

**NATIONAL SYNDEMIC DISEASES  
CONTROL COUNCIL**

# **BRIBERY & CORRUPTION PREVENTION PROCEDURES**

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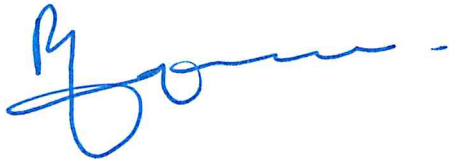
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## **FOREWORD**

Corruption is a vice that eats into the fabric of society leading to compromised quality in service delivery and failure to achieve development goals in the country. To address the vice, the government has made efforts to eradicate corruption in the public sector through legislation and the creation of anti-corruption institutions.

In keeping with the government's initiatives to fight corruption, the National Syndemic Diseases Control Council (NSDCC) has adopted a proactive and structured approach to the fight by developing this policy. This document provides a framework for the prevention, detection and reporting of corruption and bribery within the Council. It also defines the structures and systems that shall be put in place, and which are critical in deterring these practices.

The responsibility of attaining zero level tolerance to corruption rests on all the internal and external stakeholders of the Council. The implementation of this policy is envisaged to firmly position the Council to effectively fight corruption through the adoption of practices that promote transparency and accountability and improve operational efficiency in service delivery.



**Dr. Ruth Laibon Masha (PhD),**

**Chief Executive Officer, National Syndemic Diseases Control Council**

## **ACRONYMS AND ABBREVIATIONS**

<b>CEO</b>	Chief Executive Officer
<b>GOK</b>	Government of Kenya
<b>IAOs</b>	Integrity Assurance Officers
<b>NSDCC</b>	National Syndemic Diseases Control Council
<b>NACC</b>	National AIDS Control Council

## **1.0 Introduction**

The National Syndemic Diseases Control Council is a state corporation established through Legal Notice No. 143 of 2022 and it was created following the expansion of the mandate of the former National AIDS Control Council. The Council's mandate is to take up the leadership role in mobilizing resources for the control and prevention of syndemic diseases as well as spearheading the advocacy campaign for these diseases.

The Council recognizes that corrupt practices can adversely affect its reputation, resources, and its responsibility to the Kenyan public to implement transactions transparently. The Council also recognizes that its other areas of operations are potential risk areas for corrupt practices. Accordingly, the Council has promulgated this procedure for the prevention of bribery and corruption, to supplement legal provisions and other government initiatives for preventing corruption in Kenya. The procedure seeks to provide a framework for efficient and effective detection and prevention of corruption in the workplace.

The responsibility for addressing bribery and corruption practices rests with the Board, Management, Staff, and stakeholders of the Council as guided by the relevant laws and the Council's internal procedures. It is anticipated that through full implementation of this procedure, the Council will achieve zero tolerance to corruption.

## **2.0 Commitment**

It is the Council's policy to conduct all its activities honestly and ethically. We take a zero-tolerance approach to bribery and corruption and are committed to acting professionally, fairly and with integrity in all our dealings and undertake to implement and enforce all established systems to curb corruption and bribery at the workplace.

## **3.0 Policy Objectives**

This procedure aims to:

- i. Document the processes in place within NSDCC and thus ensure the NDSCC staff are aware of it and act per the procedure.
- ii. Create a mechanism for ensuring the NSDCC identify and curb all acts of bribery within the institution by providing a framework for the detection, prevention, and reporting of corruption in the Council
- iii. Encourage a culture of fairness, integrity and zero-tolerance of bribery and corruption
- iv. Ensure an effective training, monitoring and evaluation of the implementation of the procedure to confirm effectiveness.

## 4.0 Scope

This policy applies to the NDSCC Board of Directors, Management and Staff and other stakeholders of the Council.

## 5.0 Definitions

The following are definitions of terms used in this Procedure:

**“Agent”** means any individual acting as an agent, paid by the institution, acting on the institution’s behalf in negotiating with third parties.

**“Bribery”** occurs when one person offers, promises, or gives financial or other advantage to another person, who knows or believes the acceptance of the financial or other advantage would itself constitute the improper performance of a relevant function or activity.

**“Conflict of Interest”** occurs when an individual or organization is involved in multiple interests, one of which could corrupt, or be perceived to corrupt; the motivation for an act in another.

**“Donation”** means a voluntary contribution in the form of monetary or non-monetary gifts to a cause for which no return service or payment is expected or made.

**“Extortion”** means to directly or indirectly demand or accept a bribe, facilitate payment or kickback

**“Kickback”** means a bribe to obtain an undue advantage, where a portion of the undue advantage is ‘kicked back’ to the person who gave, or is supposed to give, the undue advantage.

**“Public Official”** means an officer defined as per Article 260 of the Constitution, more particularly officials or employees of any government or other public body, agency, or legal entity at any level.

**“Third Party”** means any individual or organization whether private or public that the NDSCC encounters during the course of work.

**“Whistleblower”** means a person who makes a report to the Council or the law enforcement agencies on acts of bribery or other forms of bribery.

## 6.0 Legal Framework

This procedure shall be consistent with the Constitution of Kenya 2010 and the following legislations, regulations and internal NSDCC policies:

- a) Constitution of Kenya, 2010
- b) The Anti-Corruption and Economic Crimes Act, 2003

- c) Bribery Act, 2016
- d) Leadership and Integrity Act, 2012
- e) The Public Officer Ethics Act, 2006
- f) Public Procurement and Disposal Act, 2015
- g) Public Finance Management Act, 2012
- h) Witness Protection Act, 2006
- i) Employment Act, 2007
- j) NACC Code of Conduct
- k) NACC Whistle Blowing Policy

## **7.0 Bribery Offences and Penalties**

In line with the Bribery Act, bribery offences shall include the following:

- a) Giving a bribe (Bribery Act, Section 5)
- b) Receiving a bribe (Bribery Act, Section 6)
- c) Bribery of foreign public officials (Bribery Act, Section 8)
- d) Failure of a private entity to put in place procedures for the prevention of bribery (Bribery Act, Section 9)
- e) Failure of a private entity to prevent bribery by a person associated with it (Bribery Act, Section 10)
- f) Assisting a person or a private entity to give a bribe (Section 13, Bribery Act)
- g) Reference to an associated person in the Act shall mean a person who performs services on behalf of another person as an agent, employee or in any other capacity (Section 11, Bribery Act).

