



Appendix 2

# Anti-Fraud, Corruption & Bribery Policy

Internal Audit Manager

October 2019



# **Arun District Council**

## **Anti-Fraud, Corruption & Bribery Policy**

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# 1 INTRODUCTION

## 1.1 Strategy

- 1.1.1 The Council recognises that the risk of loss through theft, fraud or corruption, both internal and external, is a part of business life that needs to be managed effectively in support of the Council's corporate objectives.
- 1.1.2 The Council is committed to the prevention, deterrence, detection and investigation of fraud, corruption and bribery. By means of the implementation and operation of effective processes and controls, it aims to:-
- review the nature and likelihood of the fraud, corruption and bribery risks that the Council faces
  - reduce the likelihood of such events occurring
  - ensure any such events are promptly and effectively detected and investigated
  - reduce to a minimum the losses incurred by the Council
  - proactively improve processes and controls to counter new and existing threats
  - raise the awareness of Officers and Members in this area
  - promote a culture of honesty and propriety.
- 1.1.3 This Policy document has been developed by the Council to set out for Members, employees, the general public and other organisations the Council's policy and approach to fraud, corruption and bribery risk management and the processes and responsibilities involved in its counter-fraud framework.

## 1.2 The Aim of the Policy

- 1.2.1 Arun District Council is committed to working in partnership to secure a better quality of life for all. This Anti-Fraud, Corruption and Bribery Policy sets out the Council's commitment to help achieve this. It defines the corporate framework for the prevention, detection and investigation processes and actions to be taken in response to:-
- fraud
  - obtaining property or services by deception
  - bribery or corruption.
- 1.2.2 The Policy should be read in conjunction with the Council's Code of Corporate Governance (published on the Council's website) which sets out the systems and frameworks by which the Council is directed and controlled, much of which seeks to ensure high standards of probity.

## 1.3 Definitions

This Policy covers:-

- 1.3.1 Fraud - which, for the purposes of this Policy includes:-
- an undisclosed theft or misappropriation of an organisation's assets – physical or intellectual.

- an intentional false representation of financial information or other records, which induces one or more parties into an action which results in financial loss to the organisation.
- an intentional “perversion of truth” or a “false misrepresentation of a matter of fact”, which induces another person to “part with some valuable thing belonging to them or to surrender a legal right”.

Fraud includes such acts as criminal deception, forgery, theft, conspiracy, collusion, corruption, and falsification.

1.3.2 Obtaining property or services by deception - this will cover any deception (whether deliberate or reckless) by words or conduct to dishonestly obtain:-

- property belonging to another with the intention to permanently deprive the other of it
- services from another on the understanding that the benefit has been, or will be, paid for.

1.3.3 Corruption/Bribery - which includes the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.

## **2 PREVENTION**

### **2.1 The Role of Elected Members**

2.1.1 Policy decisions within the Council are made by elected Members who are subject to election every four years. All Members are expected to operate within the adopted Members’ Code of Conduct detailed in Part 8, Section 2 of the Council’s Constitution. The latest version of the Code was adopted by the Council in November 2017. This was also adopted by most Town and Parish Councils within the District, although a small number have continued with their own Code of Conduct). Elected Members are required on accepting office to declare that they will observe the Code, which includes the requirement to disclose any ‘pecuniary’ or ‘personal’ interests, and to complete the Register of Members Interests within 28 days of election. These matters are specifically brought to the attention of Members during their induction training.

2.1.2 The Council’s Constitution sets out:-

- how the Council operates
- how decisions are made
- the procedures to be followed to ensure that these are transparent and accountable.

It is divided into 9 Parts which provide the basic rules governing the Council’s business.

2.1.3 The Council expects its Members to lead by example and act with integrity, following the 7 ‘Nolan’ principles, published by the Committee on Standards in Public Life and detailed in Part 8, Section 1 of the Council’s Constitution. These are:-

- selflessness

- integrity
- objectivity
- accountability
- openness
- honesty
- leadership.

For more details please see Appendix B.

