



ANTI-BRIBERY POLICY

LONDON BOROUGH OF WALTHAM FOREST

ANTI-FRAUD AND CORRUPTION FRAMEWORK

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1. Introduction

- 1.1 The Bribery Act 2010 came into force in the UK on 1st July 2011. It amends and reforms the UK criminal law and provides a legal framework to combat bribery in the UK and internationally. All staff need to be aware of their obligations under this Act, which sets out the criminality of accepting and giving of bribes. This applies to both individual staff and the Council corporately. The Bribery Act creates the following offences:
- Active bribery: promising or giving a financial or other advantage;
 - Passive bribery: agreeing to receive or accepting a financial or other advantage;
 - Bribery of foreign public officials; and
 - The failure of commercial organisations to prevent bribery by an associated person (corporate offence).
- 1.2 The penalty under the Bribery Act is an unlimited fine and/or imprisonment up to a maximum of 10 years.
- 1.3 The Council has a zero-tolerance approach towards bribery, and we are committed to its prevention, deterrence, detection and investigation.
- 1.4 The Council will not:
- Make contributions of any kind with the purpose of gaining any commercial advantage;
 - Provide gifts or hospitality with the intention of persuading anyone to act improperly, or to influence a public official in the performance of their duties; and
 - Make, or accept inducements of any kind.
- 1.5 In regards to facilitating contracts on behalf of the Council, Section 117 (2) of the Local Government Act 1972 states *'An officer of a local authority shall not, under colour of his office or employ, accept any fee or reward whatsoever other than his proper remuneration'*.
- 1.3 To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not engage indirectly in, or otherwise encourage bribery.
- 1.4 This policy forms part of a coherent and consistent anti-fraud framework that will enable the Council employees, members, partners and providers 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.

2. Scope of the Policy

- 2.1 This policy applies to all of the London Borough of Waltham Forest's activities.

- 2.2 This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, non-executives, agents, Members (including independent members), volunteers and consultants.
- 2.3 For partners, providers, suppliers, contractors and schools, we recommend that they either adopt this policy, or adhere to a policy consistent with the principles set out in this policy. In such instances, the Council may request annual confirmation of the policy that they have in place.
- 2.4 Within the Council the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It is the responsibility of management to ensure that a sound system of internal control exists within their area of responsibility. The Internal Audit and Anti-Fraud division of the Finance and Governance Directorate will review arrangements periodically to provide assurance to relevant stakeholders.

3. The Council's Commitment

3.1 The Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date;
- Ensuring all personnel are aware of their responsibilities to adhere strictly to this policy at all times;
- Conducting its contracting and procurement practices in a fair and transparent manner;
- Provide awareness training for all employees so that they can recognise and avoid the use of bribery by themselves and others;
- Encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately;
- Rigorously investigating instances of alleged bribery, ensuring that relevant cases are prosecuted, or by assisting police and other appropriate authorities in any resulting prosecutions;
- Taking firm and vigorous action against any individual(s) involved in bribery;
- Provide information to all employees on reporting breaches and suspected breaches of this policy; and
- Include appropriate clauses in contracts to prevent bribery.

4. What Does the Council Expect of You?

- 4.1 We require that all personnel that work for us, including those employed permanently, temporary, through agencies, as interims or consultants to:

- act honestly and with integrity at all times and to safeguard the Council’s 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;
- declare any pecuniary interest, whether direct or indirect in any agreement or contract that has been, or is proposed to be entered into by the Authority. Declarations should be made as soon as practicable and in writing;
- report all suspicions of bribery to the Corporate Anti-Fraud team.

4.2 We require all of our partners, suppliers and contractors that work with us to comply with this policy and meet the criteria set out in 4.1 above.

5 What is Bribery?

5.1 The Bribery Act 2010 defines bribery as an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

There are four key offences under the Act:

- Bribery of another person - Section 1 of the Act makes it an offence to offer, promise or give a bribe;
- Accepting a bribe - Section 2 of the Act makes it an offence to request, agree to receive, or accept a bribe;
- Bribing a foreign official - Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business;
- Failing to prevent bribery - Section 7 of the Act creates a corporate offence for the 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.

