

REPORT OF FINANCE MANAGER

SUBJECT: ANTI-FRAUD AND BRIBERY POLICY

This document replaces the previous Anti-Fraud and Corruption Policy and incorporates the changes to the bribery legislation that have been included in the Bribery Act 2010. The document defines the Authority position on fraud and bribery, details the strategy that it will follow to minimise the risks, describes the procedures regarding detection and investigation and provides a detailed response plan to follow if fraud and or bribery is suspected.

RECOMMENDATION:

Members are asked to approve the Anti-Fraud and Bribery Policy.

Background Documents

None

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1. Introduction

This Policy covers all employees, volunteers and members of the Authority. This document replaces the previous Anti Fraud and Corruption Policy and incorporates the changes to the bribery legislation that have been included in the Bribery Act 2010. The Bribery Act 2010 establishes criminal offences and individuals found guilty can face an unlimited fine and imprisonment up to ten years. Where an organisation itself is found guilty of the offence then the penalty is an unlimited fine.

2. Policy Statement

The Authority does not, and will not, engage indirectly in or otherwise encourage bribery, nor does it wish to be associated with any organisation that does or has done so. This extends to our agents supplies, contractors and partners whether such conduct is associated with business on behalf of the Authority or not.

The Authority is committed to an effective Anti-Fraud and Bribery Policy designed to:

- encourage prevention
- promote detection and
- identify a clear pathway for investigation

The Authority will support employees who raise legitimate issues of concern and protect them from reprisals, and will do its utmost to secure their anonymity. Victimising employees or deterring them from raising a concern about fraud or bribery will be treated as a serious disciplinary matter, as will abusing this process by raising unfounded malicious allegations

3. Definition of fraud and bribery

The Fraud Act 2006 provides a formal definition of fraud which, for the purposes of this policy, can be summarised as obtaining money, property or services dishonestly by making a false or misleading representation, failing to disclose information or abusing a position of trust.

Fraud is also a deliberate act by an individual or group of individuals. Fraud is, therefore, always intentional and dishonest. Within the Authority the areas which most commonly encounter fraud include: travel claims; petty cash vouchers; car loans; car parking; cash collection; cheques; contracts; credit income; creditor payments; expense claims; flexi / time records; stores.

It should be noted that fraud does not include misappropriation or petty theft without the distortion of financial statements or other records. These are disciplinary and/or criminal actions in themselves and will be dealt with accordingly.

The Bribery Act 2010 has incorporated bribery and certain bribery offences into a single piece of legislation. Bribery is defined as “an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage”. In its guide to the Bribery Act, the Ministry of Justice states: “Very generally, [bribery] is defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so”.

The Bribery Act contains the following four key offences :

- The offering, promising or giving of a bribe (active bribery);
- The requesting, agreeing to receive or accepting of a bribe (passive bribery);
- The bribing of foreign officials; and
- Failing to prevent bribery.

4. Anti-fraud and bribery strategy

Fraud and bribery can undermine the aims of the Authority which are to be open, honest and accountable and provide efficient, effective and economic services. To combat them, and thereby help to achieve the aims of the Authority, a strategy is required which provides arrangements for preventing and deterring fraud and bribery, and detecting and investigating any actual or suspected cases. The Authority will promote and develop a strong anti fraud culture, raise awareness and provide information on all aspects of its anti-fraud work. This will include publicising the results of all proactive work, fraud investigations, successful sanctions and any recovery of losses due to fraud.

The Authority's strategy is based on a series of comprehensive and inter-related procedures designed to frustrate any attempted fraudulent or corrupt act or intent. These cover:-

- Culture
- Prevention
- Detection and Investigation
- Training
- Response Plan
- Codes of Conduct

The Authority is also aware of the high degree of external scrutiny of its affairs by a variety of bodies including:-

- The Authority's Internal Auditors
- Local tax payers
- Service Users
- Wales Audit office
- HM Customs and Excise
- Welsh Government
- National Assembly
- Natural Resources Wales
- Pembrokeshire County Council (re our precept)
- Media

5. Culture

The Authority recognises that it is rarely easy for anyone to report suspected financial misconduct. It recognises, for example, that a person suspecting financial misconduct might be reluctant to take steps which could lead to disciplinary or legal action being taken against a colleague. Similarly, the Authority recognises that staff suspecting financial misconduct might be deterred from reporting it by fear that they might be victimised, especially where a senior officer is suspected of impropriety.