## **2.2 The Role of the Standards Committee**

- 2.2.1 The Local Government Act 2000 sets out an ethical framework which required the establishment of a Standards Committee. The Council's Standards Committee, established under the Act, has a duty to promote and maintain high standards of conduct by councillors and co-opted members, and to monitor and assist them in observing the Members' Code of Conduct.
- 2.2.2 The Committee is comprised of 9 Members (to include no more than one Member of the Cabinet) and 2 independent persons, who are neither Members nor officers of the Council and are also not relatives / close friends of Members / officers. The Chairman of the Committee is appointed annually by Full Council.
- 2.2.3 An Assessment Panel has been established with the power to conduct a hearing, take decisions and determine sanctions in relation to an allegation that a member has failed to comply with the Members' Code of Conduct where the matter is referred to the Monitoring Officer by way of a complaint.
- 2.2.4 The revised Local Assessment Procedure, setting out how a complaint against a Councillor is dealt with, was approved by Full Council in November 2017, with some further changes agreed in March 2018. This Procedure applies to all Arun District Councillors and Town/Parish Councillors within the Arun District.

## **2.3 The Role of the Head of the Paid Service**

- 2.3.1 The Local Government and Housing Act 1989 requires that each local authority appoint a Head of the Paid Service.
- 2.3.2 The Head of the Paid Service (Chief Executive) is responsible for preparing reports relating to the organisation of the authority's staff, staffing needs and co-ordination of the way in which the authority's functions are discharged.

## **2.4 The Role of the Monitoring Officer**

- 2.4.1 The Local Government and Housing Act 1989 requires that each local authority appoint a Monitoring Officer. The Council's Monitoring Officer (Group Head of Council Advice & Monitoring Officer) has a key role in promoting and maintaining high standards of conduct within the authority. The Monitoring Officer advises Members of new legislative or procedural requirements and will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety and probity issues.

- 2.4.2 The Monitoring Officer is responsible for ensuring lawfulness and fairness of decision making. After consulting the Head of the Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or to the Executive in relation to an executive function if it is considered that any proposal, decision or omission has given rise to maladministration.
- 2.4.3 The Monitoring Officer may not be the Head of the Paid Service or Chief Finance Officer, and must act in accordance with the Protocol on Member/Officer Relations set out in Part 8, Section 4 and his/her delegated responsibilities/powers as defined in Part 4 of the Council's Constitution.

## **2.5 The Role of the Chief Financial Officer**

- 2.5.1 The Group Head of Corporate Support is the Council's Chief Financial Officer and is the employee who, by virtue of Section 151 of the Local Government Act 1972, is responsible for the administration of the financial affairs of the Council.
- 2.5.2 The Accounts and Audit Regulations 2015 require that accounting systems determined by the responsible financial officer be observed. They also require accounts and supporting records of the Council to be maintained in accordance with proper practices and kept up to date. These Regulations include explicit requirements for authorities to be responsible for their financial management and system of internal control (Regulation 3); and a requirement for authorities to undertake an effective internal audit, taking into account public sector internal auditing standards or guidance (Regulation 5).
- 2.5.3 These requirements mean, in particular, that any employee with responsibility for financial transactions must ensure that they have control systems which (as a minimum):-
- ensure that financial transactions are promptly and accurately recorded
  - enable the prevention and detection of inaccuracies and fraud, and the reconstitution of any lost records
  - ensure that risk is appropriately managed.

## **2.6 The Role of Internal Audit**

- 2.6.1 The legal basis for Internal Audit is contained within Regulation 5 of the Accounts and Audit Regulations 2015.
- 2.6.2 The Internal Audit Manager shall be notified of all cases of suspected irregularity, except housing and benefit fraud investigations, and should investigate as necessary, in accordance with the Council's Constitution and Financial Regulations. The Council now has a specialist Housing Fraud Investigator and investigation into housing benefit fraud will now be handled by the DWP's Single Fraud Investigation Services (SFIS), although the Council is still responsible for investigating fraud relating to its local Council Tax Reduction Scheme (CTRS).
- 2.6.3 Internal Audit provide independent assurance that management has put in place proper arrangements for the governance of their affairs and the stewardship of the resources at their disposal in order to safeguard the Authority from losses due to inefficient administration, irregularity and fraud.

