



Sheffield City Council

Finance and Commercial
Services

Anti-Bribery Policy and Procedures



**Policy reviewed and
revised July 2022**

Anti-Bribery Policy Statement

1. This Statement sets out Sheffield City Council's (the Council's) policy in relation to bribery. It has the full support of both the Council's senior management in the form of the Leadership Boards and Elected Members through the Audit and Standards Committee.
2. The Council takes its responsibilities to protect finances very seriously and is fully committed to the highest ethical standards, in order to ensure the proper use and protection of public funds and assets. To achieve the objectives the Council needs to maximise the financial resources available to it. In order to do this, the Council has an ongoing commitment to continue to improve its resilience to fraud, corruption (including bribery) and other forms of financial irregularity.
3. The Council advocates **strict adherence** to its anti-fraud framework. This is a series of separate but related documents on the following areas, all of which can be found on the Council intranet.
 - Anti-fraud and Corruption Strategy
 - Fraud Risk
 - The Fraud response plan
 - Anti-Bribery Policy
 - Anti-Money Laundering Policy
 - Whistle Blowing Policy
4. Whilst individual circumstances of each case will be carefully considered, in the majority of cases there will be a zero tolerance approach to fraud and corruption (including bribery) in all of its forms. The Council will not tolerate fraud or corruption by its councillors, employees, suppliers, contractors, partners or service users and will take all necessary steps to investigate all allegations of fraud or corruption and pursue sanctions available in each case, including removal from office, disciplinary action, dismissal, civil action for recovery and/or referral to the Police and/or other agencies. The required ethical standards are included in both the Members' Code of Conduct and Officers' Code of Conduct, both documents form part of the overall Constitution of the City Council.
5. The Council fully recognises its responsibility for spending public money and holding public assets. The prevention, and if necessary the investigation, of fraud and corruption (including bribery) is therefore seen as an important aspect of its duties which it is committed to undertake. The procedures and also the culture of the Council are recognised as important in ensuring a high standard of public life.
6. The Council's general belief and expectation is that those associated with it (employees, members, school governors, service users, contractors and voluntary bodies) will act with honesty and integrity. In particular members and employees are expected to lead by example and will be accountable for their actions.
7. The Council will take steps to help ensure high standards of ethical behaviour are adopted in partnerships to which the Council is a member. This will be done through applying appropriate elements of this document to all partnership working, where it is relevant to do so. With regard to partnership working, responsibility for Codes of

Conduct and policies of this nature (and so for enforcement action for breach of those codes or policies) generally lies with the relevant individual organisation in the partnership. Where appropriate, the Council will draw the attention of the partner organisation to its concerns.

Introduction

1. The Bribery Act 2010 came into effect from 1st July 2011 and replaced common law offences and the Prevention of Corruption Acts 1889-1916. The legislation was introduced to counter the threat that bribery poses to democracy, the rule of law, emerging economies and the operation of free markets. The legislation is not intended to impose burdensome procedures on organisations and places proportionality as a core principle.

What is Bribery?

2. Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

Objective of this policy

3. This policy lays out the Council's stance on bribery. The Council is explicit in that it will not offer bribes or improper inducements to anyone for any purpose nor will it accept bribes or improper inducements.
4. This policy provides a framework to enable employees and members to understand and implement arrangements enabling compliance. In conjunction with related policies referred to below, it will enable employees and members to identify and report a potential breach.
5. We require all staff, including temporary agency staff and all contractors and their employees working on behalf of the Council and all elected members to:
 - act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible; and
 - comply with the spirit, as well as the letter, of the laws and regulations in respect of the lawful and responsible conduct of activities.
6. The Council's Officers' Code of Conduct provides the minimum standards to which all employees are expected to keep. Section 2 relates to public duty, private interest, fraud and theft states "You must never accept a financial payment, bribes or inducement from any individual, body or organisation. For example: payments of inducement from contractors, developer or consultants".

Scope of this policy

7. This policy applies to all of the Council's activities. For strategic partners, contractors and suppliers, we will seek to promote the adoption of policies consistent with this policy.
8. Within the Council the responsibility to control the risk of bribery occurring rests at all levels. It does not rest solely within assurance and audit functions, but is embedded in all services of the organisation and members exercising their Council functions.

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9. This policy covers all staff at all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, members (including independent members), volunteers and consultants.

