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## EAST CAMBRIDGESHIRE DISTRICT COUNCIL

### CONSTITUTION

#### 7. ANTI-FRAUD AND CORRUPTION STRATEGY

##### 1.0 INTRODUCTION

- 1.1 East Cambridgeshire District Council takes its responsibilities to protect the public purse very seriously and is fully committed to the highest ethical standards, in order to ensure the proper use and protection of public funds and assets. The Council has a zero tolerance stance to all forms of fraud, corruption and theft, both from within the Council and from external sources.
- 1.2 Good corporate governance requires that the Council must demonstrate that it is firmly committed to dealing with fraud and corruption and will deal equally with perpetrators both from inside and outside the Council. There will be no distinction made in investigation and action between cases that generate financial benefits and those that do not. This strategy will not compromise any equalities legislation or any associated Council policies.
- 1.3 In addition, by minimising losses through fraud the Council ensures that the scarce resources available are used for the purposes they were intended for i.e. to support the delivery of the objectives set out in the Corporate Plan.
- 1.4 The strategy applies to councillors, employees, contractors/suppliers, partners, consultants, agency and contracted staff, service users, volunteers and members of the public. All are expected to demonstrate integrity and honesty and offer assistance where necessary.
- 1.5 This strategy has been created with due regard to current best practice. It embodies a series of measures designed to frustrate any attempted fraudulent or corrupt act and the steps to be taken if such an act occurs. For ease of understanding, it is separated into five areas:
- Culture Section 2
  - Prevention and responsibilities Section 3
  - Deterrence Section 4
  - Detection and investigation Section 5
  - Awareness and training Section 6

The Council is also aware of the high degree of external scrutiny of its affairs by a variety of bodies such as External Audit, the Local Government Ombudsman, Central Government Departments (including HM Revenue and Customs and the Department for Work and Pensions), and the Media. The Council welcomes such scrutiny.

- 1.6 Fraud is defined as “*the intentional distortion of financial statements or other records by persons internal or external to the Council which is carried out to conceal the misappropriation of assets or otherwise for gain*”.

The Fraud Act 2006 which came into effect on 15th January 2007 created a new general offence of fraud with three ways of committing it: -

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- Fraud by false representation
- Fraud by failing to disclose information
- Fraud by abuse of position

It also created new offences: -

- Obtaining services dishonestly
- Possessing, making and supplying articles for use in frauds
- Fraudulent trading applicable to non-corporate traders

Corruption is defined as “*the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person*”.

In addition, this strategy covers “*the failure to disclose an interest in order to gain financial or other pecuniary benefit*”.

- 1.7 The Council also abides by the provisions of the Bribery Act 2010 that covers, amongst other things, the offences of bribing another person, of accepting a bribe and organisational responsibility. The Council's Policy Statement covering the Bribery Act is included as Appendix A to this strategy.
- 1.8 Theft is defined as “*appropriating property belonging to another with the intention of permanently depriving the other of it*”. Incidents of theft should also be reported to the Council's insurance team at [insurance@eastcambs.gov.uk](mailto:insurance@eastcambs.gov.uk).
- 1.9 The Council further has a money laundering policy aimed at preventing the Council becoming inadvertently involved in such activity. Details of this are included in Appendix B.

## **2.0 CULTURE**

- 2.1 The culture of the Council has always been one of openness and the core values of fairness; trust and value support this. The Council's culture therefore supports the opposition to fraud and corruption.
- 2.2 The prevention/detection of fraud and corruption and the protection of the public purse are everyone's responsibility.
- 2.3 The Council's elected members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, immaterial of seniority, rank or status, in the knowledge that such concerns will, wherever possible, be treated in confidence.
- 2.4 Concerns must be raised when members or employees reasonably believe that one or more of the following has occurred, is in the process of occurring or is likely to occur:
- a criminal offence
  - a failure to comply with a statutory or legal obligation
  - improper unauthorised use of public or other funds
  - a miscarriage of justice
  - maladministration, misconduct or malpractice
  - endangering of an individual's health and safety

- damage to the environment
- deliberate concealment of any of the above.

