

Anti-Bribery Policy

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1.0 INTRODUCTION

1.1 Leeds City Council is committed to the highest standards of integrity, honesty and openness, and expects the highest standards of conduct from its employees, contractors and elected Members. All employees, contractors and elected Members are expected to abide by their respective codes of conduct and act in accordance with the Council's values to work collectively to achieve the objectives set out in the Best Council Plan.

1.2 Bribery is a criminal offence for which the Council has zero tolerance, and the Council is committed to the prevention, deterrence and detection of bribery in all areas of their activities. The Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor accept bribes or improper inducements. To use a third party as a conduit to channel bribes to others is a criminal offence and the Council does not, and will not, engage indirectly in or otherwise encourage bribery.

2.0 SCOPE OF THE POLICY

2.1 This policy seeks to inform all personnel (permanent, temporary, agency and contractor staff), contractors and elected Members of the requirements of the Bribery Act 2010 (in force from July 2011) and sets out the requirements to comply with the legislation.

2.2 It provides a coherent and consistent framework to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable the identification and effective reporting of a potential breach. The responsibility to control the risk of bribery occurring resides at all levels of the Council and not solely within assurance functions.

2.3 This policy will:

- Demonstrate the Council's commitment to tackling fraud and corruption through this Anti-Bribery Policy
- Make all personnel aware of their responsibilities to adhere strictly to this policy at all times
- Encourage everyone to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- Offer reassurance that the Council will be rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- Confirm that the Council will be taking firm and vigorous action against any individual(s) involved in bribery
- Provide information to report breaches and suspected breaches of this policy
- Ensure the inclusion of appropriate clauses in contracts to prevent bribery.

3.0 WHAT IS BRIBERY?

3.1 Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

The Bribery Act 2010 (the “Act”)

3.2 There are four key offences under the Act:

- bribery of another person – offer, promise or give a bribe (section 1)
- accepting a bribe – request, agree to receive, or accept a bribe (section 2)
- bribing a foreign official – with the intention of obtaining or retaining business or an advantage in the conduct of business (section 6)
- failing to prevent bribery – corporate offence 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 (section 7)

3.3 An organisation will have a defence to failing to prevent bribery if it can show that it has in place adequate procedures designed to prevent bribery by, or of, persons associated with the organisation.

Other relevant legislation

3.4 The Criminal Finance Act 2017: Whilst this in the main relates to a UK tax evasion facilitation offence, Government guidance suggests prevention measures similar to the prevention measures under s7 of the Act 2010. The Council needs to have policies and procedures in place to prevent tax evasion from occurring in the first place and so that there is a defence of adequate procedures should this be required.

3.5 The Serious Crime Act 2015: The Serious Crime Act gives effect to a number of legislative proposals in relation to serious and organised crime. In doing so, it builds on current law to ensure that the relevant bodies have the powers they need effectively and relentlessly to pursue, disrupt and bring to justice serious and organised criminals.

4.0 WHAT ARE ‘ADEQUATE PROCEDURES’?

4.1 Whether the procedures in place to prevent bribery are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation. It is for individual organisations to determine proportionate procedures and these should be informed by the following six principles. The Council is committed to proportional implementation of these principles.

4.2 Principle 1 - Proportionate procedures

The Council's procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of its activities. They are also clear, practical, accessible, effectively implemented and enforced.

4.3 Principle 2 - Top level commitment

The top-level management are committed to preventing bribery by persons associated with the Council. They foster a culture within the Council in which bribery is never acceptable.

4.4 Principle 3 - 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.

4.5 Principle 4 - 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 Council, in order to mitigate identified bribery risks.

4.6 Principle 5 – Communication (including training)

The Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

4.7 Principle 6 - Monitoring and review

The Council monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

5.0 CONSENT TO PROSECUTION

5.1 Proceedings for an offence under the Act must be by or with the consent of: the Director of Public Prosecutions; the Director of the Serious Fraud Office; or the Director of Revenue and Customs Prosecutions.

