

# **Business Regulatory Support Service Charter**

# Contents

1. **Introduction**
2. **Objectives of the Charter**
3. **What Regulatory Support Services are included?**
4. **Service Standards**
5. **How do we know we are complying with the Charter?**
6. **Help us improve**
7. **If you are unhappy with our Business Regulatory Support Service**
8. **Conflict of Interest**

## 1. Introduction

---

Midlothian businesses can now access the Business Regulatory Support Service through contact with Midlothian Business Gateway. This new Council Service gives businesses a single point of contact for advice on regulations, from food safety and licensing to planning and building standards.

This new service model was created to enable local businesses to adapt, diversify and develop in response to the COVID-19 crisis and its impact across all sectors.

This Service Charter sets out how the Business Regulatory Support Service will be undertaken. The Charter details the relevant regulatory activities and offer, the policy to prevent any conflict of interest, the steps the Council will take to ensure it meets the Charter commitments, and what actions are open to business where the Council is not meeting the terms of the Charter.

Regulation is an important part of the context within which businesses operate. It not only improves competitiveness, it plays an important role in ensuring the economic well-being of Midlothian and Scotland as a whole. It protects the vulnerable and the environment. It promotes equality, and helps raise the standards of service.

Regulation provides the platform for fair competition, giving reassurance to consumers and businesses alike. As such, regulation is a key enabler to economic activity. Regulatory services are a valuable source of advice for businesses on good practice, and how to comply with the law.

The Business Regulatory Support Service is designed to enable business decisions, support increased productivity and contribute further to sustainable economic growth as outlined in the Council's Strategy for Growth 2020-25.

The Charter sets out the key principles of the Support Service to ensure consistency and prevent conflict of interest between the advisory and support on offer to the regulatory obligations of the Council.

The Business Regulatory Support Service aligns with the Scottish Government better regulation agenda and to the Scottish Regulators' Strategic Code of Practice.

## 2. Objectives of the Charter

---

Through the Charter we will:

- (1) Enable and support businesses through the provision of proportionate, consistent and transparent regulatory advice and support.
- (2) Advise businesses what the Council's enforcement approach is in order to build understanding between our regulatory teams and the local community.
- (3) Work collaboratively with partners and local businesses to understand and address compliance challenges associated with strategic innovations or growth plans.
- (4) Inform our own staff what our Service Standards are, both on induction to the Service, and during their careers.
- (5) Establish a clear framework for our team, to ensure they are acting consistently, transparently and free from any conflict of interest.
- (6) Monitor our actual performance against what we say we should be doing, so that any variances from good practice are spotted early, and corrected.

### **3. What Regulatory Support Services are included?**

---

#### **Environmental Health**

- Food Hygiene
- Food Standards (composition, labelling etc)
- Workplace Safety
- Smoking in public places
- Statutory Nuisance
- Pest Control Advice

#### **Trading Standards**

- Assurance Scheme
- Pricing
- Counterfeit Goods
- Fair Trading
- Weights & Measures
- Animal Welfare
- Scams

#### **Licensing**

- Advice and assistance with Various Licences

#### **Building Standards**

- Advice and assistance with Building Warrants / Specifications / Alterations

#### **Planning**

- Advice and assistance with Change of Use / Permissions

#### **Business Gateway / Economic Development**

- Advice and assistance with business development and planning
  - Dedicated business gateway advisors to help start, sustain and grow Midlothian businesses
  - Signposting to relevant industry link ups and external advice bodies
  - Advice on available grants and external funding, as appropriate
  - Identification of commercial premises

#### **4. Service Standards**

---

The Council Services will carry out all activities in a way that supports those we regulate, and we ensure that information and guidance is available to help statutory obligations to be met. We provide advice that is tailored to particular needs and circumstances.

Businesses can expect, and will receive, an efficient and professional service from us.

Our team of Officers will:

- Be courteous and polite
- Seek to gain an understanding of the issue and/or how your business operates and the pressures you face
- Provide details of how to discuss any concerns you may have
- Agree time-scales, expectations and preferred methods of communication with you
- Ensure that you are kept informed of progress on any outstanding issues

#### **For Business**

We want to work with you to help your business grow and develop. It's important that you can come to us for advice. Our aim is to help you solve any problems you may be having. We can:

- Provide advice that supports compliance and that can be relied on
- Provide advice that is appropriate for your circumstances
- Provide clear advice that can be easily understood and implemented
- Distinguish legal requirements from suggested good practice
- Ensure that any verbal advice you receive is confirmed in writing

No charges are currently made for this Service.

