

APPENDIX A

ANTI-BRIBERY POLICY

Policy Statement - Anti Bribery

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

Bribery is a criminal offence. North Hertfordshire District Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor does the Council or will the Council, accept bribes or improper inducements.

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

The Council is committed to the prevention, deterrence and detection of bribery and has a zero-tolerance towards bribery. The Council aims to maintain anti-bribery compliance as ongoing "business as usual", rather than as a one-off exercise.

Objective of this policy

This policy provides a coherent and consistent approach as part of the Council's overall Anti-Fraud and Corruption framework:

http://srvinternet01.north-herts.gov.uk/intracontent/anti_fraud_and_corruption

to enable the Council's employees to understand and implement arrangements enabling compliance. In conjunction with related policies it will also enable employees to identify and effectively report a potential breach.

The Council requires that all personnel:

- act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible
- comply with the spirit, as well as the letter, of the laws and regulations within 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, the Council 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. This policy covers all personnel, whether permanently employed, temporary agency staff, contractors, non-executives, agents, all elected Members, volunteers and consultants. The Chief Executive, Strategic Director of Finance, Policy and Governance and the Monitoring Officer will lead on overseeing the control.

The Council's commitment to action

North Hertfordshire District Council commits to:

- Setting out a clear anti-bribery policy and keeping it up to date;
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times;
- Training all employees as part of the ethics and governance agenda so that they can recognise and avoid the use of bribery by themselves and others;
- Encouraging its employees to be vigilant and to report any suspicions of bribery, providing information as to how to do this;
- 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
- Include appropriate clauses in contracts to prevent bribery.

Offences under the Bribery Act 2010

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)
- failing to prevent bribery (section 7)

Failure by a commercial organisation to prevent bribery is a corporate offence. For the purposes of the Bribery Act 2010, North Hertfordshire District Council is a "*commercial organisation*".

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

Organisations are liable for these fines and if guilty of an offence under section 7 are liable to an unlimited fine.

Defence

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. This is one of the purposes of the Council's Anti-Bribery Policy.

What are “adequate procedures”?

Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the Council. It is for the Council to determine proportionate procedures in the recommended areas of six principles. North Hertfordshire District Council is committed to proportional implementation of these principles.

Proportionate procedures

The Council's procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces 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

The Chief Executive and Strategic Directors and Monitoring Officer are committed to preventing bribery by persons associated with the Council. A culture exists within the Council in which bribery is never acceptable.

Risk Assessment

The Council assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.

Due diligence

The Council applies due diligence procedures, taking 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)

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

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

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 are unofficial payments made to public officials in order to secure or expedite actions.

Gifts and hospitality

This policy must be considered with the Council's Gifts and Hospitality Policy.

http://srvinternet01.north-herts.gov.uk/intracontent/gifts_hospitality.

This makes it clear that the general principles in deciding whether to accept gifts and hospitality are:

1. The presumption is that you should not accept any gift or hospitality in connection with the performance of your duties as an officer of the authority.
2. Never accept a gift or hospitality as an inducement or reward for anything you do in your job.
3. You should only accept a gift or hospitality if there is a commensurate benefit to the authority.
4. Never accept a gift or hospitality if acceptance might be open to misinterpretation.
5. Never solicit a gift or hospitality.

The authority has agreed that you may accept gifts and hospitality in certain circumstances. Details of the consent regimes are given in the policy. If you wish to accept any gifts or hospitality that is not within the consent regime, a special consent form must be completed and approved before the gift or hospitality can be accepted.

The acceptance of a gift or hospitality is governed by the Council's Code of Conduct for Officers:

http://srvinternet01.northherts.gov.uk/intracontent/index/customer_services_directorate/hr/personnel/when_youare_here/code_of_conduct.htm

If this code is breached, it will be a disciplinary matter and in certain circumstances it can be a criminal offence.

Public contracts and failure to prevent bribery

Under the Public Contracts Regulations 2006, a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. The Council has the discretion to exclude organisations convicted of this offence.

Staff responsibilities

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 staff 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

The Council is committed to ensuring that everyone has a safe, reliable, and confidential way of reporting any suspicious activity. The Council wants each and every member of staff to know how they can raise concerns.

Everyone has 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 Confidential Reporting (Whistleblowing) policy for the appropriate channel to raise your concern.

http://srvinternet01.northherts.gov.uk/intracontent/confidential_reporting_whistleblowing.doc

In the event that an incident of bribery, corruption, or wrongdoing is reported, the Council will act as soon as possible to evaluate the situation. The Council has 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:

Katie White, Monitoring Officer on:

01462 474315 or monitoring.officer@north-herts.gov.uk.

Other relevant policies

- Anti-Fraud and Corruption Policy
- Anti-Money Laundering Policy

http://srvinternet01.north-herts.gov.uk/intracontent/anti_fraud_and_corruption_policy

- Confidential Reporting (Whistleblowing) policy

http://srvinternet01.north-herts.gov.uk/intracontent/confidential_reporting_or_whistle_blowing_policy

- Gifts and Hospitality Policy

http://srvinternet01.north-herts.gov.uk/intracontent/gifts_hospitality_policy-2.doc

- Conflicts of Interest Policy

http://srvinternet01.north-herts.gov.uk/intracontent/conflicts_of_interest_policy.doc

- Officer Code of Conduct

http://srvinternet01.north-herts.gov.uk/intracontent/employee_code_of_conduct