

## APPENDIX A

### Document History

Version	Date	Key changes made	Approved by
2.0	15/09/2023	Previous policy updated	Head of Legal/ s151 Officer
1.0	March 2021	Previous policy updated.	Head of Legal
1.1	24/09/2021	Version control added. Typo corrected: "Fraud and Corruption" removed from S3.4 as a self-reference to this policy	Head of Legal

### Anti-Fraud, Bribery and Corruption Policy

#### 1. Introduction

- 1.1 The purpose of this Policy is to set out the high level priorities that must be met to achieve the Council's 'zero tolerance' towards corruption, fraud and bribery and set out its approach for dealing with the threat or subsequent incidence of fraud and bribery from both internal and external sources.
- 1.2 This document replaces the previous Anti-Fraud and Corruption Policy and reflects changes to the corruption legislation that have been included in the **Bribery Act 2010 - GOV.UK**.
- 1.3 The responsibility for this Statement sits with the Chief Finance Officer (Section 151), Mark Hak-Sanders: MHakSanders@tandridge.gov.uk
- 1.4 The following definitions are provided for the purposes of this document.

**Fraud:** is the intentional distortion of financial statements or other records by persons internal or external to the Council, which is carried out to obtain an advantage, avoid an obligation or cause loss to another party.

Fraud is therefore a deliberate, dishonest act by an individual or group of people, which can be committed, as per **The Fraud Act 2006 - GOV.UK**, by:

- False representation
- Failing to disclose information
- Abuse of position

A fraud referral should be completed at the following link:

<https://www.report-fraud.co.uk/tandridge>

**Bribery:** is offering, promising or giving someone a financial or other advantage to induce or reward that person to perform their functions or activities improperly as per **The Bribery Act 2010 - GOV.UK**, which came into force 1st July 2011.

There are four key offences under the Act:

- bribing a person to induce or reward them to perform a relevant function improperly (**section 1 - GOV.UK**)
  - requesting, accepting or receiving a bribe as a reward for performing a relevant function improperly a bribe (**section 2 - GOV.UK**)
  - using a bribe to influence a foreign official to gain a business advantage (**section 6 - GOV.UK**)
  - in relation to a commercial organisation, committing bribery to gain or retain a business advantage, there being no adequate procedures in place to prevent such actions (**section 7 - GOV.UK**).
- 1.5 The Council accepts that public bodies may be classed as a “commercial organisation” in relation to the corporate offence of failing to prevent bribery (**section 7 - GOV.UK**). In any event, it represents good governance and practice to have adequate procedures in place to protect the Council and its staff from reputational and legal damage. It is in the interests of everybody connected with the Council to act with propriety at all times.
- 1.6 The penalties under the Bribery Act have been raised significantly and are severe. An individual guilty of an offence under **sections 1,2 or 6 - GOV.UK** 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 to both and on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both. The Council, if convicted under sections 1,2 or 6 will also face the same level of fines and, if guilty of an offence under **section 7 - GOV.UK**, is liable to an unlimited fine.

See Annex 1 for more details relating to Bribery.

**Theft:** is the dishonest appropriation of property belonging to another with the intention of permanently depriving the other of it.

- 1.7 The above definitions cover such acts as deception, forgery, extortion, blackmail, conspiracy, collusion, embezzlement, false accounting and or false representation, concealment of material facts, the offering of a gift or reward to influence a person’s actions and misappropriation.
- 1.8 Good Corporate Governance requires that the Council is firmly committed to dealing with fraud and bribery and will deal equally with perpetrators from inside and outside the Council. To this end, there will be no distinction

made, regarding investigation, between cases that generate financial benefits and those that do not. All cases will be viewed seriously and following investigation the action taken will be in line with the merits of each case and in accordance with other procedures and obligations applicable to the Council.

- 1.9 The statement in Para 1.8 is intended to be consistent with the Nolan Principles - **Seven Principles of Public Life - GOV.UK** and should be read in the light of those principles, in that all will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those Principles are not part of this statement but are set out in full at Annex 2 for information.
- 1.10 This Policy supports the Council's Local Code of Corporate Governance in promoting the values of good governance through the upholding of high standards of conduct and behaviour.

