



## ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY

### WRITTEN BY:

Mrs Sarah Haydon, Chief Officer

### REVISED:

Finance Strategy and Management Committee – 23 January 2024

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### INTRODUCTION

1.1 Biddulph Town Council wishes to promote a culture of openness and honesty consistent with the principles of conduct identified by the Committee for Standards in Public Life, and expects all those who work for and with the Council to adopt the highest standards of propriety and accountability.

The purpose of this policy is to establish controls to ensure compliance with all applicable anti-bribery and corruption regulations, and to ensure that Biddulph Town Council's business is conducted in a socially responsible and legal manner.

1.2 Biddulph Town Council prohibits any form of bribery or corruption. It is our policy to conduct all of our business in an honest and ethical manner. We take a zero-tolerance approach to bribery and corruption, whether committed by employees or any person acting for or on behalf of the Council.

We are committed to acting professionally, fairly and with integrity in all our business dealings and relationships wherever we operate and implementing and enforcing effective systems to counter bribery.

Any suggestions of fraud, corruption or theft will be investigated, both from within the Council and from external sources. Any proven fraud will be dealt with in a consistent and proportionate manner.

## OBJECTIVES OF THE POLICY

2.1 In administering its responsibilities, the Town Council aims to prevent fraud and corruption whether it is attempted by someone who is not part of the council, or from within the council, by an employee or Member. The Council is committed to an effective Anti-Fraud and Corruption Policy designed to promote high ethical standards, encourage prevention, and promote detection.

## PROVISIONS

### 3.1 Definitions

#### **Fraud**

The Fraud Act 2006 defines fraud in the following three ways, as follows:

A person is guilty of fraud if he is in breach of any of the following:

**Fraud By False Representation;** that is if a person:

- (a) dishonestly makes a false representation, and
- (b) intends, by making the representation—
  - (i) to make a gain for himself or another, or
  - (ii) to cause loss to another or to expose another to a risk of loss.

A representation is false if:

- it is untrue or misleading, and
- the person making it knows that it is, or might be, untrue or misleading.

**Fraud By Failing To Disclose Information;** that is if a person:

- (a) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and
- (b) intends, by failing to disclose the information to:
  - (i) make a gain for himself or another, or
  - (ii) cause loss to another or to expose another to a risk of loss.

**Fraud By Abuse Of Position;** that is if a person:

- (a) occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person,
- (b) dishonestly abuses that position, and

(c) intends, by means of the abuse of that position to:

- (i) make a gain for himself or another, or
- (ii) cause loss to another or to expose another to a risk of loss.

Many of the offences referred to as fraud are covered by the Theft Acts of 1968 and 1978. The term is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusions.

This Policy therefore covers all financial impropriety including theft or corruption, which is described in more detail below:

- According to the 1968 Theft Act ‘a person shall be guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.’
- Corruption is the offering, giving, soliciting or acceptance of an inducement or reward that may influence the actions taken by the audited body, its members or employees.

Actions constituting fraud or corruption may include, but are not limited to:

### **Bribery**

Bribery can be described as the receiving of an inducement for an action which is illegal, unethical or in breach of trust. Inducements are take for the form of gifts, fees, rewards or other advantages such as retaining business.

The Bribery Act 2010 created four main offences:

- Two general offences covering the overing, promising or giving of a bribe (‘active’ bribery), and the requesting, agreeing to receive or accepting a bribe (‘passive’ bribery);
- A discrete offence of bribery of a foreign public official; and
- A new offence of a commercial organization failing to prevent a bribe being paid (note: should an offence be committed, it will be a defence that the organization has adequate procedures in place to prevent bribery).

### **Corruption**

The deliberate use of one’s position for direct or indirect personal gain.

“Corruption” covers the offering, giving, soliciting or acceptance of an

inducement or reward, which may influence the action of any person to act inappropriately.

### **Theft**

The physical misappropriation of cash or other tangible assets. A person is guilty of “theft” if he or she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

### **Money Laundering**

Money laundering is the process by which criminals attempt to “recycle” the proceeds of their criminal activities in order to conceal its origins and ownership and which leaves them with money that cannot be traced back.

