

Anti-Bribery Policy, Procedure and revised Employee Code of Conduct

Policy and Strategy Committee

7 August 2012

1 Purpose of report

- 1.1 This report proposes the adoption of an Anti-Bribery Policy and Anti-Bribery Procedure in order to strengthen existing anti-corruption measures and to meet the requirements of the Bribery Act 2010 (“the Act”).
- 1.2 It also proposes amendments to the existing Employee Code of Conduct to reflect the requirements of the Act and to clarify what could constitute a conflict of interest.

2 Main report

- 2.1 The Act came into effect on 1 July 2011 and aims to reduce levels of corruption across the UK.
- 2.2 The Act generally defines bribery as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward a person for already having done so.
- 2.3 The Act introduces four key offences:
 - bribery of another person (Section 1 of the Act);
 - accepting a bribe (Section 2 of the Act);
 - bribing a foreign public official (Section 6 of the Act); and
 - failure of a commercial organisation to prevent bribery (Section 7 of the Act).
- 2.4 The maximum penalty for individuals under the Act is up to 10 years imprisonment and/ or unlimited fines. Failure by an organisation to prevent bribery carries an unlimited fine.
- 2.5 The potential offences of bribery of another person or accepting a bribe are relevant to CEC employees.

- 2.6 Further the Council is capable of falling within the definition of a commercial organisation as it engages in commercial activities.
- 2.7 Therefore the Council could be liable if an employee or an “associated person” (e.g. someone acting on behalf of the Council) offers or receives a bribe. However the Act also provides commercial organisations with a defence, if prosecuted, if they can show that there are adequate procedures in place to prevent bribery.
- 2.8 An initial risk assessment was undertaken by HR to determine whether additional procedures are necessary to supplement those already in place. This assessment has involved reviewing current policies and procedures and considering commercial activities undertaken by the Council that could be at risk of bribery.
- 2.9 Commercial activities identified as being at risk of bribery include:
- procurement and awarding of contracts;
 - awarding of licences and permits;
 - planning applications and building regulations;
 - allocation of housing and educational places;
 - assessment of entitlement to grants, benefits etc;
 - agreeing Partnership arrangements;
 - commissioning of services; and
 - payment for Council Services e.g. Council Tax etc.
- 2.10 The initial risk assessment suggests that there is limited bribery risk across the Council. Of the four key offences introduced by the Act (see paragraph 4 above) the most likely offences are those of CEC’s employees being offered and accepting a bribe and as a consequence the Council being prosecuted for failure to prevent bribery.
- 2.11 The Council already has in place procedures to prevent bribery and corruption and to regulate employee conduct, including the Anti-Fraud and Corruption Policy and the Code of Conduct for Council Employees.
- 2.12 However, the Secretary of State published statutory guidance on procedures that organisations can put into place to prevent bribery and this has informed the new Procedure and Policy.
- 2.13 Therefore it is recommended that an Anti-Bribery Policy and Procedure are introduced. This will ensure that the Council can demonstrate compliance with the Act.
- 2.14 A draft Policy and Procedure are appended to this report at Appendices 1 and 2. Together, they provide information and guidance on how to prevent, recognise and deal with bribery and corruption issues.

- 2.15 The Policy sets out a clear statement that bribery and corruption in any form are unacceptable. It establishes a zero tolerance approach and sets out the key principles and the required corporate and employee responsibilities to ensure the prevention of bribery and corruption.
- 2.16 The Policy places additional emphasis on ensuring employee compliance by requiring every employee, at the point of commencing employment and annually thereafter, to confirm that they have read and understood the requirements of the anti-Bribery Policy and associated Procedure.
- 2.17 Additionally, training on recognising bribery and corruption will be delivered to all employees through the use of briefing sessions, workshops and a general communications campaign.
- 2.18 The Anti-Bribery Procedure establishes that overall corporate responsibility for ensuring compliance with the Act lies with the Council's Monitoring Officer. The Procedure also outlines a "tool kit" for Services to use to develop service-specific bribery prevention measures.
- 2.19 Services are required to appoint an officer within their Service to be responsible for developing and monitoring bribery prevention arrangements. Details of any arrangements put in place are required to be submitted to the Council's Monitoring Officer.
- 2.20 The Code of Conduct for Council Employees has been strengthened to reflect the requirements of the Act and now includes specific reference to bribery and corruption, a wider definition of conflict of interest and reinforces a requirement for employees to declare any actual or potential conflicts of interest. It has been re-titled "Employee Code of Conduct" and is appended to this report at Appendix 3.
- 2.21 The Anti-Bribery Policy and Procedure, and Employee Code of Conduct have been developed through a process of partnership working with the Staff Side trade unions, including UNISON and EIS. The Trade Unions have confirmed their support for the Policy, Procedure and Code being progressed as local collective agreements.
- 2.22 Additionally, to reflect the proposed Anti-Bribery Policy and Procedure, modifications will be made to the following documents:
- **Disciplinary Code** – to be amended to specifically reference bribery as gross misconduct as part of a wider ongoing review of Disciplinary, Grievance and Dispute arrangements.
 - **New Employee Contracts** – to be amended to include an appropriate clause stipulating employees will not commit a bribery or corruption offence;
 - **Whistleblowing Policy** – to be amended to specifically refer to bribery and corruption under the section detailing examples of malpractice.

3 Financial implications

3.1 There are no direct financial implications arising from this report.

4 Equalities impact

4.1 The Equalities relevance score has been assessed at 0. There is no direct equalities impact arising from this report.

