

Internal Audit

The Bribery Act Policy

17 January 2012

The Council's commitment to the Prosecution Policy

London Borough of Barking & Dagenham, "the Council" considers the Bribery Act to be an integral part of our fight against bribery. The council will not condone acts of bribery in any form 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.

Executive Summary

The Bribery Act Policy sets out the Council's commitment to ensuring compliance with the requirements of the Bribery Act

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The Bribery Act Policy

The Bribery Act 2010 came into force on 1st July 2011. It is tougher than previous laws relating to bribery and corruption.

It 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 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. (See 'What are adequate procedures?' below for an explanation).

Bribery Act policy statement

Bribery is a criminal offence. We do not offer bribes to anyone for any purpose, and we do not accept bribes.

Using another person or organisation to give bribes to others is a criminal offence. We do not offer bribes indirectly or otherwise engage in bribery.

We are committed to preventing and detecting bribery. We take a zero-tolerance stance towards 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". It is normal practice to dismiss employees without notice in cases where gross misconduct is considered to have taken place.

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.

The policy aims to ensure that everyone:

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

Scope of this policy

This policy applies to all of our activities. All levels of the council are responsible for controlling the risk of bribery. We will aim to 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.

This means that everyone at all levels of the council has a responsibility to control the risk of bribery occurring.

What are “adequate procedures”:

In order 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 six 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 Corporate 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. We keep a record of the assessments, 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 Divisional Director Assurance and Risk will oversee this.

We are committed to putting these principles into place.

We can also be fined, and if we are found guilty of an offence under section 7, 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 at <http://lbbd/hr/ongoing-process-of-managing-people/gifts-and-hospitality.htm>). The gifts and hospitality policy makes 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 2006, a company is automatically and permanently barred from competing for public contracts if it has been convicted of a corruption offence. There are no plans to amend the 2006 regulations to include the crime of failing to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from competing for public contracts. 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.

Penalties

We will not tolerate bribery

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

- take action 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

Our commitment to action

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 keep to this policy at all times;
- training all 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 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
- providing information to all employees to help them tell us when someone has broken or is suspected of breaking this policy; and
- including appropriate clauses in contacts 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, could be dismissed for gross misconduct and/or may also face civil and 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 – their information and support will help. The sooner they act, the sooner the situation can be dealt with.

There are several ways of informing about any concerns. For example, talking to a line manager first, or 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 misconduct and these will be followed in any investigation of this kind. This will be easier and quicker if those reporting concerns decide to give their name. In some circumstances, we will have to consider reporting the matter to the 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 good faith 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 in good faith.

If there are any questions about these procedures, the Monitoring Officer can be contacted, on 0208 227 2114 or the Divisional Director Assurance and Risk, on 0208 227 2015.

Other relevant policies

- Fraud Prosecution Policy
- Money Laundering Policy
- Whistleblowing Policy
- Employee Code of Conduct
- Rules in respect of Gifts and Hospitality
- Disciplinary Procedure and Disciplinary Rules

Further Support, Tools & Guidance

The latest version of the Bribery Act Policy and all of our documents can be obtained from either contacting the Group Manager – Internal Audit directly or by visiting our intranet pages:

[Hyperlink?](#)

If you have any comments or feedback to do with this document, we would like to hear from you, so please get in touch and email us at the following address:

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