

## Constitution – Bribery Act Amendments

### 1. Pg 30 – Corporate Governance Committee

Add (j) The Council implements the Bribery Act Policy and ensures that it is followed at all times

#### **Corporate Governance Committees**

1. Governance and Audit Committee

*13 Members*

*Conservative: 12; Liberal Democrat: 1.*

The purpose of this Committee is to:

1. ensure the Council's financial affairs are properly and efficiently conducted and
2. review assurance as to the adequacy of the risk management and governance framework and the associated control environment.

On behalf of the Council this Committee will ensure the following outcomes:

- (a) Risk Management and Internal Control systems are in place that are adequate for purpose and effectively and efficiently operated.
- (b) The Council's Corporate Governance framework meets recommended practice (currently set out in the CIPFA/SOLACE Good Governance Framework), is embedded across the whole Council and is operating throughout the year with no significant lapses.
- (c) The Council's Internal Audit function is independent of the activities it audits, is effective, has sufficient experience and expertise and the scope of the work to be carried out is appropriate.
- (d) The appointment and remuneration of External Auditors is approved in accordance with relevant legislation and guidance, and the function is independent and objective.
- (e) The External Audit process is effective, taking into account relevant professional and regulatory requirements, and is undertaken in liaison with Internal Audit.
- (f) The Council's financial statements (including the Pension Fund Accounts) comply with relevant legislation and guidance and the associated financial reporting processes are effective.
- (g) Any public statements in relation to the Council's financial performance are accurate and the financial judgements contained within those statements are sound.
- (h) Accounting policies are appropriately applied across the Council.
- (i) The Council has a robust counter-fraud culture backed by well designed and implemented controls and procedures which define the roles of management and Internal Audit.
- (j) The Council implements the Bribery Act Policy and ensures that it is followed at all times

## **2. Pg 129 – Appendix 5 Resource Management Responsibilities Statement**

Add 1.2 “Financial Regulations, the Anti-Fraud Strategy, the Bribery Act Policy and...”

### **Appendix 5: Resource Management Responsibilities Statement (including Property Management Protocol and Contracts and Tenders Standing Orders)**

#### **Introduction**

1.1 This Appendix sets out the responsibilities for bodies and office holders within the Council structure for ensuring that the Council’s resources are used in accordance with the principles of sound financial management, proper exercise of responsibility and accountability.

1.2 Financial Regulations, the Anti-Fraud Strategy, the Bribery Act Policy and Codes of Practice giving effect to these principles are prepared and maintained by the Chief Finance Officer and Managing Director and endorsed by the Leader and Governance & Audit Committee.

## **3. Pg 131 – The Governance and Audit Committee**

Add (m) overseeing the operation of the Bribery Act Policy

1.8 **The Governance & Audit Committee** is responsible for:

- (a) monitoring the Council’s compliance with its own published standards and controls and with other standards and considering any proposals for changes to Financial Regulations and the Code of Practice on Contracts and Tenders
  - (b) liaising with the Audit Commission over the appointment of the Council’s external auditor
  - (c) discussing with the external auditor and Cabinet the basis of the annual audit, including the overall level and composition of the fee and the content of performance work
  - (d) receiving all reports by the external auditor including all performance reports and the Annual Management Letter
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- (e) overseeing the Internal Audit activity of the Council
  - (f) considering and responding to reports from the external auditor and Audit Commission Inspectorate
  - (g) monitoring the response of the Cabinet and Council Committees to audit reviews and investigations and the implementation of agreed recommendations
  - (h) overseeing the operation of the Council’s complaints procedures,

including the response of the Cabinet or a Council Committee to any report by the Local Government Ombudsman

(i) approving the annual accounts on behalf of the Council

(j) approving the writing-off of debts from the Council's accounts (except those agreed by the Chief Finance Officer as provided for in the Financial Regulations)

(k) monitoring the operation of borrowing and investment policies and Treasury Management activity and

(l) agreeing the risk management policy with the Cabinet and monitoring insurance arrangements

(m) overseeing the operation of the Bribery Act Policy

#### **4. Pg 133 – The Chief Finance Officer**

Add (q) the review and updating of Spending the Council's Money, the Risk Register, the Anti-Fraud & Corruption Statement of Policy and Council Insurance to reflect the requirements of the Bribery Act Policy

1.12 **The Chief Finance Officer** is responsible for:

(a) after consulting with the Managing Director and the Monitoring Officer, reporting to the full Council (or to the Leader or Cabinet in relation to an executive function) and the Council's external auditor if he considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully

(b) the proper administration of the financial affairs of the Council

(c) maintaining an adequate and effective internal audit

(d) contributing to the corporate management of the Council, in particular through the provision of professional financial advice

