

# **Havant Borough Council Anti Bribery Policy**

## **1.0 POLICY STATEMENT - ANTI BRIBERY**

- 1.1 Bribery is a criminal offence. The Council does not pay bribes or offer improper inducements to anyone for any purpose, nor does the Council accept bribes or improper inducements.
- 1.2 To use a third party as a conduit to channel bribes to others is a criminal offence. The Council does not engage indirectly in or otherwise encourage bribery.
- 1.3 The Council is committed to the prevention, deterrence and detection of bribery and has a zero-tolerance towards bribery.

## **2.0 OBJECTIVE OF THIS POLICY**

- 2.1 This policy provides a coherent and consistent framework to enable the Council's officers and Councillors to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable Councillors and officers to identify and effectively report a potential breach.
- 2.2 All Councillors and officers including those permanently employed, temporary agency staff and contractors must:
  - Act honestly and with integrity at all times and safeguard the Council's resources for which they are responsible.
  - Comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates.

## **3.0 SCOPE OF THIS POLICY**

- 3.1 This policy applies to all of the Council's activities. For partners and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.
- 3.2 This policy covers all officers including those permanently employed, temporary agency staff, contractors, non-executives, agents, members (including independent or co-opted members), volunteers and consultants.
- 3.3 Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rely solely on the Council's assurance functions.

## **4.0 BRIBERY**

- 4.1 Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

4.2 Genuine hospitality or similar business expenditure that is reasonable and proportionate is allowable and not covered by the Act. However, facilitation payments are considered bribes (payments to induce officials to perform routine functions they are otherwise obligated to perform).

## **5.0 THE BRIBERY ACT**

5.1 There are four key offences under the Act:

- Bribing a person to induce or reward them to perform a relevant function improperly (Section 1)
- Requesting, accepting or receiving a bribe as a reward for performing a relevant function improperly (Section 2)
- Using a bribe to influence a foreign official to gain a business advantage (A foreign public official is defined as “an individual holding legislative, administrative or judicial posts or anyone carrying out a public function for a foreign country or the country’s public agencies”) (Section 6)
- 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)

5.2 The Bribery Act 2010 makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.

5.3 There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. This is what is known as a “strict liability” offence. This means that there is no need to prove negligence or management complicity. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

## **6.0 PENALTIES**

6.1 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 (six months in Northern Ireland), or to a fine not exceeding £5,000, or to both.
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

6.2 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, is liable

to an unlimited fine.

## **7.0 THE COUNCIL'S COMMITMENT TO ACTION**

### **7.1 The Council commits to:**

- Setting out a clear anti-bribery policy and keeping it up to date.
- Making all Councillors and officers aware of the Council's policy and procedures and their responsibilities to adhere strictly to this policy at all times.
- Encouraging its Councillors and officers to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication (i.e. Whistleblowing Policy) and ensuring sensitive information is treated appropriately.
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution.
- Taking firm and vigorous action against any individual(s) involved in bribery.
- Provide information to all Councillors and officers to report breaches and suspected breaches of this policy.
- Include appropriate clauses in contracts with suppliers setting out the Council's right to terminate and secure losses in circumstances where an offence under the Bribery Act 2010 has been committed by the supplier or the supplier's agent.

## **8.0 ANTI-BRIBERY PROCEDURES**

### **8.1 The Council's procedures cover six principles:-**

#### ***Proportionality***

The Council has procedures in place to prevent bribery by persons associated with it. These procedures are clear, practical, accessible and effectively implemented and enforced.

#### ***Top level commitment***

The Joint Management Team and Service Managers are committed to preventing bribery and 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, in order to mitigate identified bribery risks. 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 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 operate at all times in accordance with such policy.

### ***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.

## **9.0 BRIBERY IS NOT TOLERATED**

9.1 It is unacceptable to:

- Give, promise to give, or offer a payment, gift 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 a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure.
- Accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them.
- Accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return.
- Retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy.
- Engage in activity in breach of this policy.

## **10.0 FACILITATION PAYMENTS**

10.1 Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions. Facilitation payments are not tolerated and are illegal.

## **11.0 GIFTS AND HOSPITALITY**

11.1 The Council's policy regarding the requirements for gifts and hospitality is set out within the Code of Conduct Policy.

## **12.0 PUBLIC CONTRACTS AND FAILURE TO PREVENT BRIBERY**

12.1 Under the Public Contracts Regulations 2006 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption

offence. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. This Council has the discretion to exclude organisations convicted of this offence.

## **13.0 OFFICER RESPONSIBILITIES**

- 13.1 The 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 officers are required to avoid activity that breaches this policy. Officers must:
  - Ensure that the policy has been read and comply with the requirements.
  - Raise concerns as soon as possible where this policy has been breached or they suspect that a breach of this policy has occurred, or may occur in the future.
- 13.2 As well as the possibility of civil and criminal prosecution, officers that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

## **14.0 HOW TO RAISE A CONCERN**

- 14.1 Please remember that you do not need to have firm evidence of malpractice before raising a concern. However, we do ask that you explain as fully as you can the information or circumstances that gave rise to your concern. Remember the earlier you raise a concern the easier it is to resolve it.

### **Step One**

We hope that you will feel able to raise your concern openly with your manager. This may be done orally or, if you prefer, in writing.

### **Step Two**

If you feel unable to raise the matter with your manager for whatever reason, or if you think the concern has not been properly addressed, please raise it with a senior manager in your area or one of the following officers:

Monitoring Officer  
Chief Financial Officer

### **Step Three**

If you still have a concern, or feel that the matter is so serious that it cannot be dealt with through steps One and Two, then please raise it with:

Chief Executive

**Executive Directors  
Chief Internal Auditor**

These people have been given special responsibility and training in dealing with whistle blowing concerns and in particular the Public Interest Disclosure Act 1998.

- 12.2 If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

You may invite your trade union representative or a colleague to be present during any meetings or interviews in connection with the concerns you have raised.