- 2.6.4 Internal Audit will advise the Group Head of Corporate Support on the soundness, adequacy and application of internal controls in relation to all financial systems and provide management with assurance and advice on their financial and operational systems and controls. This includes recommendations for changes in controls and procedures and advice on the development of any new systems or initiatives to reduce the risk of fraud and irregularity.
- 2.6.5 The requirement for external review of the Council's accounts is established under the Local Audit & Accountability Act 2014 (LAAA) and the Council's external auditor also considers the Council's arrangements for combating fraud and corruption on an annual basis. Internal Audit carries out an ongoing review of the Council's systems assessing the adequacy of control arrangements.

## **2.7 The Role of Management**

- 2.7.1 Management has a crucial role to play in the prevention and detection of fraud and irregularities. They are responsible for maintaining an adequate system of internal control and ensuring that resources are properly applied as intended. This includes responsibility for the prevention and detection of fraud and other illegal acts.
- 2.7.2 Managers at all levels are responsible for the implementation and communication of this Anti-Fraud, Corruption and Bribery Policy to all staff in their work area. They are also responsible for ensuring employees are aware of the Council's Constitution, Standing Orders and Financial Regulations and that the requirements of each are being met in their everyday business activities. The Council's Code of Corporate Governance explains how the Council is directed and controlled and seeks to ensure high standards of probity.
- 2.7.3 Managers are expected to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. Any concern about fraud or misconduct must be treated seriously and followed up promptly in accordance with the Council's Constitution or through the Council's Confidential Reporting (Whistleblowing) Policy. Failure to observe these procedures may result in the authority being unable to take the appropriate actions, or may even constitute a breach of the human rights of those subjected to any investigation.
- 2.7.4 Managers must ensure that where employees are responsible for cash handling or are involved in the operation of financial systems (e.g. payroll, benefits, council tax, etc.) relevant training in the proper procedures to be followed is provided and updated as necessary.
- 2.7.5 Managers are required under the Council's Financial Regulations to report any suspected irregularity in the exercise of the functions of the Council to the Internal Audit Manager, who shall take steps as considered necessary by way of investigation and report.



## **2.8 The Role of Employees**

- 2.8.1 The public is entitled to demand the highest standard of conduct from local government officers. Public confidence in an Officer's integrity would be shaken were the least suspicion to arise that s/he could in any way be influenced by improper motives. With this in mind, Officers are bound by the Council's adopted local Officers' Code of Conduct. The Code outlines existing laws, regulations and conditions of service, provides guidance to assist employees in their day to day work and includes detailed requirements concerning the declaration and registration of personal interests and hospitality and gifts.
- 2.8.2 S117(1) of the Local Government Act 1972 (disclosure by Officers of interests in contracts) and S117(2) also forbid an Officer under cover of his/her employment to accept any fee whatsoever as reward, other than proper remuneration.
- 2.8.3 Employees are also bound by the Statement of Particulars of Employment, issued to all new employees, which contains details of the Officers' Code of Conduct, political restrictions in relation to certain posts which prevent Officers from also becoming Members, the use of confidential information and personal information under the General Data Protection Regulation/Data Protection Act 2018.
- 2.8.4 All employees should be alert to the possibility of fraud and corruption in the workplace. Concerns must be raised in the first instance with their manager, who should notify the Internal Audit Manager in accordance with the Council's Constitution or through the Council's Confidential Reporting Policy which includes a procedure for "whistleblowing". The Council also has a Complaints Procedure for handling comments, representations, and criticisms of policy and formal complaints.
- 2.8.5 All employees are made aware of the Council's Constitution and are expected to follow the Council's Standing Orders and Financial Regulations and any other relevant policies and legislation in the conduct of any business transacted on behalf of the Council. New employees receive appropriate induction information/training, which shall include awareness of the Anti-Fraud, Corruption and Bribery Policy.
- 2.8.6 All staff should act in accordance with the general principles of public life (see section 2.1.3 above).

## **2.9 The Role of External Agencies**

- 2.9.1 Internal Audit 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:-
- external audit (currently provided by Ernst & Young LLP)
  - national and local liaison groups (e.g. Cabinet Office, National Anti-Fraud Network, CIPFA Better Governance Forum, Sussex Audit Group)
  - the Police.

