



# Prevention of Bribery Policy

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## Amendment History

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1.0	March 2009	Policy approved by Governance Committee
2.0	September 2017	Policy reviewed. No material changes made.

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## Introduction

1. The Council is committed to the highest standards of ethical conduct and integrity in its business activities. The Council has clear guidance in relation to anti-fraud and corruption in the Counter Fraud and Corruption Strategy:  
<http://www.solihull.gov.uk/Portals/0/StrategiesPlansPolicies/CorporateManagement/CounterFraudandCorruption.pdf>
2. These anti-bribery procedures complement our existing counter fraud and corruption policy and governance arrangements.
3. The **Council will not accept any fraud and corruption**. The Council therefore:
  - 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;
  - will not use a third party as a conduit to channel bribes to others as it is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery;
  - is committed to the prevention, deterrence and detection of bribery. We have zero tolerance towards bribery. We aim to maintain anti-bribery compliance as “business as usual”, rather than as a one-off exercise.

## What is the scope of the policy?

4. The policy applies to all employees, members and officers of the Council (including school based staff), and to temporary workers, consultants, contractors and agency staff acting for, on behalf of, the Council. Every Member, employee (including school based staff) and associated person acting for, or on behalf of, the Council is responsible for maintaining the highest standards of business conduct. Any breach of this policy is likely to constitute a serious disciplinary, contractual and criminal matter for the individual concerned and may cause serious damage to the reputation and standing of the Council.

## What is Bribery?

5. Bribery can be defined ‘an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage’.

## When could the Council be liable?

6. The Council would be liable if someone in the organisation commits a bribery offence; as these activities would be attributed to the organisation.
7. The Council would also be liable where someone who performs Council services pays a bribe.

## What are the main Bribery offences?

8. The Bribery Act 2010 outlines the following main offences:

## **Section 1 - Bribing another person**

9. To offer, promise or gift a financial or other advantage to another person either
  - intending to induce, or reward, a person's improper performance of a relevant function or activity; or
  - knowing or believing acceptance of the advantage itself constitutes improper performance.
10. Such bribes could be money, payment in kind, goods or services.

## **Section 2 - Being bribed**

11. Requests, agreements to receive or acceptance of financial or other advantage;
  - intending in consequence that a relevant function or activity should be performed improperly;
  - itself constitutes improper performance; or
  - rewards improper performance
12. This section relates to individual officers and could lead to prosecution of senior management officers under section 7.

## **Section 6 - Bribery of foreign public officials**

13. Offering, promising or giving a financial or other advantage, either directly or indirectly, intending to obtain or regain business or an advantage in the conduct of business.

## **Section 7 - Failure of a commercial organisation to prevent bribery**

14. If a person associated<sup>1</sup> with an organisation bribes another person to obtain or retain business, or a business advantage for the organisation.
15. The organisation may not have actual knowledge or day to day control over actions and could therefore unknowingly commit an offence.
16. There is a defence to section 7, if the organisation can prove that it had in place 'adequate procedures'<sup>2</sup> to prevent persons associated with it from committing such acts.

## **What are the penalties?**

17. An individual guilty of an offence under section 1,2, or 6 is liable:
  - on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum (£5000), or to both;

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<sup>1</sup> Defined as a person who performs services for, or on behalf of, the organisation. This includes agency workers, contractors and suppliers

<sup>2</sup> Procedures must comply with six general principles detailed in the Act

- on conviction on indictment, to imprisonment for a term not exceeding 10 years, or to a fine, or both.

18. An organisation guilty of an offence section 7 is liable to an unlimited fine.

## **What are the Council's procedures?**

19. The Council is committed to complying with the Bribery Act 2010 in its business activities.

20. These procedures are to:

- Prevent, where possible, the Council and its employees engaging in activities which would be considered unlawful.
- Identify the main service areas where bribery may occur and provide staff with guidance and training to help prevent any unlawful activities.
- Apply proportionate due diligence measures when engaging with persons who will perform services on the Council's behalf.
- Investigate all allegations of bribery and take appropriate action.

## **What are the Council's requirements?**

21. The Council prohibits employees or associated persons from offering, promising, giving, soliciting or accepting any bribe (e.g. cash, gift or other inducement).

22. The Council therefore require that all workers (including employees, temporary agency staff, members, volunteers, consultants and contractors) will:

- act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible; and
- conduct business lawfully and responsibly.

## **Roles and responsibilities**

23. Responsibility for controlling the risk of bribery occurring resides at all levels. Specific responsibilities are detailed below:

### Senior Management/ Headteachers/Governors and Members

24. Leaders will foster a culture of integrity in line with the Council brand where it is clear that bribery is unacceptable. Senior managers will also implement effective measures to prevent, monitor and eliminate bribery.

### Managers

25. Managers will consider the risks in their service area and ensure staff are aware of the anti-bribery procedures.

26. Managers will ensure that all employees and associated persons are aware of and comply with this policy, including any future updates that may be issued by the Council.

### Employees (including school based staff)

27. It is each employee's responsibility to remain vigilant and report any suspicions to help us prevent and detect bribery.
28. Employees and, where applicable, associated persons, are required to take particular care to ensure that all Council records are accurately maintained in relation to any contracts or business activities.
29. Accurate, detailed and up to date records of all entertainment or gifts accepted or offered will be maintained in accordance with the Code of Employee Conduct.

### Corporate Procurement Manager

30. The Corporate Procurement Manager will ensure that procurement procedures and contracts comply with anti-bribery legislation.
31. Due diligence will be undertaken prior to entering into any contract, arrangement or relationship with a potential supplier of services, agent, consultant or representative.

### Audit Services

32. Audit Services will:
  - maintain the whistleblowing procedures to allow staff to raise concerns;
  - investigate cases of bribery in the organisation with relevant third parties;<sup>3</sup>and
  - review the policy and report regularly to the Audit Committee.

## **What does this mean for you and 'Business as usual?'**

33. **Bribery** is not tolerated by the Council. 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.
  - engage in activity in breach of this policy.
34. **Facilitation payments** are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions. Actions can include but are not limited to:
  - awarding contracts;

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<sup>3</sup> E.g. The Police, partners or contractors

- making appointments to temporary or permanent positions;
- awarding benefits and concessions;
- determining eligibility to receive services;
- approval of applications under regulations

35. **Gifts and hospitality** should be reasonable, proportionate, made in good faith and not lavish. All employees should comply with Section 10 of the Code of Employee Conduct which outlines procedures for gifts and hospitality:  
<http://intranet/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=224>
36. **Public contracts** should be let fairly and in line with Rules for Contracts. The Council has the discretion to exclude organisations that have been convicted of a corruption offence from participating in tenders for Council contracts.

### **What should I do if I suspect Bribery?**

37. If you suspect bribery or attempted bribery by an employee or anyone associated with the Council report your suspicions immediately via the Council's whistleblowing policy:  
<http://www.solihull.gov.uk/Portals/0/StrategiesPlansPolicies/CorporateManagement/WhistleblowingPolicy.pdf>

or contact:

Steve Sparkes (Head of Audit Services)

Telephone: 0121 704 6282 Email: [ssparkes@solihull.gov.uk](mailto:ssparkes@solihull.gov.uk)

Anti-fraud hotline: **0800 028 8535** Email: [antifraud@solihull.gov.uk](mailto:antifraud@solihull.gov.uk)