



# **Ebbfleet Development Corporation**

## **Anti-Fraud, Bribery and Corruption Policy** (including a Fraud Response Plan)

# Chapter 1

## Introduction

- 1.1 The Ebbsfleet Development Corporation (EDC) is committed to the prevention of fraud, corruption and bribery and requires all staff at all times to act honestly, ethically and with integrity and to safeguard the public resources for which the Corporation is responsible.
- 1.2 Fraud, corruption and bribery are ever-present threats to these resources and hence must be a concern to all members of staff and persons employed in a similar capacity. Fraud, corruption and bribery may occur internally or externally and may be perpetrated by staff, consultants, suppliers, contractors or development partners, individually or in collusion with others.
- 1.3 The purpose of this document is to set out the responsibilities of EDC and those working for us with regard to fraud, corruption and bribery prevention, provide information and guidance to those working for us on how to recognise and deal with fraud, bribery and corruption, what to do if you suspect fraud, corruption and bribery and the action that will be taken by management.

## Who is responsible for implementing the policy?

- 2.1 The day to day responsibility for the prevention and detection of fraud, corruption and bribery rests with line managers who are responsible for:
  - Identifying the risks to which systems, operations and procedures are exposed;
  - Developing and maintaining effective controls to prevent and detect fraud, corruption and bribery; and
  - Ensuring that controls are being complied with.

## Who is covered by this policy?

- 3.1 This Policy applies to all staff working for EDC.

## Your responsibilities

- 4.1 You must ensure that you read, understand and comply with this Policy.
- 4.2 The prevention, detection and reporting of fraud, bribery and other forms of corruption are the responsibility of all those working for us or under our control. All workers are required to avoid any activity that might lead to, or suggest, a breach of this Policy.

- 4.3 You must notify the Director of Finance or Chief Executive as soon as possible if you believe or suspect that a conflict with this Policy has occurred, or may occur in the future.

### **Disciplinary action**

- 5.1 EDC views fraud, corruption and bribery very seriously. All instances will be investigated promptly and appropriate action will be taken. EDC takes a zero tolerance approach to these matters and is committed to acting professionally, openly, fairly and with integrity in all its business dealings and relationships wherever it operates and implementing and enforcing effective systems to counter fraud, corruption and bribery.
- 5.2 Any member of staff who breaches this Policy will face disciplinary action which could result in dismissal for gross misconduct and reporting to the appropriate authorities.

### **Fraud**

#### *Definition*

- 6.1 In addition to the existing common law offence of conspiracy to defraud, the Fraud Act 2006 provides for a general offence of fraud with three ways of committing it. These are:

- Fraud by false representation;
- Fraud by failing to disclose information; and
- Fraud by abuse of position.

For the purpose of reporting fraud to HM Treasury the following are included in the fraud report: theft, false accounting, bribery and corruption, deception and collusion.

- 6.2 Computer fraud is where information technology equipment has been used to manipulate programs or data dishonestly (for example, by altering, substituting or destroying records, or creating spurious records), or where the use of an IT system was a material factor in the perpetration of fraud. Theft or fraudulent use of computer time and resources, including unauthorised personal browsing on the internet, is included in this definition.

#### *EDC's responsibilities*

- 6.3 Irrespective of the amount involved, cases of attempted, suspected or proven fraud shall be reported to the Ministry of Housing, Communities and Local Government (MHCLG) on an annual basis. Where cases of a substantial, novel or unusual nature arise, these will be notified immediately to the Department.

The EDC must:

- Ensure it has suitable policies and practices in place to safeguard itself against fraud and theft;
- Ensure that it communicates its policy on fraud to staff in a formal policy statement; and
- Prepare an annual report on fraud and theft.

Expect periodic checks by MHCLG on whether any new or suspected frauds have been detected.

6.4 Annex 4.7 of Managing Public Money states that an 'organisation's response to fraud risk should be customised to the risks it faces'. In accordance with its recommendations EDC has:

- Developed an Anti-Fraud Policy and Fraud Response Plan;
- Developed an anti-fraud culture;
- Allocated responsibilities for the overall management of fraud risk;
- Established well publicised avenues for staff to report their suspicions of fraud;
- Measures the effectiveness of the fraud risk strategy; and
- Reports internal fraud to the Treasury.

