APPENDIX C

Bribery Act Policy and Procedure

Document Control

Document Ref:		**Date Created:**	
Version:	1.3	**Date Modified:**	
Revision due			
Author:	Julie Gillhespey, Internal Audit Manager	**Sign & Date:**	
Owning Service	Strategy & Governance (Internal Audit)		
Equality Impact Assessment: (EIA)	Date undertaken:	No Applicable	
	Issues (if any):		

Audit and Risk Committee	Sign & Date:	

Change History

Version	Date	Description	Change ID
0.1	June 2019	Initial draft.	
0.2	Sept 2019	Amendments from Finance and Governance Group review	JB
1.0	Nov 2019	Approved by G&E Committee	JB
1.1	Nov 2022	3 year review; Reviewed and Agreed with no further changes by Governance and Finance Group Dec 2022.	JB
1.2	June 2023	Revisions made after discussion at Corporate Board	JG
1.3	October 2026	3 year review, minor changes e.g. post title updates	SB/JG

West Berkshire COUNCIL

Contents

1. Purpose 3
2. Applicability 3
3. Policy 3
4. Implementation 4
5. Roles and Responsibilities 4
6. Gifts and Hospitality 5
7. Failure to comply with WBC Bribery Act Policy 5
8. Raising a Concern 5
9. Review 6

Glossary 7

Other Relevant Documentation 7

1. Purpose

1.1 The Council is committed to implementing and enforcing effective systems to prevent or counter any act of bribery. It is the Council's policy to conduct all aspects of its business in an honest and ethical manner at all times.

1.2 The purpose of this policy is to explain how the Council intends to maintain high standards and to protect the organisation, employees, Members and business partners against actual occurrences/or allegations of bribery and corruption.

1.3 The aim of this policy is to help the Council act in accordance with the Bribery Act 2010, maintain the highest possible standards of business practice, and advise individuals of the Council's 'zero-tolerance' to bribery.

1.4 Bribery is defined as the offering, giving, receiving or soliciting of any item of value to influence the actions of an official or other person in charge of a public or legal duty. The act of bribery is the intention to gain a personal, commercial, regulatory or contractual advantage. Bribery is a criminal offence, there are four key offences under the Bribery Act 2010:

- Section 1 – Bribery of another person
- Section 2 – Accepting a bribe
- Section 6 – Bribery of foreign public officials
- Section 7 – Failure of organisations to prevent bribery.

1.5 Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions. These are not tolerated and are illegal.

1.6 This Policy/Guidance has been approved by the Audit and Risk Committee.

2. Applicability

2.1 This Policy applies to:

a. All non-school based employees working for the Council, including those working from home or at non-Council locations.

b. Other persons including Elected Members, Consultants, Agency staff and Contractors working for the Council, external organisations working with the Council, whilst engaged on Council business.

2.2 It is the responsibility of each employee and other person mentioned in Section 2.1 to familiarise themselves with and adhere to this Policy.

2.3 Adherence to this Policy is a condition of working for the Council or using its assets.

3. Policy

3.1 It is the Policy of the Council to ensure that the Council and all persons acting within or on behalf of the Council, shall not:

a. Make contributions of any kind with the purpose of gaining an advantage;
b. Provide gifts or hospitality with the intention of persuading anyone to act improperly, or to influence a public official in the performance of their duties; or
c. Make, or accept, inducements of any kind.

3.2 The Council commits to:

a. Setting out a clear Bribery Act (anti-bribery) Policy and keeping this up-to-date with regular reviews;
b. Making all Members, employees and partners aware of their responsibilities to adhere to this policy at all times;
c. Providing training, where appropriate, to allow Members, employees and partners to recognise and avoid the use of bribery by themselves or others;
d. Encouraging Members, employees and partners to be vigilant and to report any suspicions of bribery;
e. Providing suitable channels of communication (e.g. the Whistleblowing Procedure) to ensure that sensitive information is handled appropriately;
f. Investigating instances of alleged bribery and assisting the police and other authorities in any prosecution;
g. Taking action against anybody acting for or on behalf of the Council who is involved in bribery;
h. Reporting breaches and suspected breaches of this policy to Members, employees and partners in an open and transparent way; and
i. Including appropriate clauses in contracts with suppliers to advise on the Council's approach to the provisions of the Bribery Act 2010.

4. Implementation

This Policy is supported and implemented by the Procedures and Guidance which form part of this document.

5. Roles and Responsibilities

5.1 The responsibility for day-to-day mitigation of the risk of bribery resides at all levels of the Council and includes all directorates. It does not rely solely on the Council's assurance functions.