2.5 Depending on the nature of the concerns, these should initially be raised with a line manager. Where this is not appropriate, or an individual feels unable to do so, the Council's Monitoring Officer, Finance Manager or Internal Audit should be approached. The Council also has a Whistleblowing Policy which enables concerns to be raised in confidence. The Council will ensure that any allegations received in any way, including by anonymous letters or phone calls, will be taken seriously and investigated in an appropriate manner, subject to the requirements of the Human Rights Act 1998.

2.6 The Council will deal firmly with those who defraud the Council, or who are corrupt, or where there has been financial malpractice. There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees raising malicious allegations) may be dealt with as a disciplinary matter.

2.7 When fraud or corruption have occurred because of a breakdown in the Council's systems or procedures, the Chief Executive, Directors and the relevant Service Lead will ensure that appropriate improvements in systems of control are implemented to prevent a reoccurrence. The Council's Internal Audit service will assist in reviewing the control environment and following up on actions arising.

### 3.0 **PREVENTION AND RESPONSIBILITIES**

#### **ELECTED MEMBERS**

##### 3.1 The Role of Elected Members

3.1.1 As elected representatives, all members of the Council have a duty to citizens to protect the Council from all forms of abuse.

3.1.2 This is conducted through the Anti-fraud and Corruption Strategy and compliance with the Code of Conduct for Members, the provisions of the Council's Constitution (including the Council's Financial Procedure Rules) and relevant legislation.

3.1.3 Elected members sign to the effect that they have read and understood the Code of Conduct when they take office. These conduct and ethical matters are specifically brought to the attention of Members during induction and include the declaration and registration of interests. The Monitoring Officer advises Members of new legislative or procedural requirements.

#### **EMPLOYEES**

##### 3.2 The Role of Managers

3.2.1 Managers at all levels are responsible for the communication and implementation of this strategy in their work area. They are also responsible for ensuring that their employees are aware of the Financial Procedure Rules and the provisions of the Council's Constitution, and that the requirements of each are being met in their everyday business activities. In addition, managers must make their employees aware of the requirements of the code of conduct for local government employees through the induction process.

3.2.2 Managers are expected to strive to create an environment in which their staff feel able to approach them with any concerns they may have about suspected

irregularities. All managers must be aware of, and consistently apply, the Council's Whistleblowing Policy.

3.2.3 Special arrangements will apply where employees are responsible for cash handling or are in charge of financial systems and systems that generate payments, for example payroll and the creditor payments systems. Managers must ensure that relevant training is provided for employees. Checks must be carried out at least annually to ensure that proper procedures are being followed.

3.2.4 The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts. The Council's Equal Opportunities Policy will be adhered to during this process.

3.2.5 The Council has a formal recruitment procedure, which contains appropriate safeguards on matters such as written references and verifying qualifications held. As with other public bodies, Disclosure and Barring Service (DBS) checks are undertaken on employees working in regulated activities. Further checks will be introduced in areas where an increased risk of potential fraud and corruption has been identified.

### 3.3 Responsibilities of Employees

3.3.1 Each employee is governed in their work by the provisions of the Council's Constitution, the Financial Procedure Rules and other codes of conduct and policies (e.g. human resources policies and procedures, the email and internet code of practice, and IT security policy). They are also governed by the code of conduct for local government employees. Included in these are guidelines on gifts and hospitality and codes of conduct associated with professional and personal conduct and conflicts of interest. These are issued to all employees when they join the Council or will be provided by their manager.

3.3.2 In addition, employees are responsible for ensuring that they follow the instructions given to them by management, particularly in relation to the safekeeping of the assets of the Council. These will be included in induction training and procedure manuals.

3.3.3 Employees who hold professional, trade or other appropriate qualifications are expected to comply with codes of conduct issued by the organisations of which they are members.