An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation

5.2 Is Waltham Forest Council a “*commercial organisation*”?

The guidance states that a “*commercial organisation*” is anybody formed in the United Kingdom and “...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.”

As such, the Council is a “commercial organisation”.

5.3 There are six principles within the Bribery Act and the Council's approach to these is as follows:

1. Proportionate procedures

This policy represents our documented procedure to be applied across the Council. Procedures that are developed are in line with the Council's bribery risks it faces and to the nature, scale and complexity of the activities.

2. Top level commitment

In practical terms this means embedding a culture across the council in which bribery and corruption is unacceptable with this culture being championed by the Management Board and senior officers across the whole organisation. This includes the message of zero tolerance to bribery published on the council's website.

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 reputation damage. Managers are required to comply with the Anti-Fraud and Corruption Response Plan and Risk Management Strategy in recording, managing and reporting risks of Bribery.

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.

5. Communication (including awareness 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.

6. Monitoring and review

The Internal Audit and Anti-Fraud Division monitors and reviews procedures designed to prevent bribery by persons associated with it and make improvements where necessary. The Council's Governance Board and the Audit and Governance Committee oversee risk management arrangements and seek assurances on the application of this policy.

6. What Constitutes Unacceptable Behaviour

6.1 Unacceptable transactions or actions are any that could lead to an offence under the Bribery Act 2010 and/or a breach of Council policies and procedures. 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. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions. Facilitation payments are not tolerated and are illegal;
- 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;
- engage in activity in breach of this policy.

6.2 Political contributions

A political contribution is a contribution, financial or in-kind, to support a political cause. Political contributions can be vulnerable to abuse with companies using contributions to gain undue influence to win contracts or shape legislation to their business. The Council's policy is to not make or accept political contributions.

6.3 Charitable Contributions and Sponsorships

A Charitable contribution is a payment made to a Charitable Institution made without any demand or expectation of business in return. Sponsorship is a transaction where the Council makes payment, in cash or in-kind, to associate its name with an activity or other organization and receives in consideration for the sponsorship fee.

The Council will ensure that Charitable Contributions and Sponsorships are not being used as a subterfuge for Bribery. Approval for charitable donations and sponsorship must be in line with the Council/Directorate Scheme of Delegation. All charitable donations or sponsorship must be noted as such in the Council's accounts and open for review. When making sponsorship decisions a review must be carried out to assess any conflicts of interest, or whether this would influence any bidding situation.

In the interests of transparency, the Council will publish any receipt of, or payments for Corporate Sponsorship and any Charitable Contributions on an annual basis.

6.4 Gifts and hospitality

Gifts are money, goods, services or loans given as a mark of friendship, or appreciation. They are given without expectation of consideration or value in return. Gifts may be used to express a common purpose and the hope of future relationships.

Hospitality includes entertaining, meals, receptions, tickets to entertainment, social or sports events, participation in sporting events, such activities being given or received to initiate or develop a relationships between business people, business success and prosperity.

This policy is not meant to change the requirements of the Council's gifts and hospitality policy contained within the Code of Conduct. This makes it clear that:

- Under no circumstances should gifts or hospitality be accepted to give personal, commercial, regulatory or contractual advantage;
- Nominal unsolicited gifts and hospitality up to a financial value of £25 are acceptable;
- Reasonable, proportionate gifts and hospitality made in good faith and in the course of normal business and that are not lavish are acceptable;
- Employees should consider whether the acceptance of the gifts or hospitality affect, or can be perceived to affect the outcome of business transactions and are not reasonable and bona fide expenditure.

6.5 Public contracts and failure to prevent bribery

Under the Public Contracts Regulations 2015 (as amended by the Public Procurement (Amendments, Repeals and Revocations) Regulations 2016), a company is automatically excluded from competing for public contracts where it is convicted of a corruption offence, including bribery. Organisations that are convicted of this offence are automatically debarred from participating in tenders for public contracts. The Council will itself exclude organisations convicted of any such bribery offences from participating in tenders for public contracts with it.

Appropriate due diligence will take place during procurement phases to ensure that potential providers have not been convicted of bribery. The Council will also seek to confirm that its major suppliers and partners have appropriate Anti-Bribery policies in place. When carrying out large procurement activity the Council will request relevant Anti-Bribery policies in place from the bidder at the Pre-Qualification Questionnaire (PQQ) stage.

