

# Anti- Bribery Policy



## 1. Introduction

- 1.1 This policy is introduced to ensure compliance with the Bribery Act 2010. The Bribery Act became law on 1 July 2011. It explains the process through which the County Council intends to maintain high standards and to protect the organisation, its Members (including independent and co-opted Members), employees at all levels and grades, temporary and agency staff, volunteers, contractors, agents, consultants and persons or partners acting on the Council's behalf, (hereafter referred to as 'staff') against allegations of bribery and corruption.
- 1.2 Before 1 July 2011, organisations were only likely to be guilty of a bribery offence if senior management were involved. The Bribery Act applies to all staff in the organisation and now an organisation may be guilty of bribery if only the individual offender knew of the bribery taking place.
- 1.3 Organisations will have a defence against prosecution if they can demonstrate that they had "adequate procedures in place to prevent bribery".
- 1.4 The County Council is committed to the highest possible standards of openness probity and accountability and to conducting its business in an honest and open way, and without the use of corrupt practices or acts of bribery to obtain an unfair advantage. The County Council attaches the utmost importance to this policy and will apply a "zero tolerance" approach to acts of bribery and corruption by any of its staff acting on its behalf. Any breach of this policy will be regarded as a serious matter and be likely to result in disciplinary action and possibly criminal prosecution.

## 2. Policy Statement

- 2.1. Bribery and the use of a third party to channel bribes is a criminal offence. The County Council does not, and will not, pay bribes, or offer improper inducements to anyone for any purpose, nor will the County Council accept bribes or improper inducements. The use of a third party to channel bribes is also a criminal offence. The County Council does not and will not engage indirectly in or otherwise encourage bribery.
- 2.2. The County Council is committed to ensuring compliance with the highest legal and ethical standards. The County Council through its managers and staff commits to policies and procedures to prevent, deter, and detect acts of bribery. The County Council commits to ensuring that anti-bribery compliance is an essential aspect of its governance process and at the core of its business principles. It is an on-going process and not a one-off exercise.

## 3. Objective

- 3.1. This policy presents a clear and precise framework to understand and implement the arrangements required to comply with the Bribery Act 2010. It provides the context for the detailed rules, procedures and controls in place within the County Council. It is intended to provide no room for misinterpretation and to ensure that staff know what is expected of them in preventing bribery.
- 3.2. This policy should be read in conjunction with, and reinforce, other related Council policies and documents (see paragraph 13) the provisions of which should be reflected in every aspect of the way the County Council operates. The requirement to act honestly and with integrity at all times is made clear and is fundamental and non-negotiable.

3.3. This policy explains the methods established to prevent acts of bribery and allows any breach to be identified and reported.

#### **4. Scope**

4.1. This policy applies to all of the County Council's activities including its work with strategic partners, third parties, suppliers, contractors, schools and others.

4.2. The responsibility to mitigate the risk of bribery resides at all levels of the County Council and includes all departments. It does not rely solely on the County Council's assurance functions.

#### **5. Policy Commitment**

5.1. The County Council commits to ensuring that through Departmental Management responsibility, all staff:

- are made aware of this policy and their responsibilities as defined within it;
- receive induction and training as applicable and relevant to their role to allow them to recognise and avoid the use of bribery by themselves or others;
- understand the local processes and procedures that need to be followed to comply with the County Council's Anti- Bribery Policy;
- are encouraged to be vigilant and to report any suspicions of bribery by providing them with suitable channels of communication (e.g. Whistleblowing Procedure) and ensuring that sensitive information is handled appropriately;

In addition the County Council commits to:

- investigating instances of alleged bribery and assisting the police and other authorities in any prosecution;
- taking action against any person or organisation acting for or on behalf of the County Council who or which is involved in bribery;
- reporting breaches and suspected breaches of this policy in an open and transparent way;
- including appropriate clauses in contracts with suppliers setting out the County Council's right to terminate and secure losses in circumstances where an offence under the Bribery Act 2010 has been committed by the Supplier or the Supplier's agent

#### **6. The Bribery Act 2010**

6.1. The Bribery Act 2010 was introduced to update and enhance United Kingdom law on bribery. Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. The Bribery Act creates a strict liability corporate criminal offence of failing to prevent bribery. The only defence against this corporate offence is for organisations to have adequate procedures in place to prevent bribery. Whether procedures are adequate is for the courts to decide on a case by case basis. The procedures need to be applied proportionately, based on the level of risk of risk of bribery to the County Council.

6.2. There are four key offences under the Act:

- Bribing a person to induce or reward them to perform a relevant function improperly;
- Requesting, accepting or receiving a bribe as a reward for performing a relevant function improperly;
- Using a bribe to influence a foreign official to gain a business advantage; and
- In relation to a commercial organisation committing bribery to gain or retain a business advantage, there being no adequate procedures in place to prevent such actions.

6.3. Acts of bribery are intended to influence an individual or organisation in the performance of their duty and for them to act illegally.

6.4. The penalties under the Bribery Act have been raised significantly. 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 £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. The County Council, if convicted under sections 1, 2 or 6 will also face the same level of fines and, if guilty of an offence under section 7, is liable to an unlimited fine.

6.5. The County Council accepts that public bodies may be classed as a “commercial organisation” in relation to the corporate offence of failing to prevent bribery (section 7). In any event, it represents good governance and practice to have adequate procedures in place to protect the County Council and its staff from reputational and legal damage. It is in the interests of everybody connected with the County Council to act with propriety at all times.