3.3.4 Employees are expected always to be aware of the possibility that fraud, corruption bribery or theft may exist in the workplace and be able to share their concerns with management. If for any reason, they feel unable to speak to their manager they must refer the matter to one of those named in paragraph 3.3.5 below.

3.3.5 Concerns must be raised, in the first instance, directly with the supervisor or direct line manager or, if necessary, anonymously (by letter or phone), and via other routes, in accordance with the Council's Whistleblowing Policy:

- to Service Leads, Directors and the Chief Executive and in all cases to the Council's Monitoring Officer who will report such concerns to the Head of Internal Audit;
- directly to the Head of Internal Audit; or

- to the External Auditor, who, depending upon the nature of the concern, will liaise with the Head of Internal Audit.
- 3.3.6 This strategy, although primarily aimed at those within or associated with the Council, enables concerns raised by the public to be investigated, as appropriate, by the relevant person in a proper manner.
- 3.4 Conflicts of Interest
- 3.4.1 Both elected members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning and land issues, etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.
- 3.5 Internal Control Systems
- 3.5.1 Appropriate policies and procedures will be maintained to ensure that internal controls designed to prevent or detect fraud and corruption are built into the Council's systems of operation.
- 3.5.2 In addition to the Financial Procedure Rules and the provisions of the Council's Constitution, individual service areas may have their own procedures to prevent and detect fraud. There may also be audit reports that recommend methods to minimise losses to the Council. Managers and employees must be made aware of and be expected to adhere to these various sources of guidance and alter their working practices accordingly.
- 3.6 The Role of Internal Audit
- 3.6.1 Under the Accounts and Audit Regulations, the Council has the responsibility for reviewing, appraising and reporting upon the extent to which the Council's assets and interests are safeguarded from losses due to fraud and other offences; this function is performed by Internal Audit. Internal Audit investigates all cases of suspected irregularity, except benefit, council tax discount and national non domestic rates (NNDR) fraud (see below), in accordance with the requirements of the Human Rights Act 1998. They liaise with management to recommend changes in procedures to prevent further losses to the Council.
- 3.7 The Role of the Anglia Revenues Partnership & Single Fraud Investigation Service
- 3.7.1 The Council is responsible for the payment of housing benefit and council tax discounts within the East Cambridgeshire area. This function is provided through the Council's participation with a number of other councils in the Anglia Revenues Partnership (ARP). The Council has a duty to minimise the scope for fraud in this area and protect public funds by ensuring that benefits and discounts are only delivered to those with a true entitlement to them.
- 3.7.2 The Anglia Revenues Partnership (ARP) Fraud and Investigations Team is responsible for all suspected council tax discount fraud and NNDR fraud investigations, in accordance with the requirements of The Regulation of Investigatory Powers Act 2000, the Human Rights Act 1998 and its own Counter Fraud Policy. In cases where employees are involved, they will work with Internal Audit, Human Resources and appropriate senior management to ensure that correct procedures are followed and that this strategy is adhered to.

3.7.3 From September 2015 the investigation of suspected or alleged housing benefit fraud is undertaken by the new Single Fraud Investigation Service, a partnership between the DWP Fraud Investigation Service, HMRC and local authorities.

### 3.8 The Role of External Audit

3.8.1 Independent external audit is an essential safeguard in the stewardship of public money. Whilst detection of fraud is not the primary role of external audit they have a responsibility to review the Council's arrangements to prevent and detect fraud and irregularity, and arrangements designed to limit the opportunity for corrupt practices.

### 3.9 Co-operation with Others

3.9.1 Internal Audit has set up, and will keep under review, procedures and arrangements to develop and encourage the exchange of information on national and local fraud and corruption activity in relation to local authorities with external agencies such as:

- Police
- External Audit
- Professional bodies – including the Chartered Institute of Public Finance and Accountancy
- Central government including the Department for Work and Pensions and HM Revenues and Customs
- Local Government Ombudsman's Office
- Association of Council Secretaries and Solicitors

3.9.2 The Council will also support local forums where matters of anti-fraud and anti-corruption are discussed. These include:

- Cambridgeshire Audit Group
- LGSS Audit and Counter Fraud client base

### 3.10 Data Matching

3.10.1 The Council will participate in national and local data matching exercises as it sees appropriate for the purposes of identifying and reducing fraud, corruption and error.

