

**CORPORATE**

**BRIBERY ACT POLICY**

**Version History**

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## Policy Statement - Anti Bribery

The Council, Cabinet and Management Board are committed to preventing bribery and maintaining a culture within the organisation in which bribery is never acceptable.

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 whether internal or external to the Council. We aim to maintain anti-bribery compliance "business as usual", rather than as a one-off exercise.

## Bribery

Is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. Any such advantage is referred to as a "business advantage" in this policy.

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.

## Objective of this policy

This policy provides a coherent and consistent framework to enable Epping Forest District Council (EFDC) Members and employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable Members and employees to identify and effectively report a potential breach.

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

- act honestly and with integrity at all times and safeguard the organisation'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, agents 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 business units and corporate functions.

This policy covers all staff, including all levels and grades, those permanently employed, temporary agency staff, contractors, agents, elected Councillors, co-opted members of the public, 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 Members and employees aware of their responsibilities to adhere strictly to this policy at all times
- Training all Members and employees so that they can recognise and avoid the use of bribery by themselves and others
- Encouraging its Members and 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 Members and employees to report breaches and suspected breaches of this policy
- Include appropriate clauses in contracts to prevent bribery.

## Facilitation payments

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

## Gifts and hospitality

This policy does not change the requirements of our gifts and hospitality policy (e-intranet/CSS/Human Resources/Staff Handbook). This makes it clear that:

Sample tokens of modest value bearing the name or insignia of the organisation giving them (for example, pens, diaries or calendars) whether given personally, or received in the post, may be retained unless they could be regarded as an inducement or reward. You should refuse the offer or invitation (or return the gift) unless your Service Director has advised you that it may be accepted or retained. Please see Appendix 2 for the full Gifts and Hospitality Policy.

## 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 or “the offence of bribery”.

Organisations that are convicted of “failing to prevent bribery” are not automatically barred from participating in tenders for public contracts.

The Council has the discretion to exclude organisations convicted of this offence.

## Member and Staff responsibilities

All Members and staff are required to avoid activity that breaches this policy. 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.

Members and staff must:

- ensure that they read, understand and comply with this policy
- raise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.

## Members

The Member Code of Conduct requires that where a Member acts as a representative of the authority he or she must not use or attempt to use their position as a Member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.

As well as the possibility of civil action and criminal prosecution, Members that breach this policy may be subject to referral to the Standards Committee and if convicted of a criminal offence may be debarred from carrying out duties as a councillor.

## Staff

As well as the possibility of civil action and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in summary dismissal for gross misconduct. Dismissal can still be an outcome with or without civil action or criminal prosecution.

## Raising a concern

This Council is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. We want Members and 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 Members and staff to raise concerns. Please refer to the Confidential Reporting Policy (e-intranet/OCE/Policies/Anti Fraud Policies/ copy attached at Appendix 3) and determine your favoured course of action.

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Members and staff who do not have access to the intranet should contact the Chief Internal Auditor or an appropriate senior manager.

Preferably the disclosure will be made and resolved internally (e.g. to your Section Manager/Assistant Director/Director). Secondly, where internal disclosure proves inappropriate, concerns can be raised with the External Auditor or relevant professional bodies or regulatory organisations.

Concerns can be reported anonymously. In the event that an incident of bribery is reported, we will act as soon as possible to evaluate the situation. We have a clearly defined Anti Fraud Strategy (e-intranet/OCE/Policies/Anti Fraud Policies/ copy attached at Appendix 4) which set out procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind.

Members and staff who refuse to accept a bribe, or those who raise concerns 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 because of reporting a concern in good faith.

If you have any questions about these procedures, please contact the Chief Internal Auditor.

## Appendix 1

### 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 ([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 (EFDC is a commercial organisation under the Act) 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.

### 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 a serious offence against the Authority and employees will face disciplinary action if there is evidence that they have been involved in this activity, which could result in summary 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. It is for individual organisations to determine proportionate procedures in the recommended areas of six principles. These principles are not prescriptive. They are intended to be flexible and outcome focussed, allowing for the different circumstances of organisations. Small organisations will, for example, 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.