#### **Making contact with the Business Regulatory Support Service**

All requests will be channelled through Business Gateway and will:

- Acknowledge your request in accordance with our target response times
- Tell you when you can expect a substantive response from the relevant services
- Seek to fully understand the nature of your request
- Explain what we may or may not be able to do, so that you know what to expect
- Keep you informed of progress throughout our involvement
- Provide clear advice where appropriate
- Be back in touch to gather feedback on your experience

## Target response times

We aim to meet the following targets for our initial response:

- Initial contact with Business Gateway: *response within 2 working days*
- Report compiled and referral by Business Gateway to relevant services: *within 2 working days*
- Response and verbal advice provided by relevant services: *contact within 2 working days*
- Written report by relevant services emailed to business: *within 3 working days of contact by service*

## 5. How do you know we are complying with the Charter?

---

There is no purpose for us having this Charter if we do not meet the commitments we make in it. Therefore we will:

- Through the appropriate selection and recruitment process only appoint officers who meet the relevant standards of competency for their jobs. Where additional training is identified either through the recruitment or annual appraisal process this will be provided under the direction of the relevant officers / management.
- Ensure that no officers will provide assistance unless they are suitably trained, experienced and duly authorised to do so.
- Monitor our activities, to ensure we meet the Charter's objectives.
- Review this Charter on an annual basis; or sooner if the need arises.
- Ensure the Business Regulatory Support Service is a standing item on the Team Meetings Agenda of each service.
- Ensure all Officers providing support and advice maintain ongoing professional development.

## **6. Help us to improve**

---

Business Gateway will make contact with service users. The service welcomes comments on the services we provide in order that we may continually improve.

Businesses may also provide feedback using the following email address:  
[BRSS@Midlothian.gov.uk](mailto:BRSS@Midlothian.gov.uk)

## **7. If you are unhappy with our Business Regulatory Support Service**

---

Should you consider that our service or approach has been unfair, unreasonable, or our actions are contrary to this Charter, then you can seek redress by submitting your complaint by email to: [BRSS@Midlothian.gov.uk](mailto:BRSS@Midlothian.gov.uk)

Should you still remain dissatisfied and wish to proceed to make a formal complaint regarding the service delivered by an Officer of Midlothian Council, the formal complaints policy and procedure is detailed below.

### **MLC Complaints Procedure –**

[https://www.midlothian.gov.uk/info/670/have\\_your\\_say/132/complaints\\_procedure](https://www.midlothian.gov.uk/info/670/have_your_say/132/complaints_procedure)

## 8. Conflict of Interest

---

### CONFLICTS OF INTEREST POLICY STATEMENT

#### 1.1 INTRODUCTION

1.1.1 Midlothian Council (“the Council”) is required to be transparent, open and accountable in all its activities. The public must be satisfied that every effort is being made to limit the opportunity for favouritism, collusion or priority treatment.

1.1.2 Various types of conflicts of interest exist, on a spectrum of severity. For simplicity and ease of practical understanding and application of this policy, the Council has grouped these into three general areas of conflict:

- i) Financial conflicts: direct or indirect e.g. hospitality and gifts;
- ii) Personal conflicts of interests; and
- iii) Conflicts between enforcement activities undertaken by the Council and discretionary services also provided by the Council.

1.1.3 The first two are dealt with by the Council’s Employee Code of Conduct. The circumstances and process for registering personal or financial interests, and for recording all gifts and/or hospitality offered to, as well as those accepted by, employees are detailed in the Council’s Employee Code of Conduct. The third example is dealt with in this policy.

1.1.4 Enforcement is defined as: *‘any action taken by officers aimed at ensuring that businesses or individuals comply with the law’*. Examples include riskbased inspections, sampling, investigations of complaints, serving notices and submitting prosecution reports to COPFS.

1.1.5 Discretionary services are those services authorised by statute that a local authority is not required to provide but may do so voluntarily. Businesses should be aware that it may be possible to obtain the same services as those offered by the Council elsewhere. We encourage businesses to make their own investigations with alternative providers as to whether the services are available elsewhere and to obtain the best value for those services. Please note that businesses are not obligated to take up the services offered by the Council.

#### 1.2 PURPOSE

1.2.1 The purpose of this document is to ensure that all conflicts of interest between enforcement activities and discretionary services are identified, and managed appropriately, thus helping to protect individuals, businesses and the organisations.

#### 1.3 SCOPE

1.3.1 This policy applies to officers and workers employed or engaged by Midlothian Council who are engaged in enforcement activities.

1.3.2 This policy and procedure should be read in conjunction with the Council’s Employee Code of Conduct.

#### 1.4 TYPES OF CONFLICTS OF INTEREST

1.4.1 Conflicts of interest can arise in several different circumstances. The conflicts which are most likely to arise are set out in paragraph 1.1.2 above.