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(e) providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members and supporting and advising Members and officers in their respective roles and

(f) providing financial information about the Council to Members of the Council, the media, members of the public and the community and in particular for

(g) setting financial management standards, including financial procedures, and monitoring their compliance

(h) advising on the corporate financial position and on the key financial controls necessary to secure sound financial and risk management

(i) providing financial information to support the proper financial planning of the authority, to inform policy development and to assist Members and officers in undertaking their financial responsibilities

(j) preparing the revenue budget and reporting to the Council, when considering the Budget and Council Tax, on the robustness of the estimates and the adequacy of reserves

- (k) monitoring income and expenditure against the budget and taking action if overspends or shortfalls in income emerge
- (l) preparing the capital programme and ensuring effective forward planning and sound financial management in its compilation
- (m) treasury management
- (n) making recommendations to the Leader and Council on the prudential indicators and advising on all other matters required to be considered by the Prudential Code for Capital Finance
- (o) the Council's banking arrangements and
- (p) issuing advice and guidance to underpin the Financial Regulations that Members, officers and others acting on behalf of the authority are required to follow
- (q) the review and updating of Spending the Council's Money, the Anti-Fraud & Corruption Statement of Policy and Council Insurance to reflect the requirements of the Bribery Act Policy

## **5. Pg 134 – The Managing Director and Senior Managers**

Add (m) ensuring that the Bribery Act Policy is implemented, promoted and complied with in line with the agreed Policy

1.15 **The Managing Director and Senior Managers** are responsible for:

- (a) ensuring that the Leader or relevant Cabinet Member is advised of the financial implications of all proposals for changes in services or the development of new services and that the financial implications have been agreed by the Chief Finance Officer
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- (b) promoting the financial management standards set by the Chief Finance Officer in their Directorates and monitoring adherence to standards and practices, liaising as necessary with the Chief Finance Officer
  - (c) the signing of contracts on behalf of the Council provided that the expenditure incurred has the necessary budget approval
  - (d) promoting sound financial practices in relation to standards, performance and development of staff in their Directorates
  - (e) consulting with the Chief Finance Officer and seeking his approval regarding any matters which are liable to materially affect the Council's finances, before any commitments are incurred
  - (f) ensuring that all staff in their Directorates are aware of the existence and content of the authority's Financial Regulations and any related procedures and other internal regulatory documents appertaining to or amplifying them and that they comply with them; they must also ensure that all of these documents are readily available for reference within their Directorates
  - (g) managing service delivery within the agreed revenue and capital budgets and other relevant strategies and plans
  - (h) developing performance, corporate and service targets
  - (i) ensuring that budget estimates reflecting agreed service plans are prepared in line with issued guidance
  - (j) ensuring that financial management arrangements and practice are agreed with the Chief Finance Officer, are legal and consistent with best

practice and Council policy

(k) consulting with the Chief Finance Officer on the financial implications of matters relating to policy development and

(l) putting in place a scheme of financial delegation setting out arrangements for the discharge of the Senior Manager responsibilities contained within Financial Regulations

(m) ensuring that the Bribery Act Policy is implemented, promoted and complied with in line with the agreed Policy

## **6. Pg 134 – Principles of Decision Making**

Add “... and risk management issues, including the Bribery Act Policy, which may arise ...”

### **Principles of Decision Making**

1.16 All Members and officers taking decisions whether on behalf of the Council or the Leader must act in accordance with the Council’s agreed principles of decision making (Article 12.2) and take account of legal and financial liabilities and risk management issues, including the Bribery Act Policy, which may arise from the decision.

## **7. Pg 135 – Contracts and Tenders Standing Orders**

Add new (g) the Council’s Bribery Act Policy

### ***Contracts and Tenders Standing Orders***

1. It is the responsibility of the Managing Director and Senior Managers to ensure that all purchases of goods and services comply with:

(a) legal requirements

(b) EU Directives

(c) the Council’s Financial Regulations

(d) the Code contained in ‘Spending The Council’s Money’ (as approved by the Governance & Audit Committee)

(e) standards for the management of property, information technology resources and staff and

(f) any conditions attached by the Leader or the Council to the exercise of powers delegated by them

(g) the Council’s Bribery Act Policy

## **8. Pg 147 – Appendix 6 Part 1: Code of Member Conduct**

Add Para 6 (4) must have regard to the Council’s Bribery Act Policy which applies to you, officers and any other person or organisation with whom you are dealing

**6. You:**

(1) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(2) must, when using or authorising the use by others of the resources of the County Council:

(a) act in accordance with the County Council's reasonable requirements;

