

To: Audit and Governance Committee

Date: 30th June 2011

Item No:

Title of Report: Avoiding Bribery, Fraud and Corruption Policy.

Summary and Recommendations

Purpose of report:

To adopt an Avoiding Bribery, Fraud and Corruption Policy in place of the existing Avoiding Fraud and Corruption Policy

Report approved by: Jeremy Thomas, Head of Law and Governance

Key Decision: No

Board member: Councillor Bob Price

Scrutiny Responsibility: Value & Performance

Ward(s) affected: None

Policy Framework: None

Recommendation(s): Members are asked to note the report and endorse the Avoiding Bribery Fraud and Corruption Policy.

1. Background

- 1.1 The Council's Avoiding Fraud and Corruption Policy has been revised to incorporate adequate bribery prevention procedures in light of the Bribery Act which comes into force on 1st July 2011.
- 1.2 Fraud remains one of the fastest growing areas of crime in modern society and the residents and stakeholders of Oxford City Council have a right to expect that their public funds are secure and handled honestly. They also have a right to expect the highest levels of integrity from their elected Members and Council employees.
- 1.3 Any dishonest act reflects badly on both the Authority and the wider public sector and the Council is committed to eliminating all forms of bribery, fraud, corruption and to protecting public funds. Minimising losses to fraud and having adequate

bribery prevention procedures in place is an essential part of ensuring that all of the Council's resources are used for the purpose for which they are intended.

2. Issues

- 2.1 The revised policy is intended to provide a clear statement of intent and responsibilities for;
- (a) Preventing bribery, fraud and corruption and
 - (b) The investigation, reporting and handling of alleged irregularities.
- 2.2 Changes have been made to sections 2 and 6 of the Policy as set out below. The revised Policy is appended to this report. The main changes are summarised below:

3. Section 2 – Culture

- 3.1 Under the Bribery Act 2010 a bribe is defined as “a financial or other advantage” in connection with the improper performance of a “relevant function or activity”. The legislation broadly covers two general offences:
- (i) **Bribing** another person, i.e. the offering, promising or giving of an advantage;
 - (ii) **Being bribed** i.e. the requesting, agreeing to receive or accepting of an advantage.
- 3.2 Functions and activities are applied broadly to include:
- any activity of a public nature;
 - any activity connected with a business;
 - any activity performed in the course of a person’s employment; and
 - any activity performed by or on behalf of a body of person (whether corporate or incorporate)

4. Section 6 – Employees

- 4.1 From 1 July 2011, under the Bribery Act 2010, bribing another person and being bribed are both criminal offences, by reference to “a financial or other advantage in connection with the improper performance of a “relevant function or activity” and is punishable by a fine or imprisonment.
- 4.2 The Act creates a new criminal corporate offence of failing to prevent bribery by a person associated with the Council, including employees, consultants, agents, partners or spouses, or subsidiaries. The Council will also be guilty of a criminal offence if a person associated with the organisation bribes another person, intending to obtain or retain business or a business advantage for the Council.
- 4.3 A person is “associated” with the Council if they are a person who performs services for or on behalf of the Council. The capacity in which an “associated” person performs services for or on behalf of Council does not matter. If the associated person is an employee, it will be presumed (unless the contrary is

shown) that they are a person who performs services for or on behalf of the Council.

- 4.4 In order to defend such a charge, the Council will need to demonstrate it has adequate anti-bribery procedures in place. The Council will have due regard to the Guiding Principles contained in the Ministry of Justice Guidance, which include proportionality, a senior management commitment to bribery prevention, risks assessments (Audit & Governance committee), due diligence, communication and monitoring and review.
- 4.5 The Policy has also updated to correct names of Service areas and Officers and in addition the policy now expands the reporting line for reporting 'incidents' to include the Chief Executive at the earliest opportunity.

5. Communication

- 5.1 The revised Policy was introduced at the Management Practice Group on 7th June 2011 as part of a Fraud Awareness presentation by PWC.
- 5.2 On approval the revised Policy will go out to all staff; a short piece in Council Matters and a program of awareness sessions will be arranged for all Service areas.
- 5.3 The revised Policy will be made available on both the intranet and the Council's website.

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