

# The Bribery Act Policy

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### The Council's commitment to the Bribery Act Policy

The Bribery Act Policy sets out the Council's commitment to ensuring compliance with the requirements of the Bribery Act. The council will not condone acts of bribery, whether it is in the form of money, gifts or a favour, offered or given to a person in a position of trust to influence that person's views or conduct.

### What are the aims and requirements of the legislation?

Where Bribery is found to occur, in any form, it will be dealt with rigorously in a controlled manner in accordance with the principles in the Bribery Act policy. It will be investigated fully, and the London Borough of Barking and Dagenham will prosecute all offenders where appropriate including, Members, employees, contractors and external partners.

### Who is governed by this Policy?

The Bribery Act policy covers everyone working for us, or on our behalf, including all permanent employees, temporary agency staff, contractors, members of the council (including independent members), volunteers and consultants.

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# The Bribery Act Policy

The Bribery Act 2010 makes it an offence to offer, promise or give a bribe (section 1). It also makes it an offence to ask for, agree to receive, or accept a bribe (section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of getting or keeping business or an advantage in carrying out business.

There is also a new corporate offence under section 7 of the Bribery Act that we will commit if we fail to prevent bribery that is intended to get or keep business or an advantage in business for our organisation. We are no longer able to claim we were not aware of bribery and may be responsible as an organisation, but we will have a defence if we can show we had adequate procedures in place designed to prevent bribery by our staff or by people associated with our organisation.

## Bribery Act policy statement

Bribery is a criminal offence. We do not offer bribes to anyone for any purpose, indirectly or otherwise, and we do not accept bribes. This includes the use of other people, or organisation's, giving bribes to others.

We are committed to preventing and detecting bribery. We take a tough stance against bribery and aim to ensure this Bribery Act policy is observed throughout the Council.

We will deal with allegations of bribery involving employees under our disciplinary procedure as "gross misconduct".

## The aim of this policy

This policy provides a framework to allow those affected by it to understand and put into place arrangements to prevent bribery. It will work with related policies, and other documents, to identify and report when this policy is breached and aims to ensure that everyone:

- always acts honestly and protects the council's resources they are responsible for; and
- keeps to the spirit, and letter, of the laws and regulations that cover our work

## Scope of this policy

This policy applies to all our activities. All levels of the council are responsible for controlling the risk of bribery and we encourage schools, suppliers and other organisations we work with to adopt policies that are consistent with the principles set out in this policy.

The Bribery Act policy applies to and covers everyone working for us, or on our behalf, including all permanent employees, temporary agency staff, contractors, members of the council (including independent members), volunteers and

consultants. Everyone, at all levels of the council, has a responsibility to control the risk of bribery occurring.

### What are “adequate procedures”

For this council to show that we take the Bribery Act seriously, we need to show we have adequate procedures in place designed to prevent bribery. Whether our procedures are adequate will be for the courts to decide. Our procedures need to be in proportion to the level of risk of bribery in our organisation. Individual organisations can refer to six principles to decide whether their procedures are in proportion to the level of risk. These principles are not prescriptive. These principles are intended to be flexible, allowing for the different circumstances of organisations. Small organisations will, for example, face different challenges to those faced by large multi-national organisations. The detail of how an organisation applies these principles will be different depending on the organisation, but the outcome should always be effective Bribery Act procedures.

### What are the principles?

#### **1. Proportionate procedures**

An organisation’s procedures to prevent bribery by the people associated with it should be in proportion to the risks of bribery it faces and to the nature, scale and complexity of the organisation’s activities. They should include interrogation of data for the purpose of discovering evidence and ensuring personal data is protected. The procedures should also be clear, practical, accessible and effectively put into place and enforced.

#### **2. Commitment at the top levels of our organisation**

Our Cabinet and Senior Management Team are committed to preventing bribery by the people associated with us. They help create a culture in our organisation where bribery is never acceptable.

#### **3. Risk assessment**

We regularly assess how and to what extent we will be exposed to potential risks of bribery as part of a wider fraud risk assessment. We keep a record of the assessment, which include financial risks and also other risks such as damage to our reputation.

#### **4. Due diligence**

We apply due diligence procedures in relation to people who provide services for or on behalf of our organisation to reduce the risks of bribery. This would include carrying out checks on such organisations or companies and ensuring that they have similar anti bribery processes in place.

#### **5. Communication (including training)**

We aim to make sure that our policies and procedures to prevent bribery are understood throughout our organisation. We do this through communication inside and outside of our organisation, including training.