6.5 The Accounting Officer is responsible for managing EDC's risks including fraud.

#### *Fraud response plan*

6.6 EDC has prepared a Fraud response plan (see Annex A) which will act as a checklist of actions and a guide to follow in the event that fraud is suspected. It covers:

- Notifying suspected fraud;
- The investigation process;
- Liaison with police and external audit;
- Initiation of recovery action;
- Reporting process; and
- Communication with MHCLG.

## **Bribery and Corruption**

### *Definition*

7.1 A bribe is an inducement or reward offered, promised or provided in order to gain any commercial, contractual, regulatory or personal advantage. Even if a bribe is turned down or fails to have the intended effect, it is still a bribe. If you have any doubt as to whether something is a bribe, you should speak to your line manager or the Director of Finance.

- 7.2 EDC is bound by the Bribery Act 2010. Bribery and corruption are punishable by individuals for up to ten years' imprisonment and if EDC is found to have taken part in corruption, it could face an unlimited fine, be excluded from tendering for public contracts and face damage to its reputation. EDC therefore takes its responsibilities very seriously in this regard. We have identified that the following are particular risks for EDC.
- 7.3 Third party means any individual or organisation you come into contact with during the course of your work for us, and includes actual and potential clients, customers, suppliers, distributors, business contacts, agents, advisers, stakeholders and government and public bodies, including their advisors,

#### *Gifts and hospitality*

- 7.4 In order to maintain EDC's professional reputation, it is necessary that all staff observe the highest standards of integrity. If you are ever offered any gift or hospitality from a third party you must comply with EDC's gifts and hospitalities policy. You may be required to decline the offer.

#### *What is not acceptable?*

It is not acceptable for you (or someone on your behalf) to:

- Request or promise to request, 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;
- 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;
- Threaten or retaliate against another worker who has refused to commit a bribery offence or who has raised concerns under this Policy; or
- Engage in any activity that might lead to a breach of this Policy.

- 7.5 All offers of gifts and events should be recorded on the Register of Gifts and Events. For the avoidance of doubt this includes corporate hospitality, i.e. invitations to sporting events, parties, dinners etc.

#### *Agents, intermediaries and other business partners*

- 7.6 The Corporation can be held responsible for actions of agents, intermediaries and other business partners (including suppliers and contractors) therefore:
- We generally aim to keep intermediaries and agents to a minimum;

- You should be alert to the supply chain and if your contractor then subcontracts, your contractor should be similarly asked to ensure that any subcontractor will comply with the principles set out in this Policy and so on throughout the chain;
- Any remuneration payable to agents or other business partners acting on behalf of the Corporation must be appropriate for the services carried out (which is to be determined objectively as far as possible); and
- Payments must never be made in cash, must be paid through the bona fide channels and no payments must be made through off-shore accounts.

### *Record-keeping*

- 7.7 We must keep financial records and have appropriate internal controls in place which will evidence the business reason for making payments to third parties.
- 7.8 You must declare all hospitality or gifts accepted or offered, on the Gifts Register.
- 7.9 All accounts, invoices, memoranda and other documents and records relating to dealings with third parties, should be prepared and maintained with strict accuracy and completeness. No accounts must be kept "off-book" to facilitate or conceal improper payments.

### *How to raise a concern*

- 7.10 You are encouraged to raise concerns about any issue or suspicion of malpractice at the earliest possible stage. If you are unsure whether a particular act constitutes bribery or corruption, or if you have any other queries, these should be raised with your line manager. Concerns could also be reported by following the procedure set out in EDC's Whistleblowing Policy.

### *What to do if you are a victim of bribery or corruption?*

- 7.11 It is important that you tell your line manager or the Director of Finance as soon as possible if you are offered a bribe by a third party, are asked to make one, suspect that this may happen in the future, or believe that you are a victim of another form of unlawful activity.

### *Protection*

- 7.12 Workers who refuse to accept or offer a bribe, or those who raise concerns or report another's wrongdoing, are sometimes worried about possible repercussions. We aim to encourage openness and will support anyone who raises genuine concerns in good faith under this policy, even if they turn out to be mistaken.

