

Peterborough City Council

Anti-Bribery Policy

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Introduction

This policy sets out the Council's response to the Bribery Act 2010 for its employees and those of its Partners. It should also encourage individuals to feel confident in raising serious concerns by explaining how the Council will deal with any concerns raised.

Peterborough City Council is committed to preventing bribery and ensuring that a culture exists within the organisation in which bribery is never acceptable. We are committed to the highest possible standards of openness, probity and accountability.

In line with those commitments, Members, officers and those who deliver services on our behalf (our partners) are encouraged to come forward and voice any serious concerns about any aspect of the Council's work. It is recognised that certain cases will have to proceed on a confidential basis.

Those who work or operate within the organisation may often be the first to realise that there may be something wrong within the Council. However, they may not feel able to express their concerns because they feel that speaking out would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances, it may appear to be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

This procedure should be read in conjunction with the Whistleblowing Policy. It is applicable to members, officers and partners.

This policy recognises the synergy between whistleblowing and anti-bribery measures. It also provides a coherent and consistent framework to enable Peterborough City Council members, officers and partners to understand and implement arrangements to enable compliance.

The principles of this policy apply to all members, officers (whether permanently employed or otherwise) and partners.

What is bribery?

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. [The Bribery Act 2010](#) introduced four criminal offences regarding the bribing of another person, the accepting of a bribe, the bribing of Bribery is a serious offence and any offender will face disciplinary action (within their own procedures) if there is evidence that they have been involved in this activity. Disciplinary action will be considered in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case.

Reporting Procedures

As a first step, an officer or partner should normally raise concerns with their immediate manager or their manager's superior. A member should raise concerns with the Council's Monitoring Officer. However, this depends on the seriousness and sensitivity of the issues and who is involved. Concerns can also be reported to any officer listed below:

- Chief Executive
- Director of Governance (Monitoring Officer)
- Executive Director Strategic Resources (Section 151 Officer)
- Executive Director Children's Services
- Chief Internal Auditor
- Head of Human Resources

The Director of Governance is the Council's Monitoring Officer. The Monitoring Officer is a statutory whistle-blower and is under a duty to present a report to Council if it appears to them that an action or proposal is, or is likely to be unlawful or which is likely to amount to maladministration.

The Executive Director Strategic Resources is responsible for the Council's financial affairs and is under a similar duty to whistle blow in relation to unlawful expenditure and/or illegal accounting practices.

The Executive Director Children's Services is responsible for the Council's provision of services to children, young people and their families.

Concerns should be raised in writing. Individuals should set out the background and history of their concerns, giving relevant names, dates and places where possible, and the reasons why they are particularly concerned about the situation. If an individual is unable to put their concern in writing, they can telephone or meet the appropriate officer to whom they decide to report the concern. **It is important that the employee makes it clear that they are raising the issues *via* the whistleblowing procedure.**

Although an employee is not expected to prove the truth of an allegation, they will need to demonstrate that there are sufficient grounds for the concern.

In some instances it may be appropriate for an individual to ask their trade union to raise a matter on their behalf or to ask a colleague or trade union representative to accompany them when they commence the procedure.

How Peterborough City Council will respond

The action taken by the Council will depend on the nature of the concern. The matters raised may:

- be investigated internally;
- be referred to the Police;
- be referred to the External Auditor;
- form the subject of an independent inquiry.

(All issues will be referred to the Director of Governance for record keeping purposes).

In order to protect individuals and the Council, initial enquiries, (usually involving a meeting with the individual raising the concern), will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle, which the council will have in mind, is the public interest.

Some concerns may be resolved simply, by agreed action or an explanation regarding the concern, without the need for further investigation.

Within ten working days of a concern being received, the person receiving the concern will write to the employees acknowledging that the concern has been received and;

- indicate how they propose to deal with the matter;
- advise whether any initial enquiries have been made;
- advise whether further investigations will take place, and if not why not;
- where possible give an estimation of how long it will take to provide a final response;

It may be necessary for the person receiving the concern to meet with the individual who is reporting the concern on more than one occasion depending on the nature of the concerns raised. Where any meeting is arranged, the person reporting the concern, if they wish, may be accompanied by a colleague or recognised Trade Union Representative. When appropriate, meetings will be arranged away from the workplace.

