

# Report to Executive

Agenda  
Item:

**A.14**

Meeting Date: 1<sup>st</sup> June 2015  
 Portfolio: Finance, Governance and Resources  
 Key Decision: No: Not applicable  
 Within Policy and Budget Framework YES  
 Public / Private Public

Title: ANTI BRIBERY POLICY  
 Report of: DIRECTOR OF RESOURCES  
 Report Number: RD 04/15

## Purpose / Summary:

This report provides Members with an Anti Bribery Policy which has been prepared in order to strengthen existing counter fraud and corruption measures and to meet the requirement of the Bribery Act 2010. The draft policy was considered by the Audit Committee in April with any amendments being reflected in the attached document.

## Recommendations:

The Executive is asked to approve the Anti Bribery Policy for formal adoption by the Council as recommended by the Audit Committee on 13<sup>th</sup> April 2015.

## Tracking

Executive:	<b>1 June 2015</b>
Overview and Scrutiny:	<b>Not applicable</b>
Audit Committee:	<b>13 April 2015</b>
Council:	<b>Not applicable</b>

# Report to Audit Committee

Agenda  
Item:

Meeting Date: 13 April 2015  
Portfolio: Finance, Governance and Resources  
Key Decision: Not Applicable:  
Within Policy and  
Budget Framework YES  
Public / Private Public

Title: DRAFT ANTI BRIBERY POLICY  
Report of: Director of Resources  
Report Number: RD04/15

## Purpose / Summary:

This report provides Members with a Draft Anti Bribery Policy which has been prepared in order to strengthen existing counter fraud and corruption measures and to meet the requirement of the Bribery Act 2010.

## Recommendations:

Members are requested to consider the draft policy, making changes where necessary, for recommendation to the Executive.

## Tracking

Audit Committee:	<b>13 April 2015</b>
Overview and Scrutiny:	<b>Not applicable</b>
Council:	<b>1 June 2015</b>

## **1. BACKGROUND**

- 1.1 This report provides Members with a Draft Anti Bribery Policy which has been prepared in order to strengthen existing counter fraud and corruption measures and to meet the requirement of the Bribery Act 2010.
- 1.2 Members are asked to consider the Policy attached to this report and make necessary amendments before the Policy is formally approved by the Executive.

## **2. BRIBERY ACT 2010**

- 2.1 The Bribery Act came into effect on 1 July 2011 and aims to reduced levels of corruption across the UK.
- 2.2 The Act generally defines bribery as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward a person for already having done so.
- 2.3 The Act introduces four key offences:
- bribery of another person;
  - accepting a bribe;
  - bribing a foreign public official;
  - failure of an organisation to prevent bribery.
- 2.4 The Council already has in place procedures to prevent bribery and corruption and to regulate employee behaviour, including the Counter Fraud and Corruption Policy, the Code of Conduct for Council Employees and Gifts and Hospitality Rules.
- 2.5 However, statutory guidance on bribery prevention measures has been published and this has informed the new Policy. It is therefore recommended practice to adopt an Anti Bribery Policy to ensure compliance with the Act. Training on the requirements of the Bribery Act will form part of the Council's Ethical Governance programme.
- ## **3. CONCLUSION AND REASONS FOR RECOMMENDATIONS**
- 3.1 Members are requested to consider the draft policy, making changes where necessary, for recommendation to the Executive.

#### **4. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES**

- 4.1 To ensure that the Council has sound systems of internal control and that the governance arrangements in place comply with statutory requirements.

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**Appendices attached to report:** Appendix A – Draft Anti Bribery Policy

**Note:** in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- None

#### **CORPORATE IMPLICATIONS/RISKS:**

**Chief Executive's – not applicable**

**Economic Development – not applicable**

**Governance** – The Audit Committee's terms of reference provide, in relation to the Corporate Governance Framework, that the Committee is to review and advise the Executive on the embedding and maintenance of an effective system of corporate governance including internal control and risk management. The Anti Bribery Policy falls within this ambit and therefore the Audit Committee will formally recommend this policy to the Executive.

**Local Environment – not applicable**

**Resources** – included in the main body of the report



## ANTI BRIBERY POLICY

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## **1. Introduction**

- 1.1 The Council is wholly committed to the prevention, deterrence and detection of bribery and corruption in all its dealings and relationships, and upholding all relevant laws, including the Bribery Act 2010 (“the Bribery Act”).
- 1.2 Bribery and corruption in any form are unacceptable and will lead to disciplinary action where allegations are substantiated. The Council operates a zero tolerance approach to these matters.
- 1.3 This Policy sets out key principles to achieve these aims, and details the Council’s corporate and employee responsibilities required thus ensuring compliance with the Act.
- 1.4 This Policy should be read in conjunction with the Council’s Counter Fraud and Corruption Policy, the Employee Code of Conduct and the Councils Gifts and Hospitality rules.
- 1.5 This Policy also provides information and guidance for employees on how to prevent, recognise and deal with bribery and corruption issues.