- 7.13 We are committed to ensuring no one suffers any detrimental treatment as a result of refusing to take part in bribery or corruption, or because of reporting in good faith their suspicion that an actual or potential bribery or other corruption offence has taken place, or may take place in the future. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Chief Executive immediately. If the matter is not remedied, and you are an employee, you should raise it formally using our Grievance Procedure.

#### *Training and communication*

- 7.15 Training on this Policy will form part of the induction process for all new workers.
- 7.16 Our zero-tolerance approach to bribery and corruption must be communicated to all third parties at the outset of our business relationship with them and as appropriate thereafter.

### **Adopting an Anti- Fraud approach**

- 8.1 Adopting the right strategy is a key element in effectively countering fraud and corruption. EDC is committed to promoting a strong ethical and counter fraud culture. This anti-fraud, bribery and corruption policy is the mechanism for achieving this commitment and in particular, aims to reduce losses to fraud and corruption in all areas of EDC to an absolute minimum. It is intended to achieve this by complying with the best practice standards recommended by CIPFA's Better Governance Forum.
- 8.2 The strategy is not just concerned with operational activity to detect and investigate fraud and corruption, but also sets out objectives for proactive actions to deter and prevent fraud and corruption through the development of an anti-fraud and corruption culture. Real achievements will be measured by specifying appropriate outcomes against which the effectiveness of the strategy can be assessed.
- 8.3 This strategy and the various policies which support it will be reviewed annually.

### **Creating and Maintaining a Strong Culture**

- 9.1 High ethical standards are an integral part of good governance. In promoting good governance standards the Corporation aims to create an anti-fraud culture and environment to deter those who may commit fraudulent and corrupt acts and encourage those who suspect such activity to report it promptly.

- 9.2 The Audit, Risk and Assurance Committee has a key role to review and ensure that there are adequate arrangements in place to deal with fraud and corruption.
- 9.3 A successful anti-fraud culture is one where acts of fraud and corruption are widely recognised as unacceptable behaviour and Whistleblowing is perceived as public-spirited action.

## **Deterrence**

- 10.1 There are a number of ways to deter potential fraudsters from committing or attempting fraudulent or corrupt acts, whether they are inside and/or outside of the Corporation, and these include:-
- Publicising the fact that the Corporation is firmly set against fraud and corruption and states this at every appropriate opportunity – e.g., publicising the Whistleblowing arrangements, clause in contracts, statements on benefits claim forms, publications etc.;
  - Acting robustly and decisively when fraud and corruption are suspected and proven – e.g., the termination of contracts, dismissal, prosecution etc.;
  - Taking action to effect the maximum recoveries for the Corporation – e.g. through agreement, Court action, penalties, insurance etc.;
  - Having sound internal control systems, that still allow for innovation, but at the same time do not provide the opportunity for fraud and corruption.

## **Prevention**

- 11.1 Managers across the Corporation have an important role to play in the prevention of fraud and corruption. Managers need to understand the importance of soundly designed systems which meet key control objectives and minimise the opportunities for fraud and corruption. They are responsible for assessing the potential for fraud and corruption within their own business area's activities and for implementing appropriate strategies to reduce this risk.

## **Detection**

- 12.1 It is the responsibility of the executive and their managers to detect fraud and corruption.
- 12.2 In addition, Internal Audit and External Audit will liaise closely and implement audits which will test for fraud and corruption.
- 12.3 However, despite the best efforts of managers and auditors, many frauds are discovered by chance or "tip-off". It is often the alertness of employees and the public that enables detection to occur.