## **2.10 The Procurement of Goods and Services**

2.10.1 The Council's Constitution, which incorporates Contract Standing Orders and Financial Regulations, provides a framework for entering into contracts for the procurement of goods and services. Such contracts are also subject to the procedures and restrictions contained in all relevant statutory provisions.

## **2.11 Information Security**

2.11.1 The Council's Information Security Policy sets out the policy of the Council regarding the security of its computer systems and to guarantee the confidentiality, integrity and availability of District Council information and systems. It also sets out procedures to ensure that sensitive information is protected from unauthorised disclosure and the accuracy and completeness of that information is safeguarded.

2.11.2 The Acceptable Usage Agreement describes what is acceptable and what is unacceptable in terms of use of Council systems including the Internet and e-mail system.

2.11.3 The Officers' Code of Conduct and Statement of Particulars of Employment also includes provisions concerning access to information, confidentiality and the use of passwords.

## **2.12 Recruitment and Selection Procedures**

2.12.1 The Council's Recruitment and Selection Policy (maintained by Human Resources) outlines the procedures to be followed in the recruitment and selection process.

2.12.2 In particular, the Council's application form requires, amongst other things, a minimum of two referees be provided, the disclosure of all relationships with other employees or Members and convictions for criminal offences, including bind-overs and cautions. If successful at interview, candidates are also required to produce evidence of qualifications and work permits, where appropriate. The Local Authorities (Standing Orders) (England) Regulations 2001 prescribe the procedure to be followed in respect of the appointment of Chief Officers and their dismissal in the event of misconduct.

2.12.3 The Council's Officers' Code of Conduct requires that where employees are involved in appointments, these should be made on the basis of merit. An employee must not be involved in any appointment where they are related to the applicant or have a close personal relationship with them.

## **3 DETERRENCE**

### **3.1 Referral to Police and Prosecution**

3.1.1 Where fraud is suspected, consideration should be given to referring the case to the Police for subsequent prosecution. The decision to involve the Police should be made by the relevant Director, in conjunction with the Internal Audit Manager,

and will depend on how significant the suspected fraud is and the resources available to present a case to the Police. The involvement of the Group Head of Corporate Support is recommended and, in particularly serious cases, the Chief Executive should be consulted.

### **3.2 Discipline and Dismissal of Staff**

3.2.1 Breach of the Officers' Code of Conduct and, in some cases, the Statement of Particulars of Employment is a disciplinary matter. Disciplinary action may therefore be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each case, in accordance with the Council's laid down policies, after consultation with the relevant Director/Group Head, the Internal Audit Manager and the Group Head of Corporate Support (who has responsibility for Human Resources and whose involvement is necessary to ensure compliance with the authority's disciplinary code). In particularly serious cases the Chief Executive should be consulted.

### **3.3 The Local Government and Social Care Ombudsman**

3.3.1 Complaints of corporate maladministration may be investigated by the Local Government and Social Care Ombudsman (who is part of the Commission for Local Administration in England), within the parameters of the Local Government Act 1974.

### **3.4 Criminal Law**

3.4.1 The existence of the Criminal Law will always act as a deterrent where there are a number of offences, particularly in relation to fraud and corruption.

3.4.2 The Bribery Act 2010 came into force on 1<sup>st</sup> July 2011, replacing the previous outdated legislation:-

- the Public Bodies Corrupt Practices Act 1889
- the Prevention of Corruption Act 1906
- the Prevention of Corruption Act 1916.

3.4.3 This Act significantly enhances the existing UK laws on corruption and has created four key criminal offences:-

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

The offences carry criminal penalties for individuals and organisations. For individuals, a maximum prison sentence of ten years and/or an unlimited fine can be imposed; for organisations, an unlimited fine can be imposed.

A more detailed document on the Council's policy in respect to the Bribery Act 2010 is attached as Appendix A to this document.

### **3.5 Civil Law**

- 3.5.1 In certain cases, there may also be liability in tort which will act as a deterrent.
- 3.5.2 Where there is a deliberate and dishonest abuse of power by an official who knew that the claimant would suffer loss and was subjectively reckless as regards that outcome, they may be liable in tort for the civil wrong of misfeasance (or misconduct) in public office.
- 3.5.3 Also, a person who has received information in confidence is not allowed to take improper advantage of it. To do so would result in potential liability for breach of confidence.
- 3.5.4 Remedies for actionable damage in tort can comprise injunctions and/or compensatory damages.

