

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“SN Power does not tolerate, and works against, corruption in all its forms in the public and private sector. We do not offer, give, accept or receive bribes or other improper advantages, whether directly or indirectly, for business or private gain, whether for ourselves or for others.”

ERIK KNIFE COO SN Power

SN Power's governing documents – in particular its Code of Conduct (the Code), The Supplier, Contactor and Consultant Code of Conduct (the Supplier Code), as well as its Group Procedure on Business Ethics (the Policy) – have been developed with the objective of complying with applicable anti-corruption laws and regulations, as well as to respond to the challenges caused by the business environment the company is operating in.

This Anti-Corruption Handbook reflects both the requirements contained in the Code, the Supplier, Contractor and Consultant Code, as well as the Policy. The Policy is structured around typical situations, most of which are illustrated in this handbook:

1. Facilitation payments
2. Business courtesies – gifts, hospitality and expenses
3. Dealing with public officials
4. Charitable donations and sponsorships
5. Recruitment
6. Dealing with business partners
7. Conflict of interest

The handbook further describes these seven situations, using tips, tools and definitions to provide guidance. We often use definitions extracted from Transparency International's Business Principles for Countering Bribery (these are marked with an “*”).

SN Power and Statkraft have developed an e-learning programme on anti-corruption for all employees that can be used alongside this handbook. In the e-learning programme, you will find several exercises related to the subjects in this handbook. We also organise training on a regular basis concerning corporate responsibility, integrity and anti-corruption.



TIP Information on SN Powers's e-learning programme on anti-corruption, as well as training sessions, can be found on the intranet. For further enquiries, please contact Corporate Responsibility CER, in your country, or in Oslo.

DEFINITION

A facilitation payment is a bribe paid to receive preferential treatment for something that the bribe receiver is required to do by law. Examples include payments to speed up customs clearances or visa applications.



TIP It is often possible to avoid pressure to make facilitation payments through careful planning, for example by planning shipments well ahead and allowing plenty of time for customs clearance. In other cases we may have to accept that refusal to pay will cause delays and that there will be a commercial cost.

WHAT IF?

Your project is running overtime and your turbine is retained in customs, despite the fact you have done all the necessary paper work and obtained all authorisations. The public official you are dealing with is certain that this could be solved in a week's time if you pay him "a fee that would facilitate the process". You are preoccupied by the financial loss created by the situation, but can you accept such payment?

1. FACILITATION PAYMENTS

Facilitation payments are generally illegal, but in some countries they are a common part of business and everyday life. Willingness to make small payments often leads to demands for more bribes. As described in Chapter III, the practice of making or requesting facilitation payments is a form of corruption covered by the Norwegian Penal Code, even though it does not specifically mention the term "facilitation payment".

“ SN Power prohibits facilitation payments ”

SN POWER'S CODE OF CONDUCT

Demands for facilitation payments may constitute a form of extortion. An extreme example is a demand for payment in order to secure emergency admission into hospital. If life or health is in danger, making such a payment is not a violation of SN Power's internal rules.

Such payments must be reported to our manager without undue delay and always be properly documented and recorded.

DEFINITIONS

GIFTS are money, goods, services or loans given ostensibly as a mark of friendship or appreciation. They are professedly given without expectation of consideration or value in return. Gifts may be used to express a common purpose and the hope of future business success and prosperity. Gifts have no role in the business process other than marking and enhancing relations or promoting the giver's enterprise by incorporating a logo or message on a promotional item, such as a calendar.*

HOSPITALITY includes entertaining, meals, receptions, tickets to entertainment, social or sports events, participation in sporting events, such activities being given or received to initiate or develop relationships between business people. The distinction between hospitality and gifts can blur, especially where the giver of the hospitality does not attend and act as a host.*

EXPENSES are the provision or reimbursement by an enterprise of travel and other related expenses incurred by a prospective client, customer or business partner, such reimbursement not being part of a contractual agreement. Typically, these are costs of activities such as travel to view a manufacturing plant or a benchmark installation.*

+ WHAT IF?

