

OXFORD CITY COUNCIL

AVOIDING BRIBERY, FRAUD AND CORRUPTION POLICY

1. INTRODUCTION

- 1.1 Fraud is one of the fastest growing areas of crime in modern society and the residents and stakeholders of Oxford City have a right to expect that their public funds are secure and handled honestly. They also have a right to expect that their elected Members and Council employees are honest and that their integrity is above reproach. Any dishonest act reflects badly on both the Authority and the wider public sector.
- 1.2 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; meeting the six general principles of the Bribery Act 2010 is an essential part of ensuring that all of the Council's resources are used for the purpose for which they are intended.
- 1.3 This document 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. CULTURE

- 2.1 Under the Bribery Act 2010 a bribe is “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 a financial or other advantage to someone:
 - (a) to induce them to perform a relevant function improperly or to reward them for performing the function improperly;
 - (b) where the briber knows or believes that the acceptance of the bribe would itself constitute improper performance of a relevant function or activity.
 - (ii) **Being bribed** i.e. the requesting, agreeing to receive or accepting of an advantage:
 - with the intention that a relevant function be performed improperly or as reward for the improper performance; or
 - performing a relevant function improperly in anticipation of requesting, agreeing to receive or accepting a financial or other advantage; or
 - where that in itself constitutes the improper performance of a relevant function or activity.

NB it does not matter whether the request is made directly or through a third party or whether the advantage is for the benefit of the person performing the function or for the benefit of another person. Those employees or members involved in planning, licensing and procurement should be especially aware of the possibility they may be targeted for attempted bribery.

Functions and activities apply 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). See paragraph 6.6 below for further information.
- 2.2 The Fraud Act 2006 provides a statutory definition of fraud as the intention to make gain or cause loss by false representation, failing to disclose information or abuse of position.
- 2.3 The definition of money laundering under the legislation that covers money laundering is "possessing, concealing, disguising or in any way dealing with the proceeds of any crime by any known or unknown person".
- 2.4 In order for the Council to be effective in its approach to dealing with the problem of bribery, fraud and corruption it will promote a culture of zero tolerance rather than indifference to such matters.
- 2.5 It is expected and required that all individuals and organisations associated in whatever way with the Council will act with integrity and that both Council Members and employees, at all levels, will lead by example.
- 2.6 The Council's employees are an important element in its stance against bribery, fraud and corruption and they are encouraged and expected to raise any concerns that they may have. They can do this in the knowledge that such concerns will be investigated and fairly dealt with.
- 2.7 The Council will maintain effective channels of communication so that any person or organisation concerned about a suspected bribe, fraudulent or corrupt act can bring it to the Council's attention as set out in the Whistle blowing Policy for employees and other persons. This is contained within the Council's Constitution and is one of the Council's Employment Policies.

3. DETERRANCE

- 3.1 There are a number of ways in which we seek to deter a bribe or a potential fraudsters from committing or attempting a fraudulent or corrupt act, whether they are inside or outside of the Council, and these include:-
- Publicising the fact the Council is firmly set against bribery, fraud and corruption and stating this at every appropriate opportunity, e.g. statements in contracts, anti-bribery terms and conditions in procurement with contractors/partners, at induction events, on claim forms, on the Council's web site and in publicity literature.
 - Acting robustly and decisively when bribery, fraud and/or corruption is suspected and proven, e.g. the termination of contracts, the dismissal and/or prosecution of offenders and accompanying publicity
 - Taking action to maximise recoveries for the Council, e.g. through agreement, court action, penalties, insurance, etc.
 - Where appropriate, using the Proceeds of Crime Act to maximise the penalty incurred by the fraudster, and the level of recovery by the Council.
 - Having sound internal control systems, that minimise the opportunity for bribes, fraud and corruption.

- 3.2 It is the responsibility of Executive Directors and Heads of Service to communicate the Avoiding Bribery, Fraud and Corruption Policy to their staff and to promote, within each service, awareness of the Council's commitment to eliminating all forms of bribery, fraud and corruption.

4. RAISING AWARENESS

- 4.1 The Council recognises that the success and credibility of this Policy will depend largely on how effectively it is communicated throughout the organisation and beyond. Every opportunity will be taken to bring it to the attention of staff, members and other stakeholders. The Policy will also be shown on the Council's web page and be available on the Intranet.

- 4.2 The Council's Investigation Team will provide training to raise the levels of awareness of bribery, fraud and corruption amongst employees, Council Members and stakeholders.
- 4.3 The Officers involved in investigative work will be properly and regularly trained.
- 4.4 The Council's Investigation team will also publicise details of its Court cases in the local media to promote fraud awareness in the local community and to assist public confidence that public resources are being protected by the Council.

5.0. PREVENTION

- 5.1 The Council is dedicated to preventing bribery, fraud and corruption as the first line of defence. It recognises that bribery, fraud and corruption are costly, both in terms of reputational risk and financial loss. The prevention of bribery and fraud is therefore a key objective and roles and responsibilities are outlined below.