***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.

**This Council is committed to proportionate implementation of these principles.**

**Appendix 2****Extract from the EFDC Staff Handbook****Gifts and Hospitality**

As a local authority employee there is a risk that accepting gifts and hospitality can place (or be seen to place) you under a sense of obligation to reciprocate a favour given. This sense of obligation in honest people is capable of being exploited.

Gifts and hospitality can be offered and accepted purely as a normal courtesy and where refusal may give unnecessary offence to people and organisations. However, there are clear limits to what is acceptable. You must be aware of your legal obligations in respect of these matters.

Each service maintains a Hospitality Register where gifts and hospitality offered or received should be recorded. You should familiarise yourself with this register and in what circumstances you are obliged to use it. (Further details on hospitality registers can be found below).

Any offer of a gift, favour or hospitality should be treated with extreme caution. The person or organisation making the offer may be doing (or seeking to do) business with the Council. If you have any concerns about gifts and hospitality you have received or been offered you should discuss these with your line manager. There are no circumstances in which it is permissible to seek gifts or hospitality.

Failure to comply with any of the guidelines contained in this handbook could result in formal disciplinary action.

**Guidelines**

The following are some general considerations you should be aware of in your conduct as a Council employee when offered gifts or hospitality:

- Standards of conduct acceptable in the private sector differ significantly from those expected in the public sector
  - A local authority is a democratic body accountable to the local community, and a statutory body whose functions, powers and duties are governed by the law. A local authority may be required to comply with market disciplines in carrying out its functions but it is not, and cannot be, a profit-making trading enterprise
  - The public have a legitimate expectation that a local authority's affairs will be conducted in a fair and honest manner without favour or disfavour to particular interests. Corruption or even suspicion of corruption are corrosive of public confidence in local democracy. In a real sense, therefore, the survival of local democracy depends on the values by which it operates
  - In all cases, the best protection against error is open adherence to high standards of conduct.
- The situations in which hospitality and gifts are accepted should be kept to a bare minimum. They should only be accepted when genuinely justifiable in the public interest and if they will not undermine public confidence in local government.

**Legal Obligations**

You should make yourself fully aware of your legal obligations in respect of gifts and hospitality. The main legal provisions may be summarised as follows:

- It is an offence for employees to solicit or accept any gift or reward in return for allowing themselves to be influenced in any way in their official capacity
- Employees should not accept any fee or reward whatsoever other than their proper remuneration
- Where an employee is shown to have received any money, gift or consideration from a person or organisation holding or seeking to hold a contract with the Council, corruption is presumed unless the contrary is proved
- A breach may lead to disciplinary action and/or prosecution. Conviction by a Court may lead to a fine or imprisonment or both
- In addition to any disciplinary action (which may include dismissal) an employee may be liable to forfeiture of superannuation benefits



### **Contracts – Cancellation Clauses**

The Council's standing orders require contracts to include a clause entitling the Council to cancel and recover any loss if the contractor offers or gives an inducement or reward to any person. You should therefore report any such offer or gift without delay to your Director.

### **Hospitality Registers**

You should give written notice to your Director of an offer (or the receipt) of any gift, or of an invitation involving hospitality (wherever possible in advance of attendance), for inclusion in your service hospitality register. You should provide the following details:

- name of the person or organisation concerned
- details of any dealings (existing or proposed) between the person or organisation and the Council, which are known to you
- the nature of the gift offered or received
- the nature, location, date and time of the hospitality proposed
- Whether you have already refused the offer, returned the gift, or whether you are seeking approval for the acceptance of the gift or hospitality (and your reasons for doing so)

### **Approval from Your Director**

You should refuse the offer or invitation (or return the gift) unless your Director has advised you that it may be accepted or retained. If the Director is personally involved or requires clarification then the Deputy Chief Executive should be consulted.

If the Chief Executive is involved, the Deputy Chief Executive should be consulted.

When refusing an offer (or returning a gift) you should act with courtesy, informing the person or organisation of the Council's policy, so as to minimise the risk of causing offence, by using the standard authority wide letter.