A supplier invites you to an event with partly professional and partly team building content. The supplier is offering to pay all your expenses. What do you need to consider to make the right decision?

2. BUSINESS COURTESIES – GIFTS, HOSPITALITY AND EXPENSES

Small business courtesies, such as a simple business lunch, are often part of building business relations. The same is true of a small birthday or seasonal present.

A business courtesy may, however, also be seen as a bribe. We therefore have a restrictive policy on offering and receiving business courtesies, and prohibit the offer or acceptance of business courtesies where this could constitute, or appear to constitute, an undue influence.

“SN Power prohibits the offer or acceptance of business courtesies – gifts, hospitality, expenses or any benefit – where they could constitute, or appear to constitute, an undue influence. In addition, business courtesies can only be accepted or offered if they are modest, both with respect to value and frequency, and if the time and place are appropriate. We exercise increased caution when business courtesies involve public officials.”

Our travel, accommodation and other expenses are always paid by SN Power. As a general rule, this also applies in the reverse direction towards external relations.

Giving or receiving gifts and hospitality can have tax implications, both for the offering and the receiving party. We always consider such implications and fulfill any associated reporting obligations.



TIP If you plan a day meeting with a business partner and you anticipate that you might be invited to a business lunch or dinner, inform your partner about our policy on hospitality. It will allow everyone to plan accordingly. This is valid when we are invited as well as when we invite business partners.

General guidelines

When considering a business courtesy, always take into account the following:

What is the purpose?

If the offering or the acceptance of a business courtesy constitutes or appears to constitute an undue influence, they are prohibited.

What is the value and frequency?

Only modest business courtesies, both with respect to value and frequency, can be received or offered. Business courtesies exceeding a modest value can only be received or offered with prior approval from senior management. Approval is not given if the business courtesies constitute or appear to constitute an undue influence.

What is the context?

If SN Power is in the process of awarding a contract or being awarded a contract, either alone or in a partnership, all gifts and hospitality must be avoided, irrespective of value.

What is the nature of the relationship?

Business courtesies to or from a joint venture partner are less sensitive than from a potential supplier or to a public official.

What is the recipient's position?

Exercise increased caution when dealing with public officials or someone in a high or entrusted position. If in doubt, do not accept or offer a courtesy.

Is it compatible with the ethical guidelines of both parties?

Consider both the recipient's and SN Power's ethical guidelines.

Is it transparent?

All gifts and hospitality must be transparent and related expenses must be properly documented and recorded in the accounts.

Can the expenses we are asked to reimburse be verified and documented?

If not, we do not pay.

Would I be comfortable with this appearing on the front page of a national newspaper?

If not, we do not proceed with the activity in question.

What to do if presented with a gift

If in doubt on whether we should accept a gift, the best option may be a polite refusal, citing SN Power's internal guidelines.

If we are presented with a gift and, on the spur of the moment think it is impolite to refuse, we always declare the gift to our manager as soon as possible, who will decide on the appropriate course of action.

In some circumstances, it may be appropriate to offer the gift to charity, or to share it with a wider group of SN Power employees, for example through a raffle.

Special offers

We do not, for our benefit or the benefit of others, accept loans, guarantees, discounts or similar benefits from suppliers or customers if these are offered because of our employment with SN Power.

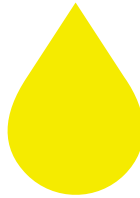
Exceptions might be made if these are granted under an arrangement applying to a larger unit or the company as a whole, rather than to the individual.

Making the right decision is sometimes difficult, both in terms of offering and receiving business courtesies. The "traffic light" diagram below provides guidance in making the right decision with respect to our external relations. These are a few examples and must be read in conjunction with the guidelines appearing in this handbook.



→ UNACCEPTABLE

- Money or things that can be easily redeemed for cash.
- Gifts with conditions.
- Gifts that infringe the recipient's guidelines.
- Return commission for an individual.
- Payment in the form of delivery of material or work on the recipient's property.



