

ANTI-FRAUD, BRIBERY & CORRUPTION POLICY



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Tonbridge and Malling Borough Council Anti-Fraud, Bribery & Corruption Policy

1 INTRODUCTION

- 1.1 Tonbridge & Malling Borough Council (the Council) is opposed to all forms of fraud and corruption, including bribery, and is determined to protect itself from such actions whether attempted from within the Council or by an outside individual, group or organisation.
- 1.2 The Council recognises that fraud, bribery and corruption undermine the standards of public service, which it promotes, and reduces the resources available for the good of the whole community. Such activity may therefore impact on the ability of the Council to achieve its corporate objectives, as set out in its Corporate Strategy. In response to this, the Anti-Fraud, Bribery & Corruption Policy is designed to:
- encourage prevention;
 - promote detection; and
 - support investigation.

2 DEFINITIONS OF FRAUD, BRIBERY & CORRUPTION

- 2.1 The Council defines fraud as ‘any activity where deception is used for personal gain or to cause loss to another.’ Fraud can be committed in one of three ways:
- 2.2 This may involve:
- **Fraud by false representation** – Examples include providing false information on a grant or when applying for a Single Person Discount, staff claiming to be sick when they are in fact fit and well, or submitting time sheets or expenses with exaggerated or entirely false hours and/or expenses;
 - **Fraud by failing to disclose information** – Examples include failing to disclose a financial interest in a company the Council is trading with, or failing to disclose a personal relationship with someone who is applying for a job at the council;
 - **Fraud by abuse of position** – Examples include staff who order goods and services through the Council’s accounts for their own use.

2.3 While fraud is often seen as a complex financial crime, in its simplest form, fraud is lying. Someone will lie, or withhold information, or generally abuse their position to try to trick someone else into believing something that is not true. Acts such as misappropriation or petty theft will therefore also be considered by the Council as fraud and treated under the arrangements within this Policy.

2.4 Bribery and Corruption is defined as:

The offering, giving or soliciting of an inducement or reward which may influence a person to perform a function or activity improperly.

2.5 This may involve:

- The offence of bribing another person;
- The offence of being bribed;
- Bribery of a foreign public official;
- A corporate offence of failure to prevent bribery.

3 THE COUNCIL'S COMMITMENT

3.1 In developing and operating its anti-fraud, bribery and corruption arrangements, the Council will:

- Ensure that the culture and tone of the organisation is one of honesty and opposition to fraud and corruption and as such has established a dedicated Counter Fraud Team;
- Continually assess the risk of fraud, bribery and corruption;
- Where possible, take action to prevent fraud, bribery and corruption activity occurring;
- Encourage the detection of such activity;
- Promote Member, officer, the general public and other stakeholder awareness of fraud, bribery and corruption;
- Offer specific training on these issues to officers in key positions within the organization;
- Encourage Members, officers, the general public and other stakeholders to report any concerns or suspicions;
- Investigate any substantiated concerns or suspicions in a fair and confidential manner;
- Take action as appropriate based on the outcomes of investigations.

4 TYPES OF FRAUD, BRIBERY AND CORRUPTION

4.1 The Council and other Local Authorities face a range of threats of fraud, bribery and corruption, these include but are not limited to:

False Representations to gain:

- Social Housing;
- Council Tax Discounts/ Exemptions;
- Business Rates Discounts/ Exemptions;
- Parking permits;
- Changes to suppliers bank details;
- Employment at the Council;
- Exemptions to parking fees through the fraudulent use of blue badges.

Failure to disclose information to gain:

- Social Housing;
- Continued entitlement to Discounts/ Exemptions for Council Tax and Business Rates;
- Continued entitlement to parking permits;
- Continued entitlement to Licenses following a criminal conviction.

Abuse of Position to:

- Award additional points to a social housing application;
- Applying discounts and exemptions to a Council Tax or Business Rates account where no entitlement is applicable;
- Make payments to someone who is not entitled to receive the payment;
- Award a contract to a friend or relative without declaring an interest during the procurement process.

The offering or accepting a bribe to:

- Ignore a liability, tax or fee;
- Amend accounts, targets or performance so they look more favourable;
- Award a contract or provide details of other tenders bids;
- Allow planning permission that does not meet the agreed planning regulations/ criteria;
- Award grants to people who do not fit the eligibility criteria.