Summary of Bribery Act

Definition

10. The Bribery Act contains two general offences and two further offences which address commercial bribery.

11. The four criminal offences created by the Bribery Act 2010:

- bribery of another person (section 1) to induce or reward them to perform a function improperly
- requesting or accepting a bribe (section 2) as a reward for performing a function improperly
- bribing a foreign official (section 6) to gain a business advantage
- failing to prevent bribery (section 7)

General offences

The offering, promising or giving of a bribe (section 1).

The requesting, agreeing to receive or accepting of a bribe (section 2).

12. These offences may apply where it is intended to bring about improper performance by another person of a relevant function or activity or to reward improper performance.
13. In summary, improper performance is defined as; performance which amounts to a breach of an expectation that a person will act in good faith, impartially, or in accordance with a position of trust.
14. The general offences apply to any function connected to business or of a public nature and therefore covers both private and public sectors.

Commercial offences

Bribery of a foreign public official in order to obtain or retain business or an advantage in the conduct of business (section 6).

Failing to prevent bribery on behalf of a commercial organisation (section 7).

15. The term foreign public official includes elected or appointed officials that hold a legislative, administrative or judicial position of any kind of a country or territory outside of the UK.
16. The Act does not intend to criminalise bona fide hospitality, promotional or other business expenditure to improve commercial image or establish cordial business relationships. It is clear that these can be employed as bribes, however, for an

offence to be committed there must be an intention for the financial or other advantages to influence the official's role thereby securing business or business advantage.

17. A commercial organisation will be liable to prosecution if a person associated with it bribes another person intending to obtain or retain business advantage for that organisations (is or it would be guilty on an offence under sections 1-6).
18. The Government expects that this offence will apply to incorporated organisations or partnerships that engage in commercial activities irrespective of the purpose for which profits are made – this includes educational or public functions.

A person associated with an organisation is defined as a person who performs services for or on behalf of an organisation. Guidance provides that contractors and suppliers may be included as “associate persons”.

19. The last offence – section 7 is a corporate offence of failure by a commercial organisation to prevent bribery intended to obtain or retain business, or an advantage in the conduct of business. An organisation will have a defence to this offence if it can show that it had in place **adequate procedures** (see below) designed to prevent bribery by or of persons associated with it. The standard of proof required by an organisation to prove the defence is balance of probabilities

Penalties

20. 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.

Facilitation Payments

21. These are small bribes paid to facilitate routine Government action and may trigger an offence under section 6 or section 1 (and therefore under section 7) when intended to induce improper conduct. The Bribery Act does not provide any exemption for such payments although it is recognised that eradication in some parts of the world is a long term objective. Prosecution of facilitation payments in England and Wales is referred to the Director of the Serious Fraud Office and the Director of Public Prosecutions.

Anti-Bribery procedures

22. It is for the Council to determine the anti-bribery procedures that it puts in place proportionate to the risk it faces. The procedures applied by other organisations may therefore differ depending upon the scale of challenges that they encounter.
23. The Government recommends that the Anti-bribery procedures should be informed by 6 non prescriptive principles. These are described below together with the associated procedural arrangements applied by the Council to prevent the offering or acceptance of bribes and improper inducements.

Principle 1 – proportional procedures.

24. The procedures implemented by the Council are proportionate to the risk of bribery that it faces and are practical, accessible and enforced. Anti-bribery procedures operate through a variety of policies and other internal controls that apply to Council employees, agents and representatives.

These controls include:-

- Standing Orders (decision making and procurement procedures)
- Financial Regulations and Protocol
- Financial Procedures
- Officers' Code of Conduct
- Code of Conduct for Members
- Gifts and Hospitality Policy / code of Practice
- Risk Management Policy
- Statement on Fraud and Corruption
- Recruitment Policy
- Annual Governance Statement
- Whistle Blowing Policy
- Procurement procedures and contractual terms and conditions.

25. The Council (in line with the transparency code) also publishes the details of all individual payments to suppliers and other organisations over £250 in value on a monthly basis that are paid through creditors and details of all payments made by procurement cards.

Gifts and Hospitality policy

26. The Council's policy on Gifts and Hospitality forms part of the Officers' Code of Conduct and states that Council employees must not accept gifts, loans, fees and rewards from any person or organisation in particular those who may potentially expect to receive an advantage or benefit in return. This includes gifts, loans, fees and rewards from contractors, outside suppliers or members of the public. Breaches of this policy may be viewed as gross misconduct and be subject to disciplinary procedure.

