

BRIBERY ACT POLICY

1 INTRODUCTION

- 1.1 This policy is intended to ensure compliance with the Bribery Act 2010. It explains the process through which the Council intends to maintain high standards and to protect the organisation, employees, Members and business partners against allegations of bribery and corruption.
- 1.2 The Council is committed to the highest possible standards of openness probity and accountability and to conduct its business in an honest and open way, and without the use of corrupt practices or acts of bribery to obtain an unfair advantage. The Council attaches the utmost importance to this policy and will apply a “zero tolerance” approach to acts of bribery and corruption by any of its Members, employees, or persons and partners acting on our behalf. Any breach of this policy will be regarded as a serious matter and is likely to result in disciplinary action and possibly criminal prosecution.

2 POLICY STATEMENT

- 2.1 Bribery is a criminal offence. The Council will not pay bribes, or offer improper inducements to anyone for any purpose, nor will the Council accept bribes or improper inducements. The use of a third party to channel bribes is also a criminal offence. The Council will not engage indirectly in or otherwise encourage bribery.
- 2.2. The Council is committed to ensuring compliance with the highest legal and ethical standards. The Council will commit to policies and procedures to prevent, deter, and detect acts of bribery. The Council will ensure that anti-bribery compliance is an essential aspect of its governance process and at the core of its business principles. It is an on-going process and not a one-off exercise.

3 OBJECTIVE

- 3.1 This policy presents a clear and precise framework to understand and implement the arrangements required to comply with the Bribery Act 2010. It provides the context for the detailed rules, procedures and controls in place. It should provide no room for misinterpretation and will ensure that Members, employees, volunteers and business partners know what is expected of them in preventing bribery.
- 3.2. This policy should be read in conjunction with, and reinforce, other related policies and documents (see paragraph 13). The provisions in these policies and documents should be reflected in every aspect of the way the Council operates. The requirement to act honestly and with integrity at all times is made clear and is fundamental and non-negotiable.
- 3.3. This policy explains the procedures established to prevent acts of bribery and allow any breach to be identified and reported.

4 SCOPE

- 4.1 This policy applies to all of the Council's activities.
- 4.2 This policy covers all staff, including all levels and grades, those permanently employed, temporary agency staff, contractors, agents, Members (including co-opted members), volunteers and consultants.
- 4.3 The responsibility to mitigate the risk of bribery resides at all levels of the Council and includes all directorates. It does not rely solely on the Council's assurance functions.
- 4.4 For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

5 POLICY COMMITMENT

5.1. The Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date;
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times;
- Training all employees so that they can recognise and avoid the use of bribery by themselves and others;
- Encouraging Members, employees and partners to be vigilant and to report any suspicions of bribery;
- Providing suitable channels of communication (e.g. Whistleblowing Procedure) to ensure that sensitive information is handled appropriately;
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution;
- Taking firm and vigorous action against any individual(s) involved in bribery;
- Reporting breaches and suspected breaches of this policy to Members, employees and partners in an open and transparent way; and
- Including appropriate clauses in contracts with suppliers to support the Council's approach to the provisions of the Bribery Act 2010.

6 The BRIBERY ACT 2010

- 6.1. The Bribery Act 2010 was introduced to update and enhance English law on bribery. It creates a strict liability corporate criminal offence of failing to prevent bribery. The only defence against this corporate offence is for organisations to have adequate procedures in place to prevent bribery.
- 6.2. The Act includes four offences:
- Bribing a person to induce or reward them to perform a relevant function improperly;
 - Requesting, accepting or receiving a bribe as a reward for performing a relevant function improperly;

- Using a bribe to influence a foreign official to gain a business advantage and
 - In relation to a commercial organisation committing bribery to gain or retain a business advantage, there being no adequate procedures in place to prevent such actions
- 6.3. Acts of bribery are intended to influence an individual or organisation in the performance of their duty and for them to act illegally.
- 6.4. The penalties under the Bribery Act have been raised significantly and are severe. The new corporate offence is punishable with an unlimited fine. An individual guilty of an offence may be liable to imprisonment for up to 10 years or to a fine, or to both.
- 6.5. The Council accepts that public bodies may be classed as a “commercial organisation” in relation to the corporate offence of failing to prevent bribery. In any event, it represents good governance and practice to have adequate procedures in place to protect the Council, Members, employees and partners from reputational and legal damage. It is in the interests of everybody connected to the Council to act with propriety at all times.

7 COUNCIL PROCEDURES on the BRIBERY ACT

- 7.1. The Council will follow the guidance issued by the Ministry of Justice on compliance with the Bribery Act. In particular, it will take account of the six principles set out in the guidance as part of ensuring a robust and effective anti-bribery approach.
- 7.2 The six principles are:

Proportionate Procedures - The procedures to prevent bribery by persons should be proportionate to the bribery risks faced and to the nature, scale and complexity of the Council's activities. They should also be clear, practical, accessible, effectively implemented and enforced.

