

Anti-Bribery Policy

- 1 [Introduction](#)
- 2 [What constitutes bribery](#)
- 3 [Application of the policy](#)
- 4 [Overall Approach](#)
- 5 [Reporting money laundering](#)
- 6 [Risk assessment](#)
- 7 [Communication of the policy](#)

This document forms part of Somerset County Council's HR&OD Manual, which is available on the SCC Website [HR - SCC extranet](#).

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1. Introduction

Somerset County Council has a **zero tolerance** for any acts of bribery, improper inducement or similarly corruption, and will take all necessary steps (including through the courts) to protect the public purse from these activities.

Somerset County Council does 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 aim to maintain anti-bribery compliance as "business as usual", rather than as a one-off exercise.

This policy provides the framework to enable the organisation's employees and members 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.

SCC requires that all members and staff, including those permanently employed, temporary agency staff and contractors:

- act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible and to safeguard the council's good reputation;
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which SCC operates, in respect of the lawful and responsible conduct of activities.

It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with an 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

As well as the possibility of civil and criminal prosecution, staff and members that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct.

2. What Constitutes Bribery?

The Bribery Act 2010 ('the Bribery Act') aims to promote anti-bribery practices amongst businesses. It applies to both the private and public sectors and so applies to the County Council. An organisation will commit a criminal offence under the Bribery Act if it fails to prevent bribery that is intended to obtain or retain business or an advantage in the conduct of business for the organisation. An individual can also be guilty of an offence under the Bribery Act.

There are four key offences under the Act :

- Section 1 - Bribing another person
- Section 2 - Taking a bribe
- Section 6 - Bribing a foreign public official
- Section 7 - Failing to prevent bribery.

Bribery is a criminal offence. Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

The Bribery Act 2010 <http://www.legislation.gov.uk/ukpga/2010/23/contents> 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 the Act for failure by a commercial organisation 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.

The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.”

For the purpose of applying the Act Somerset County Council is treated as a “commercial organisation”.

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 guilty of an offence under section 7 are liable to an unlimited fine

Public contracts and failure to prevent bribery

Under the Public Contracts Regulations 2015 (which gives effect to EU law in the UK), SCC is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence within the last 5 years.

Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. SCC has the discretion to exclude organisations convicted of this offence if it occurred within the last 5 years.

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. This, for example, includes customs officers.

3. Application

This Anti-Bribery Policy will apply to all employees and Members of the Council and all contractors, agencies and partners working within the Council.

This policy applies to all of SCC's activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy. Where others are to deliver services on behalf of the County Council, it is essential during the procurement or service transfer process that they are made aware of the standards that are expected of them in relation to anti-bribery measures, and the support that the County Council will expect in delivering our Policy.

Within SCC, the responsibility to control the risk of bribery occurring resides with all members and officers. It does not rest solely within assurance functions, but in all service areas, business units and corporate functions.

4. Overall Approach

Somerset County Council is committed to having a zero tolerance approach to bribery through the creation of an anti-bribery culture: This will involve:

- setting out a clear anti-bribery policy and reviewing at least annually (through the officer Governance Board and Audit Committee);
- making all employees aware of their responsibilities to adhere to this policy at all times;
- providing training and guidance to key employees so that they can recognise and avoid the risk of bribery by themselves and others;
- encouraging its employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated as such;
- 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), (employees, Members, contractors, agents) involved in bribery;
- provide information to all employees to report breaches and suspected breaches of this policy;
- including appropriate clauses in contract documents to prevent bribery;
- fostering a culture within the organisation, (from SLT and Members downwards) in which bribery is never acceptable.

5. Reporting

The prevention, detection and reporting of bribery and other forms of corruption are the

responsibility of all those working for the organisation or under its direction. All staff and members are required to avoid activity that breaches this policy.

County Council employees and members should report any concerns they may have regarding fraud and corruption, whether it relates to dishonest behaviour by Council employees, Members, Contractors or by others. That action will be free from recrimination. Such concerns will be treated in confidence and will be properly investigated. In the first instance a member of staff should contact a senior manager within the line management structure. However, if the member of staff considers the matter too serious or sensitive or inappropriate to raise within the line management structure then one of the following may be contacted – in person, by telephone or e-mail (marked confidential):

- Chief Executive
- Director of Finance – Chief Finance Officer
- Strategic Manager – Finance Systems & Governance
- Chief Internal Auditor - SWAP Internal Audit Services
- Monitoring Officer
- Chair of Audit Committee.

Concerns can also be raised directly to the SWAP Internal Audit Services Counter Fraud Team through their Confidential Reporting Line:

SWAP Confidential Reporting Line	
Confidential Helpline	020 8142 8462
Confidential Email	confidential@swapaudit.co.uk
https://www.swapaudit.co.uk/contact-us	Report It

All matters will be treated in confidence and an expressed wish not to reveal the identity of a complainant will be respected wherever possible. (Concerns expressed anonymously are much less powerful but will be considered by the County Council). Alternatively, any person with a concern may use the Council’s Confidential Whistleblowing Policy, or as an external contact point our external auditors, currently Grant Thornton.

Staff/Members who refuse to accept or offer a bribe, or those who raise concerns or report wrong-doing can understandably be worried about the repercussions. SCC aims 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.

SCC is committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

6. Risk Assessment

SCC'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 its activities. They are intended to be clear, practical, accessible, effectively implemented and enforced.

SCC will assess the nature and extent of its exposure to potential external and internal risks of bribery on its business by persons associated with it. "Key areas" for regular re-assessment are to include procurement and payment, recruitment, insurance claims, officer and member decision-making. Such reviews will be at least annually, and whenever a change in process is made for any of these areas.

If the review of anti-bribery controls reveals a potentially increased risk, this will be taken to the Strategic Risk Management Group for consideration and monitoring. The risk will be added to JCAD, together with appropriate mitigations, and will be owned by the Director of Finance unless a more suitable officer is nominated.

7. Communication

SCC seeks to ensure that its bribery prevention policies and procedures are understood throughout the organisation through internal and external communication, including training that is proportionate to the key officers and key risks it faces.

All staff will be alerted to the anti-bribery policies by means of Core Brief and the inclusion of the policy on key intranet governance sites. All staff engaged in what are deemed "key areas" for anti-bribery will also receive additional guidance.

Gifts and hospitality

This policy is not intended to change any of the requirements of our gifts and hospitality policy. <http://extranet.somerset.gov.uk/hr/employment-information/gifts-and-hospitality/>

The Council has decided that all offers of gifts/hospitality worth £25 or more, whether accepted or not, **must** be declared and recorded in order to ensure openness and transparency.