Anti-Bribery Policy

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Tracking

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SLT sign off: 10th August 2023

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Service: Corporate Services

Revision History

Version No.	Revision Date	Revisor	Previous Version	Description of Revision
1.1	19/07/2023	Business Assurance Manager	1.0	Minor amendments: formatting, team and job names, and references.
1.2	05/10/2026	Corporate Governance and Strategy Manager	1.2	Admin. updates: role titles, further clarity added to processes, and legislative updates.

Document Approvals

Each revision requires the following approvals:

- Non-administrative updates: Strategic Leadership Team (SLT).
- Administrative updates: Assistant Director of Corporate Services

Impact Assessment and Considerations

Assessment Type	Required / Not Required	Date Completed	Impact Assessments and Considerations Comment	Completed By
Equality Impact Assessment	Not required		No direct implications: everyone will be treated equally in accordance with the law and the contents of the council's agreed fraud related policies.	Business Assurance Manager
Health and safety	Not required		No direct implications.	Business Assurance Manager
Data Protection Impact Assessment	Not required		No direct implications: information obtained will be treated in accordance with legal requirements and the council's information governance related policies.	Business Assurance Manager
Climate Change	Not required		No direct implications.	Business Assurance Manager

1. Introduction

1.1. This document sets out the Council's policy and advice to employees in dealing with bribery or suspected bribery. This policy details the arrangements made in the Council for such concerns to be raised by employees or members of the public.

1.2. Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. Bribery is a criminal offence. The Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor does the Council or will the Council, accept bribes or improper inducements.

1.3. 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. The Council is committed to the prevention, deterrence and detection of bribery and has a zero-tolerance of bribery. The Council aims to maintain anti-bribery compliance as on-going business as usual, rather than as a one-off exercise.

1.4. The Bribery Act 2010 came into force on the 1st July 2011.[1] The purpose of this Act is to provide a new consolidated scheme of bribery offences to cover bribery both in the UK and overseas. This policy should be read in conjunction with the Council's policies on fraud and corruption, whistleblowing and the acceptance of gifts and hospitality. Before 1st July 2011, organisations were only likely to be guilty of a bribery offence if senior management were involved. With the introduction of the 2010 Act, all staff in the organisation, and the organisation itself, may be guilty of bribery, even if only the individual offender knew of the bribery taking place.

2. Scope of Policy

2.1. Within the Council, the responsibility to control the risk of bribery occurring resides at all levels, and is overseen by the Chief Executive, Director of Corporate Services (Section 151) and the Monitoring Officer. This policy covers all personnel, whether permanently employed, temporary agency staff, contractors, agents, all councillors, volunteers and consultants.

2.2. This policy relates to all forms of bribery and is intended to provide direction and help to employees who may identify suspected bribery. The overall aims of this policy are to:

- Improve the knowledge and understanding of everyone in the Council, irrespective of their position, about the risk of bribery within the organisation and its unacceptability.

- Assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly.

- Set out the Council's responsibilities in terms of the deterrence, prevention, detection and investigation of bribery and corruption.

- Ensure that appropriate action is considered following an investigation. Depending on the circumstances, this may include referral for criminal investigation or prosecution, civil recovery or other civil proceedings, disciplinary action, contract remedies, recovery of losses, and referral to a relevant professional or regulatory body.

3. How the Act Works

3.1. The Council may incur criminal liability for bribery in a number of circumstances. Under section 7 of the Bribery Act 2010, a relevant commercial organisation may be liable where a person associated with it bribes another person intending to obtain or retain business, or a business advantage, for the organisation, unless the organisation can show that it had adequate procedures designed to prevent bribery. Separate rules determine when the conduct of an individual, including a senior manager acting within the scope of their authority, may be attributed to an organisation. Individual councillors, employees and other persons may also be personally liable for offences they commit.

3.2. The Economic Crime and Corporate Transparency Act 2023 has widened the circumstances in which certain economic crime offences committed by a senior manager acting within the actual or apparent scope of their authority may be attributed to an organisation. The Act also introduced a separate failure to prevent fraud offence for organisations meeting the statutory size criteria, which came into force on 1 September 2025. These provisions do not replace the Bribery Act 2010 and are reflected in the Council's wider counter-fraud arrangements.

3.3. There are four key offences under the Bribery Act 2010:[2]

- bribery of another person (Section 1)

- accepting a bribe (Section 2)

- bribing a foreign official (Section 6)

- failing to prevent bribery (Section 7).

3.4. Section 7 of the Bribery Act 2010 applies to a relevant commercial organisation. The extent to which that provision applies to a local authority depends on whether the authority falls within the statutory definition and carries on a business for the purposes of the Act. The Council will maintain proportionate anti-bribery procedures in any event and will obtain legal advice where the application of section 7 to particular activities is material.

3.5. The Council need to show that there are adequate procedures in place to prevent bribery. Adequate procedures need to be applied proportionately,

based on the level of risk guided by the six principles in the Government's guidance. These principles are not prescriptive and are intended to be flexible and outcome focussed, they are:

- **Proportionality** - Action needs to be proportionate to the risks faced relative to the size of the project of subject matter.

- **Top-level commitment** - The Chief Executive, Director of Corporate Services (Section 151), Director of Environment, Housing and Regeneration, and officers in the Corporate Management Team, including the Monitoring Officer, are committed to preventing bribery by persons associated with the Council. A culture exists within the Council in which bribery is never acceptable.

