



Anti-Bribery Policy

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Tracking

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Head of Service sign off: 10th August 2023

SMT sign off: 10th August 2023

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Service: Policy and Corporate Resources

Revision History

Version No.	Revision Date	Revisor	Previous Version	Description of Revision
1.1	19/07/2023	Business Assurance Manager	1.0	Minor amendments: formatting, team and job names, and references.

Document Approvals

Each revision requires the following approvals:

- Non-administrative updates: Strategic Management Team (SMT).
- Administrative updates: Head of Policy and Corporate Resources.

Impact Assessment and Considerations

Assessment Type	Required / Not Required	Date Completed	Impact Assessments and Considerations Comment	Completed By
Equality Impact Assessment	Not required		No direct implications: everyone will be treated equally in accordance with the law and the contents of the council's agreed fraud related policies.	Business Assurance Manager
Health and safety	Not required		No direct implications.	Business Assurance Manager
Data Protection Impact Assessment	Not required		No direct implications: information obtained will be treated in accordance with legal requirements and the council's information governance related policies.	Business Assurance Manager
Climate Change	Not required		No direct implications.	Business Assurance Manager

1. Introduction

- 1.1. This document sets out the Council's policy and advice to employees in dealing with bribery or suspected bribery. This policy details the arrangements made in the Council for such concerns to be raised by employees or members of the public.
- 1.2. Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. Bribery is a criminal offence. The Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor does the Council or will the Council, accept bribes or improper inducements.
- 1.3. To use a third party as a conduit to channel bribes to others is a criminal offence. The Council does not, and will not, engage indirectly in or otherwise encourage bribery. The Council is committed to the prevention, deterrence and detection of bribery and has a zero-tolerance of bribery. The Council aims to maintain anti-bribery compliance as on-going business as usual, rather than as a one-off exercise.
- 1.4. The Bribery Act 2010 came into force on the 1st July 2011.¹ The purpose of this Act is to provide a new consolidated scheme of bribery offences to cover bribery both in the UK and overseas. This policy should be read in conjunction with the Council's policies on fraud and corruption, whistleblowing and the acceptance of gifts and hospitality. Before 1st July 2011, organisations were only likely to be guilty of a bribery offence if senior management were involved. With the introduction of the 2010 Act, all staff in the organisation, and the organisation itself, may be guilty of bribery, even if only the individual offender knew of the bribery taking place.

2. Scope of Policy

- 2.1. Within the Council, the responsibility to control the risk of bribery occurring resides at all levels, and is overseen by the Chief Executive, Chief Finance Officer and the Monitoring Officer. This policy covers all personnel, whether permanently employed, temporary agency staff, contractors, agents, all councillors, volunteers and consultants.
- 2.2. This policy relates to all forms of bribery and is intended to provide direction and help to employees who may identify suspected bribery. The overall aims of this policy are to:
 - Improve the knowledge and understanding of everyone in the Council, irrespective of their position, about the risk of bribery within the organisation and its unacceptability.
 - Assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly.

- Set out the Council’s responsibilities in terms of the deterrence, prevention, detection and investigation of bribery and corruption.
- Ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
 - Criminal prosecution.
 - Civil prosecution.
 - Internal/external disciplinary action (including professional/regulatory bodies).

3. How the Act Works

- 3.1. If a councillor or employee at any level in the organisation commits a bribery offence, their activities would be attributed to the organisation. The Council could also be liable where someone who performs services for the Council pays a bribe specifically to get business, keep business or gain a business advantage for the Council.
- 3.2. There are four key offences under the Bribery Act 2010:²
- bribery of another person (Section 1)
 - accepting a bribe (Section 2)
 - bribing a foreign official (Section 6)
 - failing to prevent bribery (Section 7).
- 3.3. Failure by a commercial organisation to prevent bribery is a corporate offence. For the purposes of the Bribery Act 2010, Epsom and Ewell Borough Council is a “commercial organisation”.
- 3.4. The Council need to show that there are adequate procedures in place to prevent bribery. Adequate procedures need to be applied proportionately, based on the level of risk guided by the six principles in the Government’s guidance. These principles are not prescriptive and are intended to be flexible and outcome focussed, they are:
- **Proportionality** - Action needs to be proportionate to the risks faced relative to the size of the project of subject matter.
 - **Top-level commitment** - The Chief Executive, Directors, Chief Finance Officer and officers in the Corporate Management Team, including the Monitoring Officer, are committed to preventing bribery by persons associated with the Council. A culture exists within the Council in which bribery is never acceptable.

- **Risk assessment** - The Council assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage. The Council should know who it is doing business with and whether this has risk implications.
- **Due diligence** - The Council applies due diligence procedures, taking a proportionate and risk-based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, 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 throughout the Council through internal and external 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 make improvements where necessary.³

4. Payments

4.1. Facilitation payments

- 4.1.1. Facilitation payments are unofficial payments made to public officials to secure or expedite actions. Facilitation payments are prohibited under the Bribery Act like any other form of bribe. They shall not be given by the Council or Council employees in the UK or any other country.
- 4.1.2. Charitable donations including political donations and sponsorship are areas vulnerable to bribery and corruption as they lack monitoring or benchmarking on appropriateness. Due diligence must be applied to such transactions and approval sought from the Monitoring Officer before any monies accepted. All charitable donations made by the Council are to approved charities.