→ MUST BE ASSESSED CAREFULLY WITH SENIOR MANAGEMENT

- Personal gifts from a business partner in connection with special occasions.
- Competitions or lotteries with prizes that can be regarded as gifts.
- A ticket to an event following a seminar or a business meeting.
- Internship for a relative of a supplier or a potential business partner.
- Memberships to a club or society.



→ NORMALLY ACCEPTABLE

- A gift of modest value carrying a company logo.
- A modest lunch at the canteen of a business partner.
- A modest reception following a seminar or a workshop.
- A gift of modest value at seasonal occasions.

DEFINITION

A public official includes any person holding a legislative, administrative or judicial office, whether appointed or elected; any person exercising a public function, including for a public agency or public enterprise; and any official or agent of a public international organisation.**

** As defined in the "OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions".



TIP It is strongly advised that more than one person represents the company at meetings with public officials. The outcome of meetings shall be documented and communicated internally.

TIP Consider consulting your superior, or the CSER representative, when you are dealing with high level public officials.

TIP When introducing SN Power to public officials, consider if it is appropriate to share with them a copy of the Code of Conduct.

+ WHAT IF?

The high ranking official with whom you are dealing suddenly shares with you his passion for salmon fishing. He mentions to you how great it would be to be able to travel to Norway in connection with the licensing process since it would allow him to go fishing. He wonders if you could assist organising such a business trip. Is this a reflection of cultural differences or is this corruption?

3. DEALING WITH PUBLIC OFFICIALS

We exercise increased caution when business courtesies involve public officials. In addition, other special considerations apply when dealing with public officials: The public official's own guidelines may forbid them to accept even modest courtesies. We always check what is acceptable beforehand.

“ We exercise increased caution when business courtesies involve public officials.”

SN POWER'S CODE OF CONDUCT

When dealing with public officials we always comply with the following guidelines:

- No payments are made to any public officials or any political party.
- SN Power does not authorise or cover any expenses involving public officials.

Covering expenses involving public officials might however be authorised in exceptional circumstances and under strict conditions.

DEFINITION

Charitable contributions are payments made for the benefit of society, for charitable, educational, social welfare and similar causes – the payments are made without demand or expectation of a business return. Sponsorship is a transaction where the enterprise makes a payment, in cash or in kind, to associate its name with an activity or organisation and receives in consideration for the sponsorship fee, rights and benefits such as the use of the sponsored organisation's name, advertising credits in the media, events and publications, the use of facilities and opportunities to promote its name, products and services. It is a business transaction and part of promotion and advertising.*



TIP Make sure you know who the charity representatives are. If anyone is related to public officials or to anyone with whom you do business, you should carefully consider the donation since it could constitute corruption.

TIP Make sure that your community investments respond to recognised needs and challenges of the communities in question and follow the principles of transparency and accountability.

+ WHAT IF?

You are operating in a new country and have successfully obtained all necessary licenses. You have been made aware that it is customary for all international companies to contribute to the “Presidential Foundation for the Homeless”. The Foundation has been criticised over the years for not being transparent about the activities it actually undertakes, as well as for not publicising its accounts. It might be customary to do so, but is this a foundation you could support?

4. CHARITABLE DONATIONS AND SPONSORSHIPS

SN Power only supports and sponsors organisations with a legitimate public purpose and high standards of transparency and accountability. Such support is transparent and properly documented.

“ We ensure that charitable donations and sponsorships are not a backdoor for corruption.”

In connection with a project for the development and construction of a new power production facility, SN Power may be requested by local municipalities to contribute to community projects beyond what is required by applicable laws and regulations. Such contributions must be transparent and can only be made at SN Power's own discretion and never with ties to licenses, registration or permitting processes. SN Power does not use such contributions to gain a competitive advantage or to bypass a competitor.



TIP Plan your recruitment process well ahead. This will allow for proper interviews and the checking of references.