1.4.2 It is not possible to define or describe all circumstances in which a conflict of interest, actual or apparent, may arise. However, the following situations provide a non-exhaustive list of the conflicts of interest that all staff undertaking enforcement activities should seek to avoid.

1.4.3 Officers engaged in enforcement activities shall:

- i) not engage in any activity directly or indirectly and/or own an interest in any entity that competes with the existing, planned and/or potential interests of the Council;
- ii) save in accordance with the provisions of the Employee Code of Conduct, not own or have any ownership interests, either directly or indirectly in any entity that provides goods or services to the Council;
- iii) not solicit or obtain for themselves or relatives, friends or any other person, a material benefit of any kind from his association with the Council;
- iv) not accept gifts or benefits of any kind or fail to declare gifts or benefits of any kind where such gifts and/or benefits would or may conceivably appear to improperly influence the officer in the performance of his duties;
- v) not engage in any conduct, activity or take any other action not expressly referred to in this Conflict of Interest Policy, where the officer's interest may compete or appear to compete or conflict with the interests of Midlothian Council;
- vi) not undertake both enforcement activities and discretionary services as defined by this policy at the same premises or for/against the same legal entity except to the extent allowed for in this policy.

1.4.4 In respect of enforcement activities, all conflicts must be assessed in accordance with this policy to determine whether an officer can proceed with them alongside discretionary services without affecting the integrity and reputation of Midlothian Council, or the individual. Measures and/or conditions shall be implemented by Council Management in conjunction with officers to minimise and manage any conflict as detailed in section 2 of this policy.

1.4.5 It is important that officers are aware of the potential for conflicts of interests to be perceived by others. Therefore, any interests which could be perceived to give an appearance of bias, or where misuse of position could reasonably be inferred, must also be declared and managed in accordance with this policy.

## **2. CONFLICT OF INTEREST PROCEDURE**

### **2.1 FINANCIAL CONFLICTS AND PERSONAL INTERESTS**

2.1.1 A personal interest arises where an officer or their household members, close friends and anyone with whom they have/had an association or have a private interest which might influence, or be reasonably perceived to influence, their judgement in carrying out their duties, including making enforcement decisions. Conflicts of interest cannot be allowed to compromise the enforcement activities/decisions of Midlothian Council.

Such activities and decisions must be taken and/or carried out on an entirely objective basis and situations in which a Council officer's other interests and/or relationships could adversely influence their judgement or the manner in which they perform their functions and duties for Midlothian Council must be avoided.

2.1.2 The circumstances and process for registering personal or financial interests, and for recording all gifts and/or hospitality offered to, as well as those accepted by, employees are detailed in the Council's Employee Code of Conduct.

## **2.2 CONFLICTS IN ENFORCEMENT ACTIVITIES**

2.2.1 Midlothian Council recognises that businesses and organisations requesting discretionary services from the Council are demonstrating an intention to work with the Council and that they are inviting the Council onto their premises in circumstances where an enforcement visit may not otherwise happen. Consequently, there is an expectation that the Council will work with the business and not take immediate enforcement action unless strictly necessary. Midlothian Council recognises that businesses should be encouraged to approach the Council for discretionary services with the intention of improving compliance and protecting the public. The following provisions aim to limit and prevent conflicts where the Council is engaged with a business or organisation for the purposes of both discretionary services and enforcement activity.

2.2.2 Midlothian Council will aim to secure that:

(1) Any officer providing discretionary services to a business or organisation should not deal with any subsequent enforcement activity against that business or organisation within 2 years from the date on which the discretionary services are provided unless the exceptions set out in paragraph 2.2.3 below apply.

(2) Any officer carrying out enforcement activities against a business or organisation should not provide any subsequent discretionary services for that business or organisation within 2 years from the date on which the discretionary services are provided unless the exceptions set out in paragraph 2.2.3 below apply.

2.2.3 The exemptions referred to in Paragraph 2.2.2 above are as follows:

- (1) That the business or organisation agrees to the same officer providing the enforcement activity or discretionary services.
- (2) Where the officer considers that there is an imminent risk of injury or death to a person or persons.
- (3) Where the Public Interest Disclosure Act 1998 applies.

2.2.4 In circumstances where an officer identifies an imminent risk of injury or death whilst providing discretionary services, the officer should if possible seek the urgent attention of the business or organisation to rectify the risk before taking any enforcement action.

2.2.5 Officers should familiarise themselves with the Council's policy and HSE guidance in respect of the Public Interest Disclosure Act 1998, which is designed to protect workers who 'blow the whistle' about a wrong-doing.