## **2. Corporate Framework and Culture**

- 2.1 The Council has a wide range of interrelated policies, protocols, codes, rules, procedures, manuals, and other guidance documents that provide a corporate framework to counter the possibility of fraudulent activity and or bribes. These have been formulated taking account of appropriate legislative requirements and expected standards relating to public sector life. Such documents are referred to within the Council's Constitution.
- 2.2 The expectation is that elected Members and Officers of all levels will adopt the highest standards of propriety and accountability and demonstrate that the Council is acting in a transparent and honest manner.
- 2.3 The highest standards are also expected from all organisations that have dealings with the Council. Suppliers, contractors, consultants, partners, and other organisations funded by the Council are therefore expected to adopt or abide by Council policies, procedures, protocols, and codes of practice. The Council will consider the extent to which it has further involvement with any organisation that fails to abide by the expected standards.
- 2.4 It is important that a culture of honesty and openness, based on values such as fairness, trust and integrity is a key element in tackling fraud and bribery is maintained. In this respect, each Member and Officer of the Council is under a duty to report any reasonable suspicions and is encouraged to raise any concerns about fraud and bribery, in the knowledge that such concerns will be properly investigated. The Council has a Whistleblowing Policy to protect anyone who wishes to raise concerns about behaviour and or practice.
- 2.5 When fraud and or bribery has occurred due to an identified breakdown in controls, the relevant manager will be responsible for ensuring appropriate

improvements in systems of control are implemented to minimise the risk of re-occurrence.

### **3. Prevention**

- 3.1 Incidents of fraud and bribery are costly; both in terms of reputational risk and financial losses (either directly through the loss of cash and or assets and or through the utilisation of resources in dealing with and resolving any identified cases). The prevention of fraud and bribery is therefore a key objective of this Council and respective roles and responsibilities are outlined below.

### **4. Role of Elected Members**

- 4.1 As elected representatives, all Members of the Council have a duty to act in the public interest and to protect the Council from any acts of fraud and bribery and ensure that resources are used prudently and within the law to safeguard public money, including ensuring they do not procure an advantage improperly.
- 4.2 All Members are required to operate and adhere to the Council's Constitution, which incorporates a Code of Conduct for Members.

### **5. Role of Monitoring Officer**

- 5.1 The Council's Monitoring Officer has a statutory responsibility to advise the Council on the legality of its decisions and to ensure that the Council's actions do not give rise to illegality or maladministration. The Monitoring Officer also encourages the promotion and maintenance of high standards of conduct within the Council, particularly through the provision of support to the Extended Management Team and Committees.

### **6. Role of Section 151 Officer**

- 6.1 **Section 151 of the Local Government Act 1972 - GOV.UK** places a statutory responsibility on the Council to appoint a 'Section 151 Officer' to ensure the proper administration of the Council's financial affairs. To this end, the Section 151 Officer will advise all Members and Officers regarding financial propriety, probity, and budgetary issues. The Section 151 Officer role is very much supported by the work undertaken by Internal Audit.

### **7. Role of Managers**

- 7.1 Managers at all levels are responsible for establishing sound systems of internal control in all their service's operations, both financial and otherwise, such that the Council has sound methodologies for administering its responsibilities in the provision of services to its residents and businesses.

- 7.2 'Internal control' means the systems of control devised by management to ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources. Such systems must safeguard the Council's assets and interests from fraud, bribery, and other wrongdoing. It is important that duties are organised in such a way that no one person can carry out a complete transaction without some form of checking or intervention process being built into the system.
- 7.3 Managers are also responsible for ensuring that their Officers are aware of the Council's Constitution (including the related policies, protocols, codes, and procedures) and that the requirements of each are being met in their everyday business activities.
- 7.4 Managers are expected to create an environment within which Officers feel able to approach them with any concerns they may have about suspected irregularities and adhere to the Whistleblowing Policy when applicable.
- 7.5 The Council recognises that a key preventative measure in dealing with fraud and bribery is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary, or casual posts and agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. In addition, the Council uses The Disclosure and Barring Service (DBS) for certain posts to help make safer recruitment decisions and prevents unsuitable people working with adults for reasons of age, illness or disability including children or other positions of trust that fall within the **Rehabilitation of Offenders Act – GOV.UK**. The DBS supersedes what was previously known as the CRB (Criminal Records Bureau).
- 7.6 Managers are also required to ensure that Officers are properly trained to discharge the responsibilities allocated. Once training has been provided, performance is monitored and action taken where appropriate to ensure adherence to proper practices and or agreed procedures.

