



## **ANTI-FRAUD, -BRIBERY, -CORRUPTION & -TERRORISM POLICY SHEQ-03**

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### **Policy Summary**

The Waste Trade Company has a 'zero tolerance' policy towards fraud, bribery, corruption and terrorism. It will always seek to take disciplinary and /or legal action against those found to have perpetrated any of the aforementioned offences (paragraph 7).

The Waste Trade Company is committed to developing an anti-fraud culture and keeping the opportunities for fraud, bribery, corruption and terrorism to the absolute minimum (paragraph 8).

The Waste Trade Company will assess the risks of fraud, bribery, corruption and terrorism; establish processes and controls to minimize these risks, and regularly review the effectiveness of its control systems (paragraphs 11 and 15).

The Waste Trade Company requires all staff to immediately report any incidents or suspicions of fraud, bribery, corruption or terrorism to an appropriate manager or a Fraud Team Member. The Waste Trade Company will not penalize anyone for raising a concern in good faith (paragraphs 16, 17 and 19).

The Waste Trade Company will take all reports of fraud, bribery, corruption and terrorism seriously, and investigate proportionately and appropriately.

The Waste Trade Company requires all those receiving Waste Trade Company funds or representing The Waste Trade Company, including its suppliers, grant recipients, partners, contractors and agents, to act in accordance with this policy. This includes reporting to The Waste Trade Company any suspected or actual instances of fraud, bribery, corruption or terrorism involving Waste Trade Company assets or staff (paragraphs 6 and 18).

### **Introduction**

1. The Waste Trade Company complies with applicable legislation, including the bribery of public officials, primarily regulated under
  - a. The Prevention and Combating of Corrupt Activities Act 12, 2004 (PCCAA), which criminalizes corruption and bribery and the
  - b. Criminal Procedure Act, 1977 (CPA), which provides for procedures relating to all crimes, including domestic bribery,
  - c. The Prevention and Combating of Corrupt Activities Act 12 of 2004,
  - d. Prevention of Organised Crime Act No. 121 of 1998 (POCA)
  - e. The Anti-Terrorism Bill of 2002 and with
  - f. Any other regulatory requirements and applicable guidance
2. The Waste Trade Company is committed to conducting business fairly, openly and honestly and in accordance with the highest ethical and legal standards.

### **Purpose**

3. The purpose of this policy is to set out The Waste Trade Company's stance on fraud, bribery, corruption and terrorism and, its approach to preventing, detecting, reporting and investigating fraud, bribery, corruption and terrorism.



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### **Scope**

4. This policy applies to The Waste Trade Company Group as a whole, including all separate legal entities owned and controlled by The Waste Trade Company.
5. This policy is applicable to, and must be followed by, all staff including consultants and contractors. Failure to comply could result in disciplinary action, including dismissal.
6. The Waste Trade Company requires all those receiving The Waste Trade Company funds or representing The Waste Trade Company, including its suppliers, grant recipients, partners, contractors and agents, to act in accordance with this policy.

## **Policy**

### **Policy Statement**

7. The Waste Trade Company has a 'zero tolerance' policy towards fraud, bribery, corruption and terrorism. This means that The Waste Trade Company:
  - a) does not accept any level of fraud, bribery, corruption or terrorism within the organization or by any other individual or organization receiving The Waste Trade Company funds or representing The Waste Trade Company; and
  - b) will always seek to take disciplinary and/or legal action against those found to have perpetrated, be involved in, or assisted with fraudulent or other improper activities in any of its operations.
8. The Waste Trade Company is committed to developing an anti-fraud culture and keeping the opportunities for fraud, bribery, corruption and terrorism to the absolute minimum.
9. The Waste Trade Company requires all staff to act honestly and with integrity at all times and to safeguard the resources for which they are responsible.

