



## IVYBRIDGE TOWN COUNCIL

### ANTI - BRIBERY POLICY January 2022



*Please also see Anti Bribery Statement dated 31.01.22*

It is illegal to offer, promise, give, request or accept bribes

#### **1.0 INTRODUCTION**

- 1.1 Members of the public and all bodies with which Ivybridge Town Council has dealings have a right to expect that public funds are secure and handled in an ethical manner, and all dealings with the Council's partners and suppliers are carried out in an honourable way. Ivybridge Town Council will not tolerate any form of bribery, whether direct or indirect, by, or of, its employees, officers, agents or consultants or any persons or companies acting for or on its behalf.
- 1.2 The Council has already in place an Anti-Fraud and Corruption policy, and set out below is the Anti-Bribery Policy which incorporates the six general principles of the Bribery Act 2010 set out in appendix 1 attached.

#### **2.0 CULTURE**

- 2.1 Under the Bribery Act 2010 a bribe is 'a financial or other advantage' in connection with the improper performance of a 'relevant function or activity'. The legislation broadly covers two offences:
- **Bribing** another person, i.e. the offering, promising or giving of a financial reward or other advantage to someone:
    - (i) to induce them to perform a relevant function improperly or to reward them for performing the function improperly
    - (ii) where the person offering the bribe should know or believe that the acceptance of the bribe would itself constitute improper performance of a relevant function or activity.
  - **Being bribed** i.e. the requesting, agreeing to receive or the accepting of an advantage:
    - (i) with the intention that a relevant function be performed improperly or as a reward for the improper performance; or
    - (ii) performing a relevant function improperly in anticipation of requesting, agreeing to receive or accepting a financial or other advantage; or
    - (iii) where that in itself constitutes the improper performance of a relevant function or activity.

It is also an offence under the Act for a company to fail to prevent bribery by its employees or associated persons acting for, or on its behalf. The Serious Fraud Office will be responsible for investigating offences under the Act.

If an individual is guilty of an offence under the Act they can receive a prison sentence of up to ten years and a fine of up to £5,000. Companies can receive unlimited fines.

**Functions and Activities** apply broadly to include:

- Any activity of a public nature
- Any activity connected with the business of the Council
- Any activity performed in the course of a person's employment; and
- Any activity performed on behalf of a body or a person (whether corporate or incorporate).

- 2.2 Ivybridge Town Council will promote a culture of zero tolerance towards any acts of bribery or attempted bribery and will require that all persons and organisations associated with the Council will act with integrity. It is not prepared to conduct business with third parties including clients, suppliers, agents or representatives who are not prepared to support its anti-bribery objectives.
- 2.3 The Council's employees are the main element in its stance against bribery and are encouraged to raise any concerns they may have in accordance with the Council's 'Whistle-Blowing policy.'

### **3.0 DETERRENCE**

- 3.1 There are a number of ways in which the Council seeks to deter a bribe whether inside or outside the Council and these include:
- Publicising the fact that the Council is firmly set against corruption in all forms and stating this on appropriate documentation and on the Council's website.
  - Acting robustly when bribery is suspected or proven, e.g. the termination of contracts, the dismissal and/or prosecution of offenders, and accompanying publicity.
  - Having sound internal control systems that minimise as far as possible the opportunity for any type of financial corruption.
- 3.2 The Anti-Bribery policy will be incorporated within the employees' handbook.

### **4.0 RAISING AWARENESS**

- 4.1 The Council recognises that the success of this Policy will depend largely on how effectively it is communicated both within the organization and to third parties dealing with the Council and steps will

be taken to ensure that it is included in all relevant documents and on the Council's website, and that all employees are made aware of its importance.

## **5.0 PREVENTION**

- 5.1 The Council is dedicated to preventing any form of bribery and recognises the risk to its reputation and financial loss it can bring. The prevention of such acts is a key objective of the Council and roles and responsibilities are outlined below:

## **6.0 EMPLOYEES – (PERMANENT, TEMPORARY OR AGENCY OR CONTRACTORS)**

- 6.1 The integrity of individual employees is crucial to successful bribery prevention and managers have responsibility for taking effective steps during recruitment and induction procedures to deter bribery and any other form of fraud.
- 6.2 Employees are expected to abide by the Council's rules as set out in the employees' handbook and should also follow any Code of Conduct required by their professional institute or trade's body.
- 6.3 The Council has in place disciplinary procedures for all employees and any employees found in breach will be dealt with in accordance with those procedures. Where criminal activity is suspected or found, the matter may be referred to the authorities for investigation.
- 6.4 From 1<sup>st</sup> July 2011, under the Bribery Act 2010, bribing another person and being bribed are both criminal offences, by reference to 'a financial or other advantage' in connection with the improper performance of a 'relevant function or activity'. Bribery is punishable by a fine or imprisonment. **The Council is required to take adequate procedures and show due diligence to prevent bribery.** The Act creates a new criminal corporate offence of failing to prevent bribery by its employees or associated persons acting for, or on its behalf.
- Ivybridge Town Council may be guilty of a criminal offence if a person associated with the organisation bribes another person, intending to obtain or retain business or a business advantage for the Council.
  - A person is 'associated' with the Council if they are a person who performs services for or on behalf of the Council. The capacity in which an 'associated' person performs services for or on behalf of the Council does not matter. If the associated person is an employee, it will be presumed (unless the contrary is shown) that they are a person who performs services for and on behalf of the Council.

**In order to defend such a charge, the Council will need to demonstrate it has adequate procedures in place to prevent**

**bribery.** Council policy will be based on proportionality, with a senior management commitment to bribery prevention, risks assessment, due diligence, communication and monitoring and review.