## **4 DETECTION AND INVESTIGATION**

### **4.1 Internal Control Systems**

The internal control systems within the Council have been designed to prevent or identify any fraudulent activity. It is however, often the vigilance of employees and members of the public that enables detection to occur and appropriate actions to be taken when there is evidence that fraud or corruption have been committed or are likely to take place.

#### **4.1.1 *Complaints Procedure***

The Council's Complaints Procedure provides a mechanism for handling comments, representations and criticisms of policy. It also includes formal complaints concerning, for example:-

- failure to comply with a statutory or legal obligation
- dissatisfaction with a service
- maladministration
- allegations of financial impropriety
- misconduct of Councillors.

All complaints will be dealt with impartially, objectively and professionally without fear of adverse treatment against the individual making the complaint.

Information concerning the Council's Complaints Procedure is available on the Council's website and within its Publication Scheme.

#### **4.1.2 *Confidential Reporting Policy (Whistleblowing)***

The Council's Confidential Reporting Policy provides a secure and confidential framework within which to raise concerns in accordance with the Public Interest Disclosure Act 1998. Employees and contractors working for the Council on Council premises are encouraged to raise concerns if they believe one or more of the following has occurred, is in the process of occurring or is likely to occur:-

- a criminal offence

- a miscarriage of justice
- maladministration, misconduct or malpractice
- endangering of an individual's health and safety
- damage to the environment
- concerns about conduct of officers/members
- possible fraud and corruption
- harassment or victimisation
- improper or unauthorised use of public or other funds
- sexual or physical abuse of clients or other unethical conduct
- a failure to comply with a statutory or legal obligation
- deliberate concealment of any of the above.

All concerns will be treated in confidence and every effort will be made not to reveal the complainant's identity. Statutory protection will be given to employees and contractors who register concerns under the Public Interest Disclosure Act 1998. If an individual feels they have been disadvantaged by making a disclosure under the Act, they may bring a claim to an employment tribunal.

All staff will be made aware of the Confidential Reporting Policy and provisions of the Public Interest Disclosure Act as part of their induction training. Contractors are made aware of the Confidential Reporting Policy and provisions of the Public Interest Disclosure Act via their contract documentation. Details of the above are also available to contractors and members of the public on the Council's website.

It is essential that all suspected irregularities be properly reported in accordance with Financial Regulations or the Council's Confidential Reporting Policy or Complaints Procedure.

#### 4.1.3 *Members' Code of Conduct*

A latest version of the Members Code of Conduct was adopted by the Council in November 2017, in line with the requirements of the Localism Act 2011.

The Members' Code of Conduct sets out the standards of conduct to be expected from a Member. If a Member becomes aware of any fraud or corruption by another Member which he/she reasonably believes involves a failure to comply with the Code he/she must make a written allegation to the Council's Monitoring Officer as soon as is practicable.

#### 4.1.4 *Officers' Code Conduct*

The Council's Officers' Code of Conduct sets out the standards of conduct to be expected from an officer. Employees are also bound by the Statement of Particulars of Employment. Breach of the Officers' Code of Conduct and, in some cases, the Statement of Particulars of Employment, is a disciplinary matter. Criminal or civil sanctions could also apply. A complaint of maladministration to the Local Government and Social Care Ombudsman could also be made.

#### 4.1.5 *The Council's Constitution*

The Council is obliged to have a constitution by virtue of section 37 of the Local Government Act 2000. The organisational structure and the rules by which the Council operates are set out in the Constitution. It contains the basic rules governing the Council's business, how it operates, how decisions are made and the procedures to be followed to ensure these are transparent and accountable.

#### 4.1.6 *The Standards Committee*

The Council's Standards Committee has a duty to promote and maintain high standards of conduct by Members and co-opted Members. The Council has established an Assessment Panel with the power to conduct a hearing, take decisions and determine sanctions in relation to an allegation that a member has failed to comply with the Members' Code of Conduct where the matter is referred to the Monitoring Officer by way of a complaint.