- (b) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (3) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (4) must have regard to the Council's Bribery Act Policy which applies to you, officers and any other person or organisation with whom you are dealing

## **9. Pg 166 – L Gifts and Hospitality**

### ***L. Gifts and Hospitality***

1. In accordance with the Bribery Act Policy, you must not accept significant personal gifts from contractors, clients or outside suppliers as this could compromise both you personally and KCC as an organisation. It is a serious criminal offence to receive or give any gift, loan, fee, reward or advantage to anyone in your capacity as a KCC employee. Minor articles, e.g. diaries, calendars, office items and the like, are unlikely to be regarded as a gift but if there is any doubt, a gift should be refused.
2. If you receive unsolicited gifts, they must be returned with a polite refusal letter to the sender. You should also inform your manager, so it can be clearly recorded in the Directorate/Service Unit Register of Hospitality/Gifts.
3. You may not accept legacies from clients or others who may have benefited from your services delivered on behalf of KCC. If you are named as a beneficiary, you should immediately inform your manager.
4. You should only accept offers of hospitality if there is a genuine need to impart information or represent KCC in the community and where you are satisfied that any decisions are not and will not be compromised. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where KCC should be seen to be represented. They should be properly authorised by your line manager and recorded in advance of the event in the Directorate's Hospitality/Gifts Register.
5. KCC should meet the costs of all visits to reference sites, supplier's premises etc. to avoid jeopardising the integrity of any subsequent decisions.
6. When hospitality has to be refused, the invitation should still be recorded in the Directorate's Register of Hospitality/Gifts.
7. Many supermarkets, petrol stations and high street stores offer loyalty cards for customers as an incentive to purchase from them. There are various types of loyalty cards, which offer a variety of rewards or bonuses, and it is likely you will have at least one of these cards for your personal use. You should not use your personal loyalty cards when purchasing goods or services on behalf of KCC or its clients. The use of such cards may compromise your professional integrity, particularly if the retail outlet or supplier was chosen because they offer you additional reward and not because it provided the greatest benefit and cost effectiveness to KCC or its clients.
8. Likewise, many credit card companies offer loyalty rewards. The use of personal credit cards to purchase goods or services on behalf of KCC or its clients should be avoided unless no other means of expenditure is available.
9. However, should any loyalty rewards be received whilst undertaking KCC business where there is no means of these being transferred to KCC, then they can be regarded as the property of the individual employee, e.g. frequent traveller programmes, hotel loyalty awards, etc.

## 10 Pg 167 – M Sponsorship – Giving and Receiving

### ***M. Sponsorship - Giving and Receiving***

1. Where an outside organisation wishes to sponsor a KCC activity, whether by invitation, tender, negotiation or voluntarily or in response to an approach by KCC to potential sponsors, you should:
  - a. refer, at the earliest possible stage, to the Bribery Act Policy and the Sponsorship Policy & Guidance generally and the section on procurement in particular
  - b. follow the basic conventions concerning the acceptance of gifts or hospitality and record these arrangements in the Directorate's Register of Hospitality & Gifts.
2. Where the value of sponsorship arrangements exceeds the relevant threshold in the Public Contracts Regulations 2006, (the Regulations), or involve payment in kind by the sponsor they must be advertised and tendered in line with the Regulations.
3. Where KCC wishes to sponsor an event or service, neither you nor your partner, spouse, close friend or relative must benefit from such sponsorship. Similarly, where KCC, through sponsorship, grant aid, financial or other means, gives support in the community, you should ensure impartial advice is given and there is no conflict of interest involved.
4. Enquiries about seeking or accepting sponsorship for KCC should be directed to the Kent External Funding Team.

## 11 Pg 168 – RELATED PROCEDURES, POLICIES, GUIDELINES AND SUPPORT

### ***RELATED PROCEDURES, POLICIES, GUIDELINES AND SUPPORT***

The following can be found in the people management handbook, the 'Blue Book' (Kent Scheme Terms and Conditions of Employment) and on KNet.

- \* Drugs & Alcohol Policy
- \* Equality & Diversity Policy
- \* Stress Management Policy
- \* KCC's Financial Regulations
- \* Anti-Fraud & Corruption Statement of Policy
- \* Electronic Communications Use Policy (ECUP)
- \* Responsible User Guidance (RUG)
- \* Whistleblowing Policy
- \* Virus Protection Policy
- \* Smoking Policy
- \* Managers' Guidance on Employment References
- \* Health & Safety at Work Policy and Guidance
- \* Health & Safety Framework
- \* Harassment Procedure
- \* Guidance on Foreign Travel
- \* Spending the Council's Money
- Bribery Act Policy