- 6.5 The Council places responsibility for fraud prevention, including bribery, on all employees. Staff should therefore be alert to the possibility of fraud and report any concerns.
- 6.6 If an elected Member or member of the public suspects any type of fraud or bribery is being, or has been, committed the matter should be reported to the Town Clerk or Town Mayor.
- 6.7 If a staff member suspects that any type of fraud including bribery is being, or has been, committed they should report it to the Town Clerk or if appropriate to the Town Mayor who will ensure that the matter is dealt with confidentially.
- 6.8 The matter must be dealt with confidentially to reduce the risk of an investigation being jeopardised. Suspicions are not to be discussed with anyone other than the person to whom the suspicions have been reported and any investigating officer appointed to deal with the matter.
- 6.9 Employees are reminded that they must operate within the requirements of s117 of the Local Government Acts 1972 and 1989 regarding the disclosure of pecuniary interests in contracts which the Council has or plans to enter into, and the non-acceptance of any fees or rewards whatsoever other than their proper pay.

## **7.0 MEMBERS**

- 7.1 Members are required to operate within the Code of Conduct The Code provides for the public registration and declaration by Members of private interests.
- 7.2 Government issued an Openness and Transparency Guide for Councillors in 2012 in which pecuniary interests were defined as 'business interests (including employment, trade, profession, contracts and any other company the member is associated with) and wider financial interests including trust funds, investments and assets including land and property.

## **8.0 INTERNAL SYSTEMS CONTROL**

- 8.1 The primary responsibility for maintaining sound arrangements for the prevention and detection of bribery, fraud and corruption rests with the Council. The principal mechanism for achieving this objective is to operate a sound and effective system of internal control. This includes having procedures in place which ensure that any suspected fraudulent activity is promptly and effectively investigated.

- 8.2 There are specific legal requirements under s151 of the Local Government Act 1972 and the Accounts and Audit Regulations 1996 which require the Council to appoint a Responsible Officer to make arrangements for the proper administration of the Council's financial affairs. The Responsible Officer is required to determine and maintain an effective accounting system which includes measures to detect and prevent fraud. In the case of Ivybridge Town Council the Town Clerk is the nominated Responsible Officer.
- 8.3 Under the Accounts and Audit Regulations 2015 the Council is also required to maintain an adequate and effective internal audit function. The Council's Internal Auditor is a key stakeholder in the effective control environment.

## **9.0 DETECTION AND INVESTIGATION**

- 9.1 The preventative assurance provided by an effective system of internal control can do much to deter and prevent any form of bribery. However, it is often the alertness of employees and the public who may first become aware of indications of financial irregularities which can identify and bring matters to the Council's attention.
- 9.2 There is, however, a need to ensure that procedures for raising issues of concern by members of staff are not misused and as a consequence any misuse such as raising unfounded malicious allegations may itself be dealt with as a disciplinary matter, but any employee reporting suspected bribery in good faith will receive the support of the Council whether or not any subsequent investigation reveals an instance of bribery.
- 9.3 In the event the Council believes an employee or associated person has been involved in any bribery activity it will invoke its disciplinary procedure. The Council will carry out a full investigation and if the allegations are upheld, this may result in a finding of gross misconduct and immediate dismissal or the Council may immediately terminate its contractual arrangements with any associated person. The Council will report issues to the regulatory authorities where appropriate.
- 9.4 Management recommendations may be made as a consequence of an investigation to improve systems and controls in order to prevent and deter further instances of fraud through bribery.
- 9.5 Disciplinary procedures will be applied where the outcome of an investigation indicates that an employee has behaved improperly.
- 9.6 In consultation with the South Hams District Council Monitoring Officer a complaint may be made to the Standards Committee where the outcome of an investigation indicates an elected Member has behaved improperly.

9.7 A prosecution or referral to the authorities will not prohibit disciplinary actions against employees or the reporting of elected Members to the Standards Committee.

## Appendix 1

### **Bribery Act 2010 General Principles**

#### **1. Risk Assessment**

##### **(i) Internal Risks**

The Town Council will ensure that employees understand the provisions of the Bribery Act and are aware of the bribery risks that the Council may face.

##### **(ii) External risks – The Council will consider whether it's involved in:**

- Operating in corrupt environments
- Interacting with public officials
- Providing services to high risk sectors
- Using agents, sub-contractors, relying on subsidiaries, or
- Entering into joint venture arrangements

#### **2. Top Down Commitment**

The top level management is committed to preventing bribery and will establish a culture in which bribery is never acceptable. Steps will be taken to ensure that the Council's policy is clearly communicated to all employees and any relevant external bodies.

#### **3. Due Diligence**

The Council will have due diligence policies and procedures in place which are proportionate and risk based in respect of persons who perform services for or on behalf of the Council in order to mitigate identified bribery risks. This includes the Council's supply chain, agents and intermediaries, all forms of joint venture and similar relationships to cover all areas in which the Council does business.

#### **4. Clear, practical and accessible policies and procedures**

The Council's policies and procedures to prevent bribery being committed on its behalf will be clear, practical, accessible and enforceable. Policies and procedures should take account of the roles of all employees and any other people and entities over which the Council has control.

#### **5. Effective Implementation**

The Council will effectively implement its anti-bribery policies and procedures and ensure they are embedded throughout the organisation so that their development reflects the practical issues that it faces when seeking to conduct business without bribery.

#### **6. Monitoring and Review**

The Council will institute monitoring and review mechanisms to ensure compliance with relevant policies and procedures and identify any issues as they arise.