The Local Assessment Procedure adopted by the Council in November 2017 and updated in March 2019 sets out how complaints made under the Members' Code of Conduct are dealt with and the sanctions available to the Assessment Panel.

#### 4.1.7 *Risk Management*

In addition to the structural and organisational arrangements identified in the Council's Code of Corporate Governance, the Council has established a Governance & Risk Group. This Group, in consultation with the Council's insurers, has produced a Risk Management Strategy/framework. This has been adopted by Full Council and a Strategic Risk Register (updated on an annual basis) and Service area Operational Risk Registers established.

### **4.2 External Control Systems**

#### 4.2.1 *The Local Government and Social Care Ombudsman*

Complaints of maladministration in respect of the Council acting corporately can be referred to the Local Government and Social Care Ombudsman. Complaints can be made by members of the public following completion of the Council's Complaints Procedure if the complainant remains concerned) who claim to have suffered injustice as a result of maladministration. The Ombudsman can make recommendations to the Council to take remedial action which can involve a financial remedy or other measures to be undertaken by the Council.

#### 4.2.2 *Statutory Framework*

The Council as a statutory corporation may only perform those functions allowed by or under statute. The Council must comply with the mandatory and directory requirements of statute and any other constraints inherent in the statutory framework.

#### 4.2.3 *Judicial control*

The Council is a creation of statute and may only work within its statutory confines. Decisions may only be taken by those Members' bodies or Officers authorised to do so by the Council. Stepping outside the statutory constraints, acting without due authority or reaching decisions in a legally unreasonable way can lead to judicial intervention through judicial review.

However, the Localism Act 2011 introduced a new general power of competence. Under the provision, a local authority has the power to do anything that individuals generally of full legal capacity may do.

#### 4.2.4 *Appellate Jurisdiction*

Many of the Council's regulatory functions are subject to review, through the appellate processes. Many licensing functions may be reviewed by the Magistrates' Courts and planning decisions may be reviewed through the Planning Inspectorate. Some decisions, for example relating to housing, are subjected to internal review as well as external appeal.

#### 4.2.5 *External Inspectorates*

The Council's external auditors (Ernst & Young LLP) have wide-ranging powers to review the Council's activities.

In addition, there are a number of Service-specific inspectorates, including:-

- the Department for Work and Pensions - benefits administration
- the Planning Inspectorate
- the Regulator of Social Housing
- the Investigatory Powers Commissioner's Office - application of the Regulation of Investigatory Powers Act 2000 (as amended) and Investigatory Powers Act 2016
- the Information Commissioner's Office – application of the General Data Protection Regulation/Data Protection Act 2018 and the Freedom of Information Act 2000.

#### 4.2.6 *Professional Bodies*

Many members of staff holding professional qualifications are subject to regulation by their professional bodies, for example solicitors, auditors, accountants and town planners. Statute can make the membership of such bodies a pre-requisite to the holding of a particular post, for example that of the Chief Financial Officer.

#### 4.2.7 *Council-Owned Companies*

In the event the Council chooses to set up and operate a company under its 'ownership' (e.g. for trading purposes), governance arrangements will be agreed by Members e.g. in the form of a Shareholder Agreement. As part of this, the Council's responsibilities for the prevention and investigation of fraud will be clearly documented.

### **4.3 Investigation**

4.3.1 It is the responsibility of the Internal Audit Manager to ensure that arrangements are made whereby all irregularities reported are properly investigated in accordance with the requirements of the Human Rights Act 1998.

4.3.2 Depending on the nature of an allegation, the Internal Audit Manager will normally work closely with the Director/Group Head/Line Manager concerned to ensure that all allegations are thoroughly investigated and reported on.

4.3.3 An overview of the actions to be taken are contained in Internal Audit's Fraud Response Plan, published on the Council's website.

### **4.4 Regulation of Investigatory Powers Act**

4.4.1 The Regulation of Investigatory Powers Act 2000 (RIPA), as amended, regulates the way in which public authorities can use their investigatory powers. Its purpose is to ensure that those powers are used in accordance with an individual's human rights as defined in the provisions of the Human Rights Act 1998. RIPA is concerned with the use of covert surveillance, and where an officer is proposing to undertake covert surveillance, proper authorisation under RIPA must be obtained before the investigation begins. Failure to do so will render the evidence obtained inadmissible. The Council has in place suitable forms for the authorisation, review, renewal and cancellation of, the use or conduct of directed covert surveillance or the use of a covert human intelligence source. Guidance regarding the use of such surveillance is also available on the Council's Intranet or from the Internal Audit Manager.

