

EXECUTIVE COMMITTEE

31st January 2012

ADOPTION OF A CORPORATE ANTI-BRIBERY POLICY AND AMENDED OFFICER CODE OF CONDUCT

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| Relevant Portfolio Holder | Councillor Michael Braley, Portfolio Holder for Corporate Management |
| Portfolio Holder Consulted | Yes |
| Relevant Head of Service | Claire Felton, Head of Legal and Democratic Services |
| Wards Affected | All Wards |
| Ward Councillor Consulted | No |
| Non-Key Decision | |

1. SUMMARY OF PROPOSALS

Under the Bribery Act 2010 the Council is required to have an anti-bribery policy to comply with the requirement under the Act to have “adequate procedures” in place to prevent bribery by both Members and Officers of the Council. The Act is also required to be incorporated into Officer Code of Conduct, which has been amended to incorporate its provisions and generally updated.

2. RECOMMENDATIONS

The Committee is asked to **RECOMMEND** that

- 1) the Corporate Anti-Bribery Policy attached at Appendix 1 be adopted and added to the Council’s Constitution;**
- 2) the amended Officer Code of Conduct attached at Appendix 2 be adopted; and**
- 3) the Constitutional pack be updated accordingly.**

3. KEY ISSUES

Financial Implications

- 3.1 There are no financial implications in adopting the Policy and in updating the Officer Code of Conduct.

Legal Implications

- 3.2 Compliance with the requirements of the Bribery Act 2010 have instigated this Report, Policy and the updating of the Officer Code of Conduct.

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- 3.3 The Bribery Act 2010 came into force from 1 July 2011 which replaces previous anti-fraud legislation. The act makes it an offence for a United Kingdom citizen or resident to pay or receive a bribe, either directly or indirectly. The act applies to transactions that take place in the UK and abroad, and both in the public and private sectors.
- 3.4 There are four key offences under the Act:
- a) bribing of another person (Section 1).
 - b) accepting a bribe (Section 2).
 - c) bribing a foreign official (Section 6).
 - d) failing to prevent bribery (Section 7)
- 3.5 Section 7 is a corporate offence but an organisation will have a defence to this offence if it can show that it had in place 'adequate procedures' designed to prevent bribery by or of persons associated with the organisation.
- 3.6 An individual guilty of an offence under sections 1, 2 or 6 is liable,
- a) on conviction in a magistrates court, to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5000, or to both.
 - b) on conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.
- Organisations, if found guilty of an offence under section 7 are liable to an unlimited fine.
- 3.7 If the Council were not to have in place adequate procedures as required under the Bribery Act 2010, it would be more difficult for the Council to defend any prosecution brought against it under the Bribery Act.
- 3.8 If the Council were not to have in place adequate procedures as required under the Bribery Act 2010, it would be more difficult for the Council to defend any prosecution brought against it under the Bribery Act.

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Service/Operational Implications

- 3.9 Members approval is sought of the two documents attached to this report. The Corporate Anti-Bribery Policy at Appendix 1 sets out the Council's policy on bribery issues.

Key points for Members to note are as follows:-

- a) The Council is advocating a zero tolerance approach to bribery and corruption.
 - b) Under the terms of the policy all employees and elected Members are prohibited from soliciting, arranging or accepting bribes intended for the benefit of the Council, or for their personal benefit, or for the benefit of the employee's family, associates or acquaintances. The policy extends to all the Council's business dealings, transactions and decisions.
 - c) The Anti-Bribery Policy affects Members and Officers. Compliance with the Officer Code of Conduct is required of all staff.
 - d) Under the new policy all employees and Members are going to have to make sure that they properly declare any gifts or hospitality that they receive. Arrangements for Members to declare gift and hospitality are already in place under the Code of Conduct for Councilors for Gifts and Hospitality (Part 17 of the Constitution).
- 3.10 The existing Officers' Code of Conduct has been up-dated to reflect the requirements of the Bribery Act and incorporates some minor amendments to bring it up to date.
- 3.11 The staff registers for registering interests and gifts and hospitality has previously been within separate Directorates but it is now proposed that a central register be set up and administered by the corporate Information Management Team.
- 3.12 As regards raising awareness amongst staff about the Bribery Act, information has already been circulated via an Oracle Email and when adopted further notification will be made to all Members and staff.

Customer / Equalities and Diversity Implications

- 3.13 There is no direct impact on customers of the Council, other than to raise awareness of the zero tolerance stance.

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The Anti-Bribery Policy will be included, once approved, on the Council's website and will be available to staff through the Orb. The Code of Conduct is part of the Council's Constitution and is also available to staff on the Orb.

4. RISK MANAGEMENT

- 4.1 Legal compliance requires the Council to have an anti-bribery policy in place. Having a robust anti-fraud framework will help minimise the risk of internal and external abuse of public funds and promote an anti-fraud culture across the Council: It extends to all the Council's business dealings, transactions and decisions.
- 4.2 The main risks associated with not progressing the requirements of the Bribery Act 2010 could include:
- a) Disbarment from contracts.
 - b) Loss of reputation.
 - c) Negative publicity for the Council.
 - d) Loss of contract specifications/the wrong people doing the jobs under contract.

5. APPENDICES

Appendix 1 - Corporate Anti-Bribery Policy.
Appendix 2 - Amended Officer Code of Conduct.

6. BACKGROUND PAPERS

The Bribery Act 2010.
The current version of the Officer Code of Conduct –
RBC Constitution pack 2011/12.

AUTHOR OF REPORT

Name: Clare Flanagan
E Mail: clare.flanagan@bromsgroveandredditch.gov.uk
Tel: (01527) 64252 ext 3173