5 Environmental impact

5.1 There are no adverse environmental impacts arising from this report.

6 Recommendations

6.1 It is recommended that the Committee:

- a) notes the content of this report; and
- b) approves the draft Anti-Bribery Policy, Anti-Bribery Procedure and amended Employee Code of Conduct for implementation as local collective agreements covering all Council employees, effective from 7 August 2012.

Alastair D Maclean
Director of Corporate Governance

Appendices

1. Draft Anti-Bribery Policy
2. Draft Anti-Bribery Procedure
3. Employee Code of Conduct

Contact/tel/Email Frazer Simpson, Employee Relations Officer, Corporate Governance, (0131) 469 3374, frazer.simpson@edinburgh.gov.uk

Wards affected

Single Outcome Agreement **National Outcome 15** - Our public services are high quality, continually improving, efficient and responsive to local people's needs.

Background Papers

ANTI-BRIBERY POLICY

(covering all employees)

Contents

1. Introduction
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9. Gifts & Hospitality
10. Review
11. Local Agreement

1 Introduction

- 1.1 The Council is wholly committed to preventing bribery and corruption in all our dealings and relationships, and upholding all relevant laws, including the Bribery Act 2010.
- 1.2 Bribery and corruption in any form are unacceptable and will lead to disciplinary action where allegations are substantiated. The Council operates a zero tolerance approach to these matters.
- 1.3 This Policy sets out key principles to achieve these aims, and details the Council's corporate and employee responsibilities required to ensure compliance with the Act.
- 1.4 This Policy should be read in conjunction with the Council's Anti Bribery Procedure, Anti-Fraud and Corruption Policy and the Employee Code of Conduct.
- 1.5 This Policy and associated Procedure also provide information and guidance for employees on how to prevent, recognise and deal with bribery and corruption issues.

2 Scope

- 2.1 This Policy applies to all employees and covers all activities undertaken by the Council.
- 2.2 In our dealings with third parties¹, we will promote the adoption of practices and arrangements consistent with the principles set out in this policy.

3 Compliance

- 3.1 In order to ensure all employees are aware of their responsibilities under this Policy, each employee will be required, at the point of commencing employment with the Council, and annually thereafter to confirm that they have read and understood the requirements of this Policy and related Anti-Bribery Procedure.
- 3.2 For some employees, it may be appropriate to incorporate this requirement into the employee's Performance, Review and Development meeting. For others, a separate meeting may be required.
- 3.3 Failure to adhere to this Policy may result in disciplinary action being taken against you, up to and including dismissal.

¹ A "third party" is an individual or organisation that engages for business with the Council e.g. external service providers, suppliers and contractors.

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 and can take various forms such as

- bribery of another individual or organisation;
- accepting a bribe from an individual or organisation.

4.2 Bribes may not always be monetary and may include gifts or hospitality.

4.3 Bribery is a criminal offence.

4.4 Additionally, failure by the Council to put in place adequate procedures to prevent bribery can also constitute an offence.

4.5 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 What is the Council's position on Bribery?

5.1 The Council expressly forbids employees or associated persons² from offering or accepting bribes or unlawful inducements to or from anyone for any purpose.

5.2 The use of an associated person or third party as a 'go-between' to channel bribes to others is also unacceptable.

5.3 The Council is committed to the prevention, deterrence and detection of bribery by:

- ensuring procedures are in place to prevent bribery;
- making all employees aware of their responsibilities through this Policy, the associated Anti-Bribery Procedure, and the Employee Code of Conduct;
- training all employees so that they can recognise bribery and corruption and enable them to take any subsequent action that may be required;
- ensuring training on this policy forms part of the induction process for all new employees, and that all employees are reminded annually of their responsibilities regarding bribery as part of the Performance, Review and Development process.

² An "associated person" is a person who performs services for or on behalf of the Council, and can therefore include agents, suppliers and contractors.

- encouraging employees to be vigilant and to report any reasonably held suspicions of bribery or corruption, using the Council's Public Interest Disclosure (whistleblowing) policy if necessary;
- investigating instances of alleged bribery and assisting police and any other appropriate authorities in any resultant prosecution;
- taking disciplinary action up to and including dismissal against any individual involved in bribery or other corrupt activity;
- including appropriate clauses in employment and commercial contracts to prevent bribery.

6 Preventing Bribery – Adequate Procedures

6.1 An organisation will have a statutory defence against prosecution for bribery offences if it puts in place “adequate procedures” designed to prevent bribery. What is “adequate” depends on the bribery risks, the nature, size and complexity of the business. Adequate procedures need to be applied **proportionately**, based on the level of risk.

6.2 In determining such procedures, the Government has indicated that organisations should be informed by six principles:

- Top Level Commitment
- Risk Assessment
- Proportionate Procedures (proportionate to the bribery risks faced).
- Due Diligence
- Communications (the anti-bribery policy and procedure are embedded and understood).
- Monitoring and Review

The Council's arrangements embody these six principles.

6.3 A separate **Anti-Bribery Procedure** has been developed which provides a tool for assessing and mitigating risk of bribery, and reflects these principles.

7 Employee Responsibilities

7.1 Employees must read and understand this Policy, the Anti-Bribery Procedure and the Employee Code of Conduct. Management will ensure that all employees are given a copy for this purpose.

7.2 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all employees working for the Council.

Therefore, all employees **must**:

- comply with this policy;
- avoid any activity that breaches this Policy or could be seen as a breach of this Policy;
- Seek advice **before** accepting gifts or hospitality;
- Raise any concerns as soon as possible if you believe or suspect that a breach of this policy has occurred or may occur in the future. For further information on raising concerns, please see Section 5 of the Employee Code of Conduct.