3.10.2 In particular, the Council takes an active part in the National Fraud Initiative (NFI) as organised by the Cabinet Office. This involves a rolling programme of electronic data extraction, data matching, review and investigation of matched reports and reporting on outcomes. The extracted data is matched with other data from public sector organisations to highlight potential fraudulent activity.

### 3.11 Social Housing Fraud

3.11.1 The Prevention of Social Housing Fraud Act 2013 created new criminal offences of unlawful sub-letting by secure and assured tenants of social housing. This Act supplements existing offences relating to fraudulently obtaining an allocation of social housing and fraudulently obtaining housing benefits. The Act also includes more powers for local authorities to investigate social tenancy fraud through better access to data from banks and utility companies; although councils could previously request

this data, organisations were able to refuse to provide it – under the Act compliance is mandatory.

3.11.2 Social housing fraud is a very significant problem nationally and arises when individuals:

- are allocated a social housing property (a property owned by a registered housing provider or local authority) when they are not entitled to it by lying about their circumstances;
- obtain housing benefit and/or council tax discount they are not entitled to; and
- unlawfully sub-let their social housing property.

3.11.3 Social housing fraud prevents housing from being properly allocated to the people who need it most. It also undermines confidence in the housing allocation system while preventing and detecting fraud stops public money being wasted.

3.11.4 Members of the public are encouraged to report their concerns via the dedicated fraud reporting mailbox - [reportfraud@eastcambs.gov.uk](mailto:reportfraud@eastcambs.gov.uk)

#### **4.0 DETERRENCE**

4.1 The best deterrent is a clear framework of processes and responsibilities, which make fraud and corruption hard to perpetrate and will be likely to expose fraud and corruption at the earliest opportunity. The following are those related policies and documents that support the anti-fraud and anti-corruption culture:

- Constitution – which includes the Financial Procedure Rules, Member Code of Conduct and Contract Procedure Rules
- Employee Code of Conduct
- Whistleblowing Policy
- Fraud Response Plan

4.2 The risk of fraud cannot be dealt with in isolation. Management of the risk of fraud is a key aspect of corporate governance and it is essential that all members and staff should have a level of understanding of this strategy. However, some individuals have specific leadership roles and responsibilities and these are identified within Section 3 (Prevention) above.

4.3 Prosecution and recovery

4.3.1 Wherever possible the following actions will be taken where investigation supports suspicions of fraudulent or corrupt activity:

- appropriate disciplinary action will be taken in accordance with the Council's disciplinary procedures
- criminal proceedings will be brought whenever appropriate, should the Crown Prosecution Service decide a prosecution can be pursued
- civil proceedings will be brought to recover lost assets whenever appropriate