However the Authority is committed to taking all reasonable measures to protect its integrity and reputation, and it must therefore be given the opportunity to investigate any suspected instance of financial misconduct. It might be that the allegation proves to be unfounded, but it is in everyone's interest – and that of the Authority as a whole – that allegations are investigated and properly resolved. Against this background, every member of staff has a role to play in protecting the integrity of the Authority's business and other activities, and all staff must regard themselves as under an obligation and an instruction to report any suspected financial misconduct.

Financial misconduct in this context should be taken to cover fraud, bribery, theft, dishonesty or deceit by an employee, whether at the expense of the Authority, other employees, Members or any other body or organisation, as well as actions or inactions which fall below the standards of probity expected in public life.

The Authority wishes to stress to employees that if an officer reports suspected financial misconduct, the Authority will take every possible step to protect him/her from any form of victimisation. The Authority does however have a duty to protect employees from malicious complaints. Employees should be aware that disciplinary action might be taken against them if it is found that they have acted maliciously in bringing forward an unfounded allegation.

6. Prevention

The Authority recognises that a key preventative measure in the fight against fraud and bribery is to take effective steps at the recruitment stage to establish, as far as possible, the previous record of potential staff, in particular to obtain written references regarding known honesty and integrity. In this regard temporary and contract employees should be treated in the same manner as permanent employees.

Staff are expected to follow the Authority's Code of Conduct for Employees which provides the necessary guidance.

Authority Members are required to adhere to the National Code of Conduct which has been formally adopted by the Authority and a copy of which has been provided to each Member individually.

Significant emphasis has been placed on the thorough documentation of financial systems, and every effort is made to continually review and develop these systems in line with best practice to ensure efficient and effective internal controls. The adequacy and appropriateness of the Authority financial systems is independently monitored by both Internal and External Audit. Senior management places great weight on being responsive to Audit recommendations.

7. Register of gifts and hospitality

All Members and staff of the Authority are required to declare in a public register any offers of gifts or hospitality which are in any way related to the performance of their duties in relation to the Authority. This register is kept by the Chief Executive and all offers of gifts and hospitality of a substantial nature, i.e. where there is a real or perceived value greater than for example a "normal" diary, pens or other stationery with little intrinsic value, must be reported to him. If an employee or Member is in doubt as to whether they need to register an offer of a gift or hospitality, the presence of that doubt would suggest that a disclosure is necessary, and it is better to err on the side of caution.

8. Detection and investigation

The array of preventative systems, particularly internal control systems, within the Authority have been designed to identify and uncover any fraudulent activity, and generally they should be sufficient in themselves to deter fraud. It is the responsibility of Management to prevent and detect fraud and bribery. However, it is often the alertness of employees and the public that enables detection to occur and the appropriate action taken when there is evidence that fraud or bribery may have been committed or is in progress.

Despite the best efforts of team leaders and auditors, frauds are often discovered by chance and the Authority has in place arrangements to enable such information to be properly dealt with. These are set out in the document entitled "Response Plan" which is included as an Appendix to this policy statement.

All team leaders should ensure that controls are in place to prevent and detect fraud and error. There is a need to be aware of the possibility of fraud when reviewing or presented with claims /forms/documentation etc. Issues which may give rise to suspicions are:

- Documents that have been altered, use of Tippex, or different pens and different handwriting
- Claims that cannot be checked, particularly if prior authorisation was not given
- Confused, illegible text and missing details
- Delays in documentation completion or submission
- No vouchers or receipts to support claims

Appropriate training will be provided to Team Leaders to assist them to identify indications that an employee may be acting fraudulently.