Other forms of corruption include:

- Cronyism or nepotism, where someone in public office exploits their authority to provide a job or favour to a friend, associate or family member;
- Collusion, where a secret agreement between parties, in the public and/ or private sector conspire to commit actions aimed to deceive or commit fraud;
- Conflict of interests, where someone in a public office faces a conflict between the duties and demands of one or more positions that they hold and their private lives;
- Gifts and Hospitality, the provisions of gifts, entertainment or other hospitality that could affect or perceived to affect the outcome of business transactions and are not reasonable and bona fide;
- Lobbying, any activity carried out by companies, associations, organisations and individuals to influence a government or institution's policies and decisions in favour, cause or outcome.

5 PREVENTION OF FRAUD, BRIBERY & CORRUPTION

Recruitment and induction

- 5.1 The Council recognises that a key preventative measure in the fight against fraud, bribery and corruption is to take effective steps at the recruitment stage to verify the propriety and integrity of the previous records of potential employees of the organisation. The Council has a Recruitment and Selection Policy, Procedure and Guidance which should be adhered to in recruiting both permanent and temporary/contract staff. This guidance requires a number of checks at the recruitment stage to establish and confirm the previous records of potential employees, including the take up of written references and Disclosure and Barring Service checks for certain identified posts.
- 5.2 The Council has developed a formal induction process for new employees. This is intended to assist them in understanding the Council, its decision-making arrangements and the requirements of the Officers' Code of Conduct.
- 5.3 As elected representatives of the local community, newly-elected Members are also required to complete an induction to assist them in understanding the Council, its decision-making arrangements and the requirements of the Members' Code of Conduct.

Training

- 5.4 The Council recognises that training is a vital tool in ensuring that both officers and Members clearly understand their roles and responsibilities within the organisation and carry these out within the Council's framework of policies and procedures. Training is particularly important where employees are required to operate within financial systems or handle monies or personal/confidential information.
- 5.5 The Council will promote a general awareness of fraud, bribery and corruption to all employees and Members, with specific training provided to officers engaged in the prevention and detection of such activity to ensure that they have the necessary skills to carry out these functions.

Internal Control Arrangements

- 5.6 The Council as a whole operates within a framework of policies and procedures intended to direct the activity of the Council and ensure transparency in decision making. The Constitution forms the main spine of these arrangements and includes the Council's financial procedure rules and contracts procedure rules.
- 5.7 Members and officers are required to declare any financial and other interest in any outside bodies or organisations which could be considered or perceived as having an influence on their actions on behalf of the Council.
- 5.8 Members and officers are required to adhere to the gifts and hospitality protocols as set out in the Constitution or Officers Code of Conduct.
- 5.9 Officers are expected to raise any declarations of interest which may lead to an actual or perceived conflict of interest with their Chief Officer.
- 5.10 The Council has established a Standards Committee to deal with matters relating to the Members' Code of Conduct.

Internal Control Measures

- 5.11 Management are responsible for ensuring there is a sufficient control framework in place to help prevent fraud occurring or aid early detection.

5.12 The Internal Audit and Counter Fraud Team can support Management in achieving this objective through:

- Providing advice and guidance on controls when implementing a new or significant change in process;
- Provide a view of the current fraud risks;
- Conducting audits on the process to provide assurance on the control framework in place.

5.13 Examples of controls management could implement to help prevent fraud or aid early detection are:

- Approving transactions or certain activities;
- Separation of duties;
- Training of staff;
- Recruitment checks;
- Budget monitoring;
- Reconciliations;
- Data quality standards.

Organisational Culture and Conduct

5.14 The Council is determined that the culture and tone of the organisation will continue to be one of honesty and opposition to fraud, bribery and corruption. The Council operates a zero-tolerance approach towards fraud, bribery and corruption activity.

5.15 The Council supports the Seven Principles of Public Life identified by the Nolan Committee and recognises that these are fundamental to developing an effective working environment which does not allow or tolerate fraud, bribery and corruption activity. Further information on the Seven Principles of Public Life can be found at **[Annex 1]** to this document.

5.16 The Council expects that Members and officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices. Members (where the value is more than £100) and Officers are also required to declare any gifts or hospitality they are offered relating to their role or Council business, whether these are accepted or declined.