### **Tax Evasion**

The Criminal Finance Act 2017 introduced two new criminal offences; one relating to UK tax evasion, one relating to foreign tax evasion. The new offences, which came into force on 30 September 2017, are designed to help the Government counter circumstances where a body’s employees facilitate tax evasion by their customers or suppliers. Although tax evasion does not have a direct impact on the Council, under the new legislation there is a strict liability for failing to prevent the facilitation of tax evasion by one of its associates, such as an employee or contractor. This could arise, for example, if a Council employee conspired with a supplier to falsify the amount paid on an invoice so that the supplier evaded paying income or corporate taxes. Similar to the Bribery Act 2010, there is a statutory defence of having ‘reasonable prevention procedures’ in place.

## **3.2 Reporting**

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for us or under our control. All employees are required to avoid any activity that might lead to, or suggest, a breach of this policy.

Employees and Members are encouraged to raise concerns about any issue or suspicion of malpractice at the earliest possible stage. If they are unsure whether a particular act constitutes bribery or corruption, or if they have any

other queries or concerns, these should be raised with the Chief Officer or the Town Mayor.

Any employee who breaches this policy will face disciplinary action, which could result in dismissal for gross misconduct. We reserve our right to terminate our contractual relationship with other workers if they breach this policy.

### **3.3 Gifts and Hospitality**

Biddulph Town Council has an adopted **Employee Code of Conduct** that highlights the appropriate approach in relation to dealing with the giving and receiving of gifts and hospitality.

### **3.4 Record Keeping**

Biddulph Town Council must keep financial records and have appropriate internal controls in place which will evidence the business reason for making payments to third parties.

All accounts, invoices, memoranda and other documents and records relating to dealings with third parties, such as clients, suppliers and business contacts, should be prepared and maintained with strict accuracy and completeness. No accounts must be kept “off-book” to facilitate or conceal improper payments. The Chief Officer will be consulted where gifts or hospitality are given or received.

### **3.5 Culture**

There is an expectation and requirement that all individuals and organisations associated in whatever way with the Council will act with integrity and that all employees and members will lead by example in these matters.

Employees have an important role to play in relation to protection against fraud and corruption. They will be encouraged to report any concerns, associated with the Council’s finances, resources and responsibilities and these will be thoroughly investigated. Any concern thus raised in confidence will be treated in confidence as far as possible, but relevant information may be passed on to those who need to know.

The Chief Officer is expected to deal promptly under the necessary procedures with those who are suspected of defrauding the Council or who may be corrupt.

There is, of course, a need to ensure that any investigation process is not misused and, therefore raising unfounded malicious allegations by an Officer/ Member may amount to misconduct. Similar allegations raised by other parties may result in legal action.

### **3.6 Prevention**

The Council recognises that a key measure against fraud and corruption is prevention. The first step in prevention is to take effective measures at the recruitment stage to establish propriety and integrity as far as reasonably practicable. In this regard temporary and contract employees should be treated in the same manner as permanent employees.

Employees must be appointed in accordance with the Council's recruitment and selection procedures. Also, written references should be obtained and should include information regarding honesty and integrity of potential employees. Employment will be conditional upon the receipt of two satisfactory references.

Employees are required to follow the Council policies and procedures as well as any relevant professional standards. In addition, employees must also abide by the law.

The Council is responsible for ensuring that there is a sound system for internal control which facilitates the effective exercise of the Council's functions and which includes arrangements for the management of risk.

The Council has developed systems and procedures, which incorporate efficient and effective internal controls and which include adequate separation of duties.

Members of the Council are required to follow the **Member's Code of Conduct** including the appropriate declaration and registration of interests, the compliance with which will be subject to review by the Chief Officer.

### **3.7 Money Laundering and E-Mail Scams**

All employees should be aware of the increasing possibility of receiving requests that could be used for money laundering and illicit requests for money through e-mails.

Any Service that receives money from any external person or body is potentially vulnerable to a money laundering operation. The need for vigilance

is vital and if there is any suspicion concerning the appropriateness of the transaction then advice must be sought.

E-mail scams can take the form of either requests for personal financial information such as bank account details or a suggestion of the depositing of funds for money laundering purposes. Employees are advised to forward any suspicious emails to the Chief Officer and to then immediately delete the email without responding or copying the email to any other person.