Top Level Commitment - The Corporate Management Team is committed to preventing bribery by persons associated with the Council and to fostering a culture in which bribery is never acceptable. A report on the Bribery Act 2010 and the introduction of this policy has been approved by the Governance, Audit and Performance Committee;

Risk Assessment - The nature and extent of the Council's exposure to external and internal risks of bribery will be assessed as part of the Council's risk management process. Any risk assessment is intended to be an on-going process based on regular communication and review;

Due Diligence – A proportionate and risk based approach will be taken in respect of persons and other organisations that perform services for or on behalf of the Council. Due diligence will include an evaluation of the background, experience and reputation of business partners. The transactions will be properly monitored and written agreements and contracts will provide references to the Bribery Act 2010 and this policy. Reciprocal arrangements may be required for business partners to have their

own policies in place. They will be advised of the Council's policy and be expected to operate at all times in accordance with such policy;

Communication (including training) - The Council will ensure that this policy and other related policies and procedures are embedded in the Council's working arrangements through appropriate communication, including training, which is proportionate to the risks the Council faces. The Council's induction programme will include reference to the Bribery Act 2010 and this policy; and

Monitoring and Review - This policy, control arrangements, risk management processes and other related policies and procedures designed to prevent bribery and corruption will be monitored, reviewed and improved where necessary on a regular basis. All incidents of bribery or suspected bribery will be reported to the Governance Committee.

7.3 In the context of this policy it is unacceptable for persons acting for or on behalf of the Council to:

- Give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- Give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to facilitate or expedite a routine procedure;
- Accept payment from a third party that is known to be, or suspected to have been, offered with the expectation that it will obtain a business advantage for them;
- Accept a gift or hospitality from a third party if it is known to be, or suspected to have been, offered with an expectation that a business advantage will be provided by the Council in return;
- Retaliate against or threaten a person who has refused to commit an act of bribery or who has raised concerns under this policy; and
- Engage in any activity in breach of this policy.

8 GIFTS and HOSPITALITY

8.1. This policy is not intended to change the requirements of the Council's Gifts and Hospitality Guidance (HRP62) (Appendix 5 of the Counter Fraud and Corruption Strategy) which clearly set out the restrictions on accepting gifts and hospitality, the need to inform the manager and the need to register any approved gifts that are retained.

8.2 As a general principle gifts should not be accepted. All offers of cash (including offers of payments or services to third parties or to charity) and the offer or receipt of any gift or hospitality should be recorded in the Gifts Register. Any gifts for which there was felt to be an obligation to accept should be forwarded to the Executive Support Team. These gifts will be raffled and the money donated to charity.

8.3 There are exceptions which apply to:

- Modest gifts, e.g. calendars, pens, articles for use in the office or
- Gifts which are intended for the Council as a corporate body or for a particular service area but not for personal use. Such gifts must be recorded in the Register and forwarded to the Executive Support Team. .

8.4 As a general principle hospitality should not be accepted. Some examples where it may be appropriate to accept hospitality are:

- Working lunches/dinner when working on projects or on community issues etc.
- Customary lunches/dinners at conferences or seminars where there are a number of guests;
- Civic or ceremonial occasions when representing the Council or accompanying the Chairman or the Council's representative.

8.5 If you have any questions on any part of this guidance ask your Line manager, Assistant Director, Director or the Monitoring Officer

8.6. The procedures for acceptance and registration of hospitality are set out in the Members' Code of Conduct.

9 PUBLIC CONTRACTS

9.1. Under the Public Contracts Regulations 2015 (which gives effect to EU law in the UK), a company is automatically debarred from competing for public contracts when it has been convicted of a corruption offence including bribery, subject to the "self-cleaning" process described in the Regulations. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. The Council has the discretion to exclude organisations convicted of this offence.

10 STAFF RESPONSIBILITIES

10.1 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff are required to avoid activity that breaches this policy.

10.2. All staff must:

- Ensure that they have read, understood and comply with the Bribery Act Policy; and
- Raise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.

10.3 In addition to the possibility of criminal prosecution, members of staff who breach the policy will face disciplinary action, which could result in dismissal for gross misconduct.

11 RAISING a CONCERN

- 11.1 The Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity.
- 11.2 The Council's Whistleblowing Policy - HRP61 (Appendix 4 of the Counter Fraud and Corruption Strategy) is intended to encourage and enable employees, contractors, members and the general public to raise any serious concerns about financial or other malpractice in the council. This provides for confidential reporting of concerns by employees by which they are afforded certain rights under the Public Interest Disclosure Act 1998.
- 11.3 The Council's Fraud Response Plan (Appendix1 of the Counter Fraud and Corruption Strategy) covers the Council's response to suspected or apparent irregularities affecting resources belonging to or administered by the Council, or fraud perpetrated by contractors and suppliers against the Council.

12 REVIEW of the BRIBERY ACT POLICY

- 12.1 It is the responsibility of the Monitoring Officer to routinely refresh, review and reinforce this policy and its underlying principles and guidelines. All members of staff are responsible for reading and understanding this policy which will also form part of the induction programme.
- 12.2 If you have any questions about these procedures, please contact:

The Internal Audit Manager,
01799 510610

The Monitoring Officer,
01799 510416

13 OTHER RELEVANT POLICIES

Counter Fraud and Corruption Strategy
Fraud Response Plan
Code of Conduct for Members
Whistleblowing Policy (HRP61)
Gifts and Hospitality Guidance (HRP62)
Financial Regulations
Contract Procedure Rules
Code of Corporate Governance
Officer / Member Protocol