Employees **must not**:

- give or promise to give, or offer a payment, gift or hospitality with the expectation or hope that a personal, commercial, regulatory or contractual advantage will be received, or to reward any such advantage already given;
- give or promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to facilitate or speed up a 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 Council in return;
- retaliate against, threaten or victimise anyone who has refused to be involved in bribery or corrupt practices, or who has raised concerns under this policy.

7.3 The list above is not exhaustive but is intended to provide examples of conduct likely to breach this policy.

7.4 If employees have any doubt at all about circumstances that they find themselves in, advice should be sought from their line manager **before** it becomes an issue to be dealt with.

8 Consequences of Improper Behaviour

8.1 All allegations relating to bribery or corrupt practices will be investigated.

8.2 Where the investigation concludes that improper behaviour may have occurred, the Council's Disciplinary procedures will be applied. This may result in dismissal.

- 8.3 In all circumstances where a criminal offence may have been committed, the Council will notify the Police.
- 8.4 The Council will seek, wherever possible, to recover any losses suffered as a result of an act of bribery or corruption.

9 Gifts & Hospitality

- 9.1 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.
- 9.2 Therefore, you 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 your job.
- 9.3 In certain limited circumstances, and in connection with your official duties, it may be appropriate for you to offer or receive gifts of low value or small tokens of gratitude, such as merchandise / branded items which have been designed for the purpose of being given away e.g. pens, post-its etc. Similarly, small gifts such as sweets etc given to a team at Christmas will be acceptable.
- 9.4 Gifts of alcohol or offers of hospitality, however small, should not be automatically accepted by Council employees. Similarly, such gifts or offers should not be made by Council employees.
- 9.5 Advice should be sought from your manager on the appropriateness of offering or accepting **any** such hospitality or gifts. Other than in circumstances similar to those set out in paragraph 9.3 you should not accept a gift unless you are satisfied, following discussion with your manager, that to do so would not lead to your actions as a Council employee being called into question.
- 9.6 Other than the small gifts indicated in paragraph 9.3, all offers of gifts and hospitality, whether refused or accepted, should be recorded in the register of gifts and hospitality, in accordance with departmental arrangements.

10 Review

- 10.1 The procedure and associated policy will be reviewed by the Head of HR periodically, to reflect organisational changes, best practice, operational experience and legislative updates, in order to maintain its effectiveness.

11 Local Agreement

- 11.1 This document is a local collective agreement between the Council and the recognised trade unions. Every effort will be made by both parties to ensure that this document will be maintained as a local collective agreement and adjusted by agreement to meet changing future needs. In the event of a failure to reach agreement both parties reserve the right to terminate this local agreement by giving four months notice in writing. In such circumstances the terms of the local agreement will cease to apply to existing and future employees.

ANTI-BRIBERY PROCEDURE

(covering all employees)

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4. Step 2 – Carry out a risk assessment
5. Step 3 – Put in place proportionate bribery prevention measures
6. Step 4 – Review due diligence measures
7. Step 5 – Communication and training
8. Monitoring and review
9. Local Agreement

1 Introduction

- 1.1 This Procedure should be read in conjunction with the Council's Anti Bribery Policy and Anti-Fraud and Corruption Policy.
- 1.2 This procedure is intended to provide a tool for assessing and mitigating risk of bribery.

2 The Bribery Act 2010

- 2.1 The Act came into force on 1 July 2011.
- 2.2 Under the Act the Council must ensure that we have put in place adequate procedures designed to prevent bribery by or of persons associated with the organisation. This includes anyone who performs services for or on behalf of the Council.
- 2.3 Failure to do so could result in liability for both individuals and the Council as a whole, and could result in custodial sentences and / or severe fines.
- 2.4 The government has commented that such procedures should be informed by six principles:
 - Top Level Commitment
 - Risk Assessment
 - Proportionate procedures
 - Due Diligence
 - Communications
 - Monitoring and Review

The following procedural steps embody these six principles:

3 Step 1 – Establish responsibility for bribery prevention measures

- 3.1 The Council's Monitoring Officer has overall corporate responsibility for ensuring that the Council complies with the Act.
- 3.2 Individual Services must also appoint an officer within their Service for developing and monitoring bribery prevention procedures, who should ensure that details of any procedures put in place are provided to the Council's Monitoring Officer.

4 Step 2 – Carry out a Risk Assessment

- 4.1 All Services must carry out a risk assessment to understand the level of risk attributable to bribery in their particular Service area. This should highlight areas where effort needs to be focussed and ensure that procedures are proportionate to the risks faced.
- 4.2 The risk assessment must be carried out on an annual basis.
- 4.3 Each Service will have its own unique risks, and the broad list of assessment areas set out below will not necessarily apply to every aspect of service nor necessarily identify each and every area of risk.
- 4.4 The list does however provide the basis of a generic assessment that may highlight areas where further enquiries are necessary to identify exposure to risk:
- Transactions
 - are there any significant / high value transactions that the Service enters into on a regular / irregular basis?
 - Do any transactions involve third parties or associated persons?
 - Who approves these transactions, and are adequate control procedures in place?
 - Business areas
 - Does the service undertake business in business areas known to have general or specific bribery risks?
 - What (if anything) has been done to mitigate these risks?
 - Contractors / Suppliers / Partner organisations
 - Does the Service carry out business in conjunction with contractors / suppliers / partner organisations?
 - Who can approve the creation of such business arrangements, and are adequate control procedures in place?
 - What (if any) due diligence has been undertaken into any such partner organisations?
 - Are any partner organisations required to “sign up” to equivalent anti-bribery policies / procedures?
 - What are the sanctions (if any) that can be taken against a partner for a breach of the bribery Act?

