

10. ANTI - FRAUD, BRIBERY AND CORRUPTION POLICY

1 Introduction

- 1.1 Rushmoor Borough Council is committed to the highest possible standards of openness, probity, and accountability in order to ensure the proper use of public funds. This anti-fraud, bribery and corruption policy establishes the Council's objectives in this respect and sets out a cohesive framework to effectively manage the risks associated with fraud and corruption involving staff, Members or third parties.
- 1.2 This policy sets out the requirements for the Council in relation to combating fraud, bribery, corruption and dishonest dealings within and against the Council. The Council is committed to an effective Anti-Fraud, Bribery and Corruption policy that:
- Encourages prevention
 - Promotes detection
 - Identifies a clear pathway for investigation.
- 1.3 The Council expectations as to propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 1.4 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with which it comes into contact, will act with integrity and without thought or actions involving fraud and corruption.

2 Scope

- 2.1 This policy forms part of the Council's internal control and corporate governance arrangements.
- 2.2 This policy applies to all activities undertaken on behalf of the Council and is designed to cover the risks associated with theft, fraud, corruption, bribery and ICT abuse, whether they are perpetrated by employees, councillors, residents, visitors, contractors, suppliers or individuals and organisations unconnected with the Council.

3 What is fraud, bribery and corruption

Fraud

- 3.1 The 2006 Act provides for a general offence of fraud with three ways of committing it, which are by:
- ***False representation*** – A person commits the offence of fraud by false representation if they dishonestly make a false representation and intends, by making the representation, to make a gain for themselves or another, or to cause loss to another, or to expose another to a risk of loss.

- ***Failing to disclose information*** – A person commits an offence of failing to disclose information if they dishonestly fail to disclose information to another person, information which they are under a legal duty to disclose and they intend, by failing to disclose the information, to make a gain for themselves or another, or to cause loss to another, or to expose another to a risk of loss.
- ***Abuse of position*** – Fraud by abuse of position is committed where a person occupies a position in which they are expected to safeguard, or not to act against, the financial interests of another person, and they dishonestly abuse that position and intend, by means of the abuse of that position, to make a gain for themselves or another, or to cause loss to another, or to expose another to a risk of loss.

It creates new offences of obtaining services dishonestly and of possessing, making and supplying articles for use in frauds.

Bribery

- 3.2 Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. There are four key offences under the Bribery Act 2010:
- Bribery of another person to induce or reward them to perform a function improperly (Section 1) (Active bribery)
 - Request or accept a bribe as a reward for performing a function improperly (Section 2) (Passive bribery)
 - Bribing a foreign official to gain a business advantage (Section 6)
 - Failing to prevent bribery is a corporate offence for the failure by a commercial organisation to prevent bribery (Section 7)

Under section 7, an organisation will have a defence to the corporate offence if it can demonstrate that it had in place adequate procedures to prevent bribery by or of persons associated with the organisation.

Corruption

- 3.3 The Council defines corruption as the giving or obtaining advantage through means which are illegitimate, immoral and/or inconsistent with employees/Councillors' duties or the rights of others.

Theft

- 3.4 Theft is the physical misappropriation of cash or other tangible assets. A person is guilty of 'theft' if he or she dishonestly takes property belonging to another, with the intention of permanently depriving the other of it.

4 Key principles

- 4.1 The key principles of this policy are the:
- Prevention,
 - Deterrence,

- Detection and,
- Investigation of fraudulent activity.

The results of fraud and/or corruption can be costly, time consuming, disruptive and unpleasant. The Council therefore sees that the overriding principle to be applied is that of prevention. Where this fails, then reporting, investigation and, where necessary, sanctions, will be pursued rigorously and swiftly.

4.2 **Prevention**

Staff

The Council recognises that a key preventative measure in the fight against fraud, bribery and corruption is to take effective steps at the recruitment stage. The Council will ensure references are taken up for all permanent and temporary staff and carry out DBS (Disclosure and Barring Service) checks where appropriate.

Policies and procedures

The Council shall develop, implement and maintain such policies and procedures so as to reduce, as far as possible, the risks from fraud or corruption. Staff are expected to follow the code of conduct relevant to their profession and also abide by Rushmoor Borough Council's code of conduct for officers/ Members.

