



Report of: Assistant Chief Executive, Governance and HR

Meeting of:	Date	Agenda item	Ward(s)
Audit Committee	28 January 2016		All

Delete as appropriate	Exempt	Non-exempt
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SUBJECT: Bribery Act Risk Assessment

1. Synopsis

- 1.1 Following an internal audit report in 2014, a risk assessment process in relation to Section 1 of the Bribery Act 2010 has been undertaken. This report summarises the findings of the process and the action plan arising from it and recommends a Bribery Policy for adoption by the Committee.

2. Recommendations

- 2.1 To note the action plan in Appendix 2.
- 2.2 To agree the Bribery Policy in Appendix 3.

3 Background

- 3.1 Section 7 of the Bribery Act 2010 ("the Act") created a new offence for commercial organisations of failing to prevent bribery, which carries an unlimited fine. Islington Council, on the basis of the areas of work that it undertakes, falls under the definition of commercial organisation" under the Act. Section 1 of the Act covers the offence of bribing another person. Section 2 of the Act creates an offence where officers are bribed. This report deals only with the Section 1 and section 7 offences.
- 3.2 Guidance on the Bribery Act 2010 issued by the Ministry of Justice states that procedures put in place by commercial organisations wishing to prevent bribery being committed on their behalf should be informed by six principles.

Principle three requires organisations to carry out a risk assessment of its exposure to internal and external risks of bribery on its behalf.

- 3.3 In 2014 an audit was undertaken of the council's response to the implementation of the Bribery Act 2010, which resulted in a limited assurance rating. A number of actions were undertaken in response to the Audit and a new rating of moderate assurance was given in early 2015. One action remaining to be completed was for a risk assessment of the council's exposure under the Act in respect of the **giving** of bribes by officers and contractors performing services on behalf of the council to be undertaken. An assessment of the risk of these individuals or organisations **accepting** bribes was to be carried out separately as part of a future fraud risk assessment exercise. The council's fraud forum is currently working on the identification of fraud risk across the Council as part of a fraud response plan. That work is likely to be finished by the end of March and will enable a fraud risk profile to be developed which will include the Bribery Act
- 3.4 Bribes are payments or other inducements given to secure some sort of advantage for the individual offering the bribe, or, perhaps for a member of their family or a friend or an associate. In the context of the business of the council, it is less easy to identify the potential personal advantage that might accrue in relation to an officer offering a bribe than is the case in the commercial sector. However, there are some areas of the council which operate to some extent on a commercial basis or which rely on external income to a significant extent. An officer might, therefore, personally benefit through offering a bribe to a person or organisation dealing with the council through securing contracts or other sources of income for the council and thereby increasing their own job security or career advancement or through gaining access to an incentive or additional payment from the council (for example overtime payments or honoraria) or by preventing a complaint against the officer being made.
- 3.5 Initiatives to increase income are part of the council's strategy to address the on-going reductions in central government funding. Officers are currently considering strategies to incentivise staff to take a more commercial approach, particularly in respect of services which are suitable for trading. In developing incentives it will be important to ensure that safeguards are in place to manage the increased risk of Section 1 bribery that may arise.
- 3.6 A number of controls are in place already which mitigate against the risk of bribery by council officers, including:
- Payment system controls which minimise the risk of payments intended as inducements and not as legitimate payment for works, services or supplies being made;
 - Council policies and authorisation procedures for the making of additional payments to officers;
 - Financial Regulations covering delivery of services to third parties;

- 3.7 During 2015 a process the risk assessment process in respect of the risk of bribery by a council officer was undertaken to identify areas of high risk and actions that should be taken to mitigate risk in those areas. A series of interviews was undertaken with senior officers in services which could be at risk of such activity because of their involvement in commercial activity and/or dependence on external income.
- 3.8 Information coincidentally obtained in respect of the risk of bribery of council officers in those services was included in a management report concerning the exercise and shared with the council's Audit team. The findings of the risk assessment process in respect of the risk of bribery by council officers are summarised in Appendix 1. Appendix 2 contains an action plan arising from the risk assessment. In addition, the council does not at the moment have an anti- bribery policy and a draft policy is contained in Appendix 3.

4.0 Implications

Financial implications:

Unlimited financial penalties may be imposed by the court.

Legal Implications:

These are contained in the body of the report.

Environmental Implications:

None.

Resident Impact Assessment:

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding. No specific resident implications arise from this report.

5.0 Conclusion

This report provides information about a recently completed risk assessment process in relation to Section 1 of the Bribery Act 2010, it contains an action plan and recommends a Bribery Policy for adoption by the Committee.

Final report clearance:

Signed by: 

Assistant Chief Executive, Governance and HR Date

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