

ANTI-BRIBERY POLICY AND PROCEDURES



Policy Statement – Anti Bribery

Bribery is a criminal offence. Welwyn Hatfield Borough Council (WHBC) 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.

We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards bribery. We aim to maintain anti-bribery compliance as “business as usual”, rather than as a one-off exercise.

WHBC will actively avoid doing business with those who do not commit to the principles in the Act.

What is Bribery?

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

The Bribery Act

There are four key offences under the Act:

- bribery of another person (section 1)
- accepting a bribe (section 2)
- bribing a foreign official (section 6)
- failure of commercial organisations to prevent bribery (section 7)

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.

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. 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.

**For the purposes of the Act, Welwyn Hatfield Borough Council is considered to be a commercial organisation.*

Objective of this policy

This policy provides a coherent and consistent framework to enable the organisation's employees and members to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable members/employees to identify and effectively report a potential breach.

WHBC requires that all members and employees, including those permanently employed, temporary or agency staff and contractors:

- act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible and to safeguard the council's good reputation.
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which WHBC operates, in respect of the lawful and responsible conduct of activities.
- comply with the respective code of conduct for Members and Employees.

Scope of this policy

This policy applies to all of WHBC'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. We will avoid conducting business with those that do not commit to the principles of the Act.

Within WHBC the responsibility to control the risk of bribery occurring resides with all members and employees. It does not rest solely within assurance functions, but in all service areas, business units and corporate functions.

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.

Welwyn Hatfield Borough Council's Commitment to Action

WHBC 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
- training key persons associated with WHBC 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), employees, contractors or agents convicted of being involved in bribery.
- Provide information to all employees and members on how to report breaches and suspected breaches of this policy.
- Include appropriate clauses in contracts to prevent bribery.

WHBC'S proportionate procedures

WHBC's procedures to prevent bribery by persons associated with it are aimed to be proportionate to the bribery risks it faces as a commercial organisation and to the nature, scale and complexity of its activities. They are intended to be clear, practical, accessible, effectively implemented and enforced.

Top level commitment

The Council and the Corporate Management Team are committed to preventing bribery by persons associated with it. They aim to foster a culture within the organisation in which bribery is never acceptable. The Head of Law & Administration in her capacity as Monitoring Officer will be responsible for maintaining and reviewing our anti-bribery policy.

Risk assessment

WHBC assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. This is done through key officers in conjunction with our internal audit service. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage. Our risk assessment will be targeted at those areas of our work where we consider that we could be most exposed. This will include the procurement of goods and services and the granting of licences and permissions.

Due diligence

WHBC 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.

Communication (including training)

WHBC 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.

Monitoring and review

WHBC monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

Welwyn Hatfield Borough Council is committed to proportional implementation of these principles.

Penalties

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- if 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
- if on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both

WHBC may be found to be vicariously liable for the acts of an individual above and if so, faces the risk of also being prosecuted and convicted.

If on a conviction under section 7, WHBC is directly liable to an unlimited fine.

Bribery is not tolerated by WHBC

It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with an 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 are unofficial payments made to public officials in order to secure or expedite actions. This, for example, includes procurement officers.

Gifts and hospitality

Both Employee and Member Codes of Conduct contain clear rules on gifts and hospitality.

For Employees, their Code of Conduct makes clear that apart from items of token value (e.g. calendars, diaries, tape measures and similar articles of use in the office) all gifts should be politely refused. Any hospitality received should be justified as in the public interest and the hospitality given should be on a scale appropriate to the occasion. The details of any gift or hospitality accepted should be declared in writing to the Governance Services Manager and placed on a corporate register.

For Members, their Code of Conduct makes it clear that all receipt of gifts and hospitality of a value in excess of £100 should be declared in writing to the Monitoring Officer within 28 days of receipt and will be placed on a public register of gifts and hospitality that is publicly available.

Public contracts and failure to prevent bribery

Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. WHBC has the discretion to exclude organisations convicted of this offence and it is WHBC's usual policy to exclude such organisations.

Your responsibility as a Member or Employee

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the organisation or under its control. All employees and members 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 action and criminal prosecution, employees and members who breach this policy could face disciplinary action, which could result in dismissal for gross misconduct.

Raising a concern

WHBC 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 Employee/Member 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.

There are multiple channels to help you raise concerns. Please refer to the Whistleblowing Policy and determine your favoured course of action. Preferably the disclosure will be made and resolved internally (e.g. to your head of service/on line reporting/telephone hotline). Secondly, where internal disclosure proves inappropriate, concerns can be raised with the external auditor. Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media).

Concerns can be anonymous. In the event that an incident of bribery, corruption, or wrong-doing is reported, WHBC will act as soon as possible to evaluate the situation. WHBC has clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier and quicker if concerns raised are not anonymous.

Employees/Members who refuse to accept or offer a bribe, or those who raise concerns or report wrong-doing can understandably be worried about the repercussions.

WHBC aims to encourage an environment of openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

WHBC is committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

If you have any questions about these procedures, please contact **Ian Colyer, Principal Governance Officer Tel: 01707 357413 email:i.colyer@welhat.gov.uk** or the **Monitoring Officer Tel: 01707 357575 email:m.martinus@welhat.gov.uk**

Other relevant policies can be found on the Council's website at www.welhat.gov.uk

These include: Anti - Fraud and Anti - Corruption Policy
<http://www.welhat.gov.uk/CHttpHandler.ashx?id=689&p=0>

Anti - Money Laundering Policy
<http://www.welhat.gov.uk/CHttpHandler.ashx?id=682&p=0>

Whistleblowing Policy <http://www.welhat.gov.uk/CHttpHandler.ashx?id=681&p=0>

Members Code of Conduct <http://www.welhat.gov.uk/code-of-conduct>