## **8. Role of Officers**

- 8.1 Officers are governed in their work by the various policies, protocols, codes, rules, and procedures, particularly regarding conduct issues and are responsible for ensuring that they follow any instructions given to them by their managers, particularly in relation to the safekeeping of assets.
- 8.2 Officers are also expected to be alert to the possibility that fraud and bribery may exist in the workplace and are under a duty to share (with management and the Council's dedicated Fraud and Financial Investigations Team.) any concerns they may have. Employees are protected under the Whistleblowing Policy, where required, regarding any genuine concerns they may wish to raise.

- 8.3 Officers who hold professional, trade or other appropriate qualifications are expected to comply with codes of conduct issued by the organisations of which they are members.

## **9. Role of Fraud and Financial Investigations**

- 9.1 The Council contracts a team dedicated in fraud and financial investigations based within Reigate & Banstead Borough Council. The team focusses on high-risk areas of fraud. Examples may include the Council Tax Reduction Scheme, Council Tax discounts and exemptions such as single persons discount and student exemption, employee, right to buy, homeless applications, housing. Any area where there is a loss or a risk of loss to the Authority identified will be investigated.
- 9.2 Where required, and due to the nature of the allegation, a financial investigation will assist to gather necessary evidence whilst operating within the legal framework of the **Proceeds of Crime Act 2002 (POCA) – GOV.UK**.

## **10. Role of Internal Audit**

- 10.1 Internal Audit independently reviews the existence, appropriateness, and effectiveness of internal controls as a service to management and thereby plays a vital preventative role. This is done based on a risk based cyclical audit plan that is agreed annually with the Extended Management Team ('EMT').
- 10.2 Internal Audit have a liaison and or reporting process whereby observations on control or compliance weakness raised within audit reports are addressed by actions identified by management to mitigate those weaknesses with a view to reducing risks and preventing losses to the Council.
- 10.3 Internal Audit also follows up and informs EMT of actions that need to be implemented. Internal Audit has reporting lines to S151 Officer and the Chairman of the Audit & Scrutiny Committee, enabling any failure to implement agreed action to be appropriately escalated.

## **11. Role of External Audit**

- 11.1 Independent external audit is an essential safeguard of the stewardship of public money. This is currently carried out through specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud and bribery. It is not the external auditors' function to prevent fraud and irregularities, but the integrity of public funds is always a matter of general concern.
- 11.2 External auditors are always alert to the possibility of fraud and irregularity and will act without undue delay if grounds for suspicion come to their

notice. The external auditor has a responsibility to review the Council's arrangements for preventing and detecting fraud and irregularities within financial statements, and arrangements designed to limit the opportunity for bribery.

## **12. Deterrence**

12.1 Whilst many of the issues outlined above on prevention will act as a deterrent, there are specific ways in which the Council seeks to deter potential wrongdoers from committing or attempting fraudulent acts or becoming involved with bribery. These include –

- i. Publicising that the Council is firmly against fraud and bribery at appropriate opportunities and will take stern action against perpetrators (e.g., dismissal of employees, prosecution of offenders, termination of contracts etc).
- ii. Acting robustly and decisively when fraud and or bribery are suspected and, if proven, being committed to viewing cases seriously and taking action as appropriate bearing in mind all relevant factors of each case.
- iii. Always seeking to maximise recoveries for the Council, through agreement, repayment, court action, penalties, insurance, pension benefits etc.
- iv. Referring any investigative cases to the Police as soon as there is sufficient evidence to support that criminal offences have occurred.
- v. Liaising with the press or otherwise publicising any anti-fraud and bribery initiatives undertaken by the Council and subsequent results, where deemed appropriate.
- vi. Where appropriate, publicising the results stemming from investigations into suspected cases of fraud and bribery.

## **13. Detection**

13.1 Whilst it is not an Internal Audit responsibility to detect fraud and bribery (this is the responsibility of managers and through fraud, and financial investigations), Internal Audit plays an important role in such detection. Internal Audit plans include reviews of systems of internal controls, specific fraud, error and bribery tests, spot checks and unannounced visits. Such work may directly detect instances of fraud, error and bribery and invariably contributes to improved controls and or procedures that aid detection of fraud, error and bribery or otherwise deter it from happening.

13.2 All managers have responsibility for preventing and detecting fraud and bribery, but it is often the alertness of staff or members of the public, to the possibility of fraud and bribery, which aids detection. Allegations and complaints are key sources of detection regarding fraud and bribery and as such the Council treats this type of information seriously and in line with the Whistleblowing Policy where applicable.