9. Training

The Authority recognises that the continuing success of its Anti-Fraud and Bribery Strategy and its general credibility will depend largely on the effectiveness of programmed training and the responsiveness of employees throughout the organisation.

To facilitate this, the Authority supports induction training, particularly for employees involved in internal control systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. All new appointees to the Authority will be given a copy of the Authority's Anti-Fraud and Bribery policy and will be advised of their responsibilities to prevent and report such action, and of the possibility of disciplinary action against staff who ignore such training and guidance.

Investigation of fraud and bribery centres on the Authority's Internal Audit Service. It is therefore apparent that existing employees involved in this work should be properly trained. Accordingly the Authority's Internal Audit service providers are required to ensure appropriate levels of training of their employees engaged on Authority work.

10. Fraud and bribery - awareness

Fraud can occur wherever staff or independent contractors transact official documentation and can take financial advantage of the Park Authority. The risk of fraud is enhanced where staff or contractors are in positions of trust or responsibility and are not checked or subjected to effective monitoring or validation. Consequently, the following areas are particularly susceptible to fraud:

- Claims for contractual services rendered
- Travel and expense claims
- Cash receipts/petty cash
- Payroll
- Ordering
- Stocks assets

Examples of Fraud are to be found in Appendix 2

11. Guidelines for employees on reporting of irregularities (whistle-blowing)

Guidelines for reporting any potential irregularities are contained in the Authority's Whistle Blowing Policy

12. Money laundering

The Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007 have broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result new obligations now impact on certain areas of local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering. Further information is set out in the Authority's Money Laundering Policy.

13. Review and Monitoring

The Authority will ensure that its approach to managing the risk of fraud is kept up to date with developments in best practice and regulatory requirements. The anti-fraud policy will therefore be periodically reviewed and updated as necessary.

14. Conclusion

The Authority has in place a network of systems and procedures to assist it in the fight against fraud and bribery. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation. The implementation of the Authority's anti fraud policy and strategy will be subject to periodic review by the Audit and Corporate Services Review Committee. To this end the Authority maintains a continuous overview of

such arrangements through, in particular, its Chief Finance Officer and its Internal and External Auditors.

RESPONSE PLAN : HOW TO DEAL WITH A SUSPECTED CASE OF FRAUD AND/OR BRIBERY

1. Introduction

The Authority is committed to the values of probity and accountability, but the determined perpetrator will always seek to find a way round systems and procedures. It is therefore necessary for all team leaders to be aware of what is required in the event of being notified of a suspected fraud. This section of the Strategy document sets out the process for staff who wish to notify any suspicions, and how Authority officers should respond.

2 Legislative Requirements

The Authority will have full regard to relevant legislative requirements, including without limitation:

- Regulation of Investigatory Powers Act 2000
- Terrorism Act 2006
- Proceeds of Crime Act 2002
- Police and Criminal Evidence Act 1984
- Money Laundering Regulations 2007
- Fraud Act 2006
- Bribery Act 2010
- Competition Act 1998

3. Notifying Suspected Fraud

3.1 To whom to report

Suspected fraud can be discovered in a number of ways but in all cases it is important that employees feel able to report their concerns and are also aware of the means by which they are able to do so. Employees should not approach or accuse individuals directly or attempt to investigate the matter themselves. Normally, the concern should be raised with the employee's line manager, or Director. However it is appreciated this may depend on the seriousness and sensitivity of the issues involved, and who is thought to be involved in the malpractice. Accordingly in a suitable case employees may prefer to approach the Chief Executive (National Park Officer), any Director, the Monitoring Officer, or the Chief Finance Officer.

3.2 How to report

Initially you may telephone or arrange to meet the appropriate officer. However if the matter is to be investigated concerns are far better raised in writing. Employees are invited to set out the background and history of the concern giving names, dates, places, and other details wherever possible and the reason why they are particularly concerned about the situation. The earlier employees express their concern the easier it will be to take action. Although employees are not expected to prove the truth of an allegation they will need to demonstrate to the person contacted that there are reasonable and sufficient

grounds for their concern. Employees may invite their Trade Union or professional association to raise a concern on their behalf.

