

## NORTH LINCOLNSHIRE COUNCIL

### AUDIT COMMITTEE

## ANTI-BRIBERY POLICY

### 1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 This Policy has been reviewed as part of the periodical review of policies related to fraud and corruption to ensure it is fit for purpose. There have been no material changes to legislation since the previous version was approved and there have been no material changes to this policy as a result of the review.
- 1.2 To ensure that the committee are satisfied that the policy remains fit for purpose.

### 2. BACKGROUND INFORMATION

- 2.1. The Anti-Bribery Policy has been developed as a result of the Bribery Act 2010 that introduced specific offences in relation to bribery.
- 2.2. Both the Council and its employees may commit offences under the Act and therefore, the policy applies to all of the Council's activities and employees. It makes clear that the Council will not offer bribes or any other improper inducements to anyone for any purpose, nor will they accept bribes or improper inducements.
- 2.3. Although there has been no changes in the legislation in relation to Bribery, the Council's policy, it has been reviewed to ensure that the Council's approach to Bribery remains an appropriate one.
- 2.4. The Council have a defence to the corporate offence of failing to prevent bribery, if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation. This review is designed to ensure that our procedures are up to date and adequate.

### 3. OPTIONS FOR CONSIDERATION

- 3.1. The Committee is asked to consider the content of this report as part of their responsibilities for monitoring and reviewing the Council's arrangements in relation to fraud and corruption and to approve the Bribery Policy.

#### **4. ANALYSIS OF OPTIONS**

4.1. No other options considered.

#### **5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

5.1. None directly arising, although a failure to discharge our statutory duties under the regulations could lead to criminal convictions and/or the imposition of a fine, both for individuals and the Council itself.

#### **6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)**

6.1. An Integrated Impact Assessment is not required.

#### **7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED**

7.1. There are no conflicts of interests to declare.

#### **8. RECOMMENDATIONS**

8.1. That the Committee acknowledges and approves the Policy review.

#### **DIRECTOR: GOVERNANCE AND PARTNERSHIPS**

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# Anti-Bribery Policy

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## 1. Introduction

- 1.1. The Bribery Act 2010 introduced specific criminal offences in relation to bribery. The key offences are:
  - Bribery of another person (section 1)
  - Accepting a bribe (section 2)
  - Bribing a foreign official (section 6)
  - Failing to prevent bribery (section 7)
- 1.2. The Act broadly defines bribery as the giving or receiving of a financial or other advantage in connection with the 'improper performance' of a position of trust or of a function that is expected to be performed impartially or in good faith
- 1.3. North Lincolnshire Council will not offer bribes or any other improper inducements to anyone for any purpose, nor will they accept bribes or improper inducements.
- 1.4. This policy applies to all of the council's activities and employees. Employees include but are not limited to those who are directly employed, agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.
- 1.5. For partners and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.
- 1.6. This policy does not change the requirements of the Council's Code of Practice for Employees Relating to Interests, Gifts and Hospitality.

## 2. Corporate responsibilities

- 2.1. Under section 7 of the Bribery Act, commercial organisations can be found guilty of an offence by failing 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.
- 2.2. An organisation found guilty of an offence under section 7 is liable to an unlimited fine.
- 2.3. For the purposes of the section 7 of Bribery Act, North Lincolnshire Council is a 'commercial organisation' and may be liable to prosecution if it fails to prevent bribery. Therefore, the Council must be able to demonstrate that it has adequate procedures to prevent bribery.

2.4. Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. It is for individual organisations to determine what procedures are required based on the level of risk of bribery in the organisation. Guidance issued by the Ministry of Justice provided six principles to consider in implementing adequate procedures. The council continues to be committed to the proportionate implementation of these principles.

2.5. The table below shows how the Council addresses these principles to comply with the Bribery Act.

<b>Principle</b>	<b>How the Council will comply</b>
Proportionate procedures	The council ensures that its procedures to prevent bribery are proportionate to the bribery risks it faces and to the nature, scale and complexity of its activities. It ensures that they are clear, practical, accessible, effectively implemented and enforced.
Top Level Commitment	<p>The Council, through its Executive and Non-Executive roles are committed to preventing bribery by persons associated with the council. Cabinet Members and Senior Officers will continue to foster a culture within the council in which bribery is never acceptable.</p> <p>The council has a strong Counter Fraud Strategy that is reviewed annually and approved by the Audit Committee. It contains a clear and unambiguous message that the council will not tolerate fraud and corruption.</p>
Risk Assessment	The Council regularly assesses the nature and extent of its exposure to potential external and internal risks of bribery on a periodic basis. It is assessed on both financial risk and reputation risk.
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
Communication and training	The council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the council through internal and external communication, including training and e-learning that is proportionate to the risks it faces.
Monitoring and review	The council monitors and review its procedures designed to prevent bribery and will make improvements where necessary.

### 3. Employee and Member responsibilities

3.1. Bribery is not tolerated by the council. All employees and Members are required to act honestly and with integrity at all times and to safeguard the organisation's resources for which they are responsible.

3.2. Employees and Members must 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.

3.3. Employees and Members must:

- ensure that they read, understand and comply with this policy
- raise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.

3.4. Employees and Members must **not**:

- 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
- Accept facilitation payments (unofficial payments to public officials) in order to secure or expedite actions

3.5. 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 (six months in Northern Ireland), 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

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

#### **4. Raising a concern**

- 4.1. 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 and Members are required to report activity that breaches (or may breach) this policy.
- 4.2. Employees are often the first to realise that there is something seriously wrong within the council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the council. They may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 4.3. To make a complaint, employees should follow the guidance in the Council's Reporting a Concern (whistleblowing) Policy.
- 4.4. The Reporting a Concern Policy is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem, informing the media or other external bodies. The relevant Trade Unions and professional organisations have been consulted in respect of this policy. A full copy of the Policy can be viewed on Topdesk.