## **Sanctions and Redress**

- 13.1 Where financial impropriety is discovered, whether perpetrated by members of staff or organisations (e.g. suppliers, contractors, and service providers) the Corporation deals with, the presumption is that the Police will be called in. The Crown Prosecution Service determines whether or not a prosecution will be pursued. Referral to the Police is a matter for the Chief Executive. Various managers will be consulted during investigations and the Director of Finance will be kept informed of referrals to the Police.
- 13.2 Referral to the Police will not inhibit action under the Corporation's Disciplinary Procedures. Serious cases of fraud or corruption would represent gross misconduct and consequently the officer may be liable to dismissal.
- 13.3 In proven cases of financial loss, the Corporation will seek to recover all such losses through whatever means it considers appropriate. If the fraudster is an employee, the loss may be recovered from any monies due to the individual on termination of employment.
- 13.4 In the event of the Corporation receiving a request for a reference in respect of an employee who has been dismissed as a result of a fraud/irregularity investigation, the Director of Finance should be contacted.

## Annex A: Fraud response plan

### Introduction

- 1.1. This fraud response plan provides a checklist of actions and a guide to follow in the event that fraud is suspected. It covers:
  - Notifying suspected fraud;
  - The investigation process;
  - Liaison with police and external audit;
  - Initiation of recovery action;
  - Reporting process; and
  - Communication with MHCLG.
- 1.2 Its purpose is to define authority levels, responsibilities for action and reporting lines in the event of suspected fraud, theft or other irregularity.
- 1.3 It is important that all staff are able to report their concerns without fear of reprisal or victimisation and are aware of the means to do so. The Public Interest Disclosure Act 1998 (the “Whistle-blowers Act”) provides appropriate protection for those who voice genuine and legitimate concerns through the proper channels. The EDC Employee Handbook contains current Whistle blowing procedures.

### Notifying suspected fraud

- 2.1 The Comptroller and Auditor General (NAO) is a prescribed person under the Public Interest Disclosure Act 1998, to whom external disclosures can be made relating to, “the proper conduct of public business, fraud, value for money and corruption in relation to the provision of centrally-funded public services.”

More information is available at:

[http://www.nao.org.uk/about\\_us/concerns\\_about\\_public\\_spending/whistleblowing.aspx](http://www.nao.org.uk/about_us/concerns_about_public_spending/whistleblowing.aspx)

You can telephone the National Audit Office whistle blowing helpline on 020 7798 7999, or write to:

The Comptroller and Auditor General  
National Audit Office  
157-197 Buckingham Palace Road  
London SW1W 9SP

- 2.2 In the first instance, any suspicion of fraud, theft or other irregularity should be reported, as a matter of urgency, to your line manager. If such action would be inappropriate, your concerns should be reported upwards to one of the following persons:
- Director of Finance
  - Chief Executive.
- 2.3. Every effort will be made to protect an informant's anonymity if requested. However, the Corporation will always encourage individuals to be identified to add more validity to the accusations and allow further investigations to be more effective. In certain circumstances, anonymity cannot be maintained. This will be advised to the informant prior to release of information.

### **The investigation process**

- 3.1. Suspected fraud must be investigated in an independent, open-minded and professional manner with the aim of protecting the interests of both the Corporation and the suspected individual(s). Suspicion must not be seen as guilt to be proven.
- 3.2. The investigation process will vary according to the circumstances of each case and will be determined by the Chief Executive. An "Investigating Officer" will be appointed to take charge of the investigation on a day-to-day basis. This will normally be the Director of Finance or another independent manager, or external audit contact.
- 3.3 The Investigating Officer will appoint an investigating team if appropriate. This will normally comprise staff from within the Corporation or from outside.
- 3.4 Where initial investigations reveal that there are reasonable grounds for suspicion, and to facilitate the ongoing investigation, it may be appropriate to suspend an employee against whom an accusation has been made. This decision will be taken by the Chief Executive after having obtained HR advice. Suspension should not be regarded as disciplinary action nor should it imply guilt. The process will follow the EDC disciplinary policy and procedures.
- 3.5 It is important, from the outset, to ensure that evidence is not contaminated, lost or destroyed. The investigating team will therefore take immediate steps to secure physical assets, including computers and any records thereon, and all other potentially evidential documents. They will also ensure, in consultation with management, that appropriate controls are introduced to prevent further loss.
- 3.6 The Investigating Officer will ensure that a detailed record of the investigation is maintained. This should include a chronological file recording details of all telephone conversations, discussions, meetings

and interviews (with whom, who else was present and who said what), details of documents reviewed, tests and analyses undertaken, the results and their significance. Everything should be recorded, irrespective of the apparent significance at the time.