Advice and guidance can be obtained from, and in the case of serious concerns the matter may be raised direct with:

Mr Tegryn Jones	Chief Executive (National Park Officer)
Ms Jane Gibson	Director of Park Direction and Planning
Mr James Parkin	Director of of Delivery and Discovery
Mr John Parsons	The Authority's Monitoring Officer
Mr Richard Griffiths	The Authority's Chief Finance Officer

One of the above officers will then decide upon the appointment of an Investigating officer to review the allegation.

The Authority's Disciplinary Procedures will be used where the outcome of the Audit Investigation indicates improper behaviour, and the Authority would normally wish the Police to independently investigate and, if deemed appropriate, to prosecute offenders where financial impropriety amounting to a possible breach of the criminal law is discovered. In addition civil legal action may be taken for the recovery of money or property misappropriated from the Authority. It should be noted that when a case is deemed sufficiently serious, a member of staff suspected of financial misconduct may be suspended, in accordance with the Authority's Disciplinary Procedures, while an investigation is underway,

4. Investigating Suspected Fraud

4.1 Initial Steps

Once fraud is suspected it is critical that any investigation is conducted in a professional manner aimed at ensuring that the current and future interests of both the Authority and the suspected individual(s) are protected. The latter is equally important as a suspicion should not be seen as guilt until proved. It is also crucial that the notifying employee does not feel threatened. The Authority undertakes to endeavour to protect the identity of such employees and not to release the source of notification at any time during investigation.

For each instance notified an Investigating Officer will be appointed to be in charge of the investigation on a day-to-day basis, each case will be judged on its merit. The overriding principle in this context will be the need to protect the privacy and reputation of individuals until such time as suspicions can be substantiated.

4.2 Subsequent Steps

The Investigating Officer must:

- initially assess whether there is a need to recommend that an employee be suspended. Any decision to suspend should be subject to the Authority's disciplinary procedure.

- identify a course of action (what, who, when, how, where)
- identify the reporting process (who by, to whom, when and how)
- ensure that strict confidentiality is continuously maintained where they are not involved in the investigation process

The Investigating officer will:

- open a file to record chronologically:
 - * telephone conversations
 - * face to face discussions
 - * records/documents reviewed
 - * tests undertaken and results
- ensure the correct form of evidence is obtained and appropriately retained:
 - * prime documents
 - * certified copies
 - * physical items
 - * secondary evidence (e.g. notes of discussions etc.)
 - * circumstantial
 - * hearsay
- ensure interviews are conducted in the correct manner. In particular, that the requirements of the Police and Criminal Evidence Act are complied with when interviewing suspects where criminal action is possible.

Whenever formal interviews are being undertaken individuals under suspicion will have the right to be accompanied.

5. Reporting

5.1 Interim Report

As soon as the initial investigation has been completed an interim confidential report, which may be verbal, but is more likely to be in a written format, should be made by the Investigating Officer to the Chief Executive (National Park Officer), any Director, the Monitoring Officer, or the Chief Finance Officer decided upon at the preliminary stage.

The Interim Report should set out:

- the findings to date
- the interim conclusions drawn from those findings and
- should seek approval to continue the investigation if this is appropriate

If it is decided to continue the investigation then future reporting arrangements and any changes to the planned action should be confirmed, ensuring that the independence of the Chief Executive, and or any other Officers who may be called upon to hear disciplinary cases, is preserved.

5.2 Final Report

This report will supersede all other reports and be the definitive document on which management (in a disciplinary situation) and possibly the police (in a criminal situation) will base their initial decisions.

The format of the Final Report will not always be the same as each case is unique, but will generally set out:

- how the investigation arose
- who the suspects are
- their position in the Park Authority or relationship with the Park Authority and their responsibilities
- how the investigation was undertaken
- the facts and evidence which were identified
- summary of findings and recommendations, both regarding the fraud itself and any additional work required on system weaknesses identified during the investigation.