### **Risk and internal control systems**

10. The Waste Trade Company will seek to assess the nature and extent of its exposure to the risks of internal and external fraud, bribery, corruption and terrorism. It will regularly review these risks, using information on actual or suspected instances of fraud, bribery, corruption and terrorism to inform its review.
11. The Waste Trade Company will seek to put in place efficient and effective systems, procedures and internal controls to: encourage a law-abiding culture; prevent and detect fraud, bribery, corruption and terrorism; and reduce the risks to an acceptable level.
12. The Waste Trade Company will seek to equip its staff with the skills, knowledge and expertise to manage its risk effectively. It will provide adequate training to make staff aware of the risks of fraud, bribery, corruption and terrorism, and of their responsibilities in preventing, detecting, and reporting it.
13. The Waste Trade Company will make all those receiving The Waste Trade Company funds or representing The Waste Trade Company, including its suppliers, grant recipients, partners, contractors and agents aware of this policy.





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14. The Waste Trade Company will work with relevant stakeholders, including comparable organizations, relevant regulators and government organizations to tackle dishonesty of any kind.
15. The Waste Trade Company will regularly review and evaluate the effectiveness of its systems, procedures and internal controls for managing these risks. It will do this through risk management and assurance processes and audit arrangements.

### **Reporting - internal**

16. All staff must immediately report any suspected or actual instances of fraud, bribery, corruption or terrorism. This includes offers to pay bribes, solicitation of bribes and demands to make facilitation payments. Failure to report could result in disciplinary action.
17. Reports should be made to an appropriate manager or to the Fraud Team. If staff is not comfortable reporting their concerns to these people, the info can be placed anonymously in the box provided.
18. The Waste Trade Company also requires all those receiving The Waste Trade Company funds or representing The Waste Trade Company, including its suppliers, grant recipients, partners, contractors and agents, to report to any suspected or actual instances of fraud, bribery, corruption or terrorism involving Waste Trade Company assets or staff.
19. The Waste Trade Company will not penalize anyone for raising a concern in good faith, even if it turns out to be unfounded. Any member of staff who harasses or victimizes someone for raising a concern in good faith will themselves be subject to disciplinary action.
20. The Waste Trade Company will maintain a system for recording: all reports of actual or suspected fraud, bribery, corruption and terrorism; the action taken; and the outcome of any investigation. It will use this information to inform its review of the risks and the effectiveness of its controls.

### **Reporting – external**

21. The Waste Trade Company will fully meet its obligations to report fraud, bribery, corruption and terrorism to third parties. The Fraud Response Plan sets out: the parties that the suspected or actual fraud, bribery, corruption or terrorism must be reported to; the nature and timing of the disclosure required; and who is responsible for making the report.

### **Investigation**

22. The Waste Trade Company will take all reports of actual or suspected fraud, bribery, corruption and terrorism seriously, and investigate proportionately and appropriately as set out in this policy and the Fraud Response Plan.
23. The Fraud Response Plan sets out responsibilities for investigating fraud, bribery, corruption and terrorism, the procedures for investigating, action to be taken and external reporting.



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24. The Waste Trade Company will always seek to take disciplinary and/or legal action against those found to have perpetrated or assisted with fraudulent or other improper activities in any of its operations. For staff, this may include dismissal. It will also seek to recover any assets lost through fraud.

### **Approval of losses**

25. All losses as the result of fraud must be recorded and approved in compliance with The Waste Trade Company's Executive Committee.

### **Specific risk mitigation measures**

26. To manage the exposure to bribery and corruption, all gifts and hospitality received by staff and given to Public Officials must be approved in line with the delegated authorities and recorded.
27. Conflicts of interest are known to increase the risk of fraud. Therefore, all staff who have an interest in an actual or potential supplier (whether personally, or through family members, close friends or associates) must report that conflict of interest to their manager.

### **Responsibilities**

28. The Principal Fraud Officer is the General Manager of The Waste Trade Company and the counter fraud champion on the Executive Board.
29. The Head of Counter Fraud is the Human Resources Manager and responsible for creating and implementing The Waste Trade Company's counter fraud strategy and for managing the counter fraud function.
30. The Counter Fraud Team is responsible for recording all instances of actual or suspected fraud, bribery, corruption and terrorism, ensuring that they are investigated proportionately and appropriately, and reported to external parties. They are also responsible for providing advice and training to staff on preventing, detecting and investigating fraud. This includes investigating cases where specialist input is required due to the complex nature of the case.
31. Managers receiving reports of fraud, bribery, corruption and terrorism are responsible for reporting them to the Counter Fraud Team, and agreeing with them how the case will be managed and who will be responsible for investigation.
32. All staff is responsible for complying with this policy.