The Chief Officer will decide what further action, if any, needs to be taken, including possible referral to the police.

### **3.8 Detection and Investigation**

Internal controls have been established for financial and other systems within the Council. They are designed to discourage fraud and provide indicators of any fraudulent activity. We also rely on employees, Members and the public to be alert and to report suspicion of fraud and corruption.

Frauds are often discovered by a “tip-off” but nevertheless it is essential that officers and other employees have clear monitoring and supervision arrangements in place, particularly in relation to high risk areas.

Where an issue has been reported, the Chief Officer will:

- a) Deal promptly with the matter.
- b) Record all evidence received.
- c) Ensure that evidence is sound and adequately supported.
- d) Ensure security of all evidence collected.
- e) Contact other agencies e.g. Police.
- f) Notify the Council’s insurers.
- g) Implement Council disciplinary procedures where appropriate.

The Council will also work in co-operation with external organisations such as HM Customs and Excise, Inland Revenue or the Police.

Where a suspected irregularity is material or could seriously affect the reputation of the Council then the Members must be informed of this by the Chief Officer.

The type and nature of report(s) to the Council will vary according to the type of alleged fraud being investigated. These reports although confidential may need to be passed on to those who need to know e.g. police, officers or Members and may be oral or written and either interim or final.

The usual procedure will be a preliminary investigation followed by a brief report which may recommend an in depth investigation, with further interim reports as required. The final report will supersede all interim reports and is the definitive document on which the Chief Officer will base their further action.

For major incidents of fraud/corruption the Chief Officer will, within 6 months of the submission of the final investigation report, submit a summary report, in closed session, to Members. These reports will contain details of the area investigated, the outcome, action taken to prevent future occurrences, any losses suffered by the Council and the action taken to recover such losses.

### **3.9 Role of Internal Audit**

The Chief Officer is responsible for ensuring that there is an adequate and effective system of internal audit of the Council's accounting, financial and other systems in accordance with the relevant Accounts and Audit Regulations. Internal audit plays a significant preventative role in ensuring that the relevant systems deter fraud and will work with management to identify the procedural changes necessary to prevent the Council from exposure to losses. Internal audit will also investigate cases of suspected irregularity or fraud. The actions of the internal audit include the undertaking of a number of specific reviews and tests of the relevant financial systems and other arrangements for the protection and detection of fraud.

### **3.10 Role of External Audit**

The external auditor has a responsibility to review the Council's arrangements for preventing and detecting any irregularities, and arrangements designed to limit the opportunity for corrupt practices. The outcome of these reviews is reported each year in the Annual Audit Letter which is presented to elected Members by the external auditor.

### **3.11 Post Investigation**

The Council wishes to see that following an investigation action is taken to minimise future occurrence.

This may be a change in management, systems and procedures or retraining of employees.



### 3.12 Training

The Council recognises that the continuing success of its Anti-Fraud and Corruption Policy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of employees and Members throughout the organisation.

To facilitate this the Council supports the concept of induction and re-induction training for Members and particularly for employees involved in internal control systems to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced.

Employees, who fail to follow such training and guidance, or fail to follow proper working practices, may face disciplinary action.

Investigation of fraud and corruption may require specialist training.

## RELEVANT LEGISLATION

4.1 The Chief Officer as the “section 151 officer” has a statutory responsibility under section 151 of the Local Government Act 1972 to ensure the proper arrangements for the Council’s financial affairs and has developed financial codes of practice and accounting instructions.

The Chief Officer has a statutory responsibility to advise the Council on the legality of its decisions and to ensure that the Council’s actions do not give rise to illegality or maladministration. It is therefore essential for employees to follow the Council’s policies and procedures to demonstrate that the Council is acting in an open and transparent manner.

4.2 The Fraud Act 2006 provides a definition of ‘fraud’, highlighted above. Many of the offences referred to as fraud are covered by the Theft Acts of 1968 and 1978. The term is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

The Bribery Act 2010 introduced four main offences, detailed above.

The Criminal Finance Act 2017 introduced two new criminal offences, detailed above.