The acceptance of an offer or a gift or the retention of a gift will not be sanctioned:

- If it could reasonably be regarded as an inducement or reward, or as harmful to the Council's reputation as a public authority
- Unless to do so can be justified as furthering the purposes or interests of the Council and as being in the public interest

When considering whether or not to sanction the acceptance or retention of a gift your Director will give specific consideration to the circumstances and timing of the offer.

### **Types of Gifts and Hospitality**

The following gives specific guidance on handling issues related to different types of gifts and hospitality that you may be offered. Should you require further clarification or have an issue not covered in these points you should contact your Director.

#### **• Gifts**

Sample tokens of modest value bearing the name or insignia of the organisation giving them (for example, pens, diaries or calendars) whether given personally, or received in the post, may be retained unless they could be regarded as an inducement or reward.

Other kinds of gift, including vehicles, watches, jewellery, clothes or the provision of credit facilities, are unacceptable in any circumstances. Single bottles of drink costing less than £10 may be accepted providing that the gift is on a one-off basis.

#### **• 'Free' Offers**

The offer or supply of goods or other benefits 'free of charge' or at substantially below market prices should be treated with caution and rejected if there is any suspicion that this is being done as a disguised inducement or reward.

#### **• Social Events**

Participation in social gatherings, for example, golfing days or quasiofficial events organised by a person or organisation doing business with the Council (or hoping to do so) would not normally be justifiable in the public interest (even in the officer's own time). It should be avoided unless, in exceptional circumstances, an employee is asked to attend as the nominated representative of the Council.

Any attendances must be authorised by your Director and entered into the service hospitality register (see above). This does not apply to social gatherings where the main purpose of the event is for Council officers to meet with representatives of businesses, voluntary associations or community organisations.

• **Lunches/Private Functions**

Offers of lunch or dinner (and similar invitations) should only be accepted where there is no conflict with any of the guidance set out above. The scale and nature of the hospitality, if accepted, must be appropriate for the occasion and should not be excessively lavish or extravagant. The frequency and scale of hospitality should not be significantly greater than what the Council would be likely to provide in return. It should be restricted to occasions which have an explicit business purpose. Offers from a contractor to attend private functions should be refused.

• **Arts/Sporting Events**

Invitations to attend functions that have no bearing on the business relationship with a contractor should be refused. These would include tickets to the theatre, opera or sporting event, visits to night clubs or holidays abroad.

• **Conferences**

The travelling and subsistence costs of employees attending a course, conference or visit which might be used to promote new goods or services should be borne by the Council or the employee. This consideration should not preclude the acceptance of appropriate hospitality at genuine site visits, seminars or public professional/ business events. Acceptance by employees of hospitality whilst in attendance at conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal; this may include an invitation to the employee's spouse or partner.

• **Hospitality Provided by the Council**

On occasion, it may be desirable for the Council to provide hospitality for persons or organisations in the private sector. The hospitality provided should only occur where an expected benefit to the Council has been proven; it should be appropriate for the occasion and should receive the prior approval of your Director. All hospitality given should also be entered in your hospitality register (see above).

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**Epping Forest District Council  
Extract from Section 22 of the Council Constitution**

**GUIDANCE ON GIFTS AND HOSPITALITY (MEMBERS)**

**1. INTRODUCTION**

- 1.1 The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the Authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.
- 1.2 The guidance sets out:
- (a) the principles which should be applied whenever a Councillor has to decide whether it would be proper to accept any gift or hospitality;
  - (b) a procedure for obtaining consent to accept a gift or hospitality when a Councillor considers that it would be proper to accept it;
  - (c) a procedure for declaring any gift or hospitality received and for accounting for any gift to the Authority; and
  - (d) circumstances where acceptance of gifts and hospitality is appropriate.
- 1.3 The Code does not apply to the acceptance of any facilities or hospitality, which may be provided to you by Epping Forest District Council.

