

**PEVENSEY AND CUCKMERE WATER LEVEL
MANAGEMENT BOARD**

GOVERNANCE

BRIBERY ACT POLICY

WATER MANAGEMENT ALLIANCE

Last review date: 31 October 2017 (to be reviewed every 5 years)

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Reviewed by: Pevensey and Cuckmere WLMB



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1. POLICY STATEMENT

- 1.1 The Board and its Officers are committed to preventing bribery and maintaining a culture within the organisation in which bribery is never acceptable.
- 1.2 Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we, or will we, accept bribes or improper inducements.
- 1.3 To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.
- 1.4 We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards bribery whether internal or external to the Board. We aim to maintain continuous anti-bribery compliance, rather than as a one-off exercise.

2. BRIBERY

- 2.1 Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. Any such advantage is referred to as a "business advantage" in this policy. More guidance is given in Appendix 1. It is unacceptable 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" or expedite a routine procedure
 - 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 the Board in return
 - retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy



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- engage in activity in breach of this policy.

3. POLICY OBJECTIVES

- 3.1 This policy provides a coherent and consistent framework to enable the Board Members and Officers to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable Board Members and Officers to identify and effectively report a potential breach.
- 3.2 The Board requires that Board Members and all Officers, including those permanently employed, temporary agency staff, consultants and contractors:
- act honestly and with integrity at all times and safeguard the organisation's resources for which they are responsible
 - comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Board operates, in respect of the lawful and responsible conduct of activities.

4. SCOPE

- 4.1 This policy applies to all of the Board's activities. For partners, joint ventures, agents and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.
- 4.2 Within the Board, the responsibility to control the risk of bribery occurring resides with all Board Members, the Chief Executive and budget holders.
- 4.3 This policy covers all Board Members and all Employees of the Board, including those permanently employed, temporary agency staff, contractors, agents, volunteers and consultants.



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5. THE BOARD'S COMMITMENT TO ACTION

5.1 The Board commits to:

- Setting out a clear anti-bribery policy and keeping it up to date
- Making all Members and Officers aware of their responsibilities to adhere strictly to this policy at all times
- Training all Members and employees so that they can recognise and avoid the use of bribery by themselves and others
- Encouraging its Members and employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- Taking firm and vigorous action against any individual(s) involved in bribery
- Provide information to all Members and Officers to report breaches and suspected breaches of this policy
- Include appropriate clauses in contracts to prevent bribery.

6. FACILITATION PAYMENTS

6.1 Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to Members or Officers in order to secure or expedite actions.

7. GIFTS AND HOSPITALITY

7.1 This policy does not change the requirements of our gifts and hospitality policy as detailed in the Employees Code of Conduct and Financial Regulations. This makes it clear that:



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Sample tokens of modest value bearing the name or insignia of the organisation giving them (for example, pens, diaries or calendars) whether given personally, or received in the post, may be retained unless they could be regarded as an inducement or reward. You should refuse the offer or invitation (or return the gift) unless the Chief Executive has advised you that it may be accepted or retained.

8. PUBLIC CONTRACTS AND FAILING TO PREVENT BRIBERY

- 8.1 Under the Public Contracts Regulations (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence or “the offence of bribery”.
- 8.2 Organisations that are convicted of “failing to prevent bribery” are not automatically barred from participating in tenders for public contracts.
- 8.3 The Board has the discretion to exclude organisations convicted of this offence.

9. MEMBER AND OFFICER RESPONSIBILITIES

- 9.1 All Board Members and Officers are required to avoid any activity that breaches this policy. The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all Board Members and Officers working for the Board or under its control.
- 9.2 Members and Officers must:
 - ensure that they read, understand and comply with this policy
 - raise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.
- 9.3 The Members Code of Conduct requires that where a Board Member acts as a representative of the Board he or she must not use or attempt to use their position as a Member improperly to confer on or secure for themselves or any other person, an advantage or disadvantage.



