



# **ASHFIELD DISTRICT COUNCIL**

## **ANTI-BRIBERY POLICY**

**Director of Legal and Governance  
(Monitoring Officer)**

**APPROVED:**  
**Audit Committee - 27 November 2017**  
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**REVIEW:**  
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## Policy Statement

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial or contractual advantage which is done either directly or via a third party. Bribery is a criminal offence.

The Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose. The Council does not, and will not, accept bribes or improper inducements.

The Council is committed to the prevention, deterrence and detection of bribery. It has a zero-tolerance approach towards bribery.

The Council aims to make anti-bribery compliance business as usual, rather than a one-off exercise.

## The Bribery Act 2010

There are four key offences under the Bribery Act 2010 (the Act):

- **Bribery by another person** - under Section 1 of the Act it is an offence to offer, promise or give a bribe.
- **Accepting a bribe** - Section 2 of the Act also makes it an offence to request, agree to receive, or accept a bribe.
- **Bribing a foreign official** - Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.
- **Failing to prevent bribery** - A corporate offence is created by Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by, or of, persons associated with the organisation. The Council fits the definition of a “commercial organisation”.

## Penalties

An individual guilty of an offence under Sections 1, 2 or 6 of the Act is liable:

- On conviction in a Magistrates’ Court, to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5,000, or to both.
- On conviction in a Crown Court, to imprisonment for a maximum term of 10 years, or to an unlimited fine, or both

Organisations are liable for these fines and if found guilty of an offence under Section 7 of the Act are liable to an unlimited fine.

## **Public Contracts and Failure to Prevent Bribery**

Under the Public Contracts Regulations 2015(which gives effect to EU Law in the UK), a company is automatically barred from competing for public contracts where it is convicted of a corruption offence, including bribery. The Council will, in such cases, exclude organisations convicted of any such offences from participating in tenders for public contracts with it.

### **Objectives of this Policy**

This policy provides a framework to enable the Council's employees and other "relevant persons" to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

Relevant Persons include those permanently and temporarily employed by the Council, agency staff, consultants, contractors, volunteers, partners and Elected Members.

The Council requires all relevant persons to:

- Act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible
- Comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities

### **Scope of this Policy**

This policy applies to all the Council's activities. For partners, contractors, suppliers, Council owned companies and joint ventures, it will seek to promote the adoption of policies consistent with the principles set out in this policy.

Responsibility to control the risk of bribery occurring resides at all levels of the Council. It does not rest solely within assurance functions, but in all sections, Directorates and corporate functions.

This policy covers all relevant persons at all levels and grades.

### **The Council's Commitment to Action**

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 and Elected Members so that they can recognise and avoid occurrences of bribery by themselves and others
- Encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately

- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- Taking firm and vigorous action against individuals involved in bribery
- Provide information to all employees on how to report breaches and suspected breaches of this policy
- Include appropriate clauses in contracts to prevent bribery

### **Adequate Procedures**

The Council will put in place adequate procedures which it will apply proportionately, based on the risk of bribery in the Council. The Council will base its procedures on the recommended six principles which are not prescriptive. The principles are intended to be flexible and outcome focused ensuring procedures are robust and effective.

### **The six principles are as follows:**

- **Proportionate procedures** – procedures to prevent bribery should be proportionate to the bribery risks faced and the nature, scale and complexity of activities. They are also clear, practical, accessible, effectively implemented and enforced.
- **Top level commitment** – top level management should be committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable. The Council's Corporate Leadership Team, the Cabinet and the Audit Committee have all endorsed this policy.
- **Risk Assessment** – the Council assesses the nature and extent of its exposure to potential external and internal risks of bribery routinely and as an integral part of its usual procedures. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.
- **Due Diligence** – the Council applies due diligence taking a proportionate and risk based approach in respect of persons who perform, or will perform, services for, or on behalf of, the Council, in order to mitigate identified bribery risks.
- **Communication (including training)** – the Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood through communication, including training that is proportionate to the risks it faces.
- **Monitoring and Review** – the Council monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

The Council is committed to the implementation of these principles.

## **Bribery is not tolerated**

It is unacceptable 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 where it is known or suspected that it is offered with the expectation that it will obtain a business advantage for them
- Accept a gift or hospitality from a third party where it is known or suspected 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 a bribery offence or who has raised concerns under this policy
- Engage in activity in breach of this policy

## **Facilitation Payments**

Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

## **Gifts and Hospitality**

This policy is not meant to change the requirements of the Council's gifts and hospitality policies for Members and officers.

Officers may, depending upon the circumstances, accept nominal gifts and hospitality. Officers must always exercise caution when accepting gifts and hospitality. Officers must declare the offer or acceptance of gifts and hospitality with a value over £25 as set out in the Employees' Code of Conduct.

Members may, depending upon the circumstances, accept gifts and hospitality. Gifts or hospitality offered or accepted with a value of over £50 must be declared as set out in the Members' Code of Conduct.

When deciding whether or not to accept an offer of a gift or hospitality the context is very important. An offer from an organisation seeking to do business with or provide a service to the Council or in the process of applying for permission or some other decision from the Council is unlikely to ever be acceptable, regardless of the value of the gift.

## **Responsibilities of Relevant Persons**

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all Relevant Persons who are required to avoid activity which breaches this policy.

All Relevant Persons must:

- Ensure they read, understand and comply with this policy
- 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
- As well as the possibility of civil legal action and criminal prosecution, employees who breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

## **Raising a Concern**

The Council is committed to ensuring that there is a safe, reliable and confidential way of reporting any suspicious activity and wants Relevant Persons to know how to raise concerns.

All have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner it is brought to attention, the sooner it can be resolved.

There are various channels to help raise concerns. The Council's Whistleblowing Policy sets out how concerns may be raised. Preferably the disclosure will be made and resolved internally. Ideally, concerns should be raised initially with a line manager or Director. If this is not possible concerns may be raised with the Chief Executive, the Monitoring Officer, the Chief Finance Officer or the Central Midlands Audit Partnership. Alternatively, concerns may be raised with the External Auditor.

Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publically, such as via the press or on social media. Concerns can be made anonymously. In the event that an incident of bribery, corruption or wrong doing is reported, the Council will act as soon as possible to evaluate the situation. It has clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in an investigation of this kind. This is easier and quicker if concerns raised are not anonymous.

Employees who raise concerns or report wrongdoing, including those staff who reject an offer made to them that could be perceived as bribery, may understandably 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 this turns out to be mistaken.

The Council is committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

If you have any questions about these procedures, please contact the Monitoring Officer.

## **Other Relevant Policies**

Further information on relevant Council policies and practice can be found in the following documents:

- The Constitution:
  - Financial Regulations
  - Contract Procedure Rules
  - Members' Code of Conduct
  - Employees' Code of Conduct
- Anti-Fraud and Corruption Policy
- Whistleblowing Policy
- Anti-Money Laundering Policy
- Prosecution Policy

### **Useful Links**

The Bribery Act 2010

Bribery Act Guidance

CIPFA's Code of Practice on Managing the Risk of Fraud and Corruption

Local Government Fraud Strategy – Fighting Fraud Locally

### **Policy Review**

The Monitoring Officer and the Audit Committee will ensure the continuous review and amendment of this policy to ensure that it remains compliant.

The policy should be reviewed biannually as a minimum.