TIP For advice and support on performing an adequate integrity review contact Corporate Responsibility.

WHAT IF?

The Mayor of the village where you are operating approaches you and wonders if you could support his son's application to a junior engineer position that has just opened in your company. The son has just passed his exams in a reputed school for engineers. Your manager believes that a fast-track process to hire him could be worked out. But shouldn't the son, like any other candidate, be part of the regular recruitment process?

5. RECRUITMENT

Business integrity is part of the recruitment and selection process at SN Power. In all selection and recruitment processes we will seek to assess the applicant's ethical standards.

For all recruitments, references must be obtained from previous employers. All references must be verified and any unusual or incomplete information must be checked.

“ In a business context, favouring family and friends is improper and may be in breach of corruption law.”

SN POWER'S CODE OF CONDUCT

For key employees, a formal integrity review should also be considered. The aim of the integrity review is to profile the applicant's history for ethical conduct, including possible involvement in criminal activities. This review is especially important in regions with high levels of corruption. The review is performed after having informed the candidate in question and is undertaken in accordance with privacy requirements and other applicable legislation.



TIP When introducing SN Power to new business partners, inform them about the Code including our policy on corruption. Our business partners are expected to adhere to anti-corruption standards that are consistent with our own.

+ WHAT IF?

You have found a potential business partner who is competent for a task you are responsible for. He is presented with a draft contract which contains our standard anti-corruption clause. He does not see why such a clause is needed and would like this clause to be deleted from the contract. He says that he has a good reputation and that business should be based on mutual trust. Should you look into alternative business partners.

6. DEALING WITH BUSINESS PARTNERS

Our objective is to establish business relationships based on mutual commercial benefit with our business partners. A business partner is anyone with whom we do business, such as suppliers, contractors, agents, lobbyists, consultants and partners in a joint venture.

Standard clauses

All of our business partners are required to adhere to standards that are consistent with SN Power's ethical requirements, as laid down in the Code.

“ Business partners are expected to adhere to standards that are consistent with SN Power's ethical requirements.”

SN POWER'S CODE OF CONDUCT

SN Power has adopted standard clauses addressing business integrity to be included in all agreements with our business partners. The respective business/staff unit is responsible for ensuring that agreements include such clauses.

Integrity review

Before we establish a new relationship with someone who will represent us or act on our behalf, or with a partner in a joint venture, we conduct a review on their background, reputation and track record on integrity. The review is performed after having informed the partner in question and is undertaken in accordance with privacy requirements and other applicable legislation.



TIP For advice and support on performing an adequate integrity review contact head of CSER.

TIP SN Power works with a network of professionals that assist in performing integrity reviews.

The integrity review will normally include the following items:

- Brief description of background and professional history of the company/individual
- Business interests, shareholdings, management positions
- Connections to public officials and other political connections
- Business reputation
- Involvement in controversial issues (scandals, litigations, investigations)
- Appearance on international blacklist

“ The enterprise should not channel improper payments through agents or other intermediaries.”

THE BUSINESS PRINCIPLES FOR COUNTERING BRIBERY

Any decision not to undertake an integrity review shall be taken by senior management.

Agents, consultants and others acting on our behalf (the “Representative”)

We always critically assess the need to appoint a Representative. If a Representative is needed – for instance in order to penetrate or gain a position in a new market – we must ensure the following:

The Representative

- The Representative is qualified to perform the services required
- The Representative is fully briefed on the Code and has made a written commitment to adhere to it
- The engagement process is fully documented
- The final sign-off on the engagement is made by someone other than the person selecting or managing our relationship with the Representative

The agreement

The agreement with the Representative includes our standard clauses and clearly describes:

- The scope of work
- The obligation of the Representative to provide SN Power with regular, detailed reports on activities during the contract period
- The requirement to comply at all times with the Code, and the right for SN Power to terminate the agreement following non-compliance

- The right to inspect, at any time, the Representative's books and records in connection with the project, as well as its premises if relevant
- The obligation of the Representative to ensure that any supplier the Representative engages complies with the same requirements as the Representative himself

Transparency

As a general rule and subject to relevant confidentiality provisions, our Representatives are open and transparent about their assignment for SN Power. If we engage a Representative to advocate or lobby for our business interests, the agreement must include an obligation for the Representative to disclose this information to the person or body being lobbied.

