



# Anti-Bribery

## 1. Background

The Bribery Act 2010 was passed in April 2010. It came into force on 1 July 2011, when it introduced changes in the law that could significantly impact the conduct of Abbeyfield The Dales (ATD) business.

This Policy covers the significant changes in UK anti-corruption law brought about by the Bribery Act 2010 and the need for ATD to take appropriate action to ensure awareness of the offences and to protect against incurring liability to the extent such actions have not already been taken.

### The Bribery Act creates four offences:

- A general offence covering the offer, promise or giving of a bribe.
- A general offence covering requesting, agreeing to receive or accepting a bribe.
- A distinct offence of bribing a foreign public official to obtain or retain business.
- A strict liability offence for commercial organisations where they fail to prevent bribery by those acting on their behalf.

## 2. Objectives

ATD is committed to providing services that enhance the quality of life for older people and developing services that will meet the needs of future generations. This commitment is based on the Mission and Values of ATD. ATD will also comply with all relevant and current legislation.

ATD conducts all its business in an honest and ethical manner taking a zero-tolerance approach to bribery and corruption. We are committed to acting professionally, fairly and with integrity in business dealings and relationships wherever we operate and implement and enforce effective systems to counter bribery.

The purpose of this policy is to:

- Set out ATD's responsibilities, and for its staff, in observing and upholding our position on bribery and corruption; and
- Provide information and guidance on how to recognise and deal with bribery and corruption issues.

Bribery and corruption are punishable for individuals by up to ten years' imprisonment and if ATD is found to have taken part in corruption we could face an unlimited fine, be excluded from tendering for public contracts and damage our reputation. We therefore take our legal responsibilities very seriously.

## 3. Scope

All staff (including bank staff), agency staff and volunteers working within the service.

## 4. Policy

### 4.1. Definitions: What is bribery?

A bribe is an inducement or reward offered, promised or provided to gain any commercial, contractual, regulatory or personal advantage.

## **4.2. Gifts & Hospitality**

This policy does not prohibit normal and appropriate hospitality (given and received) to or from third parties.

The giving, or receipt, of gifts is not prohibited, if the following requirements are met:

- It is not made to influence a third party, to obtain or retain business or a business advantage, or to reward the provision or retention of business or a business advantage, or in explicit or implicit exchange for favours or benefits; and
- It complies with the law.
- It complies with the ATD Gifts and Wills Policy.

## **4.3. What is not acceptable**

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

- Give, promise to give, or offer, a payment, gift or hospitality with the expectation 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 is known or suspected that it is offered with the expectation that it will obtain a business advantage.
- Accept a gift or hospitality from a third party if it is known or suspected that it is offered or provided with an expectation that a business advantage will be provided in return.
- Threaten or retaliate against another member of staff or volunteer who has refused to commit a bribery offence or who has raised concerns under this policy.
- Engage in any activity leading to a breach of this policy.

## **4.4. Facilitation payments and kickbacks**

Facilitation payments are unofficial payments to expedite a routine government, local authority or public sector action. Kickbacks are payments made in return for a business favour or advantage. ATD does not make, and will not accept, facilitation payments or kickbacks of any kind.

## **4.5. Donations**

ATD does not make contributions to political parties and only makes charitable donations that are legal and ethical under local laws and practices.

## **4.6. Your Responsibilities**

All staff must ensure that they read, understand and comply with this policy.

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for ATD or under our control and are required to avoid any activity that might lead to, or suggest, a breach of this policy.

You must immediately notify your head of service or the Chief Executive Officer if you believe or suspect that a conflict with this policy has occurred or may occur in the future.

Any staff who breach this policy will be investigated and the individual may face disciplinary action, which could result in dismissal for gross misconduct.

## **4.7. Financial Record Keeping**

ATD must keep financial records and have appropriate internal controls in place which will evidence the business reason for making payments to third parties.

All ATD staff must ensure all expenses claims relating to hospitality or expenses incurred to third parties are submitted in accordance with our expenses policy and specifically record the reason for the expenditure.

All accounts, invoices 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.

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

It is important that you immediately advise your line manager, head of service or the Chief Executive 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, as set out above. See section 10 for further guidance on procedure.

#### **4.9. Protection**

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

We are committed to ensuring no one will suffer detrimental treatment by refusing to take part in bribery or corruption, or by reporting in good faith their suspicion under this policy.

Detrimental treatment includes dismissal, disciplinary action, threats or unfair treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should follow the relevant grievance policy immediately.

#### **4.10. Training**

All existing ATD staff will be briefed on this policy and discuss how they can adhere to it.

#### **4.11. Who is responsible for the policy?**

The Finance Director has primary and day-to-day responsibility for implementing this policy, and for monitoring its use and effectiveness and dealing with any queries on its interpretation. ATD's Senior Leadership Team and Board of Trustees are responsible for ensuring those reporting to them are made aware of and understand this policy and are given an adequate briefing on it.

#### **4.12. Monitoring and review**

The Finance Director will monitor the effectiveness and review the implementation of this policy.