## **2. Scope of the Policy**

- 2.1 This Policy applies to all employees of the Council (those permanently employed, temporary staff, casuals, agency staff, consultants, and volunteers) and all elected Members and covers all activities undertaken by the Council. When dealing with third parties, the Council will promote the adoption of practices and arrangements consistent with the principles set out in this policy.

## **3. Compliance**

- 3.1 This Policy provides a framework so that staff and Members can understand and implement arrangements to enable compliance with the Bribery Act. All employees, elected Members, all contractors and their employees are required to:
  - Act honestly and with integrity at all times and to safeguard the Council’s resources for which they are responsible;
  - Comply with the relevant laws and regulations in respect of the lawful and responsible conduct of activities.

## **4. What is Bribery?**

4.1 Bribery is an inducement or a reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage and can take various forms such as

- bribery of another individual or organisation;
- accepting a bribe from an individual or organisation.

4.2 Bribes may not always be monetary and may include gifts or hospitality.

4.3 Bribery is a criminal offence.

4.4 Additionally, failure by the Council to put in place adequate procedures to prevent bribery can also constitute an offence.

4.5 The maximum penalty for individuals under the Act is 10 years imprisonment and/ or unlimited fines. Failure by an organisation to prevent bribery carries an unlimited fine.

## **5. The Council's Commitment**

5.1 The Council does not and will not offer or accept bribes or improper inducements to or from anyone for any purpose.

5.2 The use of an associated person or third party as a conduit to channel bribes to others is a criminal offence.

5.3 The Council is committed to the prevention, deterrence and detection of bribery by:

- Ensuring procedures are in place to prevent bribery;
- Making all employees aware of their responsibilities through this Policy, the Employee Code of Conduct and rules on Gifts and Hospitality;
- Training all employees so that they can recognise bribery and corruption and enable them to take any subsequent action that may be required;
- Ensuring training on this policy forms part of the induction process for all new employees, and that all employees are reminded annually of their responsibilities regarding bribery through the Ethical Governance Training programme;
- Encouraging employees to be vigilant and to report any reasonably held suspicions of bribery or corruption, using the Council's Whistleblowing Policy if necessary;
- Investigating instances of alleged bribery and assisting police and any other appropriate authorities in any resultant prosecution;



- Taking disciplinary action up to and including dismissal against any individual involved in bribery or other corrupt activity;
- Including appropriate clauses in employment and commercial contracts to prevent bribery.

## 6. Preventing Bribery – Adequate Procedures

6.1 An organisation will have a statutory defence against prosecution for bribery offences if it puts in place ‘adequate procedures’ designed to prevent bribery. What is ‘adequate’ depends on the bribery risks, the nature, size and complexity of the business. Adequate procedures need to be applied **proportionately**, based on the level of risk.

6.2 In determining such procedures, the Government has indicated that organisations should be informed by six principles:

- **Top Level Commitment**

The Council fosters a culture in which bribery is never acceptable. The Executive and Senior Management Team will be asked to approve this Policy following consideration by the Audit Committee.

- **Risk Assessment**

The Council will assess the nature and extent of its exposure to potential external and internal risks of bribery routinely and as an integral part of its usual risk management processes. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.

- **Proportionate Procedures**

Procedures should be proportionate to the bribery risks face and should be clear, practical, accessible, effectively implemented and enforced.

- **Due Diligence**

Apply due diligence when taking a proportionate and risk based approach in respect of persons who perform or will perform services for or on behalf of the Council, in order to mitigate identified bribery risks.

- **Communications**

The anti-bribery policy is embedded and understood through communication, including training that is proportionate to the risks faced.

- **Monitoring and Review**

The policy will be reviewed and updated periodically to reflect organisational and legislative changes, and to reflect best practice, in order to maintain its effectiveness.

**The Council is committed to the implementation of these principles and will not tolerate bribery.**

## **7. Employee Responsibilities**

7.1 Employees must read, understand and comply with this Policy.

7.2 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all employees working for the Council.

Therefore, all employees **must**:

- Comply with this policy;
- Avoid any activity that breaches this Policy or could be seen as a breach of this Policy;
- Where possible seek advice **before** accepting gifts or hospitality;
- Raise any concerns as soon as possible if you believe or suspect that a breach of this policy has occurred or may occur in the future. For further information on raising concerns, please see Section 14 of the Employee Code of Conduct.