6.0. EMPLOYEES

- 6.1 The integrity of individual employees is crucial to successful bribery and fraud prevention and managers have responsibility for taking effective steps during recruitment, selection and subsequently induction to deter bribery, fraud and corruption.
- 6.2 Staff recruitment is required to be carried out in accordance with procedures prescribed by the Head of People & Equalities with regard to the evidence required to establish the:
 - Identity of employees in accordance with section 8 of the Immigration, Asylum and Nationality Act 2006;
 - Integrity of potential employees; this will include, in some instances, checks with the Criminal Record Bureau;
 - Completeness and accuracy of previous employment as declared;
 - Verification of references offered;
 - Existence of qualifications which are to be relied on for the purposes of making an offer of employment.
- 6.3 Employees of the Council are expected to follow and abide by the Council's Code of Conduct for Employees. Employees should also follow any Code of Conduct required by their professional institute or trades body.
- 6.4 The Council has in place disciplinary procedures for all employees. Those found to have breached the Code of Conduct will be dealt with in accordance with these procedures. Where criminal activity is suspected or found, the matter will be referred to the Police for investigation and possible prosecution, (unless the Council can, itself, prosecute the offence).
- 6.5 The Council has a Money Laundering policy in place. Whilst the Council is not directly required to implement the requirements of the Money Laundering Regulations 2003, the Council, its Officers and elected Members are subject to the provisions within the legislation. The policy:-
 - Appoints the Head of Finance as Oxford City Council's Money Laundering Reporting Officer (MLRO) being the person nominated to receive disclosures under the Money Laundering legislation.

- Requires any officer or elected Member that suspects that an activity may possibly be linked to either money laundering or the proceeds of crime, to refer their suspicion to the MLRO for consideration.
 - Requires the MLRO to report the suspicion to the Serious and Organised Crime Agency (SOCA). Failure to report a suspicion may be a criminal offence.
 - Requires that after a report is made to the MLRO that any transaction in progress must not proceed further without the consent, in writing, of the MLRO (proceeding with a suspicious transaction without such consent may be a criminal offence).
 - Requires that the subject of suspected Money Laundering activities is not made aware of the existence of such a suspicion (such 'tipping off' may be a criminal offence).
- 6.6 The Council has appropriate procedures to tackle Bribery under this policy. 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". These apply where the person performing the function is expected either to perform it in good faith, to perform it impartially, or the person is in a position of trust by virtue of performing it. Bribery is punishable by a fine or imprisonment. The Council is required to take adequate procedures to prevent bribery.
- 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.
 - A relevant commercial organisation such as the Council will 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.
 - 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.
- 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.
- 6.7 The Council's Finance Rules, which are also included in the Constitution, place responsibility for fraud prevention on all employees. Staff should therefore be alert to the possibility of fraud and to report any concerns.
- 6.8 Any individual who suspects that a benefit related fraud is being or has been committed against the Council can report this, in confidence, to the Investigation Team.
- 6.9 If an elected Member or member of the public suspects any other type of fraud or bribery is being or has been committed then the matter can be reported to the

Chief Executive, an Executive Director, the Head of Finance, the Monitoring Officer or where appropriate to the Council's Internal Auditors.

- 6.10 If an Officer suspects that fraud or an offence under the Bribery Act is being or has been committed then the matter should usually be reported in the first instance, to their line manager. However, if it is thought that the line manager might be involved or there is some other conflict of interest, the matter should be reported to a more senior officer or alternatively directly to the Head of Finance or where appropriate to the Council's Internal Auditors.
- 6.11 The Officer that receives the initial report should ensure that the report is taken seriously and dealt with confidentially. They must also ensure that the matter is reported immediately to the Head of Finance.
- 6.12 To reduce any risk of the investigation being jeopardised it is important that all information remains confidential. Suspicions are not to be discussed with any person other than the Officer that the report has been made to or an investigating officer appointed by the Head of Finance.
- 6.13 The Head of Finance will report all investigations of suspected fraud and their outcomes to the Chief Executive, Internal auditor and to the Audit and Governance Committee. The outcomes of Benefit Fraud investigations will be reported to the Committee annually.
- 6.14 Employees are reminded that they must operate within the requirements of s117 of the Local Government Act, 1972 regarding the disclosure of pecuniary interests in contracts which the Council has or plans to enter into, and the non-acceptance of any fees or rewards whatsoever other than their proper pay. These requirements are set out in the Council's Code of Conduct for Employees.

7.0. MEMBERS

- 7.1 Members are required to operate within the National Code of Conduct for Members. The Code provides for the public registration and declaration by Members of private interests.

8.0. AUDIT AND GOVERNANCE COMMITTEE.

- 8.1 Council has appointed an Audit and Governance Committee. The terms of reference of the committee are set out fully in the Constitution but include responsibilities for seeking and receiving assurance in terms of the existence and operation of anti bribery, anti-fraud and anti-corruption policies and procedures.