Further information

For further information and advice on anti-bribery and how to raise a concern, please contact the Director of Governance.

Peterborough City Council commitment

Peterborough City Council is committed to:

- Maintaining an Anti-Bribery Policy
- Making all members, officers and partners aware of their responsibilities to adhere to this policy at all times
- Providing training and/or guidance to all members, officers and partners so that they can recognise and avoid the use of bribery by themselves and others
- Encouraging members, officers and partners to be vigilant and to report any suspicions of bribery or any other wrongdoing.
- Providing them with suitable channels of communication and ensuring sensitive information is treated appropriately

- Investigating instances of alleged bribery and other wrongdoing and assisting police and other appropriate authorities in any resultant prosecution
- Taking firm action against any individual(s) involved in bribery and any other wrongdoing
- Including appropriate clauses in contracts to prevent bribery and other wrongdoing.

Legislation

This policy is to be read in addition to the Council's Whistleblowing Policy, Complaints Procedure, Grievance Procedure and Dignity at Work Procedure and aligns with the Gifts and Hospitality Procedure. Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

Under the Bribery Act 2010, there are four key offences:

- Section 1 – bribing another person. This makes it an offence to offer, promise or give a bribe.
- Section 2 – accepting a bribe. It is an offence to request, agree to receive or accept a bribe.
- Section 6 – bribing a foreign official. This is 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.
- Section 7 - Failing to prevent bribery which is a corporate offence 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. Under the Act, Peterborough City Council is considered to be a commercial organisation. Please subsection below Test of Adequacy.

An individual guilty of an offence under sections 1, 2 or 6 and convicted in a Magistrates' Court, could face imprisonment of up to 12 months and/or a fine not exceeding £5000. If convicted in a Crown Court, an individual could face imprisonment of up to 10 years and/or an unlimited fine.

Organisations are also liable to an unlimited fine if found guilty under section 7.

Test of Adequacy

Whether the Council's procedures are adequate will ultimately be a matter for the Courts to decide upon. There are **six principles** which should be applied in determining whether or not adequate procedures are in place and therefore if the Council has a defence against failing to prevent bribery.

- Proportionate procedures: the Council has procedures in place to prevent bribery by members, officers and Partners which are proportionate to the bribery risks we face and to the nature, scale and complexity of our activities.
- Top level commitment: the Corporate Management Team are committed to preventing bribery by members, officers and Partners and will foster a culture whereby bribery is never acceptable.
- Risk assessment: the Council assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by members, officers and Partners. The assessment is periodic, informed and documented. It includes financial risks and reputational damage.
- Due diligence: the Council 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 Council, in order to mitigate identified bribery risks.
- Communication including training: the Council seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the Council through internal and external communication, including training that is proportionate to the risks it faces.

Monitoring and review: the Council monitors and reviews procedures designed to prevent bribery by Members, officers and its Partners and makes improvements where necessary

Facilitation of 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.

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. There are no plans to amend the 2006 Regulations for this to include the crime of failure to prevent 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.

Members

The Member Code of Conduct requires that a member must not use or attempt to use their position as a member to confer on or secure for themselves or any other person an advantage or disadvantage. As well as the possibility of civil action and/or criminal prosecution, Members who breach this policy may be subject to investigation and if convicted of a criminal offence may be debarred from carrying out duties as a member.

Officers

In addition to the possibility of civil action and criminal prosecution, officers who breach this policy will face disciplinary action which could result in dismissal for gross misconduct. Dismissal may still be an outcome with or without civil action or criminal prosecution. Partners will be dealt with under their own disciplinary procedures.

Gifts and hospitality

In addition to the possibility of civil action and criminal prosecution, officers who breach this policy will face disciplinary action which could result in dismissal for gross misconduct. Dismissal may still be an outcome with or without civil action or criminal prosecution. Partners will be dealt with under their own disciplinary procedures.

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