5.17 Managers should strive to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. There is also a Whistleblowing Policy in place to enable staff to raise any concerns where staff feel unable to raise concerns with their manager.

- 5.18 The Council also expects that individuals and organisations, e.g. suppliers, contractors, partners and service providers that it comes into contact with will act with integrity in their dealings with the Council and without thought or actions involving fraud and corruption.

Internal Scrutiny Arrangements

- 5.19 The Council has an internal audit function which has the responsibility to objectively examine, evaluate and report on the adequacy of the control environment by evaluating its effectiveness in achieving the organisation's objectives. The work of internal audit will include review of the adequacy and effectiveness of the Council's internal control arrangements. Any review work undertaken by the internal audit function will give due consideration to the risk of fraud, bribery or corruption within the area subject to audit.
- 5.20 Assurance of the effective operation of internal control arrangements is requested from management annually as part of the Council's arrangements for preparing the Annual Governance Statement. Managers are required to specifically provide assurance on the effective operation of internal control arrangements and staff awareness of this Policy. Managers also have a responsibility to carry out regular risk reviews and to raise concerns if they identify any areas where there is a potential weakness in internal controls.
- 5.21 The Audit Committee also has a role in providing independent assurance to the Council on the adequacy of the Council's control environment. This role is discharged by the Committee through the receipt of regular reports on the work and findings of internal audit and counter fraud and external audit, and the Council's governance and risk arrangements.

External Scrutiny Arrangements

- 5.22 The Council is subjected to a high degree of external scrutiny of its affairs by a variety of bodies and people, for example, External Audit and Central Government Departments including MHCLG, DWP and Defra through statutory returns.
- 5.23 As part of its statutory duties, the External Auditor is required to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud, bribery and corruption.

Working with Others

- 5.24 The Council is committed to working with other organisations to prevent and detect fraud, bribery and corruption through undertaking specific initiatives and ensuring that arrangements are in place to encourage the exchange of information between the Council and other agencies. Though not intended to be exhaustive, the Council currently works with the DWP, Kent Police, the Cabinet Office (National Fraud Initiative) and a number of networking groups.

6 DETECTION OF FRAUD, BRIBERY & CORRUPTION

- 6.1 The Council has put in place a range of internal control arrangements within its systems and processes to detect inappropriate or dishonest activity, including budget monitoring and reconciliations. These arrangements are designed to detect fraud, corruption and bribery activity should this occur. The Council recognises, however, that the detection of such activity is often as a result of the alertness of Members, employees, the general public and other stakeholders.
- 6.2 Members, employees, the general public and other stakeholders are encouraged to come forward and report any concerns or suspicions they may have through one of the following:
- Line Manager or Service Manager
 - The Council's Internal Audit and Counter Fraud Team (01732 876101)
 - The Council's Whistleblowing Policy
 - Chief Executive / Monitoring Officer / Director of Finance & Transformation
 - The Council's External Auditor, Grant Thornton LLP
- 6.3 The Council's Financial Procedure Rules require Chief Officers to immediately notify the Director of Finance and Transformation of any financial irregularity or suspected financial irregularity.
- 6.4 The Council recognises that on occasions, employees, Members and organisations working with the Council may not want to 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. In such instances, persons are urged to report concerns or suspicions through the channels set out in the Council's Whistleblowing Policy.

7 INVESTIGATION

- 7.1 Any Manager with information about suspected fraud, bribery or corruption activity must report this immediately to the Internal Audit and Counter Fraud Team. Managers should liaise with the Internal Audit and Counter Fraud Team and Personnel as appropriate to agree the approach to:
- recording and securing all evidence received and collected;
 - ensuring that evidence is sound and adequately supported; and
 - implementing Council disciplinary procedures where appropriate.
- 7.2 The Council has established a corporate approach to co-ordinate the investigation of allegations of fraud and corruption to ensure the effective use of the skills and resources within the organisation. This approach is intended to utilise officers from Internal Audit and Counter Fraud and Personnel based on the nature of the allegation and the investigatory skills required.
- 7.3 The Council has a formal procedure for conducting such investigations which allows for investigations to be carried out impartially and with complete confidentiality. As well as looking to confirm or refute allegations of fraud, bribery and corruption activity reported, investigatory work will also look to identify any improvements in internal control, training needs or other suitable solutions to prevent or deter the reported activity from recurring.
- 7.4 The Council's disciplinary procedures will be used where the outcome of an investigation indicates improper behaviour by a Council employee.
- 7.5 Where financial impropriety is discovered or it appears that a criminal offence may have been committed, the Council's presumption is that the issue will be pursued. The matter may be referred to the Police. Any such decision will not be seen to prohibit and should not unnecessarily delay action under the disciplinary procedure.
- 7.6 When making decisions about sanctions, the Council will have regard to the Code for Crown Prosecutors issued by the Director of Public Prosecutions. It will also take into account the aggravating and mitigating factors of the case as detailed in the sentencing guidelines for the relevant offence issued by the Sentencing Council.
- 7.7 The Council will seek, where appropriate, to maximise the recovery of any loss to the Council, including any costs

