**Hertsmere Borough Council**

**Anti-Bribery Policy**

**2024**

**Contents**

1. **Introduction………………………………………………………………… 3**
2. **Definition of bribery………………………………………………………. 3**
3. **Objective of the Policy…………………………………………………… 3**
4. **Scope of the Policy……………………………………………………….. 4**
5. **Ownership of the Policy…………………………………………………. 4**
6. **Anti-bribery policy………………………………………………………... 4**
7. **Gifts and hospitality……………………………………………………… 5**
8. **Responsibilities of staff and others…………………………………… 5**
9. **Reporting procedure……………………………………………………... 5**
10. **Sanctions ………………………………………………………………….. 6**
11. **Monitoring and review…………………………………………………… 6**
12. **Related policies…………………………………………………………… 6**
13. **Introduction** 
    1. The Bribery Act 2010 (‘the Bribery Act’) aims to promote anti-bribery practices amongst businesses. It applies to both the private and public sectors, and so applies to Hertsmere Borough Council (the Council). An organisation will commit a criminal offence under the Bribery Act if it fails to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business for the organisation. An individual can also be guilty of an offence under the Bribery Act.
    2. There are four key offences under the Act

* Section 1 - Bribing another person
* Section 2 -Taking a bribe
* Section 6 - Bribing a foreign public official
* Section 7 - Failing to prevent bribery.
  1. Before the Bribery Act came into force organisations were only likely to be guilty of a bribery offence if senior management were involved. The Bribery Act however applies to all staff in the organisation, and now an organisation may be guilty of bribery if only the individual offender knew of the bribery.
  2. An organisation will have a defence to the corporate offence if it can demonstrate that it had adequate procedures in place to prevent bribery by, or of, persons associated with the organisation.
  3. 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 both
* On conviction in a crown court, to imprisonment for a maximum term of ten years or to an unlimited fine or both
  1. Organisations are also liable for these fines, and if guilty of an offence under section 7, are liable to an unlimited fine.

1. **Definition of Bribery**
   1. Bribery is an inducement or reward offered, promised, or provided, to gain personal, commercial, regulatory or contractual advantage.
2. **Objective of the Policy**
   1. The objective of the policy is to provide a coherent and consistent approach to ensuring compliance with the Bribery Act. It will enable all employees and any person who performs services for and on behalf of the Council (including contractors, subcontractors, volunteers, consultants and elected members) to understand their responsibilities and allow them to take the necessary action:
   2. The policy forms part of the Council’s Anti-Fraud and Corruption Framework.
3. **Scope of the Policy**
   1. The policy applies to all the Council’s activities, including its work with strategic partners, third parties, suppliers, schools and others. In the case of partnership working, the Council will seek to promote the adoption of this policy by its partners.
   2. The policy applies equally to all staff i.e. officers, regardless of grade or whether permanently employed, as well as temporary agency staff, contractors, agents, all elected Members, volunteers and consultants.
4. **Ownership of the Policy**
   1. The policy has the approval of the Corporate Governance Group and the Audit Committee.
   2. The Chief Executive, Head of Human Resources, Head of Finance and Business Services, and the Head of Legal & Democratic Services will own the policy, thereby ensuring that there is commitment at the highest level.
5. **Anti-Bribery Policy**
   1. The Council is committed to countering bribery and corruption in all forms and will not tolerate it in any of its activities. The Council does not, and will not, pay bribes or offer improper inducement to anyone for any purpose. Equally, the Council does not, and will not, accept any bribes or improper inducements or engage indirectly in or otherwise encourage bribery.
   2. All staff and those working or performing any service on or on behalf of the Council will neither accept nor give bribes.
   3. The principles which support the Anti-Bribery Policy and underpin the Council’s Anti-Bribery Procedures are as follows:

* Proportionality - The Council has procedures in place to prevent bribery by persons associated with it. These are proportionate to the bribery risks faced by the Council and to the nature, scale and complexity of the Council’s activities. They are also clear, practical, accessible, effectively implemented and enforced.
* Top level commitment - The Chief Executive, Directors and all Senior Officials (internal and external) connected with the Councils business are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.
* Risk Assessment - The nature and extent of the Council’s exposure to potential external and internal risks of bribery on its behalf by persons associated with it is periodically assessed. This includes financial risks but also other risks such as reputational damage.
* Due diligence - The Council takes a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, to mitigate identified bribery risks.
* 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.
* Monitoring and review - Procedures designed to prevent bribery are monitored and reviewed and improvements are made where necessary.
  1. It is unacceptable to:
* Give, promise to give, or offer payment, gifts 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 payment, gifts or hospitality to a government official, agent or representative to “facilitate” or expedite a routine procedure;
* Accept payment from a third party that is offered with the expectation that it will obtain business advantage for them, whether known or suspected;
* Accept a gift or hospitality from a third party if it is offered or provided with an expectation that a business advantage will be provided by the Council in return, whether known or suspected;
* Retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy; or
* Engage in activity in breach of this policy.

1. **Gifts and Hospitality**
   1. This policy does not change the requirements in relation to Gifts and Hospitality set out in section 15 of the Council’s Code of Conduct for Employees, and should be read alongside this code.
2. **Responsibilities of staff and others:** 
   1. 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 staff, including third parties working or performing any service on or behalf of the Council, are to avoid activity that breaches this policy and must:

* Ensure that they read, understand and comply with the policy;
* Raise concerns as soon as possible if they suspect that this policy has been breached;
* Act honestly with integrity at all times to safeguard the Council’s resources for which they are responsible; and
* Comply with the law (both in spirit and in the letter).

1. **Reporting Procedure**
   1. Where you become concerned about an activity that you suspect involves bribery you should share your concerns with the Council’s Section 151 Officer who can be contacted as per the details below:

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**Address:** **Hertsmere Borough Council**, Civic Offices, Elstree Way, Borehamwood, Herts, WD6 1WA

**Email:** Matthew.Bunyon@hertsmere.gov.uk

**Telephone No**: 0208 207 7453

* 1. Only the Director of Public Prosecutions (DPP) or the National Crime Agency (NCA) can bring criminal sanctions for any alleged/proven offences under the Bribery Act, therefore any allegations received which can be corroborated, if only in part, must be reported to the Police or the NCA by the Section 151 Officer or by a nominated representative (including SAFS).

1. **Sanctions**
   1. Staff who breach this policy will face disciplinary action, which could result in dismissal for misconduct or gross misconduct.
   2. Under the Public Contracts Regulations 2015 contracting authorities shall exclude a supplier from participation in a procurement where they have established that supplier has been convicted of certain offences, including bribery.
2. **Monitoring and Review**
   1. The Chief Executive, Head of Human Resources, Head of Finance and Business Services, and the Head of Legal & Democratic Services, alongside the Corporate Governance Group, will be responsible for reviewing this Policy to ensure that it remains compliant with good practice and the needs of the Council.
3. **Related Policies**
   1. The anti-bribery policy should be considered alongside the following policies which collectively set out the Council’s approach to reducing bribery risks:

* Anti-Fraud and Corruption Strategy
* Anti-Money Laundering Policy
* Whistleblowing Policy
* Code of Conduct for employees
* Code of Conduct for Members
* Procurement Strategy
* Contract Procedure Rules
* Recruitment and Selection Policy
* Disciplinary Policy