



Corporate Anti-Bribery Policy

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1. INTRODUCTION

- 1.1 Bribery is a criminal offence. Barnsley MBC does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes or improper inducements.
- 1.2 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.
- 1.3 We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards bribery. We aim to maintain anti-bribery compliance “business as usual”, rather than as a one-off exercise.

2. OBJECTIVE OF THIS POLICY

- 2.1 This policy provides a coherent and consistent framework to enable the Council's employees 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.
- 2.2 We require that all personnel, including those permanently employed, temporary agency staff and contractors:
 - 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.

3. SCOPE OF THIS POLICY

- 3.1 This policy 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 policy.
- 3.2 Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the Council. It does not rest solely within assurance functions, but in all business units and corporate functions.
- 3.3 This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

4. THE COUNCIL'S COMMITMENT TO ACTION

- 4.1 The Council commits to:
 - Setting out a clear Anti-Bribery Policy and keeping it up to date
 - Making employees aware of their responsibilities to adhere strictly to this policy at all times
 - 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 and assisting police and other appropriate authorities in any resultant prosecution
- Taking firm and vigorous action against any individual(s) involved in bribery
- Provide information to employees to report breaches and suspected breaches of this policy
- Include appropriate clauses in contracts to prevent bribery.

5. BRIBERY

5.1 The Council defines bribery as:

The offering, giving, soliciting or acceptance of an inducement or reward for performing an act, or failing to perform an act, designed to influence official action or decision making.

6. THE BRIBERY ACT 2010

6.1 There are four key offences under the Act:

- Bribery of another person (section 1)
- Accepting a bribe (section 2)
- Bribing a foreign official (section 6)
- Failing to prevent bribery (section 7)

6.2 The Bribery Act 2010 makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). 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. There is also a corporate offence under Section 7 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. 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.

7. WHAT ARE “ADEQUATE PROCEDURES”?

7.1 Whether the 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. It is for individual organisations to determine proportionate procedures in the recommended areas of six principles. The principles are not prescriptive and are intended to be flexible and outcome focussed e.g. small organisations will face different challenges to those faced by large multi-national enterprises.

7.2 Proportionate procedures

The Council’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of its activities. They are also clear, practical, accessible, effectively implemented and enforced.

7.3 Top level commitment

Elected Members and the Council's Senior Management Team are committed to preventing bribery by persons associated with the Council. They foster a culture within the council in which bribery is never acceptable.

7.4 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.

7.5 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.

7.6 Communication

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.

7.7 Monitoring and review

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

The Council is committed to proportional implementation of the above principles.

8. PENALTIES

8.1 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
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both

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

9. BRIBERY IS NOT TOLERATED

9.1 It is unacceptable to:

- 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.

10. FACILITATION PAYMENTS

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

11. GIFTS AND HOSPITALITY

11.1 This policy is not meant to change the requirements of the Council's Register of Hospitality and Gifts.

11.2 Paragraph 6.3.3 of the Code of Conduct for Employees states:

It is a serious criminal offence for employees to corruptly receive or give any gift, bribe, loan, fee, reward or advantage for doing/not doing or showing favour to any persons as a result of their official capacity – Prevention of Corruption Act 1916 and the Bribery Act 2010.

11.3 Furthermore, Section 6.6 of the policy provides guidance and instruction relating to the offering of benefits. The policy advises that, with the exception of very modest benefits, any offer must be firmly refused and states:

Public confidence and that of the Council would be seriously damaged if the least suspicion were to arise of actual or perceived impropriety by an employee of the Council.

11.4 In general terms, however, an employee must:

- Treat any offer of a gift or hospitality if it is made to them personally with extreme caution;
- Not receive any reward or fee other than their salary;
- Never accept monetary gifts of any kind;
- Always refuse offers of gifts or services to them (or their family members) from organisations or persons who do, or might, provide work, goods or services, to the Council or who require a decision from the Council;
- Always report any such offer to their line manager.

12. PUBLIC CONTRACTS AND FAILURE TO PREVENT BRIBERY

12.1 Under the Public Contracts Regulations 2006 as amended by the Public Contracts Regulations 2015 (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. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. The Council has the discretion to exclude organisations convicted of this offence.

*Note: In March 2019 the Minister for the Cabinet Office made **SI 2019 no 560** - The Public Procurement (Amendment etc.) (EU Exit) Regulations 2019. This SI will come into force on exit day and will amend the procurement regulations to ensure that they continue to operate effectively after exit day.*

13. EMPLOYEE RESPONSIBILITIES

- 13.1 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 employees are required to avoid activity that breaches this policy.
- 13.2 You must:
- ensure that you read, understand and comply with this policy;
 - 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.
- 13.3 As well as the possibility of civil and criminal prosecution, employees breaching this policy will face disciplinary action, which could result in dismissal for gross misconduct.

14. RAISING A CONCERN

- 14.1 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 and every employee to know how they can raise concerns.
- 14.2 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.
- 14.3 There are multiple channels to help you raise concerns (please refer to the Confidential Reporting Policy). Preferably the disclosure will be made and resolved internally e.g. to your line manager, head of department or Internal Audit. Alternatively, where internal disclosure proves inappropriate, concerns can be raised with the Council's external auditor. Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly e.g. to the media.
- 14.4 Concerns can be anonymous. In the event that 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.
- 14.5 Employees who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. The Council aims 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.
- 14.6 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.
- 14.7 If you have any questions about these procedures, please contact Internal Audit.

15. OTHER RELEVANT POLICIES

- 15.1 Further information on relevant Council policy and practice can be found in the following internal documents:
- Corporate Anti-Fraud and Corruption Policy;

- Corporate Anti-Fraud and Corruption Strategy;
- Members Code of Conduct;
- Employee Code of Conduct (including gifts and hospitality);
- Corporate Anti-Money Laundering Policy;
- Confidential Reporting Policy (Whistleblowing Policy).

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