



ANTI FRAUD AND CORRUPTION POLICY AND STRATEGY

CONTENTS

1. Introduction
2. Definitions
3. Policy Statement
4. Strategy – Deterrence and Prevention
5. Fraud Response Plan
6. Recovery and Criminal Proceedings
7. Associated Polices
8. Conclusion

1. INTRODUCTION

- 1.1 In accordance with the principles of good corporate governance in administering public funds, Midlothian Council is fully committed to an effective Anti Fraud and Corruption Policy.
- 1.2 The Council's Anti Fraud and Corruption Policy details how the Council:
- promotes an anti-fraud and anti corruption culture among elected Members, employees and the public;
 - deters and prevents fraud and corruption;
 - detects and investigates fraud and corruption; and
 - recovers and insitgates criminal proceedings
- 1.3 National trends indicate that fraud related losses can equate to around 3% of expenditure. Any loss of funds due to fraud and corruption may impact on the ability of Midlothian Council to achieve its priorities which for the next 3 years are:
- reducing inequalities in the health of our population;
 - reducing inequalities in the outcomes of learning in our population; and
 - reducing inequalities in the economic circumstances of our population.

2. DEFINITIONS

2.1 Fraud:

The Accounts Commission for Scotland describes fraud as the use of deception with the intention of obtaining private gain, avoiding an obligation or causing loss to another party. Fraud can be used to describe a wide variety of dishonest behaviour such as forgery, false representation and the concealment of material facts. The fraudulent use of Information and Communication Technology (ICT) resources is included in this definition, where its use is a material factor in carrying out a fraud.

Examples of Fraud include, but are not limited to:

- distorting or concealing both financial and non-financial information;
- knowingly and intentionally obtaining or attempting to obtain benefits to which there is no entitlement;
- falsification or alteration of accounting records or other documents;
- misappropriation of assets or theft;
- suppression or omission of the effects of transactions from records or documents;
- recording incorrect information eg time records that do not reflect actual hours worked; and
- wilful misrepresentation of transactions or of the Council's state of affairs which may involve the misuse of funds or other resources, or the supply of false information.

2.2 Corruption:

Corruption is the unlawful offering, giving, soliciting or acceptance of an inducement or reward which could influence the actions taken by the Council, its Elected Members or its employees. This also applies to business partners where a relationship is in place for them to undertake duties on behalf of the Council. Corruption can also include bribery and is not entirely removed from fraud as offences may overlap between them.

Examples of Corruption include, but are not exclusive to:

- disclosure of Information;
- using a position of authority inappropriately;
- altering contracts or official forms;
- misuse of IT systems;
- falsifying records; and
- making purchases of goods or services which are unnecessary or excessive

3. POLICY STATEMENT

- 3.1 The Council has adopted a local [Code of Corporate Governance](#) which can be viewed on the Council's website or on the intranet. The adoption of the Code demonstrates a commitment to the fundamental principles of good corporate governance, namely openness and inclusivity, integrity and accountability.
- 3.2 The Council is determined that the prevailing culture is one of honesty and integrity and is opposed to all aspects of fraud and corruption.
- 3.3 There is an expectation and obligation that all individuals and organisations associated with the Council will act with integrity and that, in this context, Elected Members and employees will lead by example.
- 3.4 Elected Members are subject to the Councillors' Code of Conduct as issued by the Scottish Ministers under the Ethical Standards in Public Life etc (Scotland) Act 2000. Elected Members are made fully aware of the terms of the Code as part of the initial induction process. Breaches of the Code by any Elected Member may give rise to a complaint to the Standards Commission for Scotland.
- 3.5 The Council has an Employee [Code of Conduct](#) which sets out the minimum standards of conduct and behaviours expected at work. The Disciplinary Procedure provides examples of behaviour considered gross misconduct, and this includes theft, fraud or any other act of dishonesty.
- 3.6 Midlothian Council is fully committed to the prevention, deterrence and detection of bribery and upholding all relevant laws, including the Bribery Act 2010. A separate Anti Bribery Policy has been created and this 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.

- 3.7 Council employees are important elements in the stance against fraud and corruption and have a duty to raise any concerns they may have on these issues which impact on the Council's activities. This may be achieved by reporting through the Council's Whistle Blowing - Public Interest Disclosure Policy which makes specific provision for whistle blowing (i.e. the right to raise concerns by employees within the terms of the Public Disclosure Interest Act 1998 without fear of victimisation for doing so). As a first step, disclosures should normally be raised with the Internal Audit Manager but where disclosures are made to Management, Heads of Service, Directors or the Chief Executive then these officers must also inform the Internal Audit Manager.
- 3.8 Members of the public are positively encouraged to raise any concerns they may have on fraud and corruption issues which impact on the Council's activities. This may be achieved by reporting concerns via the Council's website via "[Report/ Fraud, corruption and whistleblowing](#)", by clicking on the [link](#) or by contacting Internal Audit directly (see contact details under 5.3).
- 3.9 The types of allegations or suspicions which should be reported for investigation fall into the broad categories in the list below (this is for guidance and is not exhaustive and further advice on any matter can be sought from Internal Audit).