## 7. Council Procedures on the Bribery Act

7.1. The County Council’s procedures cover six principles:

- **Proportionality** – The County Council’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks faced by the County Council and to the nature, scale and complexity of the County Council’s activities.
- **Top Level Commitment** – The Chief Executive and Corporate Management Team are committed to preventing bribery by staff associated with the Council. They endorse a culture within the Council in which bribery is not accepted or tolerated. The Anti-Bribery Policy is clearly communicated to all managers, staff and partners of the County Council.
- **Risk Assessment** – The nature and extent of the County Council’s exposure to external and internal risks of bribery has been assessed and documented as part of the County Council’s risk management process. Any risk assessment is intended to be an on-going process based on regular communication and review. The County Council should know who it is doing business with and whether this has risk implications;
- **Due Diligence** – A proportionate and risk-based approach will be taken in respect of staff and other organisations that perform services for or on behalf of the County Council. Due diligence will include an evaluation of the background, experience and reputation of business partners. The transactions will be properly monitored and written agreements and contracts will provide references to the Bribery Act 2010 and this policy. Reciprocal arrangements may be required for business partners to have their own policies in place. They will be advised of the County Council’s policy and be expected to operate at all times in accordance with such policy;

- **Communication** – The County Council will ensure that this policy and other related policies and procedures are embedded in the County Council's working arrangements through appropriate communication, including training, which is proportionate to the risks the County Council faces.
- **Monitoring and Review** – This policy, control arrangements, risk management processes and other related policies and procedures designed to prevent bribery and corruption will be monitored, reviewed and improved where necessary on a regular basis. All incidents of bribery or suspected bribery will be reported to the Audit Committee. An assurance of compliance will be included in the Annual Governance Statement.

7.2. In the context of this policy it is unacceptable for staff acting 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 is known to be, or suspected to have been, offered with the expectation that it will obtain a business advantage for them;
- accept a gift or hospitality from a third party if it is known to be, or suspected to have been, offered 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 an act of bribery or who has raised concerns under this policy; and
- engage in any activity in breach of this policy.

### 7.3. **Facilitation Payments**

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

## 8. **Gifts and Hospitality**

- 8.1. This policy does not change the requirements of the County Council's Officers' Code of Conduct.
- 8.2. The above code clearly set out the restrictions on accepting gifts and hospitality, the need to inform the manager and the need to register any approved gifts that are retained.
- 8.3. The procedures for Members' registers of interest are set out in the Members' Code of Conduct.

## 9. **Public Contracts**

- 9.1. Under the Public Contracts 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. It is understood that there are no plans to amend the 2006 regulations for these to include the crime of failure to prevent bribery.

9.2. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. The Council will use its discretion as to whether to exclude organisations convicted of this offence and any instances where this is the case will be reported to the Corporate Management Team for a decision.

## **10. Responsibilities**

10.1. The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the County Council or acting for or on its behalf. All Members, staff, volunteers and partners are required to avoid activity that breaches this policy. Adherence to the policy is mandatory.

10.2. Staff must:

- ensure that they have read, understood and comply with the Anti- Bribery Act Policy; and
- use the appropriate mechanisms within the County Council to raise concerns as soon as possible if they believe or suspect that an offence under this policy has occurred, or may occur in the future.

10.3. In addition to the possibility of criminal prosecution, staff who breach the Policy will be subject to the relevant disciplinary procedure.

## **11. Raising a concern**

11.1. Staff are encouraged to raise any concerns with their manager and make use of the County Council's Whistleblowing Procedure. This provides information on the courses of action available to report serious concerns (including bribery) in confidence. The County 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 County 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.

11.2. The County Council is committed to ensuring that staff do not suffer any detrimental treatment through refusing to take part in any form of bribery.

## **12. Review of the Anti-Bribery Policy**

12.1. It is the responsibility of the Head of Finance to routinely refresh, review, reinforce and disseminate any changes to this policy and its underlying principles and guidelines. All members of staff are responsible for reading and understanding this policy which will also be included within the induction programme in future.

12.2. For questions about this Policy or its related corporate policies and procedures, please contact:

**Rob Carr, Head of Finance on 0370 779 2647: [rob.carr@hants.gov.uk](mailto:rob.carr@hants.gov.uk)**

**Alison Chard, Operational Finance Manager on 0370 779 1524;  
[alison.chard@hants.gov.uk](mailto:alison.chard@hants.gov.uk)**

Questions about local related policies and procedures, should be directed to your manager in the first instance.

### **13. Related policies**

- Anti Fraud and Corruption Strategy/Policy Statement
- Anti-Money Laundering Policy
- Prosecution and Recovery Policy
- Whistleblowing Procedure
- Officers Code of Conduct
- Code of Conduct for Members
- Contract Standing Orders
- Financial Procedure Rules
- Protocol for Member/Officer Relations

### **14. Useful links**

The Bribery Act - [Bribery Act 2010](#)

Bribery Act final guidance

<http://www.cipfanetworks.net/fileupload/upload/briberyact2010guidance142011261754.pdf>

Bribery Act quick start guide

[http://www.cipfanetworks.net/governance/documentation/download\\_open.asp?sref=TV4PXC437&filename=http://www.cipfanetworks.net/fileupload/upload/briberyact2010quickstartguide142011271739.pdf](http://www.cipfanetworks.net/governance/documentation/download_open.asp?sref=TV4PXC437&filename=http://www.cipfanetworks.net/fileupload/upload/briberyact2010quickstartguide142011271739.pdf)