#### **6. Monitoring and review**

We monitor and review the procedures designed to prevent bribery and make improvements where they are needed. The Monitoring Officer and Counter Fraud Manager (Assurance Group) will oversee this. We are committed to putting these principles into place as should we be found guilty of an offence under section 7 of the Act, can be fined an unlimited amount.

### **Facilitation payments**

Facilitation payments are unofficial payments made to public officials in order to get them to take certain actions or take actions more quickly. Facilitation payments are illegal under the Bribery Act and we will not tolerate them.

### **Gifts and hospitality**

This policy is in line with our gifts and hospitality policy (this can be read on the Council Intranet). The gifts and hospitality policy make it clear that if members of the council or staff are offered gifts, in their council role, they should not accept anything with more than a token value (examples of things that are of token value include bottles of wine, boxes of chocolates, flowers, pens, calendars and diaries).

### **Public contracts and failure to prevent bribery**

Under the Public Contracts Regulations 2015, persons are to be excluded from consideration to be awarded public contracts if they have been convicted of a corruption offence. Organisations that are convicted of failing to prevent bribery are not automatically barred from competing for public contracts. This is a complex area and procurement advice must be sought where verification has revealed conviction(s) relating to bribery, fraud and other specified unlawful activities within the Regulations. However, we can exclude organisations convicted of this offence from competing for contracts with us. We will include standard clauses in our commercial contracts forbidding bribery and corruption.

## **Golden Rules**

**We will not tolerate bribery** and those covered by the policy must not:

- give, promise to give, or offer a payment, a gift or hospitality with the expectation or hope that they will receive a business advantage, or to reward a business advantage that they have already been given
- give, promise to give, or offer a payment, a gift or hospitality to a government official or representative to speed up a routine procedure
- accept a payment from another person or organisation if they know or suspect that it is offered with the expectation that it will give them a business advantage
- accept a gift or hospitality from another person or organisation if they know or suspect that it is offered or provided with an expectation that they will provide a business advantage in return
- act against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy; or
- take part in activities that break this policy

**We are committed to:**

- setting out a clear Bribery Act policy and keeping it up to date
- making all employees aware of their responsibility to always keep to this policy
- training employees so that they can recognise and avoid the use of bribery
- encouraging our employees to be aware and to report any suspicions of bribery
- providing our employees with information on suitable ways of telling us about their suspicions and making sure we treat sensitive information appropriately
- investigating alleged bribery and helping the police and other authorities in any prosecution that happens because of the alleged bribery
- taking firm action against any people involved in bribery; and
- including appropriate clauses in contracts to prevent bribery

### Employee Responsibilities

All the people who work for us or are under our control are responsible for preventing, detecting and reporting bribery and other forms of corruption. All staff must avoid activities that break this policy and must:

- make sure they read, understand and keep to this policy; and
- tell us as soon as possible if they believe or suspect that someone has broken this policy, or may break this policy in the future

Anyone covered by the policy found to break it will face disciplinary action, potentially leading to dismissal for gross misconduct and/or may also face civil and/or criminal prosecution.

### Reporting a concern

We all have a responsibility to help detect, prevent and report instances of bribery. If anyone has a concern about suspected bribery or corruption, they should speak up. The sooner they act, the sooner the situation can be dealt with. There are several ways of informing about any concerns including talking to a line manager first or one of the contacts listed in the Whistleblowing Policy if this is more appropriate.

Those reporting concerns do not have to give us their name. Upon receiving a report about an incident of bribery, corruption or wrong doing, action will be taken as soon as possible to assess the situation. There are clear procedures for investigating fraud and these will be followed in any investigation of this kind. In some circumstances, we will have to consider reporting the matter to the Police or Serious Fraud Office.

Staff that refuse to accept or offer a bribe, or those who report concerns or wrongdoing can understandably be worried about what might happen as a result. To encourage openness and anyone who reports a genuine concern in the public interest will be supported under this policy, even if they turn out to be mistaken. There is a commitment to making sure nobody is treated badly because they have refused to take part in bribery or corruption, or because they have reported a concern.

## Further Support & Guidance

If there are any questions about these procedures, the Monitoring Officer can be contacted on 020 8227 2114; alternatively, the Assurance Group can be contacted on 020 8227 2850, 020 8227 2393, 020 8227 2307, [caft@lbbd.gov.uk](mailto:caft@lbbd.gov.uk) or by visiting our intranet pages.