4.4.2 As a result of the Protection of Freedoms Act 2012, RIPA authorisations must now be approved by a JP, requiring adequate evidence that they are necessary, proportionate and meet the criminal offence threshold applied by the Act. (For further details, see the Council's Corporate Policy & Procedures Document on the Regulation of Investigatory Powers Act 2000).

### **4.5 Investigatory Powers Act 2016**

4.5.1 The acquisition of communications data is now covered by the Investigatory Powers Act (previously having been part of RIPA legislation). Local authority requests for subscriber, traffic or service data must be progressed via the Single Point of Contact (SPoC) service provided by the National Anti-Fraud Network (NAFN). Subject to necessity, proportionality and meeting the appropriate criminal offence threshold applied by the Act, requests via NAFN will require approval (from June 2019) from the Office for Communications Data Authorisations (OCDA). (For further details, see the Council's Corporate Policy



& Procedures Document on the Regulation of Investigatory Powers Act 2000, including updates in respect of the IPA).

## **5 CONCLUSION**

### **5.1 Culture**

- 5.1.1 The Council will ensure that any allegations received will be taken seriously and investigated in an appropriate manner, subject to the requirements of the Human Rights Act 1998.
- 5.1.2 The Council has in place procedures to assist it in dealing with fraud and corruption when it occurs. It will maintain a continuous review of these arrangements to keep abreast of developments in fraudulent and corrupt practices in order to protect its interests.
- 5.1.3 An annual review of this Policy will take place to ensure its continued relevance and to ensure it reflects any changes in legislation.
- 5.1.4 The Audit & Governance Committee is the designated body for the oversight of the Council's anti-fraud culture. An annual report on Counter-Fraud activity within the Council is presented to them, along with details of any significant fraud investigations conducted by Internal Audit.

### **5.2 Initiatives and Reporting**

- 5.2.1 In June 2013 the National Fraud Authority estimated that fraud costs the UK over £52 billion a year. It estimated that the loss in the public sector was £20.6 billion, with £2.1 billion of this specific to local government. In the public sector, every pound lost through fraud directly affects citizens by increasing national and local taxation or threatening the provision of local services
- 5.2.2 The current financial climate has increased the likelihood of fraud being perpetrated against the Council.
- 5.2.3 The Government has announced its commitment to the reduction of fraud in the public sector and has launched a number of pilot schemes, together with the publication of various guidance notes from the DCLG and associated bodies, such as the National Fraud Authority. These are now combined in the 'Fighting Fraud & Corruption Locally – The Local Government Fraud Strategy' document issued by the CIPFA Counter-Fraud Centre in 2016. Key areas of potential fraud risk identified relating to local authorities include:-
  - housing tenancy fraud
  - procurement fraud
  - payroll and recruitment fraud
  - Council Tax fraud
  - Blue Badge Scheme misuse
  - pension fraud
  - benefit fraud
  - grant fraud
  - electoral fraud.

In accordance with the Strategy statement at section 1.1 above, the Council will keep these areas and initiatives under review and implement/improve processes and controls to manage the risks involved.

- 5.2.4 The Council provides statistical information to CIPFA on fraud cases identified and this information is then used as part of their annual Fraud & Corruption Tracker Report. Annual information is also published on the Council's website to meet the requirements of the Local Government Transparency Code.
- 5.2.5 The Council is also a mandatory participant in the National Fraud Initiative (NFI), operated through the Cabinet Office. This is a data matching exercise that involves comparing records held by one body against other computer records held by the same or another body to see how far they match. Computerised data matching allows potentially fraudulent claims and payments to be identified. Where a match is found it indicates that there is an inconsistency that requires further investigation. No assumption can be made as to whether there is fraud, error or other explanation until an investigation is carried out by the originating organisation. The use of data in this way is permitted under the General Data Protection Regulation/Data Protection Act 2018.