Payments

Fees, commissions and other payments are appropriate, proportional and justifiable remuneration for legitimate services. No commercial imbalance must exist between the payment and the service delivered.

All payments are made directly to the Representative's account (not via agents/middlemen), and the bank account should not be situated in other countries than the country where the Representative is based, or in which the performance under the agreement is to be delivered.

Advance payment and success fees should, if possible, be avoided.

Once agreements have been signed, we monitor our relationship with the Representative in order to ensure that the Code and the Procedure are complied with.

Joint ventures and equity partners

We use our influence to promote high ethical standards in joint ventures and partner companies where we hold equity. We ensure that joint venture companies adopt and implement guidelines and procedures that are consistent with the Code and the Procedure.

Contractors and suppliers

We require our suppliers and contractors to adhere to standards that are consistent with the principles laid down in the Supplier Code. SN Power further requires our contractors and suppliers to use their best endeavours to ensure that their own suppliers adhere to the same principles.

In order to ensure that our suppliers fully adhere to and comply with the principles set out in the Supplier Code we:

- Include business integrity when evaluating potential suppliers
- Evaluate, based on a risk assessment, whether an Integrity Review on the potential supplier should be undertaken
- Make sure that the supplier makes a formal commitment to adhere to standards that are consistent with the principles laid down in the Supplier Code, and that the agreement includes the right to terminate the agreement if these principles are not complied with

The procurement process

In procurement processes, we pay particular attention to the guidelines on gifts, hospitality and conflict of interests. Even the appearance of a conflict of interest must be avoided. Do not accept even token gifts from a potential supplier if we are involved in an ongoing procurement process.

DEFINITIONS

A conflict of interest is when a personal interest or relationship is put before the business interest. Conflicts of interest can warp judgement and lead to actions which are not honest and open. These can sometimes lead to a situation where individuals act against their better judgement and give or accept a benefit which may damage your business. The way to deal with this is to have rules on how to manage situations where a conflict might happen. Even without malpractice, conflicts of interest may be seen as corrupt activities. This can be just as damaging as actual malpractice.*

Nepotism and cronyism is to give relatives and friends favourable treatment, based upon relationship, rather than an objective evaluation of ability, merit or suitability.



TIP When introducing SN Power to new business partners, inform them about the Code including our policy on corruption. Our business partners are expected to adhere to anti-corruption standards that are consistent with our own.

+ WHAT IF?

One of your closest friends happens to lead the best consultancy company in town, specialised in the area of competence needed for your project.

Can you approach him for the job or should he be automatically disqualified because of your personal relationship? Or should you avoid being the one deciding on the selection process?

7. CONFLICT OF INTEREST

We avoid situations that give rise to conflict between individual, private and SN Power's interests, or that could in any way have a negative effect on our freedom of action or judgement.

If such a situation should occur we raise the issue with our manager without undue delay.

“The most common conflict of interest situations occur in connection with purchasing, contracting, sales, business development and recruitment. Benefits obtained through conflicts of interest are improper and may be in breach of corruption provisions in the Norwegian Penal Code and other laws.”

TRANSPARENCY INTERNATIONAL NORWAY, “PROTECT YOUR BUSINESS! ANTI-CORRUPTION HANDBOOK FOR THE NORWEGIAN BUSINESS SECTOR”

Conflicts can arise if we, directly or through others such as family or friends, have a personal interest in business dealings involving SN Power. Similarly, there could be a conflict if we own shares/options or hold board positions in one of SN Power's competitors or business partners, such as a supplier or a partner in a joint venture.