Internal Control Systems

The Council is committed to the implementation and operation of systems and procedures that incorporate efficient and effective internal controls. These include adequate separation of duties to ensure that error or impropriety is prevented.

All employees shall be made aware of and be expected to adhere to any internal control system designed to prevent or detect fraud, corruption, bribery and ICT abuse.

Internal Audit

The Council will ensure that it agrees a programme of internal audit assignments to support the systems and procedures already in place, to assist in the reduction of the likelihood of fraud, and to independently monitor the existence, appropriateness and effectiveness of internal controls.

Conflict of Interest

Both elected Members and employees must ensure that they avoid situations where there is potential for a conflict of interest, for example, tendering contracts. Effective role separation will ensure that decisions are seen to be based upon impartial advice and free from undue or improper influence. Where employees have concerns, with regard to any potential conflicts of interest, they should raise these with either their Head of Service or Executive Director.

4.3 **Deterrence**

Prosecution

The police will invariably be informed in cases where a criminal offence may have been committed and the Council will prosecute offenders where it is in our interest to do so, in line with the Council's Corporate Sanctions and Enforcement policy.

Disciplinary Action

The Council will not tolerate any level of fraud, bribery and corruption against the Council and employees will face disciplinary action if there is evidence that they have been involved in these activities. Disciplinary action may be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case.

Members may face appropriate action under the Members' Code of Conduct if they are suspected of being implicated in fraud, bribery or corruption involving the Council and in their role as a Member. Action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case.

Publicity

The Council will optimise the publicity opportunities associated with its anti-fraud, bribery and corruption activity. It will also try to ensure where appropriate that the results of any action taken, including prosecutions, are reported in the media. In appropriate cases, where financial loss to the Council has occurred, the Council will seek to recover the loss and advertise this fact.

4.4 Detection

It is the responsibility of Heads of Service, Executive Directors and the Chief Executive to prevent and detect fraud, bribery and corruption. However, it is often the alertness of staff, Members and the public that enables detection to occur and for the appropriate action to take place when there is evidence that fraud, bribery or corruption may have been committed, or is in progress. Therefore, if you have any concerns of suspected or actual fraud, bribery or corruption you should report these concerns, as highlighted within the Council's Whistleblowing policy.

Along with the appropriate systems of internal control that are built into procedures in order to detect fraud, bribery, corruption and ICT abuse. The following specific systems of fraud detection will also be used:

- Whistleblowing
- Referrals from the public
- National Fraud Initiative Exercise (NFI)
- Data-matching
- Internal Audit reviews

If you are aware of actual or suspected instances of fraud, bribery or corruption, but you choose to either ignore them or fail to report them, this may result in disciplinary action being taken against you.

4.5 **Investigation of fraudulent activity**

An incident of suspected or identified fraud must be reported in accordance with the Council's Whistleblowing policy and to the Audit Manager. Staff must not investigate an incident of suspected fraud themselves.

Depending on the nature and the anticipated extent of the allegations, the Internal Audit Team will work closely with management to ensure that all allegations and evidence are properly investigated and reported upon and, where appropriate, maximum recoveries are made for the Council.

The Council will deal with any instances of fraud, bribery, corruption or ICT abuse promptly, taking disciplinary action in line with the disciplinary policy as necessary. Where a decision is made to inform the police, the Audit Manager will do this.

In the event that fraud is suspected on the part of contractors, agency workers or by staff involved in agency or contract work on behalf of other bodies, procedures and responsibilities for reporting and investigation are the same as for staff. The Council will inform and involve the employing contractors or agencies where appropriate.

5 Legal responsibility

5.1 The following legislation is applicable through out this policy:

- Bribery Act 2010
- Fraud Act 2006

6 Other related council policies and procedures

6.1 Related policies and procedures include:

- The Council's Constitution, especially Contracts Standing Order and the Financial Procedures;
- Gifts and Hospitality policy;
- Whistleblowing policy;
- Anti-Money Laundering policy;
- Acceptable Use Policy
- Code of conduct for Councillors and Employees
- Corporate Sanctions and Enforcement Policy