9.0. INTERNAL CONTROL SYSTEMS

- 9.1 The primary responsibility for maintaining sound arrangements for the prevention and detection of bribery, fraud and corruption rests with the Council's Chief Executive and Executive Directors. The principal mechanism for achieving this objective is to operate a sound and effective system of internal control. This includes having procedures in place, which ensure that suspected bribery, fraud and corruption is promptly, thoroughly and effectively investigated.
- 9.2 There are also specific legal requirements under Section 151 of the Local Government Act 1972 and the Accounts and Audit Regulations 1996, which requires the Council to appoint a responsible officer to make arrangements for the proper administration of the Authority's financial affairs. The responsible

officer is required to determine and maintain an effective accounting system, which includes measures to prevent and detect fraud.

- 9.3 Under the Accounts and Audit Regulations 2003 as amended by the Accounts and Audit Regulations 2006 the Council is also required to maintain an adequate and effective internal audit of the authority's accounting records and control systems. This responsibility is delegated to the Head of Finance.
- 9.4 The Council's Internal Audit act as a key stakeholder in the implementation of an effective control environment and fraud investigations and will, when appropriate, be informed of instances of bribery, fraud and corruption.

10.0. WORKING WITH OTHERS

- 10.1 Arrangements are in place and will continue to be developed, to facilitate and carry out the exchange of information between the Council, other authorities and agencies on national and local bribery, fraud and corruption activity in relation to local authorities.
- 10.2 All such exchanges of information will be carried out in accordance with Data Protection and other relevant legislation and Codes of Practice.
- 10.3 The Council has a Fraud Hotline, to allow members of the public to report individuals who are suspected of committing fraud. Suspected benefit frauds can also be reported on the Council's CONFIDENTIAL 24 hour fraud line number 01865 252222. Reports can be made using the Council's fraudline email address benefitfraudline@oxford.gov.uk. These details can be found on the Council's website. The website also has 'report it' forms to report suspected benefit fraud and housing fraud.

11.0. DETECTION AND INVESTIGATION

- 11.1 The preventative assurance provided by an effective system of internal control can do much to deter and prevent fraud. However, it is often the alertness of employees and the public to indications of fraud or corruption, which can identify and bring matters to the Council's attention. To ensure that the Council can maximise the use of this vital resource it is committed to:
- Consistent and fair treatment of information received;
 - Proper investigation by an experienced and trained investigator
 - Effective channels of communication to receive information, including a 'whistle blowing' policy, a money laundering policy and procedure for staff, elected Members and the public to voice concerns, which in its operation recognises the protection afforded to employees under the Public Interest Disclosure Act, 1998.
- 11.2 Every Head of Service who receives allegations must ensure that:-
- they deal promptly with the matter
 - they record , preserve and secure all evidence received
 - they notify the Head of Finance, who will arrange for the allegation to be investigated and, where appropriate will notify the Council's insurers
 - they implement the Council's disciplinary procedures where appropriate

- 11.3 There is a need to ensure that procedures for raising issues of concern are not misused and, therefore, any misuse such as raising unfounded malicious allegations may itself be dealt with as a disciplinary matter.
- 11.4 It is of the utmost importance that until the Head of Finance initiates an investigation no other Officer should investigate the matter, interview staff or attempt to gather evidence, as this may jeopardise any proper investigation.
- 11.5 During the course of the investigation, the following actions will be taken:-
- A fraud log will be completed detailing every action taken during the investigation, this will include the dates and times that each action undertaken was carried out.
 - As much documentary evidence as possible will be gathered before any interviews are conducted.
 - All evidence must be obtained lawfully, properly recorded and retained securely in accordance with the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigations Act 1996.
 - There should be no attempt to access or retrieve any data, which is stored electronically on Council computer equipment that may be required as evidence. Only suitably skilled officers should retrieve this data in such a way as to ensure there is no interference with the original data. This is crucially important if the data retrieved is to be admissible in court.
 - Fact finding interviews will be conducted during the course of the investigation. If at any time during these interviews it becomes clear that a criminal offence has occurred, the fact finding interview must be suspended. The interviewee will be formally cautioned and an interview under caution must be completed that complies with the Police and Criminal Evidence Act 1984. Before an interview is conducted consideration will be given to all factors that may affect the interview such as a defendant's age, intelligence or level of understanding.
 - From the evidence gathered during the full investigation, the Head of Finance, the Executive Directors or the Chief Executive in consultation with Head of Law & Governance will determine if further police involvement is required.
 - Management recommendations may be made as a consequence of an investigation to improve systems and controls to prevent and deter further fraud in the future.
- 11.6 In cases where the investigation establishes that a fraud has been perpetrated the recovery of assets will be initiated wherever possible. The recovery of assets should only be initiated after consultation with Law & Governance and Finance Services if required.
- 11.7 In consultation with People & Equalities, the Council's disciplinary procedures will be applied where the outcome of an investigation indicates that an officer has behaved improperly. This may be in addition to any other recovery action, prosecution or sanctions.
- 11.8 In consultation with the Monitoring Officer, a complaint may be made to the Standards Committee where the outcome of an investigation indicates an elected Member has behaved improperly. This may be in addition to any other recovery action, prosecution or sanctions.

11.9 A prosecution or referral to the Police will not prohibit action against Officers under the disciplinary procedure or the reporting of elected Members to the Standards Committee. In cases where fraud has been proven and when appropriate, the Council will seek to prosecute to the full extent of the law and recover losses from all those involved.

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