- 3.7 All interviews will be conducted in a fair and proper manner. Where there is a possibility of subsequent criminal action, the police will be consulted.
- 3.8 The findings of the investigation will be reported to the Chief Executive and who will determine, in consultation with the Investigating Officer, what further action (if any) should be taken.

### **Liaison with Police & external audit**

- 4.1. The police generally welcome early notification of suspected fraud, particularly that of a serious or complex nature. Some frauds will lend themselves to automatic reporting to the police (such as theft by a third party). For more complex frauds the Chief Executive, following consultation with the Investigating Officer will decide if and when to contact the police. The Director of Finance will report suspected frauds to the external auditors / MHCLG at an appropriate time.
- 4.2. All staff will co-operate fully with any police or external audit enquiries, which may have to take precedence over any internal investigation or disciplinary process. However, wherever possible, teams will co-ordinate their enquiries to maximise the effective and efficient use of resources and information.

### **Initiation of recovery action**

- 5.1 The Corporation will take appropriate steps, including legal action if necessary, to recover any losses arising from fraud, theft or misconduct. This may include action against third parties involved in the fraud or whose negligent actions contributed to the fraud.

### **Reporting process**

- 6.1 Throughout any investigation, the Investigating Officer will keep the Chief Executive and Director of Finance informed of progress and any developments. These reports may be verbal or in writing.
- 6.2 On completion of the investigation, the Investigating Officer will prepare a full written report setting out:
  - Background as to how the investigation arose;
  - What action was taken in response to the allegations;
  - The conduct of the investigation;
  - The facts that came to light and the evidence in support;
  - Action taken against any party where the allegations were proved;

- Action taken to recover any losses; and
  - Recommendations and/or action taken by management to reduce further exposure and to minimise any recurrence.
- 6.3 In order to provide a deterrent to other staff a brief and anonymised summary of the circumstances will be published on intrepid.

### **Communication with MHCLG**

- 7.1 Irrespective of the amount involved, all cases of attempted, suspected or proven fraud shall be reported to MHCLG.
- 7.2 In addition, MHCLG requires an annual return of all losses arising from fraud together with details of:
- All cases of fraud perpetrated within the Corporation by members of its own staff, including cases where staff acted in collusion with outside parties;
  - All computer frauds against the Corporation, whether perpetrated by staff or outside parties; and
  - All cases of suspected or proven fraud by contractors arising in connection with contracts placed by the Corporation for the supply of goods and services.
- 7.3 The Finance Director is responsible for preparation and submission of fraud reports to MHCLG.

## Annex B: Dos & Don'ts

**Do** Make a note of your concerns.

- Record all relevant details, such as the nature of your concern, the names of parties you believe to be involved, details of any telephone or other conversations with names dates and times and any witnesses.
- Notes do not need to be overly formal, but should be timed, signed and dated.

**Don't** Be afraid of raising your concerns.

- Timeliness is most important. The longer you delay writing up, the greater the chances of recollections becoming distorted and the case being weakened.
  - The Public Interest Disclosure Act provides protection for employees who raise reasonably held concerns through the appropriate channels – whistle blowing.
  - You will not suffer discrimination or victimisation as a result of following these procedures and the matter will be treated sensitively and confidentially.
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**Do** Retain any evidence you may have.

- The quality of evidence is crucial and the more direct and tangible the evidence, the better the chances of an effective investigation.

**Don't** Convey your concerns to anyone other than authorised persons.

- There may be a perfectly reasonable explanation for the events that give rise to your suspicion. Spreading unsubstantiated concerns may harm innocent persons.
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**Do** Report your suspicions promptly.

- In the first instance, report your suspicions to your line manager. If this action would be inappropriate, further guidance on disclosure can be found in EDC's Whistle-blowing Policy.
- Additionally, all concerns must be reported to Director of Finance .

**Don't** Approach the person you suspect or try to investigate the matter yourself.

- There are special rules relating to the gathering of evidence for use in criminal cases. Any attempt to gather evidence by persons who are unfamiliar with these rules may destroy the case.