We exercise increased caution if we are involved in procurement decisions and disclose any potential conflicts to our manager, without being prompted.



VI. Corruption risk map

In the risk map below, you will find a summary of examples of corruption concerns that you might face in your work. Any activity should be carefully examined if one or more of the characteristics included in the risk map exist. Some of these characteristics are show stoppers. Look at the relevant pages of the handbook for guidance or contact your manager or CSER Responsible in case of doubt.



05

Business courtesies gifts, hospitality and expenses

- Inappropriate business courtesies suggested
- Events with little business content
- Courtesies involving public officials
- Travel and/or accommodation offered by someone else

> See p 21

06

Conflict of interest in connection with purchasing, contracting, business development and recruitment

> See p 30

07

Charitable donations and sponsorship

- As a prerequisite for getting business
- Linked to public official personal agenda
- Lack transparency

> See p 25

01

Level of corruption in the country and weak institutions and rule of law

> See p 4

02

Level of corruption in the business sector/ industry

> See p 4

03

Level of corruption in relevant processes

- Interface with public officials
- Licensing and permitting processes
- Acquisition of land
- Interaction with customs
- Procurement processes

> See p 4

04

Facilitation payments are common practice in the country

> See p 20

08

Recruitment

- Request to favour a candidate
- Candidate for key position opposes integrity review

> See p 26

09

Business partners

- No or little experience related to the business activity
- Related to or recommended by public official
- Questionable history or reputation

> See p 27

10

Business partners

- Opposes an integrity review
- Opposes standard clauses on anti-corruption in contract
- Request to keep the relationship secret