**2. GENERAL PRINCIPLES**

- 2.1 In deciding whether it is proper to accept any gift or hospitality, Councillors should apply the following principles. Such an offer should not be accepted if to do so would be in breach of one or more of these principles:

**Principle 1 - Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor**

**Principle 2 - Hospitality should only be accepted if there is a commensurate benefit to the Authority**

**Principle 3 - You should only accept gifts in very limited circumstances**

**Principle 4 - Never accept a gift or hospitality if acceptance might be open to misinterpretation**

**Principle 5 - Never accept a gift or hospitality which puts you under an improper obligation**

**Principle 6 - Never solicit a gift or hospitality**

For the full guidance please see the Council Constitution on the Council's Intranet or Internet pages.

# Confidential Reporting Policy

 *Epping Forest District Council*

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## Confidential Reporting Policy

Epping Forest District Council (EFDC) will not tolerate fraud and corruption in the administration of its responsibilities. We pride ourselves on having an open and honest culture and are committed to the highest possible standards of probity and accountability. In line with that commitment, we encourage anyone with serious concerns about any aspects of the Authority's work to raise those concerns. We are committed to tackling fraud and other forms of malpractice and treat these issues seriously.

Employees and Members are often the first to realise that there may be something seriously wrong within the Authority. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Authority. They may also fear harassment or victimisation. In these circumstances, they may feel it is easier to ignore the concern rather than report what may just be a suspicion of malpractice. We also recognise that some concerns may be extremely sensitive and have therefore established a framework to allow concerns to be raised confidentially, and provide for a thorough and appropriate investigation of the matter to bring it to a satisfactory conclusion.

This policy supports the Authority's anti-fraud strategy and Bribery Act Policy and makes it clear that concerns can be raised without fear of reprisals. It is intended to encourage and enable employees and Members to raise serious concerns within the Authority, irrespective of seniority, rank or status, rather than overlooking a problem.

This policy applies to matters of suspected fraud and corruption and not matters of a more general grievance, which would be dealt with under the EFDC grievance procedures.

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## Section One

### Aims and Scope

This policy aims to:

- provide ways for you to raise concerns and receive feedback on any action taken
- allow you to take the matter further if you are dissatisfied with the Authority's response
- reassure you that you will be protected from reprisals or victimisation for confidential reporting in good faith.

There are procedures in place to enable employees to lodge a grievance relating to their employment. This policy is intended to cover concerns that fall outside the scope of other procedures. 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 (including under the Bribery Act)
- a failure to comply with a statutory or legal obligation
- improper unauthorised use of public or other funds
- improper use or misappropriation of assets
- benefit fraud
- a miscarriage of justice
- maladministration, misconduct or malpractice
- endangering of an individual's health and safety
- damage to the environment
- any other similar occurrences
- deliberate concealment of any of the above

If you are unsure whether a concern should be raised, advice can be sought from the Director of Finance and ICT, Director of Corporate Support Services or Chief Internal Auditor.

The overriding concern should be that it would be in the public interest for malpractice to be corrected and, if appropriate, sanctions applied.

## Section Two

### How to Raise a Concern

Employees' concerns should be raised within the Authority with either:

- your Line Manager
- your Service Director
- the Chief Internal Auditor
- the Benefit Investigation office
- the Chief Executive or Deputy Chief Executive
- the Authority's Monitoring Officer
- the External Auditor, who, depending on the nature of the concern, will liaise with the Chief Internal Auditor
- your Trade Union representative
- the Human Resources office

For Elected Members, concerns must be raised with the Chief Executive or the Deputy Chief Executive, Chief Internal Auditor, the Monitoring Officer or Deputy.

Concerns can be raised orally, in writing or by completing one of the 'Concerns at Work' forms. You will need to set out the background and history of the concern giving names, dates and places where possible, and the reason why you are particularly concerned about the situation. The Officer receiving the concern will make notes of any conversations with you so that, if required, a proper investigation can be undertaken.

Alternatively, you can leave a message on the 24-hour Fraud Hotline 01992 564444 or speak to someone during office hours on 01992 564440. This service is strictly confidential and you will not have to give your name if you do not want to.