- Known Bribery Risks
 - Has the Service faced any bribery incidents in the past?
 - What has been done to prevent such incidents happening again, and has this been successful?
- Financial Controls
 - Are financial controls in place that adequately audit / check for unusual / suspicious transactions?
 - What financial controls are imposed on expenses / hospitality / regular and irregular payments?
 - What financial controls are in place to review approval of new business arrangements / payments?
- Procurement
 - Are adequate controls in place within procurement arrangements, and are staff adequately trained in following procurement procedures?
 - Are procurement transactions subject to regular audit / spot checks to identify unusual / suspicious transactions?
- Training
 - Are adequate controls in place within operational systems, and are staff adequately trained in operating these systems and associated procedures?
 - What recent training has been given to staff on bribery? Is this ongoing / repeated on a regular basis?
- Recruitment
 - Are adequate proportionate recruitment checks carried out to ensure the risk of bribery is minimised?
 - Is a clear position on bribery and the consequences of bribery written into contractual documentation?
 - Do current induction procedures adequately state the organisation's position on bribery and how to report it?
- Staff Performance Review & Development
 - Are employees reminded annually of their responsibilities regarding bribery as part of the PRD process?

5 Step 3 – Put in place proportionate bribery prevention measures

- 5.1 Having identified the relevant areas of risk, Services must put in place adequate measures and controls that address the potential areas of bribery. These need to be applied **proportionately**, based on the level of risk.
- 5.2 These should be reviewed on a regular basis to ensure they are effective, especially if new practices or business arrangements are put in place.

6 Step 4 – Review Due Diligence measures

- 6.1 Due diligence involves assessing a proposed or existing business relationship or transaction, and ensuring any risk is mitigated by putting in place appropriate procedures and checks.
- 6.2 It involves checking the businesses or people with whom we work with to ensure they are trustworthy, solvent and have a good reputation for doing business.
- 6.3 Where a process is already in place to do this (e.g. tendering processes) managers and employees must ensure that all steps outlined in the process are followed correctly and completed fully.
- 6.4 Services should carry out and fully document thorough due diligence checks to satisfy themselves that any risk is mitigated.

7 Step 5 – Communication and Training

- 7.1 Services should ensure that the Council's position on bribery is clearly communicated both internally and externally.
- 7.2 Services may wish to consider briefing employees on the Council's policy and procedure through a variety of means. What is appropriate will depend on the nature and locations of the Service, and the level of risk identified.
- 7.3 Possible methods include Team Briefings, emails / letters from Service Directors and can range to specific training for staff in identified high risk areas.
- 7.4 Services may also wish to consider how they communicate the policy and procedures, and any measures to be imposed on third parties, to those partner organisations.

8 Monitoring and Review

- 8.1 The procedure and associated policy will be reviewed by the Head of HR periodically, to reflect organisational changes, best practice, operational experience and legislative updates, in order to maintain its effectiveness.

9 Local Agreement

- 9.1 This document is a local collective agreement between the Council and the recognised trade unions. Every effort will be made by both parties to ensure that this document will be maintained as a local collective agreement and adjusted by agreement to meet changing future needs. In the event of a failure to reach agreement both parties reserve the right to terminate this local agreement by giving four months notice in writing. In such circumstances the terms of the local agreement will cease to apply to existing and future employees.

EMPLOYEE CODE OF CONDUCT

(Covering all employees)

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Appendix 1 – The Seven Principles of Public Life

Appendix 2 - Declaration of Conflict of Interest form

7 August 2012

1 Introduction

- 1.1 The citizens of Edinburgh are entitled to expect the highest standards of conduct from our employees.
- 1.2 Our reputation is of critical importance in establishing and maintaining their trust and confidence and compliance with this Code of Conduct should therefore be given the highest priority.
- 1.3 As an organisation we are focused on our customers and staff and value people. Our success is dependent on both the quality of our services and the way in which they are delivered, and is underpinned by our corporate values:
- we put the customer first
 - we look after Edinburgh
 - we are responsive and accountable
 - we work towards continuous improvement
 - we aim for equality and fairness
 - we encourage sustainable development
- 1.4 We expect every employee to conduct themselves according to high professional and ethical standards, and in a way that maintains these values.
- 1.5 This Code of Conduct builds upon those values and sets out the standards of conduct which govern our relationship with the citizens of Edinburgh and each other.
- 1.6 In addition to this Code, seven principles of public life were identified by the Nolan Committee and adopted by COSLA. We expect all employees to adhere to these principles, which are listed in full in Appendix 1 to this Code.

2 Scope

- 2.1 Every employee of the Council is covered by this Code. The Code and related policies form part of your terms and conditions of employment.
- 2.2 You have a responsibility to familiarise yourself with this Code and comply with the standards it sets out.

3 Compliance

- 3.1 In order to ensure all employees are aware of their responsibilities under the Code, each employee will be required, at the point of commencing employment with the Council, and at each subsequent annual Performance, Review and Development meeting, to confirm that they have read and understood the requirements of this Code and related policies, and confirm that they will comply with the Code.

4 Failure to Follow this Code

- 4.1 Adherence to this Code in relation to your personal conduct, duties and responsibilities is crucial to the maintenance of our reputation and the Council's interests.
- 4.2 Failure to follow this Code will be treated seriously and may lead to disciplinary action being taken, up to and including dismissal.
- 4.3 If you are in any doubt about whether a course of action is appropriate, you should consult your line manager.