6.0 PENALTIES

6.1 Bribery Act offences can be prosecuted at magistrates or crown court and can be against both individuals and organisations. Penalties for individuals include unlimited fines and/or imprisonment and organisations can receive unlimited fines.

7. BRIBERY IS NOT TOLERATED

7.1 Bribery undermines democracy and the rule of law and improperly influences the decision making process. This leaves the Council open to the risk of funding not being effectively utilised and the associated risk of reputational damage. It is important therefore that everyone is clear as to what is unacceptable.

7.2 It is unacceptable to:

- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return;
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy; or
- engage in activity in breach of this policy.

8.0 WHAT ARE FACILITATION PAYMENTS?

8.1 A facilitation payment is a payment (money or goods) made to a public or government official that acts as an incentive for the official to complete some action or process expeditiously to the benefit of the party making the payment. In general a facilitation payment is made to smooth the progress of a service to which the payer is legally entitled, without making such a payment.

8.2 These payments are not tolerated by the Council and are illegal under the Act.

9.0 GIFTS AND HOSPITALITY

9.1 This policy is not meant to change the requirements of the Employee Gifts & Hospitality Policy which forms part of the terms and conditions of employment with the Council.

9.2 The Employee Gifts & Hospitality Policy makes it clear that as an employee you should not benefit from your position at the Council beyond the pay and reward schemes that the Council has in place. The policy provides clear guidance regarding what is and what is not acceptable.

9.3 In summary never accept a gift or hospitality;

- As an inducement or reward for anything you do as an employee of the Council;
- Which puts you under an improper obligation; or
- If acceptance might be open to misinterpretation.

9.4 You must not solicit gifts or hospitality (other than modest refreshments which are incidental to the business at hand, for example a cup of tea at a meeting).

10.0 PUBLIC CONTRACTS AND FAILURE TO PREVENT BRIBERY

10.1 Under the Public Contracts Regulations 2015 where a contracting authority has knowledge that a company or its representatives have been convicted of a corruption offence, they should be treated as ineligible (debarred) to participate in the tendering process. Companies cannot be permanently debarred, but instead will face a term of debarment, dependent on the case, that can be no longer than five years from the date of the conviction.

10.2 Public authorities are also obliged to bring debarment to an end when the company can satisfactorily demonstrate 'self-cleaning'. This allows companies to recover eligibility to bid for public contracts following a debarment by demonstrating sufficient evidence of the following:

- payment of, or undertaking to pay, compensation in respect of any damage caused by the criminal offence or misconduct;
- clarification of the facts and circumstances of the offence in a comprehensive manner, for example by actively collaborating with the investigating authorities; and
- the introduction of concrete technical, organisational and personnel measures, which are appropriate to prevent further criminal offences or misconduct.

11.0 STAFF RESPONSIBILITIES

11.1 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the organisation or under its control. All appropriate staff are required to avoid activity that breaches this policy.

11.2 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.

11.3 As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

12.0 RAISING A CONCERN

- 12.1 We 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 you act, the sooner it can be resolved.
- 12.2 The Council is committed to ensuring that there is a safe, reliable, and confidential way of reporting suspicious activity and that staff know how they can raise concerns. There are multiple channels to help you raise concerns - please refer to the Whistleblowing policy. Preferably the disclosure will be made and resolved internally (e.g. to your head of department/on line reporting/telephone hotline).
- 12.3 Secondly, where internal disclosure proves inappropriate, concerns can be raised with the regulator (e.g. external auditor). Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media).
- 12.4 Concerns can be raised anonymously. In the event that an incident of bribery, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. We have clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier and quicker if concerns raised are not anonymous.
- 12.5 Staff who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken. We are 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.
- 12.6 If you have any questions about these procedures, please contact Internal Audit.

13.0 OTHER RELEVANT POLICIES

Members Code of Conduct
Employee Code of Conduct
Employee Gifts and Hospitality Policy
Anti-Money Laundering Policy
Whistleblowing Policy
Raising Concerns Policy
Anti-Fraud and Corruption Policy