

# Anti-Bribery Policy

Procedures and Reporting Arrangements

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## Anti-Bribery Policy

### 1. Introduction

- 1.1 This policy is introduced to ensure compliance with the Bribery Act 2010. The Bribery Act became law on 1 July 2011. It explains the process through which the Council intends to maintain high standards and to protect the organisation, its Members, employees at all levels and grades, temporary and agency staff, volunteers, contractors, agents, consultants and persons or partners acting on the Council's behalf, (hereafter referred to as 'staff') against allegations of bribery and corruption.
- 1.2 Before 1 July 2011, organisations were only likely to be guilty of a bribery offence if senior management were involved. The Bribery Act applies to all staff in the organisation including councillors and how an organisation may be guilty of bribery if only the individual offender knew of the bribery taking place.
- 1.3 Organisations will have a defence against prosecution if they can demonstrate that they had "adequate procedures in place to prevent bribery".
- 1.4 The Council is committed to the highest possible standards of openness probity and accountability and to conducting its 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 its staff acting on its behalf. Any breach of this policy will be regarded as a serious matter and be likely to result in disciplinary action and possibly criminal prosecution.

### 2. Policy Statement

- 2.1 Bribery and the use of a third party to channel bribes is a criminal offence. The Council does not, and 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 does not and will not engage indirectly in or otherwise to encourage bribery.
- 2.2 The Council is committed to ensuring compliance with the highest legal and ethical standards. The Council through its managers and staff

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commits to policies and procedures to prevent, deter, and detect acts of bribery. The Council commits to ensuring 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.

### 3. Objective

- 3.1 This policy presents a clear and precise framework to understand and implement the arrangements required to comply with the Bribery Act 2010. It provides the context for the detailed rules, procedures and controls in place within the Council. It is intended to provide no room for misinterpretation and to ensure that staff know what is expected of them in preventing bribery.
- 3.2 This policy should be read in conjunction with, and reinforce, other related Council policies and documents (see paragraph 13) the provisions of which 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.
- 3.3 This policy explains the methods established to prevent acts of bribery and allows any breach to be identified and reported.

### 4. Scope

- 4.1 This policy applies to all of the Council’s activities including its work with strategic partners, third parties, suppliers, contractors, and others.
- 4.2 The responsibility to mitigate the risk of bribery resides at all levels of the Council and includes all departments. It does not rely solely on the Council’s assurance functions.

### 5. Policy Commitment

- 5.1. The Council commits to ensuring that through Departmental Management responsibility, all staff:
  - are made aware of this policy and their responsibilities as defined within it;

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- receive induction and training as applicable and relevant to their role to allow them to recognise and avoid the use of bribery by themselves or others;
- understand the local processes and procedures that need to be followed to comply with the Council's Anti- Bribery Policy;
- are encouraged to be vigilant and to report any suspicions of bribery by providing them with suitable channels of communication (e.g. Whistleblowing Procedure) and ensuring that sensitive information is handled appropriately;

In addition, the Council commits to:

- investigating instances of alleged bribery and assisting the police and other authorities in any prosecution;
- taking action against any person or organisation acting for or on behalf of the Council who or which is involved in bribery;
- reporting breaches and suspected breaches of this policy in an open and transparent way;
- including appropriate clauses in contracts with suppliers setting out the Council's right to terminate and secure losses in circumstances where an offence under the Bribery Act 2010 has been committed by the Supplier or the Supplier's agent

## 6. The Bribery Act 2010

6.1 The Bribery Act 2010 was introduced to update and enhance United Kingdom law on bribery. Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. The Bribery Act creates a strict liability corporate criminal offence of failing to prevent bribery. The only defence against this corporate offence is for organisations to have adequate procedures in place to prevent bribery. Whether procedures are adequate is for the courts to decide on a case-by-case basis. The procedures need to be applied proportionately, based on the level of risk of risk of bribery to the Council.

6.2. There are four key offences under the Act:

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- Bribing a person to induce or reward them to perform a relevant function improperly;
  - Requesting, accepting or receiving a bribe as a reward for performing a relevant function improperly;
  - Using a bribe to influence a foreign official to gain a business advantage; and
  - In relation to a commercial organisation committing bribery to gain or retain a business advantage, there being no adequate procedures in place to prevent such actions.
- 6.3 Acts of bribery are intended to influence an individual or organisation in the performance of their duty and for them to act illegally.
- 6.4 The penalties under the Bribery Act have been raised significantly. An individual guilty of an offence under sections 1, 2 or 6 is liable on conviction in a magistrate’s court to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5,000, or to both and on conviction on indictment in a crown court, imprisonment for a maximum term of ten years, or to an unlimited fine, or both. The Council, if convicted under sections 1, 2 or 6 will also face the same level of fines and, if guilty of an offence under section 7, is liable to an unlimited fine.
- 6.5 The Council accepts that public bodies may be classed as a “commercial organisation” in relation to the corporate offence of failing to prevent bribery (section 7). In any event, it represents good governance and practice to have adequate procedures in place to protect the Council and its staff from reputational and legal damage. It is in the interests of everybody connected with the Council to act with propriety at all times.