5 Raising Concerns

- 5.1 If you believe that your own or another employee's behaviour contravenes the Code of Conduct and related policies, it is vital that you raise the issue with an appropriate person. If your concerns relate to your line manager, you should raise the issue with your line manager's manager; if your concerns relate to others within the management structure above your line manager, you should raise the issue with an appropriate manager within your service or with a member of HR.
- 5.2 There may be circumstances where you believe malpractice is occurring, but feel it is difficult to raise the issue. In these circumstances, you should refer to the Council's Policy on Public Interest Disclosure – also known as the Whistleblowing policy.
- 5.3 All concerns raised will be taken seriously. The Council will take appropriate action to maintain confidentiality and ensure that you are protected from any form of victimisation if you raise an issue in good faith.
- 5.4 However, confidentiality can only be maintained as far as it is reasonably practicable within our duties as an employer, having regard to external and internal processes. For example, there may be occasions where concerns raised result in disciplinary investigation and the identity of the employee may need to be revealed in order to apply our disciplinary processes.
- 5.5 The Council will only involve other agencies or share information externally with the consent of the employee concerned, unless we are required to do so by law or the information is necessary for the protection of children or vulnerable adults.
- 5.6 You should be aware that failure to raise concerns, without good reason, may result in disciplinary action up to and including dismissal being taken against you.
- 5.7 You should also be aware that raising false concerns maliciously or vexatiously may also result appropriate disciplinary action being taken against you.

6 Related Policies

- 6.1 The Council has developed a range of policies and procedures that govern conduct at work and which will help you to resolve any issues. These can be accessed here (Insert ORB Link to a page that summarises relevant policies) or from your line manager.

7 Personal Conduct

- 7.1 You are expected to behave professionally and courteously to colleagues and customers at all times and are expected to conduct yourself in a manner that maintains the Council's good reputation.
- 7.2 You are expected to comply with the reasonable instructions of your line manager or other senior managers.
- 7.3 The Council aims to provide a safe working environment where employees are treated fairly and with respect. As an employer, we are committed to ensuring equality of opportunity and fair treatment for all employees. Discrimination, bullying, victimisation or harassment of any kind is not tolerated.

8 Alcohol and Drugs

- 8.1 Consumption of alcohol or drugs in the workplace is not normally permitted at any time during normal working hours. Exceptionally, alcohol consumption may be permitted as part of an approved workplace event. Such events (e.g. retirements) should be held outwith normal working hours and require the prior authorisation of the Chief Executive or appropriate Chief Officer.
- 8.2 An employee who is found to be, or becomes unfit to undertake the contractual duties of their post due to the consumption of alcohol or drugs at any time during the working day, will be sent home for the remainder of that working day. If necessary, he / she may be accompanied. The matter will be dealt with in accordance with the Council's Procedure for Managing Conduct and behaviour when the employee is fit to return to work. For further information, see the Council's Workplace Policy on Alcohol, Drugs and Substance Misuse.

9 Professional Registration Requirements

- 9.1 Certain occupations are also governed by externally set registration requirements and professional standards of conduct. Failure to meet and maintain registration requirements / standards may result in disciplinary action up to and including dismissal being taken against the employee by the Council.
- 9.2 Additionally the Council is required to comply with certain duties to notify external registration bodies of instances concerning misconduct and/or disciplinary action taken. Where this occurs, you will be notified by the Council.

10 Inappropriate Conduct Outside of Work

- 10.1 Inappropriate conduct outside of work may result in disciplinary action if it directly impacts on or affects your ability to do your job, or has the potential to damage the reputation of the Council.
- 10.2 If you are charged by the police and are the subject of any criminal proceedings you must disclose this to your manager as soon as practicable.

11 Council Assets, Systems and Information

- 11.1 You are responsible for safeguarding Council assets, systems, and information under your control or accessed as part of your work. Assets can include property, equipment, vehicles, information, and financial transactions.
- 11.2 You may be permitted access to telephones, intranet / internet, and email systems, as well as other equipment and information systems. Your use of these must be for a legitimate Council business purpose, and comply with relevant policies and codes.
- 11.3 Some of the information you encounter in the course of your work with the Council may be privileged or confidential in nature. Such information should be held in the strictest confidence and must not be divulged to other parties without authorisation.
- 11.4 Misuse of Council assets, systems or information may lead to disciplinary action and in certain cases may constitute a criminal offence.

12 Conflict of Interest

- 12.1 As an employee, you must not misuse your position or any information obtained in the course of employment to further your own interests or the interests of others who do not have a right to benefit under the Council's policies. Such misuse may result in disciplinary action, up to and including dismissal, and in certain cases constitute a criminal offence.
- 12.2 You should never use your position with the Council to seek special favour or preferential treatment for yourself, relatives or personal contacts.

What is a Conflict of Interest?

- 12.3 A conflict of interest can arise if your outside activities, private, personal or financial interests influence or interfere with the decisions you make in the course of your work for the Council, or **appear to or could be perceived to** influence or interfere with the decisions you make in the course of your work for the Council.
- 12.4 Within this context, outside activities, private, personal or financial interests include those that you or a family member or personal contacts may have.
- 12.5 These can include ownership of shares or a financial investment in a company or business, involvement in a company or business, or in a club or

organisation, (whether these are open to the public or not) and include both employed and non-employed roles and activities, including unpaid or voluntary positions within such organisations.

- 12.6 'Personal contacts' should be taken in its widest sense, and can include someone you play sport with, someone who is a member of the same club as you, or even a close personal relationship with a colleague.
- 12.7 A conflict of interest can also occur where you have access to Council information and use, or could be perceived as using, this information for personal gain or advantage.
- 12.8 A conflict of interest can also occur where you have access to Council information and pass this information without authorisation to a family member, personal contact or an external organisation you are involved with, who then gain or could be perceived to gain an advantage or benefit by receiving this information.

