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# Anti-Bribery Policy

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Annexe D

## Policy statement

Elmbridge Borough Council will:

- Not tolerate bribery or corruption in any form or at any level;
- Consider anti-bribery measures as part of its governance process; and
- Commit to policies and procedures to prevent, deter and detect bribery.



**Elmbridge**  
Borough Council

*... bridging the communities ...*

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## 1. Introduction

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- 1.1 The Council expects its business to be conducted with probity, openness and accountability. Key to maintaining the Council's high standards is the requirement for members, officers, contractors and agents carrying out business on behalf of the Council to behave honestly, lawfully and with integrity.
  - 1.2 This policy forms part of the Council's counter fraud framework and sets out:
    - Definitions and legal background in respect of bribery; and
    - The Council's approach to bribery including fulfilling its duties under the Bribery Act 2010 (the Act).
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## 2. Scope of the policy

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- 2.1 This policy applies to all areas of Council business and therefore all Members, officers, contractors and agents carrying out business on behalf of the Council. Any act of bribery by a person outside the Council will be a matter for the police.
  - 2.2 This policy should be read alongside the Gifts and Hospitality Policy. Other relevant policies (such as the Codes of Conduct and Contract Procedure Rules) should be referred to where appropriate.
  - 2.3 Failure to comply with this policy will result in action being considered under the Sanctions Policy.
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## 3. Definitions and legal background

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- 3.1 Bribery is the act of offering, giving, receiving or seeking an inducement or reward intended to influence the performance of a relevant function or duty to gain a personal, commercial, regulatory or contractual advantage.  
  
***Bribery Act 2010***
- 3.2 The Act includes four key offences:
  - Offering, promising or giving a bribe to reward a person for improperly performing a relevant function (Section 1);
  - Requesting, agreeing to accept or receiving a bribe as a reward for improperly performing a relevant function (Section 2);
  - Bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business (Section 6); and
  - A corporate offence by a 'commercial organisation' of failing to prevent bribery that is intended to obtain or retain business or an advantage in the conduct of business (Section 7).
- 3.3 The Act makes no distinction between a bribe being offered, promised or given directly or through a third party. Further, it makes no difference whether the person requesting, agreeing to accept or receiving the bribe knows or believes

that the performance of the function will be improper; or whether this person asks another person to carry out the improper performance of the function on their behalf.

- 3.4 The Council accepts that it may be classed as a 'commercial organisation' in relation to the corporate offence of failing to prevent bribery. The Act allows for a defence to this corporate offence if an organisation can show that it had in place 'adequate procedures' designed to prevent bribery.
- 3.5 Good practice and robust governance arrangements include having adequate procedures in place to prevent bribery and protect the Council from reputational and legal damage. Whether an organisation's procedures are 'adequate' will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation.

### ***Public Contracts Regulations 2006***

- 3.6 The Public Contracts Regulations 2006 place a duty on the Council to automatically and perpetually exclude from participation in a procurement procedure any company or director that has been convicted of a corruption offence. The Council may disregard this regulation on an exceptional basis, for example due to reasons relating to the public interest such as public health or protection of the environment.

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## **4. The Council's approach to bribery**

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- 4.1 The Council has in place a framework of arrangements intended to manage the risk of bribery and corruption and ensure business is conducted to the highest standards. This policy does not change the requirements of other guidance, which includes:
- Member and Officer Codes of Conduct, which require members and officers to declare any personal or pecuniary interests;
  - Contract Procedure Rules governing the negotiation of contracts; and
  - Gifts and Hospitality Policy, which sets out the restrictions on accepting gifts and hospitality and the need to register approved gifts that are accepted.
- 4.2 In the context of this policy, it is unacceptable for members, officers, contractors and agents carrying out business for or on behalf of the Council to:
- Give, promise to give, or offer a payment, gift or hospitality with the 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'<sup>1</sup> or expedite a routine procedure;

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<sup>1</sup> Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions, including but not limited to: awarding contracts; making appointments to temporary or permanent positions; and determining eligibility to receive services.

- Accept payment from a third party that is known or suspected to be offered with an expectation that it will obtain a business advantage for them;
- Accept a gift or hospitality from a third party if it is known or suspected that it is offered with an expectation that a business advantage will be provided by the Council in return;
- Retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy; or
- Engage in activity in breach of this policy.

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## 5. Reporting suspected bribery

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- 5.1 You should report any suspected acts of bribery. If you have been offered an inducement from another party, you should report this even if you declined.
- 5.2 The Council has put in place a safe environment to report suspected cases of fraud and corruption, including bribery. Any individual may contact the Council's Internal Audit and Counter Fraud team directly as below:

Email: [internalaudit@elmsbridge.gov.uk](mailto:internalaudit@elmsbridge.gov.uk)  
Telephone: 03172 474106