## 7. Council Procedures on the Bribery Act

- 7.1. The Council’s procedures cover six principles:
- Proportionality – The Council’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks faced by the Council and to the nature, scale and complexity of the Council’s activities.

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- Top Level Commitment – The Chief Executive and Corporate Management Team are committed to preventing bribery by staff associated with the Council. They endorse a culture within the Council in which bribery is not accepted or tolerated. The Anti-Bribery Policy is clearly communicated to all managers, staff and partners of the Council.
- Risk Assessment – The nature and extent of the Council’s exposure to external and internal risks of bribery has been assessed and documented as part of the Council’s risk management process. Any risk assessment is intended to be an on-going process based on regular communication and review. The Council should know who it is doing business with and whether this has risk implications;
- Due Diligence – A proportionate and risk-based approach will be taken in respect of staff 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 2010 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 such policy;
- Communication – The Council will ensure that this policy and other related policies and procedures are embedded in the Council’s working arrangements through appropriate communication, including training, which is proportionate to the risks the Council faces.
- Monitoring and Review – This policy, control arrangements, risk management processes and other related policies and procedures designed to prevent bribery and corruption will be monitored, reviewed and improved where necessary on a regular basis.

7.2 In the context of this policy it is unacceptable for staff acting for or on behalf of the Council 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;

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- 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 is known to be, or suspected to have been, offered with the expectation that it will obtain a business advantage for them;
- accept a gift or hospitality from a third party if it is known to be, or suspected to have been, offered 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.

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

## 8. Councillors

8.1 Well governed organisations have a range of policies, procedures and frameworks to support effective risk management, transparency, accountability, financial control and effective decision making, many of which relate directly or indirectly to fraud prevention. Applying these is not only the responsibility of the audit committee or cabinet.

As an elected member, you have an essential role to play in protecting the public purse, in particular within your council. You are responsible for ensuring that your authority adequately manages its risks and that local residents receive value for money. -You have a duty of trust to residents called the ‘fiduciary duty’ and a major part of this is ensuring that your council adequately controls its finances to reduce losses to fraud and corruption.

In addition to your fiduciary duty, as a councillor you are a public servant and are expected to uphold certain standards of conduct and behaviour in your public life. The Committee on Standards in Public Life calls these standards the ‘Seven Principles of Public Life’ (also known as the Nolan Principles)

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8.2 The Seven Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

- Selflessness - Holders of public office should act solely in terms of the public interest.
- Integrity - Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- Objectivity - Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- Accountability - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- Openness - Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- Honesty – Holders of public office should be truthful.
- Leadership - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## 9. Gifts and Hospitality

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- 9.1 This policy does not change the requirements of the Council’s Officers’ Code of Conduct.
- 9.2 The above code clearly set out the restrictions on accepting gifts and hospitality, the need to inform the manager and the need to register any approved gifts that are retained.
- 8.3 The procedures for Members’ registers of interest are set out in the Members’ Code of Conduct.

**10. Public Contracts**

- 10.1 Under the Public Contracts Regulations a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence.
- 10.2 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.

**11. Responsibilities**

- 11.1 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, volunteers and partners are required to avoid activity that breaches this policy. Adherence to the policy is mandatory.
- 11.2 Staff must:
  - ensure that they have read, understood and comply with the Anti-Bribery Act Policy;
 and
  - use the appropriate mechanisms within the Council to raise concerns as soon as possible if they believe or suspect that an offence under this policy has occurred, or may occur in the future.
- 11.3 In addition to the possibility of criminal prosecution, staff who breach the Policy will be subject to the relevant disciplinary procedure.

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## 12. Raising a concern

- 12.1 Staff are encouraged to raise any concerns with their manager and make use of the Council's Whistleblowing Procedure. This provides information on the courses of action available to report serious concerns (including bribery) in confidence. 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.
- 12.2 The Council is committed to ensuring that staff do not suffer any detrimental treatment through refusing to take part in any form of bribery.

## 13. Review of the Anti-Bribery Policy

- 13.1 It is the responsibility of the Operational Benefits & Counter Fraud Manager to routinely refresh, review, reinforce and disseminate any changes to this policy and its underlying principles and guidelines. All members of staff are responsible for reading and understanding this policy which will also be included within the induction programme in future.
- 13.2 For questions about this Policy or its related corporate policies and procedures, please contact:

Operational Benefits & Corporate Fraud Manager or;  
Head of Corporate Finance

Questions about local related policies and procedures, should be directed to your manager in the first instance.

## 14. Related policies

- [Fraud and Corruption Policy](#)
- [Whistleblowing Policy](#)
- Money Laundering Policy
- [Officers Code of Conduct](#)
- [Code of Conduct for Members](#)

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- [Financial Procedure Rules](#)
- [Employee Handbook](#)
- [Constitution of Crawley Borough Council](#)
  - Protocol on Councillor/Officer Relations pages 213 - 219
  - Officers code of conduct pages 221 – 225

## 15 Useful links

[The Bribery Act - Bribery Act 2010](#)

[Bribery Act 2010 guidance](#)

[Local Government Association, A Councillors workbook on bribery and fraud prevention](#)

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