5.2 All managers are directly responsible for implementing this Policy and any sub policies and procedures within their service areas, and for the adherence of their staff and others (as stated in 2.1).

Managers should:

a. Keep appropriate internal records that will evidence the business reason for making any payments to third parties;
b. Encourage employees to raise concerns about any issues or suspicion of malpractice at the earliest possible stage; and
c. Ensure that anyone raising a concern about bribery will not suffer any detriment as a result, even if their concerns are not validated, providing there is no malicious intent.

5.3 All personnel detailed at 2.1 have an individual responsibility to adhere to this Policy.

Employees/Members must not:

a. Accept any financial or other reward from any person in return for securing a particular outcome;
b. Request a financial or other reward from any person in return for providing some favour;
c. Offer any financial or other reward to any person in return for providing some favour.

5.4 Employees/Members have an obligation to report any offer of an inducement – financial or otherwise.

5.5 Responsibilities for the internal investigation of any allegations of bribery (which may fall within the remit of a code of conduct review) are set out in section 5 of the Council's Anti-Fraud and Corruption Policy.

6. Gifts and Hospitality

6.1 This policy is not intended to change the requirements of the Council's Gifts and Hospitality policies and procedures. This is contained in the West Berkshire Officers Code and in the Members Code of Conduct in the Council's Constitution.

6.2 The guidelines clearly set out the restrictions on accepting gifts and hospitality, the need to inform the manager and the need to register any approved gifts that are retained.

6.3 If there is any doubt about whether an invitation or gift should be accepted then the offer should be refused. Each Service Director is required to maintain a Gifts and Hospitality Register (Officer's Code of Conduct). The Monitoring Officer will ensure that reminders on this subject and the need for officers to complete a Register of Interests form are sent out every year.

6.4 Gifts and hospitality declared are reported to the Personnel Committee, as part of the Monitoring Officer's review of governance.

6.5 The procedures for Members' registers of interest are set out in the Members' Code of Conduct.

7. Failure to comply with the Bribery Act Policy

7.1 All employees have a role to play in enforcing the policy and are required to report any suspected breach in accordance with the Council's Whistleblowing Procedure.

7.2 This document provides staff and others with essential information regarding the Bribery Act, and sets out conditions to be followed. It is the responsibility of all to whom this Policy document applies to adhere to these conditions. Failure to do so may result in:

a. Withdrawal of access to relevant services
b. Informal disciplinary processes
c. Formal disciplinary action
d. Complaint and action under the Members Code of Conduct.

7.3 The Council will not tolerate bribery or corruption by its councillors, employees, suppliers, contractors, partners or service users and will take all necessary steps to investigate all allegations of bribery or corruption and pursue sanctions available in each case, including removal from office, disciplinary action, dismissal and/or prosecution under the Bribery Act 2010.

8. Raising a Concern

8.1 Staff are encouraged to raise any concerns with their manager. In addition, the Council has published a Whistleblowing Procedure (published on the Internal Audit webpage). This provides information on the courses of action available to report serious concerns (including bribery) in confidence.

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

8.3 Members, staff or partners who refuse to accept the offer of a bribe may worry about the repercussions. The Council is committed to ensuring that nobody suffers detrimental treatment through refusing to take part in bribery.

9. Review

This policy will be reviewed to respond to any changes in legislation/good practice, and at least every three years.

Glossary

Bribery Act 2010

The Bribery Act 2010 came into force in the UK on 1st July 2011. It amends and reforms the UK criminal law and provides a modern legal framework to combat bribery in the UK and internationally. Staff need to be aware of their obligations under this Act, which sets out the criminality of accepting and giving of bribes. This applies to both individual staff and the council corporately. The Bribery Act creates the following four offences:

- Active bribery: promising or giving a financial or other advantage;
- Passive bribery: agreeing to receive or accepting a financial or other advantage;
- Bribery of foreign public officials; and
- The failure of commercial organisations to prevent bribery by an associated person (corporate offence)

The penalty under the Bribery Act is an unlimited fine and/or imprisonment up to a maximum of 10 years.

Other Relevant Documentation

The following policies, procedure documents and codes of conduct should be read in conjunction with the Bribery Act Policy:

- Council Constitution
- Anti-Fraud and Corruption Policy
- Anti-Money Laundering Policy
- Whistleblowing Policy and Procedure
- Officers Code of Conduct
- Disciplinary Procedure
- Members Code of Conduct