## **Anti-Bribery Policy**

### **Policy Statement - Anti Bribery**

Bribery is a criminal offence. We do 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 “business as usual”, rather than as a one-off exercise.

### **Objective of this policy**

This policy provides a coherent and consistent framework to enable the staff and Members of Arun District Council to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable employees to identify and effectively report a potential breach.

We require that all personnel, 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 the 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 organisation. It does not rest solely within assurance functions, but in all 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.

## **This Council's commitment to action**

Arun 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 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 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.

## **Bribery**

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

## **The Bribery Act 2010**

The Act came into force on 1<sup>st</sup> July 2011.

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 ([http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100023\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1)) 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 (which will include the Council) 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.

## Procedures

Whether procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis, but it should be ensured that they are robust and effective. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the Council. However, they should be based upon six recommended principles which are intended to be flexible and outcome focussed (as different sizes and types of organisation will have different circumstances and face different challenges):-

- *Proportionate procedures*  
An organisation'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 organisation's activities. They are also clear, practical, accessible, effectively implemented and enforced
- *Top level commitment*  
The top-level management (be it a board of directors, the owners or any other equivalent body or person) 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 organisation 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 organisation 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 organisation 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*  
The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

Arun District Council is committed to proportional implementation of these principles.

## 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.

## **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**

The Council has a Gifts and Hospitality Policy which is accessible by staff and Members via the Human Resources area of the Council's Intranet.

In most cases, offers of gifts and hospitality should be tactfully refused. However, the Policy identifies some circumstances where the receiving or giving of reasonable, proportionate gifts and hospitality made in good faith are acceptable, together with the records that must be kept to justify such circumstances and be available for scrutiny.

## **Public contracts and failure to prevent bribery**

Under the Public Contracts Regulations 2015 (which gives effect to EU law in the UK), a company is debarred from competing for public contracts where it is convicted of a corruption offence. However, companies 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. Under the 2015 Regulations, there is now no set period for debarment and may be removed if a company has demonstrated that it has undertaken a 'self-cleaning' exercise.

The Council's Constitution contains a section on the Prevention of Bribery as part of the Standing Orders for Purchasing, Procurement, Contracts & Disposals (Part 6, Section 6, Para 31). This requires:-

- declaration of gifts and hospitality received
- that all written Council contracts include a Prevention of Bribery clause (and such a clause is included in the Council's standard terms and conditions).

As part of the Council's formal tender processes, certification from the tendering party is required on a non-Collusive Tendering Certificate and this also includes actions that the Council will take to terminate any contract and recover losses incurred in respect of identified corrupt practices.

### **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 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 and criminal prosecution, staff that breach this policy may face disciplinary action, which could result in dismissal for gross misconduct.

### **Raising a concern**

The Council 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 member of staff 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 Council's published Confidential Reporting ("Whistleblowing") Policy and determine your favoured course of action. Preferably the disclosure will be made and resolved internally (e.g. to your Group Head, or the Internal Audit Manager). However, alternative methods of raising concerns, where internal disclosure proves inappropriate, are contained in the Policy. 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 wrongdoing is reported, we will act as soon as possible to evaluate the situation. We have 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.

Staff who refuse to accept or offer a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim 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.

We are 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 Internal Audit:-  
extensions 37559/37561  
<mailto:internal.audit@arun.gov.uk>

### **Other relevant policies**

Other relevant policies and documents may be found on the Council's Intranet or website.  
These include:-

- Anti-Fraud, Corruption and Bribery Policy
- Proceeds of Crime (Anti-Money Laundering) Policy
- Whistleblowing Policy
- Gifts and Hospitality Policy (Human Resources)
- Fraud Response Plan (Internal Audit)
- Constitution – Part 6, Section 5 Financial Procedure Rules, 4.3 – Preventing Fraud and Corruption
- Constitution – Part 6, Section 6 Standing Orders, 31 – Prevention of Bribery



**The Committee on Standards in Public Life – The 7 ‘Nolan’ Principles  
as set out in Part 8, Section 1 of the Council’s Constitution**

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

**Selflessness**

Holders of public office should act solely in terms of the public interest.

**Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**Honesty**

Holders of public office should be truthful.

**Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.