The earlier you express the concern, and the more details you have, the easier it will be to take action. At this stage, you are not expected to prove the allegation, but you will need to demonstrate to the person contacted that there are sufficient grounds for your concern, to enable a meaningful investigation to take place.

In particular, when raising any concerns, your rights under the Human Rights Act 1998 Article 8 (right to private family life) will be respected.

Advice and guidance on how matters of concern may be pursued can be obtained from:

- your Line Manager
- your Service Director
- Internal Audit
- Human Resources
- your Trade Union/ Professional Association

You may prefer, in order to protect yourself or to maintain your anonymity, to invite your trade union or other representative to raise the matter on your behalf. Your representative may be required to obtain additional information from you so that a proper investigation can be undertaken.



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## Section Three

### How the Authority will respond

The action taken by the Authority will depend on the nature of the concern. The process is covered in the Fraud Response Plan and the matters raised may:

- be investigated internally by Internal Audit
- be investigated internally by the Benefits investigation team
- be referred to the police
- be referred to the external auditor or Ombudsman
- form the subject of an independent enquiry

or any combination of the above.

In order to protect individuals and the authority, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it will take.

Some concerns may be resolved by agreed action without the need for further investigation.

Any investigations will follow the course of natural justice and in particular will adhere to Articles 6 and 8 of the Human Rights Act 1998 (right to a fair hearing and right to private family life) and the Regulation of Investigatory Powers Act 2000.

Within 8 working days of a concern being received (excluding anonymous concerns), the individual with whom you raised the concern will write to you acknowledging receipt of the concern.

The amount of contact between you and the officer(s) considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you in a discreet manner.

When any meeting is arranged, you have the right, if you wish, to be accompanied by a trade union or other representative. The meeting can be off site, if requested.

The Authority will take steps to minimise any difficulties you may experience as a result of raising a concern, and will provide any appropriate support. For instance, if you are required to give evidence in disciplinary or criminal proceedings, the Authority will advise you about the procedure. Within internal proceedings, you will have the option of asking someone else to represent you.

To maintain confidence in the process, we will keep you advised of the outcome of any investigation, subject to legal constraints.

You can withdraw from the process at any stage. If you do, you or your representative must inform the person with whom you raised the initial concern and the investigating officer. You will be requested to provide a reason for your withdrawal.

The person against whom the concern has been raised will be informed following the initial investigations if it is considered that there is an issue to be investigated further, subject to current personnel procedures. This person will be supported in an appropriate manner and will be informed of the progress of the investigation.

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## Section Four

### Safeguards

#### Harassment or Victimisation

The Authority recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Authority will not tolerate harassment or victimisation and will take action to protect you when you raise a concern in good faith.

This does not mean, if you are the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of confidential reporting.

#### Confidentiality

The Authority will respect confidentiality and all steps will be taken to ensure that confidentiality is maintained throughout the process. However, it must be appreciated that the investigation process may reveal the source of the information. Any statement made by you may be required as part of the evidence but could be submitted anonymously, if requested.

#### Anonymous Allegations

This policy encourages you to put your name to your concerns. Concerns expressed anonymously are more difficult to action effectively, but they will all be considered.

In such circumstances, the Authority will take the following factors into account when establishing the scope and depth of the investigation:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation from attributable sources and information provided.

#### Untrue Allegations

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make malicious allegations, disciplinary action may be taken against you.

## Section Five

### How the matter can be taken further

This policy is intended to provide a route for you to raise concerns within the Authority. The Authority hopes you will be satisfied with the response to your concern. If you are not satisfied you should in the first instance inform your Service Director or the Chief Executive or Deputy Chief Executive. If you feel it is right or necessary to take the matter outside the Authority, the following are possible contact points:

- the External Auditor
- relevant professional bodies or regulatory organisations
- your solicitor
- the police
- Public Concern at Work (0207 404 6609)
- your Trade Union
- your local authority Member

## Section Six

### Responsible Officer

The Chief Executive has overall responsibility for the maintenance and operation of this policy. He maintains a record of concerns raised and outcomes, and will report, as necessary, to Members via the Finance and Performance Management Cabinet Committee and/or the Audit and Governance Committee.