2.2.6 In order to ascertain whether there is a risk of conflict, **before** providing discretionary services or undertaking any enforcement activities in relation to any business or organisation, the officer tasked with undertaking those services or activities should first run a check on [relevant systems]. The officer shall perform that check to see whether that the same officer has undertaken/will undertake discretionary services or enforcement activities for the same business or organisation in either:

- a) the previous 24 months; or
- b) the next 24 months.

The officer should run a historic and future check on the [relevant system] looking at the past and future 24 months, to see if they have undertaken or have been assigned to undertake discretionary services and enforcement activities for the same business or organisation in any 24 monthly period.

2.2.7 As a result of the check, where there is a risk of conflict of interest, the officer should notify their manager straightaway, who should put in place the following procedure:

- a) The rearrangement of duties to a different officer, where resources permit; or
- b) Where the business or organisation specifically requests that despite the risk they wish for the same officer to undertake both the enforcement activity and discretionary service the business should be advised that in accordance with this policy different officer(s) undertake discretionary services to enforcement activities. If the business or organisation still wishes to proceed with the same officer for both, the manager and officer should require them to sign and date the declaration at Appendix 1.

2.2.8 Midlothian Council reserves the right, where resources do not permit the rearrangement of duties, to allocate the work to the same officer undertaking both enforcement activities and discretionary services. In all instances the business will be notified.

2.2.9 In addition to the above, financial and personal conflicts of interest must be managed in accordance with section 2.1 of this policy and the actions stated below in 2.3.3 and 2.4.1 must still be maintained.

### **2.3 MANAGEMENT OF CONFLICT OF INTEREST**

2.3.1 Council managers are responsible for the management of conflict of interests within their teams covered by this policy.

2.3.2 For the avoidance of doubt, officers are personally responsible for all decisions in relation to receipt of gifts and for avoiding the risk of damage to public and business confidence in the Council.

2.3.3 Officers should also ensure that full written records are kept of both enforcement activities and discretionary services, including reasons for decisions made and advice given.

2.3.4 Checks should be made and a record kept at 1-1 meetings with officers to ensure officers are operating in accordance with this policy.

### **2.4. MONITORING OF CONFLICT OF INTEREST**

2.4.1 An annual audit of management of conflicts of interest in accordance with this policy will be undertaken.

### **2.5. DATA SHARING, FREEDOM OF INFORMATION AND DATA PROTECTION**

2.5.1 Data obtained as part of an officer's engagement with a business in respect of either enforcement or discretionary services will be shared by officers within the Council.

2.5.2 Midlothian Council does not guarantee the confidentiality of information it holds as it may receive requests under the Freedom of Information (Scotland) Act ("FOISA"), the Environmental Information Regulations or any other applicable legislation or codes that govern access to information and Midlothian Council may be under an obligation to provide such information on request, except for any information which is exempt from

disclosure in accordance with the provisions of the FOISA. Such information may include matters relating to, or arising out of the provision of both enforcement activities and discretionary services.

2.5.3 Midlothian Council will not keep information longer than is necessary and whilst in our possession will safeguard personal information according to the requirements of the Data Protection Act 1998 or any equivalent legislation.

2.5.4 Managers should maintain records and retain them for 7 years evidencing how they have shown compliance with this policy.

## **2.6. BREACHES OF THE POLICY**

2.6.1 Any instance of a breach of this policy which comes to the Chief Officer-Place attention may be investigated and appropriate action taken. This may include action under the Council's disciplinary procedures.

2.6.2 Additionally, employees must not misuse their official position or information acquired in the course of their employment to further their private interests or the interests of others.

## **3. COMPLAINTS**

3.1 If a business has any complaints in respect of the fairness of application of this policy in the first instance the Customer shall contact [BRSS@Midlothian.gov.uk](mailto:BRSS@Midlothian.gov.uk)

3.2 In the event that any dispute is not resolved, the Customer shall then refer to [Midlothian Council's Complaints Procedure](#).

## **4. REVIEW & FURTHER ADVICE**

4.1 This Policy will be subject to regular review and will also be reviewed on an annual basis or where monitoring or auditing suggests that a review may be required.

4.2 If an employee is in any doubt as to the interpretation of this Policy advice must be sought from their line manager.

**Appendix 1 BRSS Conflict of Interests Business Declaration**

By signing below, I acknowledge that XXX has acted in accordance with their Conflicts of Interest Policy and has advised that different officer(s) undertake discretionary services to enforcement activities.

I confirm that whilst I fully understand and acknowledge the advice provided by XXX, the organisation stated below requests the same officer undertake discretionary services and enforcement activities.

I request that the following officer: *[insert name]* undertakes *[insert details of services including when or over what period they will be performed]*.

I confirm that I am duly authorised to sign this declaration on behalf of *[insert business details and address]*.

SIGNATURE:..... NAME:.....

BUSINESS:.....POSITION:.....

DATE:.....