

ANTI-BRIBERY
POLICY

Version 2 (September 2011)

Table of Contents

1. Definitions	3
2. Policy Statement	3
3. Objective of this policy	3
4. Scope of this policy	3
5. Relevant Legislation	4
5.1 The Bribery Act 2010	4
5.2 Public Contracts Regulations 2006	4
6. Anti-Bribery Principles	5
6.1 Proportionate procedures	5
6.2 Top Level Commitment	5
6.3 Risk Assessment	5
6.4 Due Diligence	5
6.5 Communication (including Training)	5
6.6 Monitoring and Review	5
7. Council's Commitment to action	6
8. Employee Responsibilities	6
8.1 General Responsibilities	6
8.2 Unacceptable Behaviour	6
9. Raising A Concern	7
10. Other Relevant Council Policies	8
11. Useful links	8

1. DEFINITIONS

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. Inducements and rewards can take many forms such as gifts, loans, fee rewards, tax advantages, service advantages and donations.

Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

2. POLICY STATEMENT

Bribery is a criminal offence and facilitation payments are illegal. We do 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.

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.

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.

3. OBJECTIVE OF THIS POLICY

This policy provides a coherent and consistent framework to enable Fareham Borough 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.

We require that all employees:

- 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.

4. SCOPE OF THIS POLICY

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.

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all services and corporate functions.

This policy covers all employees, including all levels and grades, those permanently employed, temporary agency staff, contractors, sub contractors, agents, Members (including independent members), volunteers and consultants.

5. RELEVANT LEGISLATION

5.1 The Bribery Act 2010

The Bribery Act 2010 establishes the following four key offences:

- a) **Bribery of another person** (*section 1*) - It is an offence to offer, promise or give a bribe.
- b) **Accepting a bribe** (*section 2*) - It is an offence to request, agree to receive, or accept a bribe.
- c) **Bribing a foreign official** (*section 6*) - It is an offence to bribe a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.
- d) **Failing to prevent bribery** (*section 7*) - It is an offence for a commercial organisation to fail 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. We are defined as a "commercial organisation" for the purposes of the Bribery Act 2010.

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

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

5.2 Public Contracts Regulations 2006

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. 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. Any such discretion will be exercised following legal advice and as permitted within the Council's Procurement rules.

6. ANTI-BRIBERY PRINCIPLES

The Council determines and maintains adequate anti-bribery procedures based on the following six principles. It is committed to proportional implementation of these principles.

6.1 Proportionate procedures

The procedures to prevent bribery by persons associated with Fareham Borough Council will be proportionate to the bribery risks we face and to the nature, scale and complexity of our activities. They will be clear, practical, accessible, effectively implemented and enforced.

6.2 Top Level Commitment

The top-level management (Chief Executive's Management Team and the full Council of Members) are committed to preventing bribery by persons associated with Fareham Borough Council. They will foster a culture within the Council in which bribery is never acceptable.

6.3 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 reputational damage.

6.4 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 organisation, in order to mitigate identified bribery risks.

6.5 Communication (including 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.

6.6 Monitoring and Review

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

7. COUNCIL'S COMMITMENT TO ACTION

Fareham Borough Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date.
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times.
- Training 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 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 all employees to report breaches and suspected breaches of this policy.
- Include appropriate clauses in contracts to prevent bribery.

8. EMPLOYEE RESPONSIBILITIES

8.1 General Responsibilities

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 employees are required to avoid activity that breaches this policy.

You must:

- ensure that you read, understand and comply with this policy;
- ensure that you read, understand and comply with the Council's policies on Employee interests and Gifts and Hospitality;
- ensure that you comply with all procedures set for procurement and the letting of contracts; and
- 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.

As well as the possibility of civil and criminal prosecution, employees that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

8.2 Unacceptable Behaviour

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 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; and
- engage in activity in breach of this policy.

9. RAISING A CONCERN

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 member of staff to know how they can raise concerns.

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.

There are multiple channels to help you raise concerns. Please refer to the Council's *Whistle blowing Policy (Code of Practice on Confidential Reporting)* which can be found on the intranet.

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. However, this is easier and quicker if concerns raised are not anonymous.

Staff who refuse to accept or offer 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.

If you have any questions about these procedures, please contact Elaine Hammell, Head of Audit and Assurance on 01329 824344 or ehammell@fareham.gov.uk.

10. OTHER RELEVANT COUNCIL POLICIES

[Anti Fraud and Corruption policy](#)

[Anti Money Laundering policy](#)

[Contract Procedure Rules](#)

[Financial Regulation 15 - Procurement and Contracts](#)

[Financial Regulation Support Document 6c-Procurement Guiding Principles](#)

[Financial Regulation Support Document 5: Auction Procedures](#)

[Financial Regulation Support Document 17: Gifts and Hospitality](#)

[Financial Regulation Support Document 18: Propriety and Probity](#)

[Financial Regulation Support Document 19: Registers of Interests](#)

[Code of Corporate Governance](#)

[Code of Practice on Confidential Reporting \(Whistle blowing policy\)](#)

11. USEFUL LINKS

CIPFA Better Governance Forum [CIPFA Better Governance Forum - CIPFA Networks](#)

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

Joint Prosecution Guidance

http://www.cipfanetworks.net/governance/documentation/download_open.asp?sref=7VT489337&filename=http://www.cipfanetworks.net/fileupload/upload/BRIBERY%20ACT%202010%20JOINT%20PROSECUTION%20GUIDANCE142011281730.pdf

National Fraud Authority [National Fraud Authority](#)

Transparency International [Transparency International UK](#)

Public Concern at Work [Public Concern at Work - Making Whistleblowing Work - 0207 404 6609](#)

The British Standards Institution (Code of Practice on whistleblowing arrangements 2008, Anti Bribery Management System Standard late 2011) [BSI: Standards, Training, Testing, Assessment & Certification](#)

Department for Business Innovation and Skills (Blowing the whistle to a prescribed person) http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/@employ/documents/digitalasset/dg_177605.pdf