Other contacts with respect to this policy are the Deputy Chief Executive, Director of Corporate Support Services, Director of Finance and ICT, Chief Internal Auditor, Assistant Director (Human Resources), Assistant Director of Finance (Benefits) and your trade union representative.

# Anti-fraud strategy

 *Epping Forest District Council*

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## Anti-Fraud Policy

Epping Forest District Council (EFDC) is committed to high legal, ethical and moral standards, and the proper accountability of public funds.

The Authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Authority.

The Authority's expectation of 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.

The Authority also expects that individuals and organisations with which it comes into contact will act towards the authority with integrity, and without thought or actions involving fraud and corruption.

The key controls in place to reduce the likelihood of fraud are:

- The Authority has an effective anti-fraud and corruption policy and maintains a culture that will not tolerate fraud or corruption
- All Members and staff act with integrity and lead by example
- Senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt
- High standards of conduct are promoted amongst Members by the standards committee
- The maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
- Confidential reporting procedures are in place and operate effectively
- Legislation including the Public Interest Disclosure Act 1998 and the Bribery Act 2010 is adhered to
- Standard contract clauses prohibiting fraud and corruption

Additionally, the Authority:

- Maintains an Internal Audit Unit to be an independent appraisal function for the review of the Council's internal control system as a contribution to the proper, economic, efficient and effective use of resources
- Maintains a benefit fraud investigation team who play a key role in both the prevention and investigation of Housing Benefit and Council Tax benefit fraud
- Recognises the importance of criminal prosecution in deterring fraud and will seek the prosecution of offenders where appropriate
- Supports the work of the police and other external agencies, such as the Department for work and Pensions, in fighting fraud and corruption in the public sector.
- Is a member of the National Anti-Fraud Network (NAFN), and
- Participates in the National Fraud Initiative, which is the Audit Commission's biennial data matching exercise designed to combat fraud.

This policy applies to any irregularity, or suspected irregularity, which concerns EFDC, involving employees, Members and/or external parties. Any investigation required will be conducted without regard to any person's relationship to EFDC, position or length of service.

## Section One

### Introduction

EFDC aims to provide community leadership and quality services. This strategy document 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. It should be read in conjunction with the Fraud Response Plan.

In light of the Nolan Report, several well-publicised fraud and corruption cases within local government, and the requirements of the Local Government Act 2000, EFDC has formalised these accepted standards and practices and developed an anti-fraud and corruption strategy.

In applying this strategy regard will be had to all relevant EFDC policies and any obligations as an employer under the Code of Conduct for Local Government Employees.

EFDC is also aware of the high degree of external scrutiny of its affairs by a variety of bodies. They are important in highlighting any areas where improvements can be made and give guidance to the Authority.

The Audit Commission defines fraud and corruption as:

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

In addition, fraud can be defined as “*the intentional distortion of financial statements or other records by persons internal or external to the authority, which is carried out to mislead or misrepresent*”.

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

This strategy also covers “*the failure to disclose an interest in order to gain financial or other pecuniary gain.*”

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## Section Two

### Culture

EFDC will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority. Fraud risk is considered as part of the Authority's overall risk management strategy.

The prevention and detection of fraud and corruption, and the protection of the public purse are everyone's responsibility.

The Members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, irrespective of seniority, rank or status, in the knowledge that such concerns will, wherever possible, be treated in confidence.

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
- improper use or misappropriation of assets
- a miscarriage of justice
- maladministration, misconduct or malpractice
- endangering of an individual's health and safety
- damage to the environment
- any other similar occurrences
- deliberate concealment of any of the above.

Management will ensure that any allegations received in any way, including anonymous letters or phone calls, will be taken seriously and investigated in an appropriate manner, subject to legislative requirements.

EFDC will deal firmly with those who defraud the Authority, or who are corrupt, or who are responsible for financial malpractice.

When fraud or corruption has occurred because of a breakdown in the authority's systems or procedures, the Management Board will ensure that appropriate improvements in systems of control are implemented to prevent a recurrence.



