

Appendix A: London Borough of Lambeth ANTI-BRIBERY POLICY

Objective of this Policy

This Anti-Bribery Policy (the Policy) provides a coherent and consistent framework to ensure that:

- Members, employees, contractors, and agents are aware of and understand that Lambeth Council (the Council) is an ethical organisation which has a zero-tolerance approach to all forms of fraud and corruption, including bribery;
- Members, employees, contractors, and agents understand and implement arrangements enabling compliance with the Bribery Act 2010 which came into effect on 1 July 2011. Compliance with the policy and procedure will enable Members, employees, contractors, and agents to identify and effectively report a potential breach; and,
- The Council has in place “adequate procedures”, as defined by the Act, which prohibit any Member, employee, contractor, or agent:
 - offering or making a bribe on its behalf; or,
 - seeking, agreeing, or receiving a bribe to gain advantage in any interaction with the Council.

In line with its Counter Fraud Policy, the Council has a zero-tolerance approach to bribery. The Council, as an ethical organisation, requires that all Members and personnel, including permanent and fixed term employees, contractors, agency workers and other agents of the Council:

- act honestly and with integrity always and to safeguard Lambeth resources for which they are responsible; and,
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

The Policy, Practice Note and Procedure apply to all Members, employees, contractors and agents and failure to comply with the requirements of the Act, Policy and Procedure will result in action being considered under the relevant provisions, such as the Codes of Conduct, HR provisions and contract terms and conditions.

Senior Management and Members will be made aware of work undertaken to embed the Policy and Procedure, including any proactive activities undertaken, and will also receive reports in respect of any referrals and investigations relating to potential breaches of the policy and procedure.

The attached Anti-Bribery Practice Note and Anti-Bribery Procedure which support this Policy will be reviewed on an annual basis and any amendments to the Practice Note and Procedure will be subject to approval by Corporate Committee.

London Borough of Lambeth

ANTI-BRIBERY PRACTICE NOTE

Introduction

The Bribery Act (the Act) received Royal Assent in April 2010 and came into force on 1 July 2011. It reformed and repealed a range of existing legislation into a new unified anti-bribery code.

The Act makes it ***a criminal offence to give, promise or offer a bribe and to request, agree to receive or accept a bribe either at home or abroad.*** The Act has increased the maximum penalty for bribery to 10 years' imprisonment, with an unlimited fine.

All 'relevant commercial organisations' are required to comply with the Act, which defines a 'relevant commercial organisation' as including any organisation incorporated in the UK that engages in commercial activities. The Act further states '...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.'

The Act directs that all organisations should demonstrate that they have adequate procedures in place to:

- prevent bribery; and,
- ensure that all employees, or anyone else doing business with the organisation, are aware of the procedures and adhere to its principles.

The full text of the Act can be found here: [Bribery Act 2010](#)

Bribery

An act of bribery can be defined as *"an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage."*

Offences and Penalties defined by the Act

There are four key offences under the Act:

- to offer, promise or give a bribe (**Section 1**);
- to request, agree to receive, or accept a bribe (**Section 2**);
- bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business (**Section 6**); and,
- a 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**).

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 (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both; and,
- on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

Organisations are liable for these fines and if guilty of an offence under Section 7 are liable to an unlimited fine.

As well as the possibility of civil and criminal prosecution:

- employees who breach the Policy, Practice Note and Procedures are liable to face disciplinary action under the Council's HR provisions, which may result in dismissal for gross misconduct;
- Members who breach the policy, practice note, and procedures are liable to face action under the Member Code of Conduct; and,
- contractors and agents who breach the policy, practice note, and procedures are liable to face action as set out in their terms of engagement or contract terms and conditions.

Bribery Act Section 7

Although the Act does not distinguish between the public and private spheres, it does apply to organisations providing public functions, such as local authorities. Public bodies, such as the Council, must also ensure that the commercial organisations that they do business with also comply with Section 7 of the Act.

An organisation will have a defence to this corporate offence of failure to prevent bribery if it can show that it had in place 'adequate procedures' designed to prevent bribery by or of persons associated with the organisation. The statutory purpose of the [Ministry of Justice Guidance](#) is to provide a toolkit for commercial organisations looking to ensure that adequate procedures to prevent bribery were in place.

What are 'adequate procedures?'

Whether an organisation's procedures 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.

The Council's policy and procedure have been designed to take account of the [Bribery Act Adequate Procedure](#), published by Transparency International in response to the Bribery Act requirement regarding adequate procedures.

The six principles which support the Anti-Bribery Policy and underpin the Anti-Bribery Procedures are as follows:

1. **Proportionate procedures:** The Council's procedures to prevent bribery are considered proportionate to the risks it faces. The Anti-Bribery Policy and Anti-Bribery Procedure are clear, practical, accessible, effectively implemented and enforced and are regularly reviewed and considered against relevant guidance'.
2. **Top level commitment:** The Chief Executive, Senior Management and Members are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable. The Counter Fraud Manager has responsibility for implementing the Anti-Bribery Policy and Anti-Bribery Procedure.
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. **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, to mitigate identified bribery risks.
5. **Communication (including training):** The Council seeks to ensure that its bribery prevention Policy and Procedure are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces. The Anti-Bribery Policy and Procedure are available on SharePoint, and they are also provided to relevant agents as appropriate. The Council developed a bribery awareness e-learning exercise in 2012. This was refreshed in 2018 and is available to all officers via Oracle. Going forward it will be refreshed every three years commencing in 2022.

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

Bribery is not tolerated

It is unacceptable for any Member, employee, contractor, or agent when engaged in any activity 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;
- 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 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 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.