Examples of Conflicts of Interest

- 12.9 Examples of conflict of interest include (but are not limited to):
- you, a family member, or a personal contact own property, or intend to buy property, the value or purchase price of which may be affected by a decision or recommendation that you are involved in making, in the course of your work for the Council;
 - you are making a purchasing decision involving external suppliers / contractors and you, or a family member, or a personal contact has an interest (financial or otherwise) in one of the potential suppliers / contractors;
 - you are involved in voluntary work for a charity, which may benefit financially or otherwise be affected by a decision or recommendation that you are involved in making, in the course of your work for the Council;
 - work / involvement in business outwith the Council, without permission to do so;
 - you have access to information at work which may assist or be perceived as assisting you in a private venture;
 - you use Council systems / contacts to obtain materials for your own use at a preferential price;
 - you are involved in conducting a disciplinary investigation in which a person you have a personal relationship with is involved.

Requirement to Declare Conflicts of Interests

- 12.10 It is your responsibility to declare any **actual** or **potential** conflicts of interest. If you are in any doubt about whether an actual or potential conflict of interest exists, you should consult your manager.
- 12.11 This will safeguard you from the possibility of future criticism, and allow your manager to plan the work you are involved in accordingly to avoid actual or potential conflicts of interest arising which could impact negatively on the Council and potentially result in disciplinary action up to and including dismissal being taken against you.
- 12.12 Similarly, if a manager becomes aware of an actual or potential conflict of interest, which an employee appears not to have raised, they should raise the matter with the employee and take appropriate action.
- 12.13 If you consider there **may** be a conflict of interest you should complete the Declaration Form – Conflict of Interest. The Declaration Form is available here (ORB link) or from your line manager. This should be submitted to your Head of Service for consideration.
- 12.14 In the case of Heads of Service, the form should be submitted to their Director. Directors should submit the form to the Chief Executive.
- 12.15 You will be notified in writing within 10 working days of any further proportionate actions you will be required to undertake regarding your conflict of interest.
- 12.16 Services must maintain accurate records of declarations made and any actions required regarding declared conflict of interests. The format of records kept will be determined corporately.

Review of Approval

- 12.17 Where you have declared a conflict of interest, this should be reviewed by your manager on an annual basis to ensure that any actions taken remain appropriate and proportionate. For some employees, it may be appropriate for the review to be incorporated into the employee's annual Performance, Review and Development meeting. For others, a separate meeting may be required.
- 12.18 If there are any material changes which affect your declared conflict of interest in the interim period, this should be reported immediately to your manager.
- 12.19 **Consequences of non-declaration**
- 12.20 If information comes to light regarding your outside activities, private or personal interests, and the Council considers that you should have made a declaration but chose not to do so, or if you did not fully disclose details of any potential conflict of interest, then disciplinary action up to and including dismissal may be taken against you.

13 Employment Matters

- 13.1 You should not be involved in appointments or decisions relating to discipline, grievance, promotion or grading, or payment of additional expenses /overtime where you are related to an applicant or employee, or have a close personal relationship outside work with him or her.
- 13.2 Additionally, employees who work together can be in a personal relationship. Whilst such relationships seldom interfere with work, there is potential for a conflict of interest, breach of confidentiality, or fraudulent activity to occur.
- 13.3 Where such a personal relationship exists or develops between employees who either work together in the same area or where one employee is in a position of authority, the individuals must declare their relationship in confidence to their line managers, where there is the potential for a conflict of interest to arise. This is intended for the long-term protection of both parties.
- 13.4 A meeting with each employee and their line manager will be held to determine whether there is a potential or actual conflict of interest involved and if so, to determine what, if any, steps may need to be taken, to mitigate any risk.
- 13.5 All employees involved in recruitment and selection on behalf of the Council must be familiar with, and abide by, the 'Recruitment and Selection procedure' and observe the Council's 'Equal Opportunities Policy' available from your line manager, or here ([ORB Link](#)).

14 Business Integrity

Legal & Regulatory Compliance

- 14.1 You are required to comply with all applicable legal requirements and regulations relevant to the work you undertake. These can include compliance with externally set registration requirements and professional standards of conduct.

Bribery, Gifts and Hospitality

- 14.2 The Council does not tolerate bribery of any kind.
- 14.3 Bribery occurs when you offer, pay, seek or accept a payment, gift, offer of hospitality or favour to influence a business outcome. Bribery and corruption can be direct or indirect through third parties.
- 14.4 Similarly, if a person with whom you have a close personal relationship or a personal contact receives a payment, gift, offer of hospitality or favour from a contractor, client or partner organisation of the Council, this could be perceived as being capable of influencing your actions, and may be perceived as constituting a bribe.
- 14.5 You, or a person you have a close relationship with, or a personal contact should never accept or offer a bribe or any form of inducement which may influence or appear to influence your actions.

- 14.6 In certain limited circumstances, and in connection with your official duties, it may be appropriate for you to offer or receive hospitality, gifts of limited value or small tokens of gratitude.
- 14.7 Advice should be sought from your manager on the appropriateness of offering or accepting such hospitality or gifts. You should not accept a gift unless you can be satisfied that to do so would not lead to your actions as a local government employee being called into legitimate question.
- 14.8 If you are in any doubt about what you should and should not accept, you should seek advice from your line manager. Hospitality and gifts received should be recorded in the register of gifts and hospitality, in accordance with departmental arrangements.
- 14.9 You are liable to disciplinary action including dismissal, legal proceedings and possibly imprisonment if you are involved in bribery and corruption.
- 14.10 Even turning a blind eye to your suspicions of bribery and corruption can result in liability for the Council and for you personally. You should raise any concerns as soon as possible if you believe or suspect that bribery or corruption is occurring.

