



# **BRIBERY ACT 2010 POLICY STATEMENT**

Version 1 - 15 July 2011.

## **Introduction**

1. This policy is introduced to ensure compliance with the Bribery Act 2010. It explains the process through which the Council intends to maintain its high standards and to protect the organisation, employees, Members and business partners against any allegations of bribery and corruption.
2. It is the Council's policy to conduct 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 our Members, employees, or business 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.

## **Policy Statement**

3. 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.
4. 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.

## **Objective**

5. The policy presents a clear and precise framework to understand and implement the arrangements required to ensure compliance 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 ensures that Members, employees and business partners know what is expected of them in preventing bribery.
6. The policy should be read in conjunction with and reinforce other related key policies and documents. 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.
7. The policy explains the procedures established to prevent acts of bribery and allow any breach to be identified and reported.

## **Scope**

8. The policy applies to all of the Council's activities. The Council requires that all Members (including independent Members), employees at all levels and grades, temporary and agency staff, contractors, agents, consultants and partners acting on the Council's behalf comply with the provisions of this policy. We will also seek to promote the adoption of reciprocal anti-bribery and corruption measures that are consistent with the Council's policy by joint venture partners and major suppliers.
9. The responsibility to mitigate the risk of bribery resides at all levels of the Council and includes all business units, directorates and corporate units. It does not rely solely on the Council's assurance functions.

## **Policy Commitment**

10. The Council commits to:
  - Setting out a clear anti-bribery policy and to keep this up-to-date with annual reviews;
  - making all Members, employees and partners aware of their responsibilities to adhere to this policy at all times;
  - where appropriate to provide training to allow Members, employees and partners to recognise and avoid the use of bribery by themselves or others;
  - encourage Members, employees and partners to be vigilant and to report any suspicions of bribery;
  - provide suitable channels of communication (Protected Disclosure Policy) to ensure that sensitive information is handled appropriately;
  - investigate instances of alleged bribery and assist the police and other authorities in any prosecution;
  - take action against anybody acting for or on behalf of the Council who is involved in bribery;
  - report breaches and suspected breaches of this policy to Members, employees and partners in an open and transparent way; and
  - include appropriate clauses in contracts with suppliers to advise on the Council's approach to the provisions of the Bribery Act 2010.

## **The Bribery Act 2010**

11. The Bribery Act was introduced to update and enhance UK law on bribery. It introduces a strict liability corporate criminal offence of failing to prevent bribery. The only defence against this corporate offence is that organisations have adequate procedures in place to prevent bribery.
12. The Act creates four prime offences:

- Two general offences covering the offering, promising or giving an advantage, and requesting, agreeing to receive or accepting of an advantage;
  - an offence of bribery of a foreign public official; and
  - a new offence of failure by a commercial organisation to prevent a bribe being paid to obtain or retain business or a business advantage.
13. Acts of bribery are intended to influence an individual or organisation in the performance of their duty and for them to act illegally.
14. The penalties under the Bribery Act have been raised significantly and are severe. The new corporate offence is punishable with a fine which may be unlimited. An individual guilty of an offence would be liable to imprisonment for up to 10 years or to a fine, or to both.
15. The Council accepts that public bodies may be classed as a “commercial organisation” in relation to the corporate offence of failing to prevent bribery because of the business relationships and partnerships it has in place. 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.

### **Council Procedures on the Bribery Act**

16. The Council will follow the guidance issued by the Ministry of Justice. The action is intended to be proportionate to the risks faced by the Council and to the nature, scale and complexity of the Council’s activities. They are expected to provide a defence of “adequate procedures” against any corporate offence. The following steps will be taken:
- **Top Level Commitment** – The Cabinet and SMT are committed to preventing bribery by persons associated with the Council. A report on the Bribery Act 2010 and this policy has been approved by the Council’s Cabinet and SMT and by the Council’s Audit Committee.
  - **Risk Assessment** – The nature and extent of the Council’s exposure to external and internal risks of bribery are assessed as part of the Council’s risk management process. The risk assessment is intended to be an on-going process 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 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 the policy.

- **Communication** – The Council will ensure that the Bribery Act Policy and other related key policies and procedures are embedded in the organisations 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 and the Council’s policy.
  - **Monitoring and Review** – The Bribery Policy, control arrangements, risk management processes, and other related key 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 Council’s Audit Committee. An assurance of compliance will be included in the Annual Governance Statement.
15. 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 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 you know or suspect is offered with the expectation that it will obtain a business advantage for them;
  - accept a gift or hospitality from a third party if you know or suspect that it is offered or provided 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.

## **Gifts and Hospitality**

16. This policy is not intended to change the requirements of the Council’s Gifts and Hospitality policies and procedures. This is contained in the Officers Code of Conduct and Guide and in the Members Code of Conduct in the Council’s Constitution.
17. The guidelines clearly set out the restrictions on accepting gifts and hospitality, the need to inform the service director and the need to register any gifts retained which may be approved.
18. If there is any doubt about whether an invitation or gift should be accepted then the offer should be refused. The Chief Executive and each Director is required to review their respective Gifts and Hospitality registers every three months. The Monitoring Officer will also ensure that reminders on this subject and the need for officers to complete a Register of Interests form are sent out every year.

19. The procedures for Members registers of interest are set out in the Members Code of Conduct.

### **Public Contracts**

20. Under the Public Contracts Regulations 2006 (which gives effect to EU law in the UK) a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. It is understood there are no plans to amend the 2006 regulations for these to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. The Council will use its discretion as to whether to exclude organisations convicted of this offence and any instances where this is the case will be reported to the Executive Committee for a decision.

### **Member, staff and partner Responsibilities**

21. The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or acting for or on its behalf. All Members, staff and partners are required to avoid activity that breaches this policy. Adherence to the Policy is mandatory.
22. Members, staff and partners must:
  - Ensure that they have read, understood and comply with the Bribery 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.
23. In addition to the possibility of criminal prosecution, members of staff that breach the policy will face disciplinary action, which could result in summary dismissal for gross misconduct.

### **Raising a concern**

24. The Council has published a Protected Disclosure Policy also known as Whistle Blowing. This provides information on the courses of action available to report serious concerns (including bribery) in confidence. Members, staff or partners who refuse to accept or offer a bribe can be worried about the repercussions. The Council aims to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.
25. The Council are committed to ensuring that nobody suffers detrimental treatment through refusing to take part in bribery.

### **Review of the Bribery Act Policy**

26. 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.

## **Other relevant policies**

27. The following policies, procedure documents and codes of conduct should be read in conjunction with the Bribery Act Policy:

- A Strategy to Safeguard against Fraud and Corruption
- Anti-Money Laundering Policy
- Protected Disclosure Policy
- Officers Code of Conduct and Guide
- Disciplinary Procedure Document
- Members Code of Conduct
- Contract Standing Orders
- Constitution