



Bromsgrove
District Council

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Corporate Anti-Bribery Policy
Bribery Act 2010



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Introduction

The Bribery Act 2010 came into force on 01 July 2011. The act makes it an offence for a United Kingdom citizen or resident to pay or receive a bribe, either directly or indirectly. The act applies to transactions that take place in the UK and abroad, and both in the public and private sectors.

Bromsgrove District Council through myself and the Senior Management Team is determined to maintain its reputation as an authority which will not tolerate fraud, bribery, corruption or abuse of position for personal gain, wherever it may be found in any area of Council activity.

To achieve this goal the Council will work to identify and eliminate any form of bribery through the introduction of this anti-bribery policy and through a risk assessment process and ongoing monitoring and review.

Elected Members and employees should play a key role in counter-fraud initiatives. This includes providing a corporate framework within which counter-fraud arrangements can flourish, and the promotion of an anti-fraud culture across the whole Council. This should provide a sound defence against internal and external abuse of public funds.

Under the terms of this policy all employees and elected Members are prohibited from soliciting, arranging or accepting bribes intended for the benefit of the Council, or for their personal benefit, or for the benefit of the employee's family, associates or acquaintances. This Policy extends to all the Council's business dealings, transactions and decisions.

Through the 'Whistle Blowing Policy' employees are encouraged to report any suspicion of bribery, safe in the knowledge that they are able to report concerns in confidence and without risk of reprisal

Kevin Dicks
Chief Executive
Bromsgrove District Council
November 2011

Policy Statement

Bribery is a criminal offence. The Council through its employees and elected Members does not, and will not, pay bribes or offer improper inducements to anyone for any purpose or, accept bribes or improper inducements. It is the Council's policy to conduct all business in an honest and ethical manner. The Council takes a zero-tolerance approach to bribery and corruption and is committed to acting professionally, fairly and with integrity in all business dealings and relationships. The Council will operate and enforce effective systems to counter bribery.

To use a third party as a conduit to channel bribes to others is a criminal offence. The Council does not, and will not, engage indirectly in or otherwise encourage bribery.

In this policy, **third party** means any individual or organisation we come into contact with during the course of our work. This includes actual and potential customers, suppliers, advisers, contractors, government and public bodies (including their advisers, representatives and officials), politicians and political parties. This list is not exhaustive.

This policy applies to all individuals, working at all levels and grades, including senior managers, officers, employees (whether permanent, fixed term or temporary), elected members (including independent Members), consultants, contractors, agents, trainees, seconded staff, casual and agency staff, volunteers, or any other person associated with the Council, wherever located.

This policy also applies to all of the Council's activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this document.

What is Bribery?

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

It is unacceptable 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 that it is offered or provided 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 a bribery offence or who has raised concerns under this policy
- engage in activity in breach of this policy

Objective of the Policy

This policy provides a coherent and consistent framework to enable Bromsgrove Council employees and elected Members to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

Role of Employees

Employees are governed in their work by the various policies, protocols, codes, rules and procedures, particularly regarding conduct issues and are responsible for ensuring that they follow any instructions given to them by management, particularly in relation to the safekeeping of assets.

The Council requires that all staff, including those permanently employed, temporary agency staff and contractors:

- act honestly with integrity, at all times, and to safeguard the organisations resources for which they are responsible
- 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
- read, understand and comply with this policy
- avoid any activity that may lead to, or suggest, a breach of this policy

Staff must notify the Corporate Anti-Fraud Team as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.

Any employee who breaches this policy will face disciplinary action, which could result in summary dismissal for gross misconduct. Disciplinary action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case. The Council reserves the right to terminate it's contractual relationship with other workers if they breach this policy.

Role of Elected Members

As elected representatives, all Members of the Council have a duty to the citizens of the District to protect the Council from any acts of fraud and bribery and ensure that resources are used prudently and within the law to safeguard public money, including ensuring they do not procure an advantage improperly. Elected Members are required to operate and adhere to the Council's Constitution, which incorporates a Code of Conduct for Members (Part 16 of the Constitution).

The Code includes rules regarding:

- The disclosure of relationships
- The declaration of gifts and hospitality
- Registering personal interests

Elected Members are also referred to the Code of Conduct for Councilors in relation to Gifts and Hospitality set out at Part 21 of the Constitution. This sets out the process that should be followed by elected Members when declaring gifts. See further below under "Record Keeping".