### **Definitions**

33. **Fraud** is knowingly making an untrue or misleading representation with the intention of making a gain for oneself or another or causing a loss, or risk of loss, to another.
34. **Bribery** is giving or offering someone a financial or other advantage to encourage that person to perform their functions or activities improperly, or to reward someone for having already done so.





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35. A **facilitation payment** is a type of bribe. An example is an unofficial payment or other advantage given to a public official to undertake or speed up the performance of their normal duties.
36. **Corruption** is the misuse of entrusted power for personal gain. This would include dishonest or fraudulent behavior by those in positions of power, such as managers or government officials. It would include offering, giving and receiving bribes to influence the actions of someone in a position of power or influence, and the diversion of funds for private gain.
37. A **Conflict of interest** is where an individual has private interests that may or actually do influence the decisions that they make as an employee or representative of an organisation.
38. An **Act of terrorism** is criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.

### Approval

Approved by	Kay Hardy - Owner / General Manager
Fraud Team Members	Andrew van Wyk – HR Manager Johan van Zyl – Accounts Manager Nyameko Mnqumevu – External Operations Manager Ad hoc Malene Louw – Compliance Officer
Policy Authors	Andrew van Wyk – HR Manager Malene Louw Compliance Officer
Date	4 November 2020

  
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GENERAL MANAGER

  
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HR MANAGER



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### **ANNEXURE - GUIDANCE**

#### **1. FURTHER GUIDANCE ON FRAUD**

##### **Summary of legislation**

The relevant legislation in South Africa is the Fraud Act of 2006.

This Act defines a general offence of fraud and sets out three ways by which fraud can be committed:

- fraud by false representation. A representation is false if it is untrue or misleading, and the person making it knows that it is, or might be, untrue or misleading.
- fraud by failing to disclose information.
- fraud by abuse of position. This applies to those occupying a position in which they are expected to safeguard, or not to act against, the financial interests of another person.

In each case, the offence is to act dishonestly with the intention of making a gain for oneself or another or causing a loss, or risk of loss, to another. The criminal act is the attempt to deceive and attempted fraud is therefore treated as seriously as accomplished fraud.


##### **Examples of fraud relevant to The Waste Trade Company:**

###### **Procurement fraud:**

- Staff colluding with suppliers and ordering and paying for goods or services that are not required and / or have not been delivered, or are charged at an excessive rate.
- Staff or third parties creating false invoices, receipts, purchase orders or supplier identities in order to obtain payment for goods and services that have not been supplied.
- Staff awarding a contract, or preferential terms, to a supplier in return for payments, personal discounts, commission or other benefits; or awarding a contract to a relative or other connected party.

###### **Fraudulently altering documents or records:**

- Grant recipients not spending grant funds on purposes intended, or keeping funds for personal use, and falsifying records to support false claims.
- Staff issuing false receipts to customers in order to keep the funds paid for personal use.
- Staff or third parties altering vendor payment details to divert supplier payments to own bank account.
- Staff fraudulently altering accounting records.

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Expenses fraud:

- Staff claiming expenses or allowances to which they are not entitled, including by falsifying receipts.
- Staff using a company credit card for personal expenses.
- Staff using Waste Trade Company assets, such as telephones, for their own personal use.
- Staff or contractors falsifying travel and subsistence or other expense claims.

Fraud involving impersonation:

- Staff or third parties impersonating The Waste Trade Company in order to extract fees for a service which does not exist, or was done free of charge.
- Staff or third parties submitting false applications from real or fictional individuals or organisation for grants.

Payroll fraud:

- Staff creating non-existent employees for directing payments.
- Staff or temporary staff making false or inflated claims for overtime or flexible working.