associated to the investigation and prosecution of an offence.

- 7.8 The investigation process must not be misused. The Council will treat any reporting of unfounded malicious allegations seriously. Where employees are concerned, any such finding from the investigation process may be treated as a disciplinary matter.
- 7.9 Members and employees will be given advice and support, where considered necessary, if they are the subject of any unfounded malicious allegation.

8 RESPONSES TO REPORTED CONCERNS AND SUSPICIONS

- 8.1 Any person or organisation reporting concerns or suspicions of fraud, bribery or corruption activity may request to be kept informed of the progress of any investigation or its outcome. The Council reserves the right to not fulfil this request where doing so may be to the detriment of the effectiveness and confidentiality of the investigation process.
- 8.2 Where people or organisations have raised a concern or suspicion about fraud, bribery or corruption activity but are not satisfied with the response they received, they may pursue the matter further by referring the issue through one of the following channels:
- the Council's complaints procedure
 - A Member
 - The External Auditor Grant Thornton LLP
 - Public Concern at Work
 - A relevant professional or regulatory body
 - A solicitor or the Police

9 ACTION TO DETER FRAUD, BRIBERY & CORRUPTION

- 9.1 All anti-fraud, bribery and corruption activities undertaken by the Council, including the update of this Policy will be publicised in order to make employees, Members, the general public and stakeholders aware of the Council's commitment to taking action on such activity, when it occurs.
- 9.2 The Council will endeavour to act robustly and decisively when fraud, bribery or corruption is suspected and proven. This will be demonstrated through disciplinary action, prosecution, simple caution or civil penalties (where applicable).
- 9.3 The Council's Media & Communications Team is responsible for optimising the opportunities available to publicise to the public any

anti-fraud, bribery and corruption activity being undertaken within the Council. Once notified of such cases, the Media & Communications Team is also responsible for endeavouring to ensure that the results of any investigations undertaken, including prosecutions, are reported in the local press.

10 MEASURING THE EFFECTIVENESS OF THIS POLICY

10.1 The Council has recognised the importance of measuring the effectiveness of its anti-fraud, bribery and corruption arrangements and that this cannot consist of one single measure. The Council will demonstrate the effectiveness of this Policy through a number of measures focusing on outcomes and will include assessments of:

- awareness levels
- number of suspicions and concerns reported per annum
- number of investigations undertaken
- outcomes of investigations undertaken
- level of losses identified
- sanctions applied
- financial losses recovered or, where appropriate, financial savings generated.

10.2 This information will be reported to the Audit Committee on an annual basis.

11 REVIEW AND APPROVAL OF THIS POLICY

11.1 This Policy is owned by the Director of Finance and Transformation and reviewed by the Audit and Assurance Manager on her behalf.

11.2 The Anti-Fraud, Bribery & Corruption Policy will be reviewed and endorsed at least annually by the Audit Committee at their January meeting. The most recent review was undertaken in January 2020 with the next review due January 2021.

12 ASSOCIATED COUNCIL POLICIES

12.1 The following associated policies are also key to managing risks in relation to Fraud, Bribery & Corruption. This list should not be considered exhaustive.

- The Council's Constitution including Financial Procedure Rules
- The Code of Conduct for Staff and Members
- The Whistleblowing Policy
- The Anti-Money Laundering Policy
- Policies and procedures in relation to recruitment, personnel and finance processes.

Annex 1**The Seven Principles of Public Life****Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.