



## ANTI-BRIBERY POLICY

## CONTENTS

1. Introduction
2. Scope
3. Council's Commitment
4. What is Bribery?
5. What is the Council's Position on Bribery?
6. Preventing Bribery – Adequate Procedures
7. Employee Responsibilities
8. Consequences of Improper Behaviour
9. Review

## **1 Introduction**

- 1.1 Midlothian Council is fully committed to the prevention, deterrence and detection of bribery and upholding all relevant laws, including the Bribery Act 2010.
- 1.2 Bribery is a criminal offence and is unacceptable in any form and will lead to disciplinary action against employees where allegations are substantiated. The Council operates a zero tolerance approach to bribery.
- 1.3 This Policy sets out a framework to enable the Council's employees and those that the Council has dealings with to understand and implement arrangements to ensure compliance with the Bribery Act 2010.
- 1.4 This Policy should be read in conjunction with the Council's Anti Fraud and Corruption Policy and Strategy, Anti Money Laundering Policy, Employee Code of Conduct (which contains reference to Gifts and Hospitality) and the Whistle Blowing – Public Interest Disclosure Policy.
- 1.5 This Policy and the associated Procedure (Appendix 4) provide information and guidance for employees on how to prevent, recognise and deal with bribery.
- 1.6 The Audit Committee, Cabinet and Corporate Management team have been involved in the production and approval of the Anti Bribery Policy and there is therefore Elected Member and Senior Management commitment and endorsement of these.

## **2 Scope**

- 2.1 This policy applies to all Council activities. For partners, joint ventures and suppliers we will seek to promote adoption of policies consistent with the principles set out in this policy.
- 2.2 This Policy applies to all Council employees, including all levels and grades, those permanently employed, fixed term, on secondment from another organisation, casual and agency staff. It also applies to contractors, agents, volunteers and consultants with which the Council has dealings.

## **3 Council's Commitment**

- 3.1 Midlothian Council commits to:
  - setting out a clear anti-bribery policy and keeping this up to date;
  - making all employees and others within the scope of paragraph 2 aware of their responsibilities to adhere strictly to this policy at all times;

- provide a channel for all employees to report suspected breaches of this policy; and
- include, where appropriate, clauses in contracts to prevent bribery.

## **4 What is Bribery?**

4.1 Bribery is an inducement or a reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage.

4.2 Offences under The Bribery Act 2010 are:

### Individual offences

- Section 1 - bribery of another person, offering an advantage (financial or otherwise) to another person in return for beneficial treatment.
- Section 2 - accepting a bribe, receiving or requesting an advantage (financial or otherwise) from another person in return for beneficial treatment.
- Section 6 - bribing a foreign official.

### Corporate offence

- Section 7 - allowing an associated person to bribe another person (ie failure by an organisation to prevent bribery). An associated person can be an employee or a contractor providing a service on behalf of the Council.

4.3 The maximum penalty for individuals under the Act is 10 years imprisonment and /or unlimited fines. Failure by an organisation to prevent bribery carries an unlimited fine.

## **5 Preventing Bribery – Adequate Procedures**

5.1 An organisation will have a statutory defence against prosecution under section 7 bribery offences if it puts into place ‘adequate procedures’ designed to prevent bribery. Ultimately it will be for a court to decide whether these procedures are adequate.

5.2 Midlothian Council’s procedures to prevent bribery are attached at Appendix 4.

5.3 These procedures will be applied by all Services in all dealings proportionally based on the level of risk.

## **6 Employee Responsibilities**

6.1 Employees must ensure they read, understand and comply with this policy.

- 6.2 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all employees working for the Council.
- 6.3 Employees should raise any concerns as soon as possible if they believe or suspect that a breach of this policy has occurred or may occur in the future. These concerns should be raised in line with the Council's Whistle Blowing-Public Interest Disclosure Policy.

## **7 Consequences of Improper Behaviour**

- 7.1 All allegations relating to bribery or corrupt practices will be investigated by the Council.
- 7.2 In all circumstances where it is considered that a criminal offence may have been committed, the Council will notify Police Scotland.
- 7.3 The Council will seek, wherever possible, to recover any losses suffered as a result of an act of bribery or corruption.
- 7.4 As well as the possibility of civil and criminal prosecution, employees that breach this policy will face action in line with the Council's Disciplinary Procedures which could result in dismissal for gross misconduct.

## **8 Gifts and Hospitality**

- 8.1 This policy does not change the requirements relating to Gifts and Hospitality currently contained in the Employee Code of Conduct.
- 8.2 Gifts, offers of hospitality or favours from or to a third party, a contractor, client or partner organisation of the Council are capable of being perceived as constituting a bribe.
- 8.3 Employees and their family members should never accept or offer a gift, hospitality, favour or any other form of inducement which may influence or be perceived as influencing actions or decisions related to their job.

## **9 Review**

- 9.1 This policy and associated procedures will be reviewed periodically and at least every three years to reflect organisational changes, best practice, operational experience and legislative updates in order to maintain its effectiveness and compliance with the Bribery Act 2010.