- 4.3.2 Other forms of redress to recover losses (such as making a claim against insurance cover or recovering from pension funds) or to prevent further fraudulent activity by the perpetrator, (such as notifying their professional body) will also be used wherever appropriate.
- 4.3.3 Sanctions applied in relation to cases of housing benefit and/or council tax discount fraud will be applied in accordance with the ARP Counter Fraud Policy. Options include formal cautions, administrative penalties and prosecution.
- 4.4 Disciplinary Action
  - 4.4.1 Theft, fraud and corruption are serious offences against the Council and employees will face disciplinary action if there is evidence that they have been involved in these activities. Disciplinary action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case, but in a consistent manner, after consultation with the Chief Executive (the police will pass valid cases to the Crown Prosecution Service).
  - 4.4.2 Members will face appropriate action under this strategy if they are found to have been involved in theft, fraud or corruption against the Council. Action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case, but in a consistent manner including possible referral to the police. If the matter is a breach of the Code of Conduct for Members then it will be dealt with in accordance with the arrangements agreed by the Council in accordance with the Localism Act 2011.
- 4.5 Publicity
  - 4.5.1 The Council's public relations unit will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. They will also try to ensure that the results of any action taken, including prosecutions, are reported in the media.
  - 4.5.2 In all cases where financial loss to the Council has occurred, the Council will seek to recover the loss and advertise this fact. In addition to demonstrating the action the Council takes to prevent and detect fraud, it protects itself and the services it provides against the results of fraud within the organisation by obtaining Fidelity Guarantee Insurance.
  - 4.5.3 All anti-fraud and corruption activities, including the update of this strategy, will be publicised in order to make members, employees and the public aware of the Council's commitment to taking action on fraud and corruption when it occurs.
  - 4.5.4 Reports will be made to the Finance and Assets Committee about countering fraud and corruption activities and their success when appropriate.

## **5.0 DETECTION AND INVESTIGATION**

- 5.1 Internal Audit plays an important role in the detection of fraud and corruption. Included in its strategic plan are reviews of system financial controls and specific fraud and corruption tests, spot checks and unannounced visits.
- 5.2 In addition to Internal Audit, there are numerous systems controls in place to deter fraud and corruption, but it is often the vigilance of employees and members of the public that aids detection.



- 5.3 In some cases frauds are discovered by chance or 'tip-off' and arrangements are in place to enable such information to be properly dealt with, in accordance with the requirements of the Human Rights Act 1998.
- 5.4 All suspected irregularities are required to be reported (verbally or in writing) either by the person with whom the initial concern was raised or by the originator, as per paragraph 3.3.5 (including via the Council's Whistleblowing Policy). External Audit will also be notified of all frauds involving sums over £10,000 and any corrupt acts. This is essential to the strategy, and:
- ensures the consistent treatment of information regarding fraud and corruption; and
  - facilitates a proper and thorough investigation by an experienced audit team, in accordance with the requirements of the Human Rights Act 1998.
- 5.5 This process will apply to all the following areas:
- a) fraud/corruption by elected members
  - b) internal fraud/corruption
  - c) other fraud/corruption by Council employees
  - d) fraud by contractors' employees
  - e) external fraud (the public).
- 5.6 Cases under a), d) and e) would normally be referred directly to the External Auditor, Ombudsman or the police.
- 5.7 If the initial investigation reveals that a full investigation is warranted the Council will invoke the Council's Fraud Response Plan and where applicable the Council's Disciplinary Procedure.
- 5.8 Any decision to refer a matter to the police will be taken by the Chief Executive in consultation with the Head of Internal Audit, Chief Financial Officer and Monitoring Officer. The relevant Director and Service Lead will be notified if appropriate. The Council will normally wish the police to be made aware of, and investigate independently, offences where financial impropriety is discovered. Any internal investigation will be conducted professionally and in consultation with the police so as to avoid jeopardising any evidence or potential outcomes of related criminal investigation.
- 5.9 Depending on the nature of an allegation under b) to e), Internal Audit will normally work closely with the relevant Director and Service Lead concerned and the Chief Financial Officer to ensure that all allegations are thoroughly investigated and reported upon.
- 5.10 The Council's disciplinary procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. The processes as outlined in paragraph 4.4.2 will cover members.
- 5.11 If there is a suspicion that an offence of money laundering may have taken place the Money Laundering Reporting Officer (Finance Manager) may refer the matter to the National Crime Agency. Further details are provided in Appendix B to this strategy.

## **6.0 AWARENESS AND TRAINING**

- 6.1 The Council recognises that the continuing success of this strategy and its general credibility will depend in part on the effectiveness of programmed training and an awareness of fraud by elected members and employees across the Council.