## Section Three

### Prevention

#### 3.1 Members

As elected representatives, all Members of the Authority have to act in accordance with statutory requirements and the local Code of Conduct. These matters and other guidance are specifically brought to the attention of Members at the induction course for new Members and include rules on the declaration and registration of potential areas of conflict between Members' Council duties and responsibilities, and any other areas of their personal or professional lives.

Members sign to the effect that they have read, understood and will comply with the Member's Code of Conduct when they take office. The Monitoring Officer advises Members of new legislative or procedural requirements.

#### 3.2 Managers

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 staff are aware of the Authority's Financial Regulations and Standing Orders, and that the requirements of each are being met in their everyday business activities. In addition, managers must make their staff aware of the requirements of the Officers' Code of Conduct through the induction process.

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. Where they are unsure of the procedures, they must refer to the information in the Confidential Reporting Policy.

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, the integrated benefits computer system or council tax. Managers must ensure that relevant training is provided for staff. Checks must be carried out at least annually to ensure that proper procedures are being followed.

The Authority 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 Authority has a formal recruitment procedure, which contains appropriate safeguards on matters such as written references and verifying qualifications held. As with other public bodies, police checks are undertaken on employees working with children. Further checks will be introduced in areas where an increased risk of potential fraud and corruption has been identified. The Assistant Director (Human Resources) will keep under review the checks that legislation allows.

### 3.3 Employees

Each employee is governed in their work by the Authority's Standing Orders and Financial Regulations, the Officer Code of Conduct and various policies. Guidelines on gifts and hospitality, and codes of conduct associated with professional and personal conduct and disclosure of interests are contained within the Staff Handbook, which is issued to all employees when they join the Authority.

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 Authority. These will be included in induction training and procedure manuals.

Employees are expected always to be aware of the possibility that fraud, corruption 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 raise the matter in accordance with the Authority's [Confidential Reporting Policy](#).

### 3.4 Conflicts of Interest

Both Members and employees must ensure that they avoid situations where there is a potential for a conflict of interests. Such situations can arise with externalisation of services, partnering arrangements, internal tendering, planning and land issues, etc. Effective role separation will ensure decisions made are, and are seen to be made, based upon impartial advice thereby avoiding improper disclosure of confidential information.

### 3.5 Official Guidance

In addition to Financial Regulations and Standing Orders, Services will have their own procedures to prevent and detect fraud. There may also be audit reports that recommend methods to minimise losses to the Authority. Staff must be made aware of these various sources of guidance and alter their working practices accordingly.

### 3.6 Role of Internal Audit

Internal Audit plays a vital preventative role in trying to ensure that systems and procedures are in place to prevent and detect fraud and corruption. Internal Audit investigates all cases of suspected irregularity, except benefit fraud investigations (see below), in accordance with current legislative requirements. They liaise with management to recommend changes in procedures to prevent potential or further losses to the Authority.

### 3.7 The Role of the Benefits Investigation Team

The Benefit Fraud Investigation team plays a key role in both the prevention and the investigation of all instances of suspected Housing Benefit and Council Tax Benefit fraud. In cases where the suspected fraudulent claimant is in receipt of Housing Benefit/Council Tax Benefit as well as Income Support/Job Seekers Allowance, either Epping Forest District Council or the Department for Work and Pensions (DWP) will investigate on behalf of the other organisation in accordance with the Service Level Agreement that is in place. Fraud awareness training is given to Officers both within the Benefits Division as well as other sections of the authority to assist in ensuring that any cases referred to the team contain good quality information to assist with the investigation. All investigations are carried out in accordance with the respective benefit legislation, PACE and the Human Rights Act 1998 and other relevant, current legislation. In cases where the offence is deliberate and serious enough to warrant prosecution, legal proceedings will be undertaken either in conjunction with Legal Services, the police or the DWP.

### **3.8 The Role of External Audit**

Independent external audit is an essential safeguard in the stewardship of public money. This role is delivered through the carrying out of specific reviews that are designed to test (amongst other things) the adequacy of the Authority's financial systems, and arrangements for preventing and detecting fraud and corruption. It is not the external auditor's function to prevent fraud and irregularity, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity, and will act without undue delay if grounds for suspicion come to their notice. The external auditor has a responsibility to review the Authority'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**

Internal Audit has arranged 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
- County, Unitary and District groups
- External Audit
- Audit Commission
- Department for Work and Pensions
- Government departments.