Allegations or suspicions in relation to theft, misappropriation or misuse of:

- assets, cash, stores, other property or contracts of the Council or where there is a funding relationship with the Council;
- cash, property or other belongings of an employee, where suspicion falls on another Council employee.

and also:

- a criminal offence (e.g. fraud, stealing from the Council, fraudulently claiming wages, theft from clients);
- failure to comply with any legal obligation (e.g. the statutory obligation to provide a certain level of care is deliberately ignored);
- miscarriage of justice;
- conduct by officers of the Council or Elected Members which is unlawful or in breach of the Council's Standing Orders, Financial Regulations, Employee Code of Conduct or other policies;
- corruption or bribery;
- concerns over child protection / the protection of vulnerable adults;
- danger to the health and safety of an individual;
- danger to the environment; or
- deliberate concealment of any of the above.

4. STRATEGY - DETERRENCE AND PREVENTION

- 4.1 The Local Government (Scotland) Act 1973 specifies that every local authority must make proper arrangements for the administration of its financial affairs. Accordingly, the Council has adopted Financial Regulations and Financial Directives which provide the framework for managing its financial affairs.
- 4.2 The Act provides that each Council must appoint a 'Proper Officer' with responsibility for the administration of its financial affairs (i.e. the s95 Officer). The Council has resolved that the 'Proper Officer' is the Head of Finance and Integrated Service Support and they work with other senior managers and Internal Audit in developing the anti-fraud and corruption culture. The Head of Finance and Integrated Service Support is also the Council's nominated Anti-Money Laundering Officer.
- 4.3 The Act also specifies that local authorities must make Standing Orders with respect to contracts for the supply of goods or materials and the execution of works. The Council has adopted Standing Orders for contracts (Standing Order 20) which ensure that uniform contracting procedures of the highest standard are laid down for use throughout the Council.
- 4.4 The Council has set up an Integrity Group which considers the risk of fraud and corruption in key areas together with the risk of Serious and Organised Crime within Midlothian. The Director, Resources is the chair for the group and has responsibility for overseeing the Council's compliance with the provisions of this policy.
- 4.5 The Council has a Procurement Policy and Procedures Manual which standardises the methods of procurement within the Council. These are mandatory for all Council employees involved in procurement. A central record of activity across the Council (Tenders, Quotations and Contracts Registers) is held by the Procurement Manager.
- 4.6 The Council has established an Audit Committee which reviews and monitors the following areas of corporate governance:
- reviewing and promoting the Council's system of internal control, aimed at ensuring that the Council's activities are carried out in an efficient and controlled manner, and that its assets are safeguarded;
 - evaluation of the Council's control environment, including measures to prevent and detect fraud;
 - evaluation of the Council's risk management framework including regular reviews of the Council's high risks and corporate risk register; and
 - scrutiny of the Anti Fraud and Corruption Policy.
- 4.7 Internal Audit has a Corporate Fraud team which comprises 2 Accredited Counter Fraud Specialist officers. This team provides support to services in preventing and detecting instances of fraud. This support includes providing

anti-fraud training and advice, conducting enquiries on behalf of services and carrying out investigations.

- 4.8 It is important to stress that the responsibility for the prevention and detection of fraud and corruption rests with management, and to this end the Council's managers have developed systems and procedures which incorporate efficient and effective internal controls. These systems contribute towards the prevention of fraud and corruption by ensuring that there are sound arrangements to control the following:
- the legitimacy of expenditure;
 - the security of assets and income;
 - the reliability of management information;
 - the accuracy of financial and other records; and
 - compliance with statutory requirements including the Bribery Act 2010.
- 4.9 The existence, appropriateness and effectiveness of these internal controls are independently monitored on a planned basis by Internal Audit which undertakes a series of systems and risk based audits on the basis of a predetermined annual audit plan which is approved by the Audit Committee. The Corporate Fraud work plan may be changed 'in year' to focus on new or emerging fraud threats identified as part of information sharing and intelligence.
- 4.10 Internal Audit carry out follow up reviews to ensure that control weaknesses have been addressed.
- 4.11 Every year, each Head of Service is required to undertake an annual self assessment of their area of responsibility using an assurance template and within this they are required to confirm whether all risks and controls relating to fraud are detailed in appropriate risk registers and that all officers are aware of the Council's policies on fraud and corruption.
- 4.12 The Council works with other Local Authorities and Enforcement Agencies, including Police Scotland to deter and detect fraud and corruption, sharing data across departments and agencies where appropriate. It participates in the National Fraud Initiative which is undertaken every 2 years.
- 4.13 The Council undertakes appropriate recruitment vetting of all employees prior to employment to prevent potentially dishonest employees from being appointed.