- 13.3 Awareness of the key indicators of fraud and bribery is also advantageous to the detection of these offences and the Council is committed to training and communication routines whereby Members of the Council, managers and Officers can be informed of or updated with the relevant facts that will aid their vigilance regarding the identification of fraud and bribery.

#### **14. Investigation**

- 14.1 Investigation into fraudulent activity or bribes will be carried out in accordance with the Council's internal investigation processes.
- 14.2 Appropriate liaison will take place with senior Officers of the Council regarding any investigation that is commenced. This will be via the Statutory Officer group. The details of each case and subsequent progress will be reported as required and or necessary.

#### **15. Training and Awareness**

- 15.1 It is recognised that the success of the Counter Fraud, Corruption and Bribery statement will, to a degree, depend on the effectiveness of programmed training and continuing awareness of people throughout the Council and of facilitating people's ability to be responsive regarding fraud and bribery issues.
- 15.2 To facilitate the raising of awareness of this Policy, the Council will be running mandatory online training for all Officers of the Council.
- 15.3 All Officers involved in fraud work will be properly and regularly trained in all aspects of it. The training plans of all relevant Officers will be reviewed annually as part of the Councils' appraisal system and will include both internal and externally training provision. Such training will be tailored to the needs of the individual Officer concerned and is therefore dependent upon knowledge and experience.
- 15.4 Further consideration will be given to the most effective ways of increasing Member and Officer awareness of this Policy and their associated responsibilities in complying with it, including any e-learning training and or awareness packages that may be available to the Council.

#### **16. Conclusions**

- 16.1 Several service departments within the Council with statutory, regulatory or other enforcement powers have in place their own service specific policies that focus on specific operational considerations. These policies complement this Policy, providing detailed operational context specific to the enforcement remit of the relevant service(s) to which they relate. In the event, however, that a conflict may arise, clarification should be sought from the Council's Head of Legal.



16.2 The Monitoring Officer, in consultation with the Chief Executive, the S151 Officer, and the Chairman and Vice Chair(s) of the Audit and Scrutiny Committee will ensure that any corrective actions identified from investigations are brought to the attention of the Audit and Scrutiny Committee.

## **17. Review of the policy**

17.1 This Policy will be reviewed by the Monitoring Officer and S151 Officer every two years or sooner depending on legislative changes.

## **Annex 1**

### **Bribery Act implementation**

The Council will follow the guidance issued by the Ministry of Justice. The actions are intended to be proportionate to the risks faced by the Council and to the nature, scale, and complexity of the Council's activities. The actions are expected to provide a defence of "adequate procedures" against any corporate offence. The Council's procedures cover the following principles.

#### **Top Level Commitment**

The Management Team are committed to the Bribery Act 2010 and the introduction of this policy has been approved by the Management Team and the Corporate Governance Group. They endorse a culture within the Council in which bribery is not accepted or tolerated.

#### **Risk Assessment**

The nature and extent of the Council's exposure to external and internal risks of bribery will be assessed and documented as part of the Council's risk management process. Any risk assessment is intended to be an on-going process based on regular communication and review. The Council should know who it is doing business with and whether this has risk implications.

#### **Due Diligence**

A proportionate and risk-based approach will be taken in respect of persons and other organisations that perform services for or on behalf of the Council. Due diligence will include an evaluation of the background, experience and reputation of business partners. The transactions will be properly monitored and written agreements and contracts will provide references to the **Bribery Act 2010 - GOV.UK** and this policy. Reciprocal arrangements may be required for business partners to have their own policies in place. They will be advised of the Council's policy and be expected to always operate in accordance with such policy.

#### **Communication**

The Council will ensure that this policy and other related policies and procedures are embedded in the Council's working arrangements through appropriate communication, including training, which is proportionate to the risks the Council faces. The Council's induction programme will include reference to the **Bribery Act 2010 - GOV.UK** and this policy.

#### **Monitoring and Review**

This policy, control arrangements, risk management processes and other related policies and procedures designed to prevent bribery and corruption will be monitored, reviewed, and improved where necessary on a regular basis. All incidents of bribery or suspected bribery will be reported to the Corporate Governance Group. An assurance of compliance will be included in the Annual Governance Statement.

## **Bribery Act 2010**

What is prohibited?

The Council prohibits employees or associated persons from offering, promising, giving, soliciting, or accepting any bribe. The bribe might be cash, a gift, hospitality, or other inducement to, or from, any person or Council, whether a public or government official, official of a state-controlled industry, political party or a private person or Council, regardless of whether the employee or associated person is situated in the UK or overseas.