- **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. The Council should know who it is doing business with and whether this has risk implications.

- **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, in order to mitigate identified bribery risks.

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

- **Monitoring and review** - The Council monitors and reviews procedures designed to prevent bribery by persons associated with it and make improvements where necessary.[3]

4. Payments

4.1. Facilitation payments

4.2. Facilitation payments are unofficial payments made to public officials to secure or expedite actions. Facilitation payments are prohibited under the Bribery Act like any other form of bribe. They shall not be given by the Council or Council employees in the UK or any other country.

4.3. Charitable donations, sponsorship and any proposed support connected with political activity can create bribery, corruption, propriety and legal risks. Such arrangements must not be used to obtain an improper advantage or circumvent the Council's controls. Proposals must be subject to proportionate

due diligence, supported by a clear lawful purpose and approved in accordance with the Council's Constitution, Financial Regulations, Contract Standing Orders and scheme of delegation. Where political activity is involved, advice must be obtained from the Monitoring Officer before any commitment is made.

4.4. Gifts and Hospitality

4.4.1. Council employees are forbidden from accepting bribes or any inducement which would result in a gain or an advantage. Any staff member found to be involved in bribery is liable to disciplinary action, dismissal or prosecution.

4.4.2. The Council has agreed that you may accept gifts and hospitality under certain circumstances, cash gifts should not be accepted. Details of the consent regimes for staff are given in the People Framework Code of Conduct, which form part of the Council's employment policies and can be found on the intranet or obtained from the People and Organisational Development Service.

4.4.3. Rules for councillors regarding gifts and hospitality are available in Appendix 1 of the Council's Constitution.

5. Public Contracts and Failure to Prevent Bribery

5.1. Under the Procurement Act 2023, the Council must consider whether suppliers are excluded or excludable under the statutory exclusion grounds and must check the central debarment list during each covered procurement. Convictions for offences under sections 1, 2 or 6 of the Bribery Act 2010 are mandatory exclusion grounds, subject to the detailed provisions, time limits and assessment requirements in the Procurement Act 2023. Where required, the Council must exclude the supplier and comply with the applicable notification requirements.

5.2. Procurement activity must be conducted fairly and transparently in accordance with the Procurement Act 2023, the Procurement Regulations 2024 and the Council's Contract Standing Orders. The Council will undertake and document proportionate, risk-based due diligence, including assessment of applicable exclusion grounds and checks of the debarment list. Contracts should contain proportionate anti-bribery, audit, information, termination and remediation provisions. Suspected bribery or material non-compliance must be escalated promptly, and any decision to exclude a supplier, permit remediation, impose contractual remedies or terminate a contract must be recorded and made in accordance with the applicable legal and governance requirements.

6. Staff Responsibilities

6.1. The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All councillors and staff are required to avoid activity that breaches

this policy. If you are offered a bribe or receive information about an act of bribery you should report it immediately.

6.2. The senior compliance officer is the Monitoring Officer, who is responsible for implementing and monitoring the Anti-Bribery Policy and, providing guidance and training, monitoring compliance and sanctioning violation of the policy. The Monitoring Officer is also responsible for reviewing the adequacy of arrangements and implementing improvements as and when appropriate. Any breach of this policy or suspected breach will be reported to the Chief Executive. The results will be reported to Directors and Corporate Management Team as required.

6.3. Staff must ensure that they read, understand and comply with this policy; andraise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future. Staff should be aware that a breach of the Bribery Act can lead to civil and criminal prosecution; in addition, a breach of this policy may result in disciplinary action, which could lead to dismissal on the grounds of gross misconduct.

7. Raising a concern

7.1. All concerns about bribery or corruption should normally be raised promptly with the Monitoring Officer. Where the concern relates to the Monitoring Officer, where there may be a conflict of interest, or where reporting through that route would not be appropriate, the concern should be raised through the alternative channels in the Council's Whistleblowing Policy. Reports should be made through current role-based contact details published on the staff intranet.

- Telephone: 01372 732203
- Email: PIonta@epsom-ewell.gov.uk

7.2. Council employees can also refer to the Council's Whistleblowing Policy for alternative channels to raise a concern in confidence.

7.3. 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. Where appropriate the matter will be investigated under disciplinary policies through human resources (People and Organisational Development Service.

8. Other relevant policies

8.1. The Anti-Bribery Policy is not a standalone document, the following documents are also available on the staff intranet (E-Hub):

- Anti-Fraud and Anti-Corruption Strategy

- Whistleblowing policy
- Anti-Money Laundering Policy
- Conflict of Interest Policy
- Constitution and Council Operating Framework, including:
    - Financial Regulations
    - Standing Orders
    - Contract Standing Orders
    - Codes of Conduct
    - Scheme of Delegation
- Terms and Conditions of Service
- HR Policies including Disciplinary Policy
- Service Manuals and Procedures
- The Code of Conduct to any professional body to which they may belong.

8.2. The Anti-Bribery Policy will be reviewed every three years.

References

[1] HM Government (2010) *Bribery Act 2010*. Online available: https://www.legislation.gov.uk/ukpga/2010/23/contents [last accessed 21/07/2022].

[2] Ibid., HM Government (2010).

[3] HM Government (2012) *Bribery Act 2010: Guidance to help commercial organisations prevent bribery*. Online available: https://www.gov.uk/government/publications/bribery-act-2010-guidance [last accessed 21/07/2022].