In all cases where the alleged fraud results in a significant actual or potential loss to the Authority, this must be reported to the Authority' Audit and Corporate Services Review Committee as soon as practically possible.

5.3 Defamation

All reports must be substantiated by evidence and avoid contents that could be considered to be unjustifiably defamatory in the event of the report being made public.

Defamation in law is defined as: "the publication (i.e. communication) of a statement which tends to lower a person in the estimation of right-thinking members of society generally or which tends to make them shun or avoid that person"

5.4 Police

The experts at investigating fraud are the police. They will also advise on the likely outcome of any intended prosecution. Initial contact with the police should only be undertaken following discussion between the Chief Finance Officer and the Investigating Officer. It is the policy of the police to welcome early notification of suspected fraud.

If the police decide that a formal investigation is necessary, all staff should co-operate fully with any subsequent requests or recommendations. All contact with the police following their initial involvement will usually be via the Investigating Officer.

Where the police decide to formally investigate, this will not prejudice any internal disciplinary procedures; these should continue as normal. However, the internal investigation and the police's should be co-ordinated to make maximum use of resources and information.

Examples of Potential Fraud

Contractors/Sub-Contractors

- Claiming for services not performed
- Claiming for a higher level of service than that performed
- Provision of additional services/works, not supported by proper prior authorisation

Travel Claims

This is a most difficult area to control. Due to staff travelling alone and the volume of journeys and numbers of staff claiming, it is extremely difficult for management to check and validate the claims being made. The most common frauds in this area are:

- False journeys claimed
- Mileages inflated
- Higher reimbursement rate claims
- Unnecessary journeys undertaken
- Two officers claim for a journey taken together
- Claiming first class travel but taking second class

Expense Claims

There are numerous claims that can be made, such as training expenses, removal expenses, subsistence claims etc. The examples of fraud in this area generally fall into the following categories:

- False, or inflated claims made
- Claims submitted to the Park Authority and a third Party (e.g. where meals provided at pre-paid conferences/seminars)
- Excessive inappropriate expenses claimed

Cash receipts

Cash can be collected by staff in a variety of situations and is a high risk area for obvious reasons. The main problems are:

- Accepting cash without receipting or declaring it
- Under-recording cash received
- Altering documentation to disguise the theft of cash
- Substituting cheques received, but not recorded, for cash received

Petty Cash

Petty cash is usually held in a limited number of authorised locations at a specified level, e.g. £50. The responsibility for managing the 'float' is usually vested in one person, but the following problems can arise:

- Reimbursement sought for receipted, but inappropriate expenditure
- Vouchers/receipts submitted but no expenditure made

Payroll

The major payroll frauds are most likely to occur with respect to new starters and with leavers, for examples:

- Erroneous or 'ghost' employees introduced onto the payroll, the salary being paid to the perpetrator

- A leaver not being taken off the payroll and the salary payment being diverted to the perpetrator
- Hours worked over-stated to take advantage of flexitime or overtime arrangements.

Purchase Cards and Ordering

This is an area which is open to bribery as well as fraud. While the Authority has promoted the use of Purchase Cards to all members of staff who regularly make purchases, their use is subject to specific procedures including sign-off by line managers. The Authority has also sought to minimise the risk by restricting the number of personnel empowered to make or authorise an order. However, fraud can also be committed by suppliers.

Goods ordered for personal use or from a specific supplier in return for some form of benefit:-

- Goods ordered from a relative's or friend's business outside of usual procurement processes
- Accepting a lower number of items than ordered, but certifying an invoice for the higher number
- Creating/certifying false invoices, for which no order has been raised (internally or externally generated)

Stocks and Assets

This is an area that is susceptible to misuse, theft and fraud. The most obvious and common risk area is stationery. Staff come into contact with a variety of stocks and assets which, if not properly controlled, will be subject to losses due to fraud and theft.

A further problem is the use of the Authority's assets for an individual's personal reasons e.g. using an Authority's computer, fax, telephone etc., for running a private business or for other inappropriate private purposes.