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- 9.4 As well as the possibility of civil action and criminal prosecution, Board Members that breach this policy may be subject to referral to the Standards Committee and if convicted of a criminal offence may be debarred from the Board. More guidance is given in Appendix 2.
- 9.5 As well as the possibility of civil action and criminal prosecution, Officers that breach this policy will face disciplinary action, which could result in summary dismissal for gross misconduct. Dismissal can still be an outcome with or without civil action or criminal prosecution. More guidance is given in Appendix 2.

10. RAISING A CONCERN

- 10.1 The Board is committed to ensuring that all of us have a safe, reliable, and confidential way of reporting any suspicious activity. It wants Members and each and every Officer to know how they can raise concerns.
- 10.2 We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.
- 10.3 There are multiple channels to help Members and Employees to raise concerns. Please refer to the Board's Anti Fraud and Corruption Policy and determine your favoured course of action.
- 10.4 Preferably the disclosure will be made and resolved internally (e.g. to your Line Manager/Chief Executive). Where internal disclosure proves inappropriate, concerns can be raised with the External Auditor, Internal Auditor, relevant professional bodies or regulatory organisations.
- 10.5 Concerns can be reported anonymously in accordance with the Board's Whistle blowing and Anti-Fraud and Corruption policies. In the event that an incident of bribery is reported, the Board will act as soon as possible to evaluate the situation. There is a clearly defined Anti Fraud and Corruption policy which set out procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind.



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- 10.6 Members and Officers who refuse to accept a bribe, or those who raise concerns can understandably be worried about the repercussions. The Board aims to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.
- 10.7 We are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery, or because of reporting a concern in good faith.
- 10.8 If you have any questions about these procedures, please contact the Chief Executive or the Internal Auditor. Contact details are shown on the Group's website.



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APPENDIX 1: THE BRIBERY ACT

The Bribery Act

There are four key offences under the Act:

- Bribery of another person (section 1)
- Accepting a bribe (section 2)
- Bribing a foreign official (section 6)
- Failing to prevent bribery (section 7)

The Bribery Act 2010 (http://www.opsi.gov.uk/acts/acts2010/ukpga_20100023_en_1) makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. There is also a corporate offence under Section 7 of failure by a commercial organisation (South Holland Internal Drainage Board is a commercial organisation under the Act) to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business, for the organisation. An organisation will have a defence to this corporate offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

Penalties

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- On conviction in a magistrates court, to imprisonment for a maximum term of 12 months, or to a fine not exceeding £5,000, or to both
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both

Organisations are liable for these fines and if guilty of an offence under section 7 are liable to an unlimited fine.

Bribery is a serious offence against the Board and Officers will face disciplinary action if there is evidence that they have been involved in this activity, which could result in



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summary dismissal for gross misconduct. Disciplinary action will be taken in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case. Board Members will have to resign as a Member of the Board.

Adequate Procedures

Whether the 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 within the Board. It is for individual organisations to determine proportionate procedures in the recommended areas of six principles. These principles are not prescriptive. They are intended to be flexible and outcome focused, allowing for the different circumstances of organisations.

Small organisations will, for example, face different challenges to those faced by large multi-national enterprises. The detail of how organisations apply these principles will vary, but the outcome should always be robust and effective anti-bribery procedures.

Proportionate Procedures

An organisation's procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation's activities. They are also clear, practical, accessible, effectively implemented and enforced.

Top Level Commitment

The top-level management (be it a board of directors, the owners or any other equivalent body or person) are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.

Risk Assessment

The organisation assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.



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Due Diligence

The organisation applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, to mitigate identified bribery risks.

Communication (including training)

The organisation seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

Monitoring and review

The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

This Board is committed to proportionate implementation of these principles.



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APPENDIX 2: BOARD OFFICERS/EMPLOYEES

Gifts and Hospitality

As a Board employee there is a risk that accepting gifts and hospitality can place (or be seen to place) you under a sense of obligation to reciprocate a favour given. This sense of obligation in honest people is capable of being exploited.