Facilitation payments

Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials to secure or expedite actions. Actions can include, but are not limited to:

- awarding contracts;
- making appointments to temporary or permanent positions;
- awarding of benefits and concessions;
- determining eligibility to receive services; and,
- approval of applications under regulations.

Gifts and hospitality

The Anti-Bribery Policy is consistent with the requirements of our Gifts and Hospitality Policy. This makes it clear that Members and personnel are aware that gifts must be refused, and their offer recorded unless they have only a token value (e.g., calendars, mass produced diaries, inexpensive pens). In addition, all offers of hospitality beyond common courtesy are to be refused where an individual or organisation does business with the Council, is seeking to do business with the Council or is seeking a decision from the Council. The Gifts and Hospitality Policy requires all Members and officers to report any offers of gifts and hospitality regardless of whether the offer is accepted.

Reporting arrangements are published on SharePoint. A copy of the Gifts and Hospitality Policy, contained within the Staff Code of Conduct and details of the reporting arrangements can be found here: [Code of Conduct 2016](#) (includes guidance on gifts and hospitality).

Public contracts and failure to prevent bribery

Under the Public Contracts Regulations 2015, a company will face a period of debarment and will be able to recover eligibility to bid for public contracts if it has undergone a 'self-cleaning' process.

Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. This organisation has the discretion to exclude organisations convicted of this offence.

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ANTI-BRIBERY PROCEDURE

Purpose of this Procedure

The purpose of this Anti-Bribery Procedure (the Procedure) is to ensure that the Council can demonstrate that it complies with the requirements of the Bribery Act 2010 (the Act), specifically by:

- making Members, employees, contractors, and agents of the Council aware of the requirements of the Bribery Act and the Council's Anti-Bribery Policy;
- providing clear, simple arrangements for Members, employees, contractors, and agents to raise any concerns regarding potential breaches of the Act; and,
- setting out arrangements for investigating and reporting on the outcome of referrals of potential breaches.

This procedure should be read in conjunction with the Council's Anti-Bribery Policy and Anti-Bribery Practice Note which has been approved by Corporate Committee.

Responsibilities of Members and Personnel

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 Members and personnel (employees, contractors, and agents) are required to avoid activity that breaches the Policy.

The Council requires that all Members and personnel, including all permanent and fixed term employees, contractors, agency workers and other agents of the Council:

- act honestly and with integrity always and to safeguard Council resources for which they are responsible; and,
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

You must ensure that you read, understand, and comply with the Policy.

Where you receive an offer of a bribe or inducement, you must:

Report any instances where you receive an offer of a bribe or inducement from any third party who is seeking to gain personal, commercial, regulatory, or contractual advantage in respect of any Council business or activity. All offers should be reported via the combined arrangements for reporting offers of bribes, gifts and hospitality which are set out on SharePoint and on the Council's website.

Raise concerns:

Where you believe or suspect that a conflict with the Policy has occurred, or may occur in the future, which involves any Member, employee, contractor, or agent you should report your concerns through one of the channels set out below.

How to raise a concern

The Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want each Member, employee, contractor, and agent to know how they can raise concerns.

If you wish to raise a concern the Council provides several channels to this:

- **Email** raise@concern@lambeth.gov.uk. The [Whistleblowing Policy](#) can be found on SharePoint. The Policy explains how to raise a concern that will provide guidance to an employee. This process

applies equally to cases of suspected bribery as it does any other type of unlawful conduct being reported and will be followed accordingly in dealing with any referrals;

- **The Fraud Hotline**, 0207 926 1111, has been developed in line with the protections that the Public Interest Disclosure Act 1998 affords. We will respect your confidentiality and will not disclose your identity to anyone without your consent. You can also report a fraud [here](#); and,
- **Bribery referrals** can be emailed to our dedicated mailbox, briberyreferral@lambeth.gov.uk

How you can help Counter Fraud when making a referral

Before contacting us through one of the channels above, make sure you have as much specific information concerning the issue as possible to hand, so that you can provide it to us. This will help us to make an accurate assessment of the issue and to ensure that we can carry out an effective investigation. If you have documentation which support the concern you are raising with us, please let us know when you contact us, and we'll arrange for you to provide this.

Concerns can be raised anonymously. If 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. It can also be helpful to us to contact you for further information once we've started to investigate the matter.

Officers who refuse to accept an offer of 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.

The Council is committed to ensuring no-one suffers detrimental treatment of any nature through refusing to take part in bribery or corruption or reporting a concern in good faith.

Investigating concerns

All concerns raised regarding potential breaches of the Bribery Act and the Council's Anti-Bribery Policy and Procedure will be assessed by the Counter Fraud Manager who will determine what action is appropriate to investigate the matter in question. All investigations overseen by the Counter Fraud Manager are reviewed regularly. The outcomes of investigations are reported to Members and senior management along with recommendations for action to address any issues or failings identified.

Reporting on concerns raised and senior management/member oversight

Where we find evidence of wrongdoing during an investigation, we will report this to the appropriate Senior Manager to take action under the Council's HR provisions, where the investigation relates to an employee, or the hiring/contract manager, in respect of contractors, agency workers, suppliers and other agents.

The Counter Fraud Manager report all issues relating to fraud, corruption and bribery to Management Board and Corporate Committee.

Related Policies and key documents

[Counter Fraud Policy](#)

[Corporate Committee Terms of Reference](#)

[Members Code of Conduct](#)

[Risk Management Policy](#)

[Recruitment and Selection Policy and Procedure](#)

[Code of Conduct](#)

[Disciplinary Policy and Procedure](#)

[Whistleblowing Policy and Procedure](#)

If an employee, contractor, or agent has any queries regarding this Policy, Practice Note or Procedure they should contact their line manager or contract manager in the first instance.