The general penalty where there is no express penalty in the Bribery Act, is a fine not exceeding KES 5 million or imprisonment for a term not exceeding ten years or both. Where one is found guilty of giving, receiving, or assisting to give and/or receive a bribe, the offender shall be liable upon conviction to an imprisonment term not exceeding ten years or to a fine not exceeding KES 5 million or both. An additional fine may be imposed if as a consequence of the conduct, a person received a quantifiable benefit or any other person suffered a loss. This additional fine shall be equal to five times the benefit or loss or five times the sum of both benefit and loss where both occurred.

Where a private entity is found guilty of failing to prevent bribery, it shall be liable upon conviction to a fine and may additionally require the entity (including public entities) to pay back the value of any advantage received.

## **8.0 Relevant Policies**

All Board members, members of management, staff, and stakeholders of the NSDCC must read, understand, and comply with this procedure and the following policies:

- a) NACC Code of Conduct
- b) NACC Whistle Blowing Policy
- c) NACC Anti- Corruption Policy

## **9.0 Bribery, Corruption & Risk Management**

The Council as part of its annual performance targets shall conduct annual bribery and corruption risk assessment, develop strategies and actions to minimize or manage risks and review regularly the progress made in the implementation of integrity plans.

## **10.0 Recognition of High-Risk Areas**

All functional areas in NSDCC are potential risk areas. The functional areas include:

- a) Finance Systems and Procedures
- b) Management Information Systems
- c) Procurement Systems and Procedures
- d) Human Resource and Administration Systems and Procedures
- e) Legal Procedures and Systems
- f) Internal Audit Procedures and Systems
- g) Corporate Communication
- h) Coordination and Support
- i) HIV Investments
- j) Policy Monitoring and Research

The risks in these functional areas are annexed to the Procedure in **Appendix I (Bribery and Corruption Risk Mitigation Plan)**.

## **11.0 Management of Third Parties**

The relationship of the Council with agents and other third parties must be fully documented using internal systems, and this shall include compliance with this procedure and will prohibit third parties from making or receiving any bribes on the Council's behalf.

Any payments made to third parties by the Council must be appropriate and justifiable and for legitimate services rendered.

## **12.0 Reporting & Feedback Mechanism**

- a) Evidence and suspicion of corruption shall be reported to the Integrity Committee

- b) Employees and members of the public can also make disclosures of bribery and corruption practices within the NSDCC using corruption reporting boxes, hotlines, emails, and through the IAOs
- c) Alternatively, bribery and corruption cases can be reported anonymously to the Ethics and Anti-Corruption Commission (EACC) on [www.eacc.go.ke/report](http://www.eacc.go.ke/report) corruption
- d) After investigations and upon the action being taken against the offender, the Integrity Committee will communicate to staff on the outcome of the case

### **13.0 Protection of Whistleblowers**

The Council shall protect persons making corruption disclosures as outlined in the whistleblower's policy.

### **14.0 Communication & Training**

The Council recognizes that the success of this procedure and its general credibility depends on the effectiveness of programmed training and the responsiveness of employees throughout the Council. Accordingly, the Council commits itself to the sensitization and training of staff on matters of ethics and governance.

The zero-tolerance approach to bribery and corruption shall be communicated to all suppliers and contractors of the NSDCC at the outset of the working relationship and as appropriate thereafter.

### **15.0 Collaboration**

In pursuit of its commitment to fight bribery and corruption, the management undertakes to collaborate with and seek external assistance from"

- a) The Kenya Police
- b) Criminal Investigation Department
- c) The Office of the Auditor General
- d) The Inspectorate of State Corporations
- e) The National Intelligence Service
- f) The Ethics and Anti-Corruption Commission

During the investigations, NSDCC undertakes to protect the rights of all the accused persons including protecting them from media coverage which may dent their reputation particularly innocent persons.

### **16.0 Implementation**

To prevent, detect, investigate, and punish those who act against the provisions of this procedure, NSDCC has put in place the following mechanisms:

- a) **Corruption Reporting Channels:** these provide an avenue for reporting all forms of corruption and include reporting boxes, emails, hotlines and through the IAOs.
- b) **Organizational Codes:** to guide the conduct and behaviour of all members of staff in their work activities.
- c) **Internal Audit Function:** to independently appraise all the activities of the Council and assist in detecting any forms of corruption.
- d) **Integrity Committee:** to coordinate and offer policy direction towards fighting all forms of corruption and report to the EACC.
- e) **Integrity Assurance Officers:** to liaise with the Integrity Committee in carrying out a corruption risk assessment, initiating actions in response to corruption risk assessments, assisting in the preparation and implementation of corruption prevention programs and anti-corruption education and awareness programmes
- f) **Disciplinary Committee:** to review, consider and make recommendations to management on bribery and corruption cases

## **17.0 Monitoring and Evaluation**

The members of the Integrity Committee have the primary and day-to-day responsibility for ensuring the implementation of this policy, and for monitoring its use and effectiveness.

## **18.0 Review**

This policy will be reviewed every year or as necessary following changes in law, regulations, and government policies.

## **19.0 Effective Date**

The Policy will take effect immediately after the Board's approval.