The bribe might be made to ensure that a person or the Council improperly performs duties or functions (for example, by not acting impartially or in good faith or in accordance with their position of trust) to gain any commercial, contractual, or regulatory advantage for the Council in either obtaining or maintaining Council business, or to gain any personal advantage, financial or otherwise, for the individual or anyone connected with the individual.

This prohibition also applies to indirect contributions, payments or gifts made in any manner as an inducement or reward for improper performance, for example through consultants, contractors or sub-contractors, agents or sub-agents, sponsors or sub-sponsors, joint-venture partners, advisors, customers, suppliers or other third parties.

## **Facilitation payments**

Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions. These types of payments are not tolerated and are illegal. Charitable donations including political donations and sponsorship are areas vulnerable to bribery and corruption as they lack monitoring or benchmarking on appropriateness. Due diligence must be applied to such transactions and approval sought from the Council's Monitoring Officer before any monies are accepted.

## **Receipt of gifts – disclosure**

Any employee who receives a gift of any kind from an existing or potential business contact must disclose the fact of the gift, its nature and the identity of the sender to his and or her line manager. Managers should keep a record of all such instances.

If the gift is anything other than a small token of appreciation having no substantial financial value (managers should use their discretion when

determining this value e.g. anything below the face value of £30 is acceptable), the employee will be required to donate the gift to the Mayor's charity. The sender should be told of the action with a polite note thanking him and or her and explaining that it is the Council's policy that employees should not receive gifts. Gifts should be disclosed to an officer's line manager by email or in writing.

In cases where the Officer's line manager agrees that the gift was sent to the employee as a token of gratitude for work carried out to a particularly high standard or for carrying out an unpleasant task in a consistently cheerful manner, or for any other exceptional level of service given, the employee may, at the line manager's discretion, be permitted to retain the gift. The gift should be declared on a declaration form and sent to HR.

Small gifts that are genuinely given as a token of appreciation or gratitude will be acceptable, provided that the employee properly declares the gift in line with this policy and provided that the employee does not subsequently treat the person who sent the gift more favourably than other customers and or suppliers, etc. An example of this would be the provision of a Christmas "box" to waste collection staff. As a rule, small tokens of appreciation, such as flowers, biscuits, or a bottle of wine, may be retained by Officers, but should still be declared.

A typical concern is hospitality. Where refreshments such as tea and coffee, light lunches are provided in the context of a meeting, seminar, or similar presentations or otherwise within the normal business of meetings that will be fine and need **NOT** be declared.

However, if hospitality is either disproportionate to the type of event or is part of a tendering and or procurement relationship including current suppliers or is otherwise of very high value such as a restaurant meal then it should be discussed, where possible, with managers before acceptance. Details of all such hospitality should be emailed to HR on the declaration form and the information provided will be entered in the hospitality register which is maintained by them. That document is open to the public.

## **Record Keeping**

Officers and, where applicable, associated persons, are required to take particular care to ensure that all Council records are accurately maintained in relation to any contracts or business activities, including financial invoices and all payment transactions with clients, suppliers, and public officials.

Due diligence should be undertaken by employees and associated persons prior to entering any contract, arrangement or relationship with a potential supplier of services, agent, consultant or representative (in accordance with the Council's procurement and risk management procedures).

Officers and associated persons are required to keep accurate, detailed, and up-to-date records of all corporate hospitality, entertainment or gifts accepted or offered.

Officers Must:

- ensure that they have read, understood, and comply with this Policy
- use the appropriate mechanisms within the Council to raise concerns as soon as possible if they believe or suspect that an offence under this Policy has occurred or may occur in the future.

### **Raising a concern**

Officers are encouraged to raise any concerns with their manager and make use of the Council's Whistle-blowing Policy, as appropriate. This provides information on the courses of actions available to report serious concerns (including bribery) in confidence. The Council is aware that staff who refuse to accept the offer of a bribe and who wish to report an incident may worry about the repercussions for themselves and their employment. Therefore, the Council in encouraging openness will support anyone who raises a genuine concern under this policy, even if the alleged act of bribery is established, upon investigation, to be unfounded. The Council is committed to ensuring that staff do not suffer any detrimental treatment through refusing to take part in any form of bribery.

## **Annex 2**

### **The Seven Principles of Public Life (Nolan principles)**

#### **Selflessness**

Holders of public office should take decisions solely in terms of the public interest.

They should not do so 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.