This co-operation is of course subject to current legislative requirements, in particular, Freedom of Information Act, Data Protection Act, Access to Information Act and Public Interest Disclosure Act.

## Section Four

### Deterrence

#### 4.1 Prosecution

EFDC has adopted a benefits prosecution policy and will review the need for a corporate policy. The corporate policy will encompass the public, Members and employees. It is designed to clarify the Authority's action in specific cases and to deter others from committing offences against the authority. However, it also recognises that it may not always be in the public interest to refer cases for criminal proceedings.

#### 4.2 Disciplinary Action

Theft, fraud and corruption are serious offences against the Authority 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.

Members will face appropriate action under this strategy if they are found to have been involved in theft, fraud or corruption against the Authority. 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. The procedural guide *Allegations of Misconduct by Members* will govern the manner in which investigations are undertaken, and matters, if not referred to the police, will be referred to the Standards Committee and/or appropriate Group Leader.

#### 4.3 Publicity

EFDC's Public Relations (PR) section will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Authority. PR will also try to ensure that the results of any action taken, including prosecutions, are reported positively in the media.

In all cases where financial loss to the Authority has occurred, the Authority will seek to recover the loss, in so far as it is practicable, and advertise this fact.

All anti-fraud and corruption activities, including the update of this strategy, will be publicised in order to make employees and the public aware of the Authority's commitment to taking action on fraud and corruption when it occurs.

Regular reports will be made to the Standards Committee and Audit and Governance Committee as appropriate, about countering fraud and corruption activities and their success or otherwise.

## Section Five

### Detection and Investigation

Internal Audit plays an important role in the detection of fraud and corruption. Included in its Business Plan are reviews of system financial controls and specific fraud and corruption tests, spot checks and unannounced visits.

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.

In some cases frauds are discovered by chance or 'tip-off' and arrangements are in place to deal with such information properly.

All suspected irregularities are required to be reported (orally or in writing) either by the person with whom the initial concern was raised or by the originator, as detailed in the Authority's Confidential Reporting Policy. This will:

- ensure the consistent treatment of information regarding fraud and corruption
- facilitate a proper and thorough investigation by an experienced audit team, in accordance with the requirements of current legislation

This process will apply to all the following areas:

- a) fraud/corruption by Members
- b) fraud/corruption by Authority employees
- c) fraud/corruption by contractors' employees
- d) fraud/corruption by the public/ external parties

Depending on nature of the case, any of the above may be referred to the External Auditor and/or the police.

Except in the case of benefit fraud, any decision to refer a matter to the police will be taken by the Chief Executive in consultation with the Director of Corporate Support Services. EFDC will normally wish the police to be made aware of, and investigate independently, offenders where financial impropriety is discovered. However, the mere fact that a police investigation leads to them taking no further action will not compromise any private action/procedure or investigation that the Council may pursue.

The Authority's disciplinary procedure will be used to facilitate a thorough investigation of any allegation of improper behaviour by employees. The processes as outlined in section 4.2 of this policy will also apply to Members.

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## Section Six

### Awareness and Training

EFDC recognises that the continuing success of this strategy and its credibility will depend in part on the effectiveness of programmed training and an awareness of elected members and employees throughout the authority.

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.

Full copies of this strategy, the Confidential Reporting Policy and the Fraud Response Plan are available within Services and are posted on the Council's intranet. Alternatively copies are available from Internal Audit and Human Resources on request.

## **Section Seven**

### **Conclusion**

EFDC has always prided itself on setting and maintaining high standards and a culture of openness. This strategy fully supports the Authority's desire to maintain an Authority free from fraud and corruption.

EFDC has in place a network of systems 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.

Through the Internal Audit Unit, the Authority will continually review the systems and procedures, the details of which form the annual audit plan.

This strategy will be reviewed regularly.