27. The Policy/Code of Conduct includes guidance on incidental gifts and hospitality that may be accepted and provides that all offers of gifts, hospitality and inducements should be recorded on the appropriate form and retained by the relevant Head of Service.

28. The Council is undertaking some work overseas to seek potential inward investment. The Council is developing a policy to underpin the guidance given to staff in this area regarding not only gifts and hospitality received but also gifts and hospitality provided by the Council. A record of this activity is agreed and signed off by the relevant Head of Service.

Principle 2 – Top-level commitment

29. The Council's Leadership Boards has maintained a consistent message that acts of impropriety are unacceptable. The Council has in place a Statement on Fraud and Corruption that contains a statement from the Chief Executive expressing a zero tolerance environment in relation to fraud and corruption. The Statement on Fraud and Corruption forms part of the Officers' Code of Conduct.

Sheffield City Council's commitment to action

30. Sheffield City Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date
- To having clear, up-to-date date policies on gifts and hospitality
- Making all employees and members aware of their responsibilities to adhere strictly to this policy at all times
- Enabling all employees and members to recognise and avoid the use of bribery by themselves and others
- Encouraging its employees and members 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
- Providing information to all employees and members on how to report breaches and suspected breaches of this policy
- Maintaining appropriate clauses in contracts to prevent bribery.

Principle 3 – Risk Assessment.

31. The Council has in place a formal risk management process to assess and document its exposure to risk, the acceptable level of risk appetite and/or mitigating actions that have been implemented to control risk.

32. Each Service Director is required to sign an Annual Governance Statement (AGS) that contains assurance on the application of risk management, fraud risk management and procurement arrangements amongst others. The Annual

Governance Statements will make specific reference to Anti-Bribery Policy within the risk management context.

33. The Council recognises that it works and contracts with external organisations in sectors that may be susceptible to acts of bribery. Through the application of procurement and risk management procedures the Council will assess and mitigate the exposure to the risk associated with bribery. Where a risk of bribery is identified, managers will document the risk and appropriate mitigating controls within their Service Risk Management Plans in accordance with the risk management framework.

Principle 4 – Due Diligence

34. The Council applies proportionate due diligence processes in respect of persons and organisations that perform or will perform services on its behalf to mitigate the risk of bribery. The Council's recruitment policy contains mandatory pre-employment checks that must be completed before a formal, contract of employment can be issued. A bribery clause is contained in the standard terms and conditions of any new contracts entered into by the Council.

Principle 5 - Communication

35. The Council has embedded and communicated to staff a range of policies and procedures to deter and detect fraud and corruption. The tone of internal communication has been to consistently condemn acts of irregularity and to establish a culture where employees are encouraged to report any suspicions and inappropriate behaviour. Communication methods include induction training, fraud awareness, staff briefings and intranet articles. An in-house fraud awareness eLearning facility has been introduced and includes information on the Bribery Act.

Principle 6 Monitoring and Review.

36. Internal Audit maintains ongoing scrutiny of the Council's internal control framework as determined by application of a risk based planning process and consultation with senior management. The activities of Internal Audit are reported to the Audit and Standards Committee. In addition each Service Director is required to sign off their AGS to verify that the service has adequate levels of internal control. This is done on an annual basis. Where any areas of noncompliance are identified, the service has to formulate a plan of action to correct these deficiencies and allocate responsibility for ensuring that they take place within the required timescales. This is then monitored.

Staff responsibilities

37. It is the responsibility of all personnel employed by or acting on behalf of the Council to report any concerns that someone may be committing fraud or behaving in a way that is unethical, this includes the offering or acceptance of a bribe. Reports can be made via an employee's line management or any of the contacts listed in the Whistleblowing Policy and Procedure. The Whistleblowing

Procedure explains the protection that is afforded to the person reporting concerns and how the concern will be handled.

38. All personnel should therefore:

- Read, understand and comply with this policy.
- Report any actions that may conflict with this policy.

Further Information

39. If you have any questions about this policy you should contact your line manager or alternatively contact Internal Audit.

Other relevant policies

40. Further information on relevant Council policy and practice can be found in the following internal documents:

- The Constitution
- Members Code of Conduct
- Officers Code of Conduct
- Anti-Fraud and Corruption Policy
- Confidential Reporting Procedure Whistleblowing Policy
- Gifts & Hospitality Policy
- Anti-Money Laundering Policy

Useful links

- The Bribery Act 2010
- Bribery Act guidance
- CIPFA's Code of Practice on Managing the Risk of Fraud and Corruption