7. Staff and Management Responsibilities

7.1 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 staff are required to avoid activity that breaches this policy.

You must:

- ensure that you read, understand and comply with this policy
- participate in any training offered to raise awareness of bribery
- 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.

7.2 Management is responsible for a sound system of internal control. Managers should assess the risks of bribery within their area of responsibility and put in place adequate mitigating controls where perceived or actual risks exist. Managers should record their risk assessments in line with the Council's Risk Management Strategy, and the Anti-Fraud and Corruption Response Plan. Members of the Council's Governance Board will be required to make specific reference in their annual assurance statements to the effectiveness of the controls that they have put in place to prevent bribery within their operational areas.

7.3 Internal control systems, in particular accounting and record keeping practices will be subject to regular internal audits to provide assurance that they are effective in countering bribery.

8. Penalties and Sanctions

8.1 An individual who is found guilty of an offence by the courts under sections 1, 2 or 6 of the Bribery Act 2010 is liable:

- on conviction in a magistrate's court, to imprisonment for a maximum term of twelve months; or to a fine not exceeding £5,000; or both
- on conviction in a crown court, to imprisonment for a maximum term of ten years; or to an unlimited fine; or both.

8.2 The same penalties also apply to an organisation that is found guilty of an offence under sections 1, 2, 6 or 7 of the Act are liable to an unlimited fine. In addition, a company convicted under section 1, 2 or 6 will face mandatory debarment from public contracts across the European Union.

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

9. Reporting Suspicions of Bribery

- 9.1 All suspicions of bribery must be reported to Internal Audit and Anti-Fraud Division of the Finance and Governance Directorate. Officers from the corporate anti-fraud team are the only officers within the Council that are authorised to investigate instances of fraud, corruption or bribery committed against the Council.
- 9.2 An employee will not suffer demotion, penalty or other adverse consequences for reporting genuine suspicions of bribery to Internal Audit and Anti-Fraud, or for refusing to make or accept bribes.
- 9.3 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.
- 9.4 Concerns can be raised anonymously. There are multiple channels to help you raise concerns direct to the Internal Audit and Anti-Fraud Division – either via a phone call (0300 003 1099, or extension 4299), email (fraud@walthamforest.gov.uk), in writing, or in person.
- 9.5 If you wish to raise a concern regarding a member of the Internal Audit and Anti-Fraud Division then this should either be raised directly with the Monitoring Officer, or the Strategic Director of Finance and Governance or the Chief Executive.
- 9.6 In the event that an incident of bribery, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. Internal Audit and Anti-Fraud has 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, as people invariably have more information than they initially disclose which would assist the investigators.
- 9.7 Staff who are offered 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.
- 9.8 However, making malicious or reckless allegations that an officer, member or other party involved with the Council has made or received bribes, may result in disciplinary action being taken against you.
- 9.9 If you are aware of actual or suspected instances of bribery, but you choose to either ignore them, or you fail to report them to the Internal Audit and Anti-Fraud Division, your inaction may result in disciplinary action being taken against you.

- 9.10 The telephone numbers/email addresses to report concerns relating to bribery, fraud, corruption or other financial regularities are:

The corporate anti-fraud team on 0300 003 1099, extension 4299 or fraud@walthamforest.gov.uk

- 9.11 To act as a deterrent we will commit to publishing details of public legal cases of bribery involving the Council and its officers.

10. Role of Senior Managers and Members

- 10.1 The Council promotes a culture that encourages commitment to compliance with the law and ethical conduct by exercising due diligence in meeting the criteria in this policy. The Chief Executive and the Governance Board are responsible for ensuring that the Council has an effective system of internal control to prevent and detect bribery. They provide oversight of internal controls, financial reporting processes and related functions including countering bribery.
- 10.2 The Chief Executive will seek assurance from the members of the Governance Board, through their annual assurance statements, that they have each taken appropriate action to identify, prevent, detect and report incidents of bribery.
- 10.3 The Governance Board and the Audit and Governance Committee will seek annual assurances from the Corporate Director of Internal Audit and Anti-Fraud Shared Service on the application of this policy. The Internal Audit and Anti-Fraud Division will conduct compliance checking with all services to ensure adherence with this policy.