Gifts and hospitality can be offered and accepted purely as a normal courtesy and where refusal may give unnecessary offence to people and organisations. However, there are clear limits to what is acceptable. You must be aware of your legal obligations in respect of these matters.

The Board maintains a Hospitality Register where gifts and hospitality offered or received should be recorded. You should familiarise yourself with this register and in what circumstances you are obliged to use it. (Further details on hospitality registers can be found below).

Any offer of a gift, favour or hospitality should be treated with extreme caution. The person or organisation making the offer may be doing (or seeking to do) business with the Board. If you have any concerns about gifts and hospitality you have received or been offered you should discuss these with your line manager. There are no circumstances in which it is permissible to seek gifts or hospitality.

Failure to comply with any of the guidelines contained in this handbook could result in formal disciplinary action.

Guidelines

The following are some general considerations you should be aware of in your conduct as a Board employee when offered gifts or hospitality:

- Standards of conduct acceptable in the private sector differ significantly from those expected in the public sector
- An Internal Drainage Board is a democratic body accountable to the local community and a statutory body whose functions, powers and duties are governed by the law. A local authority may be required to comply with market disciplines in carrying out its functions but it is not, and cannot be, a profit- making trading enterprise.



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- The public have a legitimate expectation that a local authority's affairs will be conducted in a fair and honest manner without favour or disfavour to particular interests. Corruption or even suspicion of corruption is corrosive of public confidence in local democracy. In a real sense, therefore, the survival of local democracy depends on the values by which it operates.
- In all cases, the best protection against error is open adherence to high standards of conduct. The situations in which hospitality and gifts are accepted should be kept to a bare minimum. They should only be accepted when genuinely justifiable in the public interest and if they will not undermine public confidence in local government.

Legal Obligations

You should make yourself fully aware of your legal obligations in respect of gifts and hospitality. The main legal provisions may be summarised as follows:

- It is an offence for employees to solicit or accept any gift or reward in return for allowing themselves to be influenced in any way in their official capacity
- Employees should not accept any fee or reward whatsoever other than their proper remuneration
- Where an employee is shown to have received any money, gift or consideration from a person or organisation holding or seeking to hold a contract with the Council, corruption is presumed unless the contrary is proved
- A breach may lead to disciplinary action and/or prosecution. Conviction by a Court may lead to a fine or imprisonment or both
- In addition to any disciplinary action (which may include dismissal) an employee may be liable to forfeiture of superannuation benefits

Contracts – Cancellation Clauses

The Board's standing orders require contracts to include a clause entitling the Board to cancel and recover any loss if the contractor offers or gives an inducement or reward to any person. You should therefore report any such offer or gift without delay to the Chief Executive.



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Hospitality Registers

You should give written notice to your Chief Executive of an offer (or the receipt) of any gift, or of an invitation involving hospitality (wherever possible in advance of attendance), for inclusion in your service hospitality register. You should provide the following details:

- name of the person or organisation concerned
- details of any dealings (existing or proposed) between the person or organisation and the Board, which are known to you
- the nature of the gift offered or received
- the nature, location, date and time of the hospitality proposed
- Whether you have already refused the offer, returned the gift, or whether you are seeking approval for the acceptance of the gift or hospitality (and your reasons for doing so)

Approval from the Chief Executive

You should refuse the offer or invitation (or return the gift) unless your Chief Executive has advised you that it may be accepted or retained. If the Chief Executive is personally involved or requires clarification then the Chairman should be consulted.

When refusing an offer (or returning a gift) you should act with courtesy, informing the person or organisation of the Board's policy, so as to minimise the risk of causing offence, by using the standard authority wide letter.

The acceptance of an offer or a gift or the retention of a gift will not be sanctioned:

- If it could reasonably be regarded as an inducement or reward, or as harmful to the Board's reputation as a public authority
- Unless to do so can be justified as furthering the purposes or interests of the Board and as being in the public interest

When considering whether or not to sanction the acceptance or retention of a gift your Chief Executive will give specific consideration to the circumstances and timing of the offer.