Employees **must not**:

- Give or promise to give, or offer a payment, gift or hospitality with the expectation or hope that a personal, commercial, regulatory or contractual advantage will be received, or to reward any such advantage already given;
- Give or promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to facilitate or speed up a 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 the Council in return;
- Retaliate against, threaten or victimise anyone who has refused to be involved in bribery or corrupt practices, or who has raised concerns under this policy.

7.3 The list above is not exhaustive but is intended to provide examples of conduct likely to breach this policy.

7.4 If employees have any doubt at all about circumstances that they find themselves in, advice should be sought from their line manager **before** it becomes an issue to be dealt with.

## 8. Consequences of Improper Behaviour

- 8.1 All allegations relating to bribery or corrupt practices will be investigated.
- 8.2 Where the investigation concludes that improper behaviour may have occurred, the Council's Disciplinary procedures will be applied. This may result in dismissal
- 8.3 In circumstances where a criminal offence may have been committed, the Council will notify the Police.
- 8.4 The Council will seek, wherever possible, to recover any losses suffered as a result of an act of bribery or corruption.

## 9. Gifts and Hospitality

- 9.1 Gifts, offers of hospitality or favours from or to a third party, a contractor, client or partner organisation of the Council are capable of being perceived as constituting a bribe.
- 9.2 Therefore, you should never accept or offer a gift, hospitality, favour or any other form of inducement which may influence or be perceived as influencing actions or decisions related to your job.
- 9.3 In certain limited circumstances, and in connection with your official duties, it may be appropriate for you to offer or receive gifts of low value or small tokens of gratitude, such as merchandise / branded items which have been designed for the purpose of being given away e.g. pens, post-its etc. Similarly, small gifts such as sweets etc given to a team at Christmas will be acceptable.
- 9.4 Gifts of alcohol or offers of hospitality, however small, should not be automatically accepted by Council employees. Similarly, such gifts or offers should not be made by Council employees.
- 9.5 Advice should be sought from your manager on the appropriateness of offering or accepting **any** such hospitality or gifts. Other than in circumstances similar to those set out in paragraph 9.3 you should not accept a gift unless you are satisfied, following discussion with your manager, that to do so would not lead to your actions as a Council employee being called into question.
- 9.6 Other than the small gifts indicated in paragraph 9.3, all offers of gifts and hospitality, whether refused or accepted, should be recorded in the register of gifts and hospitality, in accordance with corporate arrangements. The Council's Gifts and Hospitality rules are contained within the Financial Procedure Rules, Constitution on the intranet.

**Version Control:**

Revision date	Issue No.	Summary of Changes
12/02/15	1	New Policy

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## **EXCERPT FROM THE MINUTES OF THE AUDIT COMMITTEE HELD ON 13 APRIL 2015**

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### **AUC.33/15      DRAFT ANTI BRIBERY POLICY**

The Financial Services and HR Manager submitted report RD.04/15 providing a draft Anti Bribery Policy which had been prepared in order to strengthen existing counter fraud and corruption measures, and to meet the requirement of the Bribery Act 2010.

The Financial Services and HR Manager explained that the Bribery Act had come into effect on 1 July 2011 with the aim of reducing levels of corruption across the UK.

The Act generally defined bribery as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward a person for already having done so. The Act introduced four key offences: bribery of another person; accepting a bribe; bribing a foreign public official; and failure of an organisation to prevent bribery.

The Council already had in place procedures to prevent bribery and corruption and to regulate employee behaviour, including the Counter Fraud and Corruption Policy, the Code of Conduct for Council Employees and Gifts and Hospitality Rules.

However, statutory guidance on bribery prevention measures had been published and that had informed the new Policy. It was therefore recommended practice to adopt an Anti Bribery Policy to ensure compliance with the Act. Training on the requirements of the Bribery Act would form part of the Council's Ethical Governance programme.

In conclusion, the Financial Services and HR Manager requested that Members consider the draft Policy, making changes where necessary, before recommending the draft Policy to the Executive.

A Member suggested that the Anti-Bribery Policy should be disseminated to all elected Members.

The Finance, Governance and Resources Portfolio Holder added that the Policy should be circulated to all staff, who should sign to say that they had read it.

In response, the Financial Services and HR Manager said that, following consideration of the Policy by the Executive, training would be provided (which would be mandatory for certain Officers).

The Member felt that the matter should be "signed off" for transparency reasons.

The Director of Governance felt that was a point well made, adding that the Policy would be implemented and targeted via e-learning and this would create an audit trail.

A Member stated that the threshold for the registration of gifts and hospitality had been £25 for a number of years, and questioned whether that figure should be increased.

The Director of Governance replied that the matter was reviewed in 2012 when the Members' Code of Conduct was adopted. £25 was considered to be a realistic figure.

**RESOLVED** – That the Audit Committee had considered the draft Anti Bribery Policy, for recommendation to the Executive on 1 June 2015.