Internal control systems and procedures will be subject to audits to provide assurance that they are effective in countering bribery and corruption.

### **5. Finance, Value for Money & Social Value**

N/A

### **6. Supported Appendices**

#### **Appendix 1 - Potential risk scenarios: "red flags"**

Appendix 1 is a list of possible red flags that may arise and which may raise concerns under various anti-bribery and anti-corruption laws. The list is not intended to be exhaustive and is for illustrative purposes only.

### **7. Linked Policies**

Whistleblowing (LG038P)

Fraud (LG018P)

Expenses & Mileage Claims (S011P)

Gifts, Wills & Legal Matters (LG021P)

## **8. Legislation/Regulation**

Bribery Act 2010.

## **9. Review**

Every 2 years, subject to any regulatory or legislative updates.

## **10. Procedure/Guidance**

### **10.1. How to raise a concern**

All staff are encouraged to raise concerns about any issue or suspicion of malpractice at the earliest possible stage. If you are unsure whether an act constitutes bribery or corruption, or if you have any other queries, these should be raised through your line manager in the first instance. If your concern relates to your line manager, then you should raise it with a member of SLT directly.

Concerns should be reported by following the procedure below:

- Report the concerns either verbally or in writing to your line manager;
- If you feel that you cannot report the issue to your line manager, you should refer the matter to a member of SLT T;
- If you feel that neither of the above steps are appropriate, then you should write to or contact ATD's CE.

The line manager, SLT member or CE will then:

- Acknowledge receipt of the concern in writing within 48 hours of it being received, confirming what action is being taken if appropriate;
- Seek HR and Compliance advice and carry out an initial investigation into the concerns to identify whether a full formal investigation is needed.

### **10.2. Initial investigation**

When a potential disclosure is received, an initial investigation should be carried out. The purpose of this initial investigation is to establish quickly, whether there is a need to go on to carry out a full formal investigation. The initial investigation may involve meeting with the person reporting the potential bribe.

Where the initial investigation concludes that the situation does not need a formal investigation, you will be informed accordingly, and it may be appropriate to hold a meeting to deal with the matter informally.

### **10.3. Formal investigation**

Where the conclusion of the initial investigation is that the matter requires a full formal investigation, this will be carried out internally by a member of staff identified by a member of SLT or the Chief Executive.

Subject to any legal constraints you will be informed of the outcome of the preliminary enquiries as to whether a full investigation or any further action (eg police or regulator) will be taken. The investigation will gather all the relevant facts relating to the concerns raised and will normally include a review of relevant information and documents, and interviews with people involved and witnesses (accompanied by appropriate advocates where necessary).

All interviews with witnesses and staff should be recorded and statements taken; such statements should then be sent to the people concerned for confirmation and signature.

The findings will be written up in a full investigation report, together with any conclusions and recommendations for follow up action.



**APPENDIX 1 TO THE ANTI-CORRUPTION AND BRIBERY POLICY**

As referred to in the Policy the following is a list of possible red flags that may arise, and which may raise concerns under various anti-bribery and anti-corruption laws. The list is not intended to be exhaustive and is for illustrative purposes only.

If any ATD staff encounter any of these red flags while working for us, they must be reported promptly to your line manager or the Finance Director.

- a) You become aware that a family has offered to pay some commission or donate to ATD to accept an elderly family member as an ATD resident;
- b) You become aware that a family has paid commission to look after an elderly relative whilst they are absent for a short period, and that has not been covered in a short-term contract, or offers a private gift to ensure their relative receives special treatment;
- c) A third party offers luxury gifts and/or hospitality in exchange for a commercial contract;
- d) In a tender process, a specific contractor offers to reduce their price to be able to pay you a commission to select them;
- e) You become aware that a third party engages in, or has been accused of engaging in, improper business practices;
- f) An ATD service offers a referral fee to another service on the condition that a resident move into the service;
- g) You learn a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having a "special relationship" with officials;
- h) A third party insists on receiving a commission or fee payment before committing to sign up to a contract with us, or carrying out a process for us;
- i) A third-party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made;
- j) A third-party request that payment to them is made to a country or geographic location different from where the third party resides or conducts business;
- k) A third party requests an unexpected additional fee or commission to "facilitate" a service;
- l) A third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
- m) A third-party request that a payment is made to "overlook" potential legal violations;
- n) A third-party request that you provide employment or some other advantage to a friend or relative;
- o) You receive an invoice from a third party that appears to be non-standard or customised;
- p) A third party insists on the use of side letters or refuses to put terms agreed in writing;
- q) You notice that we have been invoiced for a commission or fee payment that appears large given the service stated to have been provided;
- r) A third-party request or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to us;
- s) A local supplier offers a discount to you or another member of staff for their private purchases if ATD purchases goods or services from them;
- t) A resident offers to leave a donation in their Will if they do not have to move out (even if their needs change) or receive special treatment; or
- u) You are aware that a financial advisor offers a referral fee to staff or volunteers when residents who have been recommended to them have procured any services from them.