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Types of Gifts and Hospitality

The following gives specific guidance on handling issues related to different types of gifts and hospitality that you may be offered. Should you require further clarification or have an issue not covered in these points you should contact the Chief Executive.

Gifts

Sample tokens of modest value bearing the name or insignia of the organisation giving them (for example, pens, diaries or calendars) whether given personally, or received in the post, may be retained unless they could be regarded as an inducement or reward.

Other kinds of gift, including vehicles, watches, jewellery, food, clothes or the provision of credit facilities, are unacceptable in any circumstances. Single bottles of drink costing less than £10 may be accepted providing that the gift is on a one-off basis.

'Free' Offers

The offer or supply of goods or other benefits 'free of charge' or at substantially below market prices should be treated with caution and rejected if there is any suspicion that this is being done as a disguised inducement or reward.

Social Events

Participation in social gatherings, for example, golfing days or quasiofficial events organised by a person or organisation doing business with the Board, (or hoping to do so), would not normally be justifiable in the public interest (even in the Employee's own time). It should be avoided unless, in exceptional circumstances, an employee is asked to attend as the nominated representative of the Board.

Any attendances must be authorised by your line manager and entered into the service hospitality register (see above). This does not apply to social gatherings where the main purpose of the event is for the Board's Employees to meet with representatives of businesses, voluntary associations or community organisations.

Lunches/Private Functions

Offers of lunch or dinner (and similar invitations) should only be accepted where there is no conflict with any of the guidance set out above. The scale and nature of the hospitality, if accepted, must be appropriate for the occasion and should not be excessively lavish or extravagant. The frequency and scale of hospitality should not be significantly greater than



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what the Board would be likely to provide in return. It should be restricted to occasions which have an explicit business purpose. Offers from a contractor to attend private functions should be refused.

Arts/Sporting Events

Invitations to attend functions that have no bearing on the business relationship with a contractor should be refused. These would include tickets to the theatre, opera or sporting event, visits to night clubs or holidays abroad.

Conferences

The travelling and subsistence costs of employees attending a course, conference or visit which might be used to promote new goods or services should be borne by the Board or the employee. This consideration should not preclude the acceptance of appropriate hospitality at genuine site visits, seminars or public professional/ business events. Acceptance by employees of hospitality whilst in attendance at conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal; this may include an invitation to the employee's spouse or partner.

Hospitality Provided by the Board

On occasion, it may be desirable for the Board to provide hospitality for persons or organisations in the private sector. The hospitality provided should only occur where an expected benefit to the Board has been proven; it should be appropriate for the occasion and should receive the prior approval of the Chairman and Chief Executive. All hospitality given should also be entered in your hospitality register (see above).



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APPENDIX 3: BOARD MEMBERS

Gifts and Hospitality

The acceptance of gifts and hospitality by Board Members is not merely an administrative issue. It reflects directly upon the perception of Members and of the Authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Members can get out of their position.

The guidance sets out:

1. the principles which should be applied whenever a Member has to decide whether it would be proper to accept any gift or hospitality;
2. a procedure for obtaining consent to accept a gift or hospitality when a Member considers that it would be proper to accept it;
3. a procedure for declaring any gift or hospitality received and for accounting for any gift to the Authority; and
4. circumstances where acceptance of gifts and hospitality is appropriate.

The Code does not apply to the acceptance of any facilities or hospitality, which may be provided to you by the Board.

General Principles

In deciding whether it is proper to accept any gift or hospitality, Members should apply the following principles. Such an offer should not be accepted if to do so would be in breach of one or more of these principles:

Principle 1 - Never accept a gift or hospitality as an inducement or reward for anything you do as a Board Member.

Principle 2 - Hospitality should only be accepted if there is a commensurate benefit to the Authority.

Principle 3 - You should only accept gifts in very limited circumstances.

Principle 4 - Never accept a gift or hospitality if acceptance might be open to misinterpretation.



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Principle 5 - Never accept a gift or hospitality which puts you under an improper obligation.

Principle 6 - Never solicit a gift or hospitality.