5. FRAUD RESPONSE PLAN

- 5.1 Where any matter arises which involves, or is thought to involve, a fraud, corruption or financial irregularity, the relevant Head of Service / Director must immediately notify the Internal Audit Manager for consideration of appropriate action. Managers must only establish the basic facts of the suspicion and should not attempt to carry out any detailed investigation themselves.
- 5.2 Good advice at an early stage is the key step to achieving a successful outcome when fraud or corruption is suspected. Investigations that are badly handled can lead to potential prosecutions failing. The Council provides mechanisms for members of the public and employees to contact the Internal Audit Manager to report any suspected frauds, corruption and irregularities.
- 5.3 This can be done in a number of ways, including:
- Use of the e-mail link InternalAudit@midlothian.gov.uk;
 - Telephone the Internal Audit team on 0131 271 3572;
 - Write a confidential letter to the Internal Audit Manager: Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith, Midlothian. EH22 3AA;
 - Fill out a report (anonymously if desired) via the Council's website via "[Report/ Fraud, corruption and whistleblowing](#)";
 - Book a confidential appointment with the Internal Audit Manager on 0131 271 3517 or 3285; and
 - If the concern is about an Elected Member of the Council, the individual may wish instead to exercise their right to contact the Standards Commission for Scotland website: <http://www.standardscommissionscotland.org.uk/>. The individual may wish to inform the Internal Audit Manager of this course of action.
- 5.4 Where the Internal Audit Manager is satisfied that a matter will be investigated appropriately, the responsibility can be discharged to the Service.
- 5.5 Where the nature of the investigation requires specialist skills, a degree of independence, or the investigation is of a scale which cannot be managed by the Service, Internal Audit will reserve the right to carry out the investigation. This will include investigations where initially it has been agreed to allow the Service to do the preliminary work. It may on occasion be appropriate for Internal Audit not to pass information and evidence of fraud to the Service at an early stage.
- 5.6 The investigation, undertaken by Internal Audit, will:
- establish the facts as far as possible, including any criminal or disciplinary matters;
 - identify any control weaknesses and recommend control improvements, where required;
 - provide management with a written, factual report into the incident; and
 - record information for fraud statistics.
- 5.7 A summary of all reported suspicions will be presented to the Audit Committee and External Audit on an annual basis by the Internal Audit Manager.

Significant matters will be reported to the Audit Committee as soon as is reasonably practicable.

- 5.8 Investigations into suspected wrongdoing of employees will be investigated within the standards and provisions set out in the relevant Disciplinary Procedure. Advice can be sought from OD/HR Services.
- 5.9 The Senior Auditor, Internal Audit is responsible for planning and coordinating the Council's participation in the National Fraud Initiative which is a comprehensive data matching exercise between public sector bodies to highlight potential frauds in a number of areas for example Housing Benefits, Payroll, Social Care, Blue Badges, Housing Tenancies, Insurance etc.
- 5.10 Where appropriate, the Council co-operates with other local authorities and public sector bodies in the prevention, detection and investigation of fraud and corruption.
- 5.11 The Council has protocols in place to facilitate joint working and data and intelligence sharing to support counter fraud activity.

6. RECOVERY AND CRIMINAL PROCEEDINGS

- 6.1 Where the investigation reveals that criminal activity appears to have taken place, the Internal Audit Manager, in consultation with the relevant Director, will determine whether the matter should be referred to Police Scotland. The Council will always seek to prosecute cases where criminality has been identified.
- 6.2 Where an incident involves a break-in or theft, staff should automatically report the incident to Police Scotland for investigation and without delay. Following this, the incident must be reported to the Internal Audit Manager.
- 6.3 Where a fraud, corrupt act or irregularity is material, consideration is also given to recovering losses in a civil court. The relevant Director, in consultation with the Internal Audit Manager and the Legal Services Manager will determine whether action should be taken to recover any monies lost. In determining whether such action shall be taken, due account will be taken of all the salient factors, such as:
 - the amount of the loss;
 - the costs of any recovery action; and
 - the prospects of successful recovery of the sums lost.
- 6.4 As well as the possibility of civil and criminal prosecution, any employee that breaches this policy will face action in accordance with the Council's Disciplinary procedures which could result in dismissal for gross misconduct.
- 6.5 The Council will publicise all successful fraud and corruption prosecutions as a deterrent to potential fraudsters and to demonstrate its commitment to protect

public monies. This decision is made by the Chief Executive, in liaison with the relevant Director.

7. ASSOCIATED POLICIES

7.1 The following policies should be read in connection with this policy:

- Anti Bribery Policy;
- Anti Money Laundering Policy;
- Whistle Blowing – Public Interest Disclosure Policy;
- Information and Communication Technology Policy;
- Employee Code of Conduct; and
- Disciplinary Procedure

8. CONCLUSION

8.1 The Council has in place a clear set of systems and procedures to assist it in combating the constant threat of fraud and corruption. The Council is determined that these arrangements will be regularly reviewed to ensure that they keep pace with best practice in relation to fraud and corruption prevention and detection.

8.2 The Council maintains a continuous overview of existing systems of control, as well as reviewing on a regular basis all relevant policies, procedures and regulations.

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