Further guidance can be found in the Council's Anti-Bribery Policy and Procedure.

15 Benefiting from a will or bequest

- 15.1 Under this policy, anything left to you in the will of a service user is considered to be a gift. These are also known as bequests. In certain circumstances, it may be acceptable for this to happen.
- 15.2 If you are named as a beneficiary in the will of a service user, you must declare this to your manager as soon as you become aware of this.
- 15.3 Failure to declare this information immediately may lead to disciplinary action. If you are aware that there may be a possibility that you will be named as a beneficiary in a will in the future, you must disclose this information to your manager.
- 15.4 Each case will be investigated for evidence of coercion or behaviour designed to obtain favourable treatment. A decision on each case will be made by the appropriate Chief officer and your manager will advise you of the outcome of these investigations.
- 15.5 If there is evidence of coercion or behaviour designed to obtain favourable treatment on your part, this will lead to disciplinary action up to and including dismissal.
- 15.6 If, prior to a decision being made, you choose to accept the bequest, this may lead to disciplinary action up to and including dismissal.
- 15.7 Where approval is given for you to accept a bequest, all bequests received should be recorded in the departmental register of gifts and hospitality.

16 Media Contact

- 16.1 You should only have contact with the media in the course of your employment where this has been approved in advance.
- 16.2 Contact from the media should, in the first instance, be referred to the communications service.
- 16.3 If an aspect of your work requires contact with the media to be made, you should, in the first instance, contact the communications service.

17 Use of Social Media

- 17.1 'Social media' is the term commonly given to websites and online tools that allow users to share content, express opinions or interact with each other easily.
- 17.2 Some common examples include: blogs, wikis, social networks (e.g. Facebook, Twitter, and LinkedIn), forums, Podcasts and content communities (e.g. YouTube, Flickr, Knowledge Hub, external Communities of Practice). Personal emails are classed as social media. This list is not exhaustive.
- 17.3 You must not use social media, whether for work or on a personal basis, to publish content that may result in legal action being taken against the Council. This includes any comments or views that may be considered defamatory in nature. This also includes publishing or sharing illegal materials, prohibited images, or material that promotes discrimination / or is in breach of discrimination legislation.
- 17.4 You must not identify other Council employees or service users or publish personal data or information about any individuals without their explicit written permission, or publish any information that is not yet in the public arena unless authorised to do so.
- 17.5 You must not publish any comments or information that may undermine public confidence in the Council, or act in any way that may bring the Council into disrepute.
- 17.6 The Council has specific policies governing this subject such as the ICT Acceptable Use Policy. You have a responsibility to familiarise yourself with these policies. Further information is available on the Orb or through your line manager.
- 17.7 Misuse of social media may lead to disciplinary action and in certain cases constitute a criminal offence.

18 Employees as Constituents

Public Statements / Complaints to Councillors

- 18.1 Criticism of ideas and opinion is part of democratic debate. As such, the Council may seek the views of the citizens of Edinburgh on proposals or

policy through the use of public consultation processes. If you are both a citizen and employee of the City of Edinburgh Council, then the potential for a conflict of interest can occur.

- 18.2 Whilst participation in local democratic debate as a citizen is to be encouraged, you should ensure that you do this in your own time and that your participation does not impact on or conflict with the role you do with the Council. For example, it may be appropriate for you as a citizen to participate in a Council meeting as part of a deputation, or to attend a Councillor's surgery, as long as the issue under debate is unrelated to the role you do with the Council, and you attend in your own time.
- 18.3 Particular care must be taken to avoid situations where your personal views could be perceived as representing the Council's position.
- 18.4 Within this context, you should not release information that is not yet in the public arena, or promote viewpoints that may undermine public confidence in the Council.
- 18.5 In your capacity as an employee, you should not criticise the Council either through any form of media, at a public meeting, in any written communication with members of the public or in any other context likely to cause harm to the Council's reputation.
- 18.6 If you have a complaint about Council services, you are entitled to raise this with your local Councillor. However, if your complaint concerns any aspect of the service you work for or your role or the work you do with the Council, you should instead raise the issue with your line manager and/ or use the Council's Grievance Procedure.
- 18.7 If you are in any doubt about what actions you can or cannot take in this context, you should seek advice from your line manager.

19 Working Relationships

The Public

- 19.1 The way we treat our customers matters because they may judge us on a single experience. If that experience is poor, it affects the way they see us. To our customers, **you** are the Council.
- 19.2 Providing good service is a priority. Even when we are telling the customer something that they don't want to hear, we can do it in a way that makes them feel valued.
- 19.3 We expect you to comply with the Council's Customer Care Charter, available here (ORB LINK) or from your line manager. You have a responsibility to familiarise yourself with this Charter and the standards it sets out.

Councillors

- 19.4 Mutual respect between Councillors and employees is essential to good local government. However, close personal familiarity between employees and Councillors can damage the relationship and should therefore be avoided.
- 19.5 Employees must serve all Councillors and not just those of the Administration. If you are required to advise political groups you must do so impartially in order not to compromise your political neutrality.
- 19.6 You must not allow your own personal or political opinions to influence or interfere with your work.
- 19.7 Further guidance can be found in the Council's Member / Officer Relations Protocol available here ([ORB LINK](#)) or from your line manager.