4.2. Gifts and Hospitality

- 4.2.1. Council employees are forbidden from accepting bribes or any inducement which would result in a gain or an advantage. Any staff member found to be involved in bribery is liable to disciplinary action, dismissal or prosecution.
- 4.2.2. The Council has agreed that you may accept gifts and hospitality under certain circumstances, cash gifts should not be accepted. Details of the consent regimes are given in the Officers' Code of Conduct, which form part of the Council's employment policies and can be found on the intranet or obtained from the People and Organisational Development Service. Gifts should not be given by any Council staff although modest hospitality maybe acceptable at the discretion of the Head of Service / Director, such as after a contract has been let to discuss work related issues.

- 4.2.3. Only gifts and hospitality of a nominal value of £25.00 or less should be accepted and all other should be refused, unless your Director agrees that you can register and keep it. All gifts and hospitality must be recorded and authorised by a senior officer. Please refer to the Officers' Code of Conduct and the Council's Gifts and Hospitality register for more guidance.
- 4.2.4. Rules for councillors regarding gifts and hospitality are available in Appendix 1 of the Council's [Constitution](#).

5. Public Contracts and Failure to Prevent Bribery

- 5.1. Under the Public Contracts Regulations 2015, a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. The Council extends such automatic barring to any organisation convicted of an offence under the Bribery Act 2010.
- 5.2. Procurement practices will be conducted in a fair and transparent manner and not deal with contractors or suppliers known or reasonably suspected to be paying bribes. Before contracting with suppliers, the Council will undertake properly documented due diligence. Agreements with suppliers shall, at all times, provide for the necessary contractual mechanisms to enforce compliance with the anti-bribery and other counter-fraud arrangements. The council will monitor performance and, in case of non-compliance, require the correction of deficiencies, apply sanctions, or eventually terminate the agreement.

6. Staff Responsibilities

- 6.1. 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 councillors and staff are required to avoid activity that breaches this policy. If you are offered a bribe or receive information about an act of bribery you should report it immediately.
- 6.2. The senior compliance officer is the Monitoring Officer, who is responsible for implementing and monitoring the Anti-Bribery Policy and, providing guidance and training, monitoring compliance and sanctioning violation of the policy. The Monitoring Officer is also responsible for reviewing the adequacy of arrangements and implementing improvements as and when appropriate. Any breach of this policy or suspected breach will be reported to the Chief Executive. The results will be reported to Directors and Corporate Management Team as required.
- 6.3. You must ensure that you read, understand and comply with this policy. Raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future. You should be aware that a breach of the Bribery Act can lead to civil and criminal prosecution; in addition, a breach of this policy may result in disciplinary action, which could lead to dismissal on the grounds of gross misconduct.

7. Raising a concern

- 7.1. All concerns in respect of bribery and corruption should be raised with the [Monitoring Officer](#).
- 7.2. Council employees can also refer to the Council's Whistleblowing Policy for alternative channels to raise a concern in confidence.
- 7.3. The Council is aware that staff who refuse to accept the offer of a bribe and who wish to report the incident may worry about the repercussions for themselves and their employment. Therefore, the Council in encouraging openness, will support anyone who raises a genuine concern under this policy, even if the alleged act of bribery is established, upon investigation, to be unfounded. Where appropriate the matter will be investigated under disciplinary policies through human resources (People and Organisational Development Service).

8. Other relevant policies

- 8.1. The Anti-Bribery Policy is not a standalone document, the following documents are also available on the staff intranet (E-Hub):
 - Anti-Fraud and Anti-Corruption Strategy
 - Whistleblowing policy
 - Anti-Money Laundering Policy
 - Conflict of Interest Policy
 - [Constitution](#) and [Council Operating Framework](#), including:
 - Financial Regulations
 - Standing Orders
 - Contract Standing Orders
 - Codes of Conduct
 - Scheme of Delegation
 - Terms and Conditions of Service
 - HR Policies including Disciplinary Policy
 - Service Manuals and Procedures
 - The Code of Conduct to any professional body to which they may belong.
- 8.2. The Anti-Bribery Policy will be reviewed every three years.

References

¹ HM Government (2010) *Bribery Act 2010*. Online available: <https://www.legislation.gov.uk/ukpga/2010/23/contents> [last accessed 21/07/2022].

² Ibid., HM Government (2010).

³ HM Government (2012) *Bribery Act 2010: Guidance to help commercial organisations prevent bribery*. Online available: <https://www.gov.uk/government/publications/bribery-act-2010-guidance> [last accessed 21/07/2022].