The Council's commitment to action

The Council commits to:

- setting out a clear anti-bribery policy and keeping it up to date
- making all employees aware of their responsibilities under the terms of this policy
- training all employees so that they can recognise and avoid the use of the bribery by themselves or others
- encouraging employees to be vigilant and to report any suspicions of bribery, providing suitable lines of communication with the Corporate Anti-Fraud Team
- ensuring that sensitive information is treated appropriately
- rigorously investigating allegations of bribery, taking such cases to prosecution where relevant
- assisting the Police or other authorities in more complex cases
- taking action against any individual found to be involved in bribery
- provide information to all employees to report breaches and suspected breaches of this policy
- include appropriate clauses in contracts to prevent bribery

Facilitation Payments

These are illegal, and will not be tolerated. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

Gifts and Hospitality

The Council's policy on gifts and hospitality for staff has been updated and is now found within the Officers' Code of Conduct. A copy is included in the Council's Constitution and can be found on the Orb at [insert link](#) (Corporate/Policies/BDC Policies/HR).

The Officer's Code of Conduct makes it clear that:

You should not accept significant personal gifts from contractors and service providers such as food, drink, cars, clothes and jewellery.

Inexpensive calendars, diaries, blotting pads, pens etc (perhaps marked with the donor's name) are acceptable. If in any doubt about whether you should accept a gift, it is best to refuse it.

However, you are prohibited from accepting a gift, or giving a gift to a third party if the following requirements are met:

- it is made with the intention of influencing a third party to obtain or retain business or a business advantage, or to reward the provision or retention of business or a business advantage, or in explicit or implicit exchange for favours or benefits;
- it is given in the Council's name, not in your name
- it includes cash or a cash equivalent (such as gift certificates or vouchers)
- if it is inappropriate for the circumstances
- if the gift received is an inappropriate type and value, and given at an inappropriate time;
- it is given secretly and not openly
- gifts should not be offered to, or accepted from, government officials or representatives, or politicians or political parties, without the prior approval of your Head of Service.

Public Contracts and failure to prevent bribery

Under the Public Contract Regulations 2006 (which gives effect to EU law in the UK) a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts.

However, the Council has the discretion to exclude organisations convicted of this offence.

Record Keeping

We must keep records and have appropriate internal controls in place which will evidence the business reasons for:-

- Receiving or declining gifts and hospitality which are offered to staff or elected Members
- Providing gifts or hospitality on behalf of the Council to third parties

Staff must ensure that any gift or hospitality for employees that is accepted, offered or refused, should be recorded in the Corporate Gift and Hospitality Register. The Register is held centrally by the Information Management Team.

Any gifts or hospitality received by elected Members must be reported to the Council's Monitoring Officer in accordance with Part 21 of the Constitution (Gifts and Hospitality – Code of Conduct for Councillors).

How to raise a concern

All elected Members and employees have a responsibility to help detect, prevent and report instances of bribery. If you have a concern, **please speak up** – your information and assistance will help. The sooner you act, the sooner it can be resolved.

Please refer to the Whistle-blowing (Confidential Reporting Code) Policy for the procedure of how to make your concerns known. It can be found on the Orb at [insert link](#) - (Director of Finance and Corporate Resources/Head of Resources/Corporate Fraud/Team Documents/Corporate Fraud).

Staff who do not have access to the intranet can contact the Corporate Anti-Fraud team directly on:

Email fraud@bromsgrove.gov.uk
Telephone 01527 881221
Web www.bromsgrove.gov.uk/fraud

Preferably your disclosure will be made and resolved internally. However where this proves inappropriate and you are not happy to speak with the Corporate Anti-Fraud Team, your concerns can be raised externally. Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media),

Concerns can be anonymous. We will act as soon as possible to evaluate the situation. We have a clearly defined Corporate Anti-Fraud and Corruption Strategy which sets out procedures for investigating fraud, bribery and corruption. It is however, easier and quicker to evaluate allegations, if they are not anonymous, as your assistance may be well be needed to clarify elements of the allegation made.

Bribery Act Offences

There are four key offences under the Act:

- bribing of another person (Section 1)
- accepting a bribe (Section 2)
- bribing a foreign official (Section 6)
- failing to prevent bribery (Section 7)

Section 7 is a corporate offence but an organisation will have a defence to this offence if it can show that it had in place 'adequate procedures' designed to prevent bribery by or of persons associated with the organisation.

Bribery Act Penalties

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- on conviction in a magistrates court, to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5000, or to both
- on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

Organisations, if found guilty of an offence under section 7 are liable to an unlimited fine.