- 6.2 To facilitate this, positive and appropriate provision has been made via induction and for employees via their development plans. This includes specialist training for certain elected members and employees.
- 6.3 A leaflet on the Council's Whistleblowing Policy is distributed to all employees and members, and full copies of all relevant policies and strategies are available on the Council's Intranet.

## **7.0 CONCLUSION**

- 7.1 The Council has always prided itself on setting and maintaining high standards and a culture of openness, with core values of fairness, trust and value. This Strategy fully supports the Council's desire to maintain an honest organisation, free from fraud and corruption
- 7.2 The Council has in place a network of systems, policies and procedures to assist it in dealing with fraud and corruption when it occurs. It is determined that these arrangements will keep pace with any future developments in techniques to both prevent and detect fraudulent or corrupt activity that may affect its operation.
- 7.3 The Council will maintain a continuous review of all these systems and procedures through Internal Audit. This strategy will be reviewed periodically to ensure that it remains compliant with good practice and meets the needs of the Council.

## **Appendix A**

### **BRIBERY ACT 2010 - POLICY STATEMENT**

Bribery is a criminal offence. We (East Cambridgeshire District Council) do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, neither 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 a zero-tolerance towards bribery. We aim to maintain anti-bribery compliance “business as usual” rather than as a one-off exercise.

#### **Objectives of this policy**

This policy statement provides a coherent and consistent framework to enable East Cambridgeshire District Council employees to understand and implement arrangements to comply with the requirements of the Bribery Act 2010. In conjunction with other related policies and key documents, it will also enable employees to identify and effectively report a potential breach.

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

- 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 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 Council. It does not rest solely within assurance functions, but in all service area and functions.

This policy covers all staff, including all levels and grades, those permanently temporary employed, temporary agency staff, contractors, agents, 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 aware of their responsibilities to adhere strictly to this policy

- training all employees so that they can recognise and avoid the use of bribery by themselves and others
- encouraging employees 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 to report breaches and suspected breaches of this policy
- include appropriate clauses in contracts to prevent bribery.

### **Definition of bribery**

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

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**

The Council’s policy regarding the acceptance of gifts or hospitality from a third party is set out in the Officer Code of Conduct.

### **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 and so the Council has the discretion to exclude organisations convicted of this offence.

## **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)
- failing 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.

## **Is the 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 will 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.

## **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 twelve months, or to a fine not exceeding £5,000, or both
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both

Organisations guilty of an offence under section 7 are liable to an unlimited fine. In addition a public exposure, or even an allegation, of bribery would entail severe reputational damage.

Bribery is a serious offence against the Council and employees will face disciplinary action if there is evidence that they have been involved in this activity, which could result in dismissal

for gross misconduct. Disciplinary action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case.

## 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. The Government considers that procedures put in place by commercial organisations wishing to prevent bribery being committed on their behalf should be informed by six principles:-

- Proportionality
- Top level commitment
- Risk assessment
- Due diligence
- Communication (including training)
- Monitoring and review

These principles are not prescriptive, but are intended to be flexible and outcome focussed, allowing for the different circumstances of organisations. For example, small organisations will face different challenges to those faced by large multi-national enterprises. The detail of how organisations apply these principles will vary, but the outcome should always be robust and effective anti-bribery procedures.

The Council is committed to proportional implementation of these principles.

## Anti Bribery procedures

The Council's Anti Bribery procedures cover the six principles detailed above:-

**Proportionality** – The Council has reviewed a number of its policies to ensure that it has in place procedures to prevent bribery by persons associated with it. These will be proportionate to the bribery risks faced by the Council and to the nature, scale and complexity of the Council's activities.

**Top level commitment** – The Chief Executive, Directors and Service Leads are committed to preventing bribery by persons associated with it. They 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 by persons associated with it will be 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.

**Communication (including training)** – The Council will seek to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal communication, including training that is proportionate to the risks it faces.

**Monitoring and review** – Procedures designed to prevent bribery will be monitored and reviewed and improvements made where necessary.