Politically Restricted Posts

- 19.8 Certain posts are "politically restricted" which means that individuals who hold them are prevented from having any active political role either inside or outside the workplace. Postholders in these posts cannot:

- stand for or hold an elected office (i.e. MP, MSP, MEP, Councillor etc) whilst retaining their post within the Council;
- participate in political activities, publicly express support for a political party or undertake other activities such as canvassing on behalf of a person who is seeking to be a candidate; and
- speak to the public at large or publish any written or artistic work that could give the impression that they are advocating support for, or are an authorised representative of, a political party.

Politically restricted posts include specified posts detailed in the legislation as well as those who give advice on a regular basis to the Council and posts involving regular contact with the media.

Contractors

- 19.9 If you, a member of your family or a personal contact have an interest with a contractor or potential contractor, then you must declare this as detailed in section 12 above (Conflict of Interest).
- 19.10 Orders and contracts must be awarded on merit, by fair competition and without unfair discrimination. If you are involved in a tendering process, or if you are an employee who has both a 'client' and 'contractor' responsibility in the tendering process, you must follow the Council's procedures and rules about tenders and contracts.
- 19.11 If you have access to confidential information on tenders or costs for either internal or external contractors, you must not disclose that information to any unauthorised individual or organisation.

20 Secondary Employment

- 20.1 The Council recognises that employees may wish to undertake secondary employment.
- 20.2 For the purposes of this Code, secondary employment includes: secondary employment within the Council itself, engaging in work on a voluntary, fee-paying or recognition-in-kind basis, self-employment, or engaging in any other business activity.
- 20.3 If your salary grade is Grade 8 or above, you are not permitted to undertake other employment without the written approval of your Director.
- 20.4 If your salary grade is Grade 7 or below, then you must notify your manager of any secondary employment that you undertake or intend to undertake.
- 20.5 Where there may be a conflict of interest, or the possibility of an adverse effect on your work, or it is otherwise likely to impact adversely on the work of the Council, then such secondary employment will not be permitted.
- 20.6 Employee appointments as Councillors to other local authorities, membership of the Territorial Army, appointment as a Justice of the Peace etc, do NOT constitute secondary employment.
- 20.7 The Council expects that an employee's total working time should not exceed an average of 48 hours per week, taking into account any other jobs with the Council and other secondary employment. To enable the Council to monitor the hours worked and to comply with the Working Time Regulations, you will be required to disclose your total working hours.
- 20.8 You are not allowed to undertake any secondary employment at your place of work or on any council property, or use Council equipment in undertaking secondary employment.
- 20.9 Communications (including the use of personal emails accounts/ social media) or the conduct of any business activity relating to secondary employment are not permitted during working hours.

21 Review

- 21.1 The Code will be reviewed by the Head of HR periodically, to reflect organisational changes, best practice, operational experience and legislative updates, in order to maintain its effectiveness.

22 Local Agreement

- 22.1 This document is a local collective agreement between the Council and the recognised trade unions. Every effort will be made by both parties to ensure that this document will be maintained as a local collective agreement and adjusted by agreement to meet changing future needs. In the event of a failure to reach agreement both parties reserve the right to terminate this local agreement by giving four months notice in writing. In such circumstances the terms of the local agreement will cease to apply to existing and future employees.

The Seven Principles of Public Life

Selflessness	You should not take decisions which will result in any financial or other benefit to yourself, your family or your friends. Decisions should be based solely on the Council's best interests, which will reflect the best interests of the communities it serves.
Integrity	You should not place yourself under any financial or other obligation to an individual or an organisation which might influence you in your work with the Council.
Objectivity	Any decisions that you make in the course of your work with the Council, including making appointments, awarding contracts, or recommending individuals for rewards or benefits, must be based solely on merit.
Accountability	You are accountable to the Council as your employer. The Council, in turn, is accountable to the public.
Openness	You should be as open as possible in all decisions and actions that you take. You should give reasons for your decisions and should not restrict information unless this is clearly required by Council policy or by the law.
Honesty	You have a duty to declare any private interests which might affect your work with the Council.
Leadership	If you are a manager, you should promote and support these principles by your leadership and example.

Appendix 2

Conflict of Interest Declaration Form	
<p>As an employee of the City of Edinburgh Council you are required to complete this form if you consider that you, a family member, or a personal contact, has a private, personal or financial interests or involvement in outside activities, which may relate to your work with the Council and could result in a perceived or actual conflict of interest.</p>	
Section 1: Personal Details	
Name:	
Job Title:	Pay Number:
Service:	Workplace:
Section 2: Type of Interest (please tick as appropriate)	
Financial (you) [<input type="checkbox"/>]	Financial (family member) [<input type="checkbox"/>]
Financial (personal contact) [<input type="checkbox"/>]	Membership of Organisation/Club [<input type="checkbox"/>]
Other (Please explain) [<input type="checkbox"/>]	
Section 3: Explanation of Potential Conflict	
<p>Please provide as much detail as possible and explain why you consider this is or could be interpreted as a conflict of interest (continue on a separate page if necessary).</p>	

Declaration	
I confirm that the above information is accurate and contains all the relevant details.	
I have read the Code of Conduct and agree to comply the terms detailed in it.	
Signature:	Date:
Section 4: Manager Details	
Name:	
Job Title:	Pay Number:
Service:	Workplace:
Section 5: Action Taken (for completion by manager)	
Please explain the action you have taken in light of the information provided:	
Declaration	
I confirm that the above information is accurate and contains all relevant details.	
I confirm I have notified the employee concerned of any further action that s/he must undertake.	
Signature:	Date: