



Anti-Bribery Policy November 2011

ANTI-BRIBERY **POLICY**

Foreword by the Leader of the Council and the Chief Executive of South Ribble Borough Council

In South Ribble Borough Council we have always taken very seriously our anti-fraud and corruption policies and procedures – indeed it is fair to say that our governance arrangements have been consistently robust and effective.

Leadership is provided by Cabinet, Governance Committee and Senior Management team but ownership is shared by all members and employees.

We have reviewed all of our procedures in the light of the Bribery Act 2010 and shall ensure that its provisions are fully complied with.

We shall continue to ensure that all members and staff are fully aware of what is expected of them.

Mike Nuttall
Chief Executive



Councillor Mrs M Smith
Leader of the Council



Policy Statement

South Ribble Borough Council takes a zero tolerance approach to bribery and is committed to the prevention, deterrence and detection of bribery. We aim to maintain anti-bribery compliance “business as usual”, rather than as a one-off exercise.

Bribery is a criminal offence. South Ribble Borough Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

Objective of this policy

This policy provides a coherent and consistent framework to enable the Borough Council’s employees and members to understand what is required and expected of them. In conjunction with related policies and key documents it will also enable employees and members to identify and effectively report a potential breach.

We require that all employees (including those permanently employed, temporary agency staff and contractors) and members:

- Uphold the Council’s Values 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, in respect of the lawful and responsible conduct of activities

Scope of this policy

This policy applies to all of the Council’s activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely with Internal Audit.

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

The Council’s commitment to action

The Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date
- Making all employees and members aware of their responsibilities to adhere strictly to this policy at all times
- Raising awareness and training for all employees and members so that they can recognise and avoid the use of bribery by themselves and others
- Encouraging its employees and members to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication 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 employees and members to report breaches and suspected breaches of this policy
- Include appropriate clauses in contracts to prevent bribery.

The Bribery Act

http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1

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

There are four key offences under the Act:

- **Section 1) Bribery of another person - to offer, promise or give a bribe.** This can occur where a person offers, promises or gives a financial or other advantage to another individual to perform improperly a relevant function or activity, or to reward a person for the improper performance of such a function or activity.
- **(Section 2) Accepting a bribe - to request, agree to receive, or accept a bribe.** This is where a person receives or accepts a financial or other advantage to perform a function or activity improperly. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient's ultimate benefit or not.
- **(Section 6) Bribing a foreign official - bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business.** This is where a person directly or through a third party offers, promises or gives any financial or other advantage to a foreign public official in an attempt to influence them as a public servant and to obtain or retain business, or any other related advantage in the conduct of business.
- **(Section 7) Failing to prevent bribery - 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.** A commercial organisation could be guilty of bribery where a person associated with the organisation, such as an employee, member, agent or even a sub-contractor, bribes another person intending to obtain or retain business for the organisation or to obtain or retain advantage in the conduct of the 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.

Is the Borough Council a “commercial organisation”?

The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.” There are circumstances in which we may be a commercial organisation for the purposes of section 7. This policy is intended to ensure that we have in place the necessary procedures to act as a defence to a section 7 offence.

Governing Principles

The Council's procedures cover six principles:-

Proportionality

The Council has procedures in place to prevent bribery by persons associated with it. These are proportionate to the bribery risks faced by the Council and to the nature, scale and complexity of the Council's activities. They are also clear, practical, accessible, effectively implemented and enforced.

Top level commitment

Cabinet, Governance Committee and the Senior Management Team are committed to preventing bribery by anyone associated with the Council. They foster a culture within the organisation in which bribery is never acceptable. The role of Governance committee is to challenge and strengthen our anti-bribery arrangements.

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.

Before entering into any business relationship or project, the Council will carry out due diligence on its potential business partners, agents used and on the proposed project or business transaction in order to identify, as far as reasonably possible, the risk of bribery. Wherever possible, the Council will use procurement and contract management procedures which minimise the opportunity for bribery, by subcontractors and suppliers, against the Council.

The Council will take steps to ensure that its partners, suppliers, contractors, agents and other third parties with whom it does business, have in place a code of conduct which explicitly prohibits the making of corrupt payments.

Communication (including training)

The Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the Council through internal and external communication, including training that is proportionate to the risks it faces.

Monitoring and review

Procedures designed to prevent bribery are monitored and reviewed and improvements are made where necessary. This policy will be reviewed annually. Significant revisions will be presented to Senior Management Team before being referred to Governance Committee for approval, prior to being issued to employees and members.

This Council is committed to proportional implementation of these principles.

Penalties

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, 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

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.

Bribery is not tolerated

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.

Facilitation payments

Facilitation payments are not tolerated and are illegal. Facilitation payments, which are unofficial payments made to public officials in order to secure or expedite actions, or perform routine functions they are otherwise obligated to perform, are bribes.

Gifts and hospitality

In terms of employees the Council's policy regarding the requirements for recording gifts and hospitality is set out within the Code of Conduct for Employees of the Council – in terms of Members the Council's policy is set out in the Code of Conduct for Elected Members.

For employees to register the offer / acceptance of a gift / hospitality, they should go to I Want To, Officer Declarations, on Connect. Members should contact Democratic services to make the necessary declaration.

Public contracts and failure to prevent bribery

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.

Employee responsibilities

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Borough Council or under its control. All employees are required to avoid activity that breaches this policy.

You must:

- ensure that you read, understand and comply with this policy
- raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

Raising a concern

South Ribble Borough Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want each and every member and employee to know how they can raise concerns.

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

Please refer to the Whistle blowing policy -

http://seth/sorce/apps/sorce_doc_manager/Actions/view_doc.asp?docid=5117&revid=5190

Concerns can be anonymous. In the event that an incident of bribery, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. We have clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind.

If you have any questions about these procedures, please contact **Garry Barclay** (Head of Shared Assurance Services) on **01772 625272** (gbarclay@southribble.gov.uk).

Other relevant policies

Anti-Fraud and Corruption Strategy
Fraud Response Plan
Anti-Money Laundering Policy
Code of Conduct for Employees of the Council
Code of Conduct for Elected Members

All the above policies may be found on Connect and Cllr Connect.