### **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 the policy.

You must therefore:-

- 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 the 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**

If you have a concern regarding a suspected instance of bribery or corruption then you can report this through the Council's whistle blowing procedure where concerns can be made anonymously. In the event that an incident of bribery is reported, we will act as soon as possible to evaluate the situation.

If you have any questions about these procedures, please contact Trevor Bowd, Principal Auditor on 01353 616219 or email [trevor.bowd@eastcambs.gov.uk](mailto:trevor.bowd@eastcambs.gov.uk)

## **Appendix B**

### **Anti-Money Laundering – Policy statement**

#### **Introduction**

The Proceeds of Crime Act 2002, the Terrorism Act 2000 and Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 place obligations on the Council and its employees to establish internal procedures to prevent the use of their services for money laundering and the prevention of terrorist financing. The Council must also appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity.

We are committed to robust arrangements to identify and prevent any attempts to use East Cambridgeshire District Council to launder money. Offences under money laundering legislation may be committed by individuals or organisations, and money laundering is widely defined as “possessing, concealing, disguising or in any way dealing with the proceeds of any crime by any person known or unknown”.

When a person knows or suspects that money laundering activity is taking place (or has taken place), or becomes concerned that their involvement in a matter may amount to a prohibited act under the legislation, they must report this as soon as practicable to the Money Laundering Responsible Officer (MLRO) or risk prosecution. Offences under the Proceeds of Crime Act and Money Laundering Regulations can attract penalties of unlimited fines and up to 14 years imprisonment.

This policy has been written so as to enable us to meet the legal requirements in a way that is proportionate to the risk of contravening the legislation. It also serves to protect the Council's employees through making them aware of their personal obligations and providing a mechanism for them to raise any issues of concern.

#### **Scope**

This policy applies to all employees and agency workers.

This policy aims to maintain the high standards of conduct that currently exist within by preventing criminal activity through money laundering. The separate Anti-Money Laundering - Employee Guidance sets out the steps that must be followed to comply with its legal obligations.

Further information is set out in the Anti-Money Laundering - Employee Guidance which is available to all staff.

#### **Definition**

The introduction of the Proceeds of Crime Act 2002 and the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 has broadened the definition of money laundering and has widened the range of activities controlled by the statutory framework. Money laundering has been defined as:

- concealing, disguising, converting, transferring or removing criminal property from the UK;
- entering into or becoming concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property;



- acquiring criminal property, using criminal property; or possession of criminal property.

These are the primary money laundering offences and thus prohibited acts under the legislation. In addition, an offence of “Tipping off” can be committed should an individual make a disclosure that is likely to prejudice a current or potential investigation into any potential money laundering.

Potentially any employee could contravene the money laundering provisions if they know or suspect money laundering and either become involved with it in some way and/or do nothing about it.

Whilst the risk of contravening the legislation is low, it is extremely important that all employees are familiar with their legal responsibilities - serious criminal sanctions may be imposed for breaches of the legislation.

### **Council obligations**

To comply with statutory obligations we have:

- Nominated a Money Laundering Reporting Officer (“MLRO”) to receive disclosures from employees of money laundering activity;
- Nominated a deputy Money Laundering Reporting Officer; and
- Implemented a procedure to enable the reporting of suspicions of money laundering and communicated this policy to members of staff.

### **The Money Laundering Reporting Officer**

The officer nominated to receive disclosures concerning potential money laundering activity is the Council’s Finance Manager and their contact details are set out in the Anti-Money Laundering - Employee Guidance. Also provided within the employee guidance is a template form for making a referral to the Finance Manager.

In the absence of the Finance Manager, the Deputy Money Laundering Reporting Officer is the Senior Accountant.

Contact details for the Money Laundering Reporting Officer and Deputy are provided on the Council’s intranet pages and the supporting employee guidance.

### **Further information**

If you have any questions about these procedures, please contact Trevor Bowd, Principal Auditor on 01353 616219 or email [trevor.bowd@eastcambs.gov.uk](mailto:trevor.bowd@eastcambs.gov.uk)