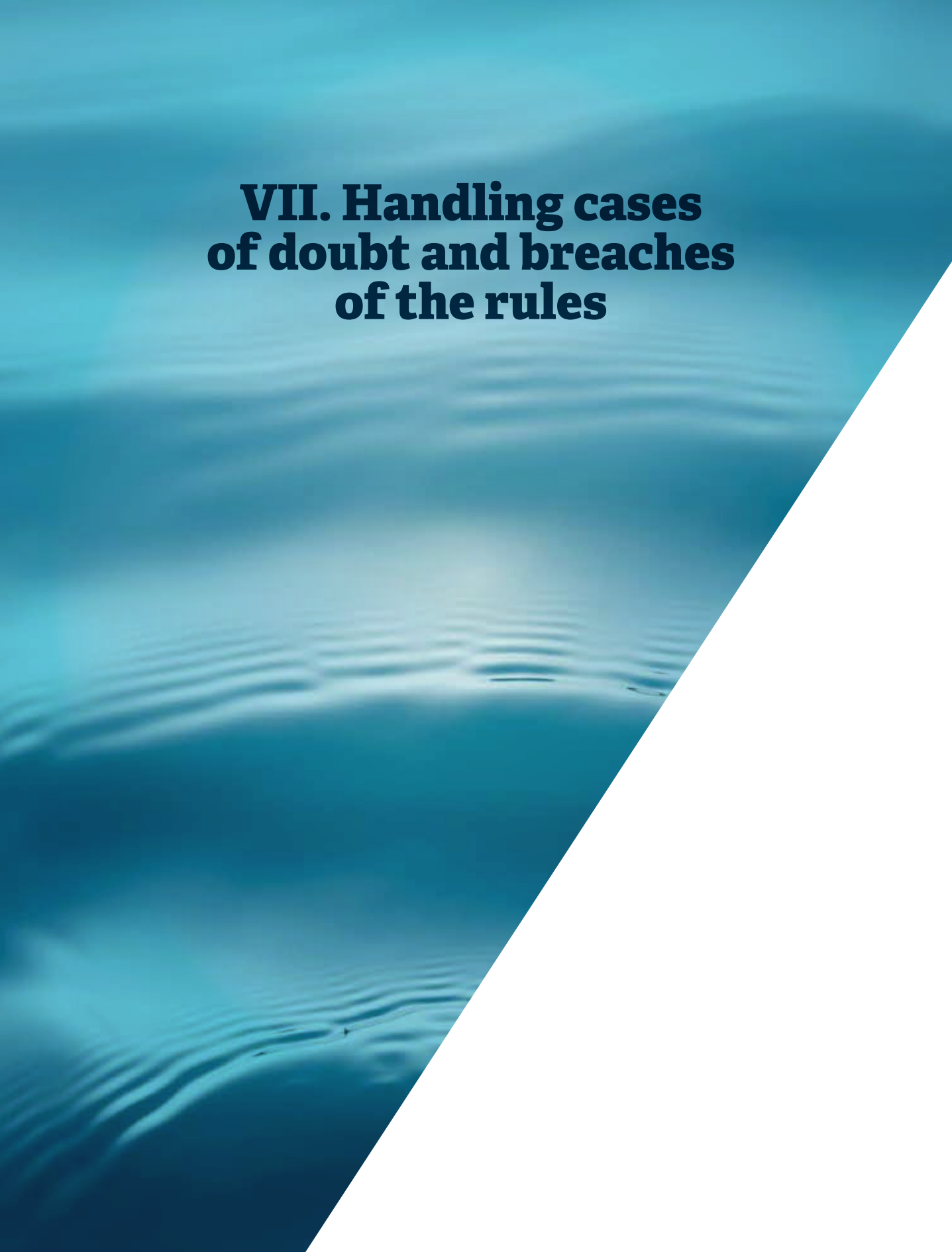
> See p 27

11

Business partners

- Invoice where difficult to decompose the payment
- Excessive fees (success fee, finder fee, compensation)
- Requests payment to a third party not involved in the services
- Requests payments to tax havens, third country banks, in cash or to a numbered account

> See p 27



VII. Handling cases of doubt and breaches of the rules

**TIP**

- Take your time before deciding on a course of action. Even in an extremely stressful situation, a few minutes can make a difference
- Do not say or do anything which could put you or another person in danger
- Politely ask to see the regulation or form indicating that the sum is payable
- Politely ask the reason for delays
- Politely refuse the bribe
- If the person requesting the bribe persists, explain employer policy on bribes
- Inform the person requesting the bribe about your duty to report to your employer, which will in turn use channels for formal complaint
- Ask to see the superior of the person requesting the bribe
- Make a record of the event: a detailed report, if possible with witness evidence, and make and keep copies.

1. WHAT TO DO WHEN CONFRONTED WITH CORRUPTION

Describing a general course of action on how to react when confronted with corruption is difficult, since it mainly depends on the circumstances of the case, whether there is an element of threat and extortion involved, and on the persons you are dealing with. While recognising that every situation is different, here are a few tips that you might consider using, depending on the situation.

In addition, refer to sub-chapters 2 and 3 thereafter which describe where to look for advice and where to report concerns and breaches of the rules.

2. WHERE TO LOOK FOR ADVICE

If an employee of SN Power is, or becomes, unsure about the meaning of any part of the Code or the Procedure or about the proper course of action in accordance therewith, the employee in question shall seek advice and raise the matter with his or her manager. The employee may also contact the CSER department, either in their own country or in Oslo.

3. WHERE TO REPORT CONCERNS OR BREACHES OF THE RULES

Right and duty to report

If an employee of SN Power suspects that a decision or action would violate or violates SN Power's legal or ethical commitments, he or she has a right and a duty to raise the issue.

The employee should immediately contact his or her manager. Where this is not possible or difficult, the employee should contact the Head of CSER. The failure to notify breaches can be regarded as contributing to these conditions.

SN Power will not use any retaliatory measures against anyone who raises or helps to address a genuine business integrity concern.

How to report

All reports will be treated as confidential information. Although we are encouraged to identify ourselves when reporting, we may also report anonymously. All reporting should contain sufficient information to allow the case to be processed. Remember that if insufficient information is provided in connection with an anonymous report, the receiver may be prevented from dealing with the issue







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