The Corrupt Activities Act of 2004 makes it an offence to give or receive a bribe, e.g. to:

- Offer, promise or give a financial or other advantage to another person with the intention of inducing them to perform their functions improperly, or to reward them for having done so.
- Request, agree to receive or accept a financial or other advantage as the reward for an improper function or activity.

The Act also creates a corporate offence of failing to prevent bribery. This means that The Waste Trade Company could be liable if someone offers a bribe on its behalf, including employees and third parties carrying out Waste Trade Company business, such as partners and suppliers.

**Examples of bribes relevant to The Waste Trade Company:**

Advantages that could be offered as part of a bribe:

- Cash, vouchers or other cash equivalents, or a "fee".
- Gifts.





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- Hospitality or entertainment (outside what would be modest and reasonable in the business context).
- The Waste Trade Company paying travel and accommodation costs to a third party where this is not standard business practice (e.g. not expenses for staff or exam invigilators).
- Waste Trade Company staff receiving travel or accommodation free of charge from a supplier.
- Loans.
- Favourable business terms.
- Discount of services, or providing services free of charge (or 'un-invoiced').
- Provision of information that offers a business or personal advantage.

Offering or receiving one of the above advantages could count as a bribe if any of the following was offered or given in return:

- Award of contract to particular bidder.
- Obtaining information that would put an individual or The Waste Trade Company at an advantage, such as the information about a competitive tender.
- Any other preferential treatment influenced by the receipt of an advantage.

The following would not usually count as bribes:


- Payment of an official charge, such as a visa.
- Normal hospitality provided in the course of business, such as provision or acceptance of a modest meal at a working event.

Whether a provision of a particular item or service counts as a bribe depends upon the context and level of hospitality (etc.) offered. The Bribery Act is not intended to prohibit reasonable and proportionate hospitality or business expenditure, genuine hospitality or similar business expenditure that is reasonable and proportionate, in line with normal The Waste Trade Company policy and practice. Judgement is required and the decision depends upon level of hospitality provided and the level of influence the person receiving it had on the business decision in question.

### **2. FURTHER GUIDANCE ON FACILITATION PAYMENTS**

A facilitation payment is making a payment or offering an advantage to a public official to undertake or speed up the performance of their normal duties. Facilitation payments are a form of bribe and are illegal under the Prevention and Combating of Corrupt Activities Act, 2004 (PCCAA), which criminalizes corruption and bribery and The Criminal Procedure Act, 1977 (CPA), which provides for procedures relating to all crimes, including domestic bribery.



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**Examples of facilitation payments relevant to The Waste Trade Company:**

- Making a payment to clear items through customs. These are not acceptable and must not be made.
- Offering a government minister exceptional hospitality (e.g. beyond a modest meal) whilst trying to win a contract.
- Making a 'non-official' payment to police to guard a building or provide security services.
- The Waste Trade Company staff being offered free meals or accommodation (outside what would be modest and reasonable in the business context) in an effort to obtain favourable treatment.
- Making a payment to pass through border controls.

**Exceptions**

The Corrupt Activities Act of 2004 recognises that there are circumstances in which individuals are left with no alternative but to make payments in order to protect against loss of life, limb or liberty, and the common law defence of duress is likely to be available.

This might apply in particular to being asked to make a payment to pass through border controls. In these circumstances, staff should follow these steps:

1. If asked for a payment, refuse. If the official insists, ask them where the requirement for a fee is displayed, and also ask for a receipt.
2. If they continue to insist, without being able to provide evidence that the fee is legitimate, ask for a supervisor and inform them that you would be prosecuted if you make this payment.
3. The Corrupt Activities Act of 2004 recognises that there are circumstances in which individuals are left with no alternative but to make payments in order to protect against loss of life, limb or liberty, and the common law defence of duress is likely to be available. If you feel that refusing to pay puts you at risk of loss of life, limb or liberty make the payment and report it to as soon as possible to your manager. They will decide whether this should be reported to authorities. The fact that you have made it difficult for the official to obtain a bribe may deter them from asking others.