



ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY & PROCEDURE

Version:	1
Policy Originator Role:	Chief Operating Officer
Approved by:	Audit Committee & Corporation
Date Approved:	F&GP 14/07/20 / Corporation 23/07/20
Review Interval:	3 Years
Last Review Date:	July 2020
Reviewed by:	Clerk to the Corporation/COO
Uploaded to external web site by:	Marketing
Date uploaded:	10/08/20
Uploaded to Staff Portal by:	
Date uploaded:	
Next Review Date:	July 2023
Audience:	Staff / Governors / Members of the Public / Suppliers

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1. Anti-Fraud, Corruption and Bribery Policy

1. Introduction

The Corporation is committed to maintaining a culture of openness and accountability within the College, where all individuals operate the highest standards of honesty, propriety and integrity in the exercise of their duties.

It is the responsibility of the corporation, as set out in grant funding agreements and contracts with ESFA, to establish and maintain an adequate system of internal control, to ensure compliance, and to prevent and detect irregularities and suspected fraud (including theft, bribery and corruption). To achieve this the corporation is establishing an effective and proportionate counter fraud strategy which will sets out the approach to raising awareness, prevention, detection, investigation and sanction (including seeking redress where appropriate) of suspected fraud.

It is the Corporation's policy to encourage anyone having reasonable suspicions of fraud, irregularity or impropriety to report them. Employees who raise legitimate concerns will not face any detrimental consequences. In particular, they will not be subject to harassment or victimisation. There is statutory protection (the Public Interest Disclosure Act, 1998, also known as 'Whistle blowing') from dismissal or penalties imposed by employers for those who disclose information in the proper manner.

The Corporation's 'Whistle blowing' Policy sets out the arrangements under which an individual may confidentially raise concerns and bring these to the attention of the Corporation. The policy is published on the College website.

2. Definitions

Bribery is giving or receiving a financial or other advantage in connection with the "improper performance" of a position of trust, or a function that is expected to be performed impartially or in good faith. Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event.

Bribery does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.

It is a common law offence of bribery to bribe the holder of a public office and it is similarly an offence for the office holder to accept a bribe.

Should an offence be committed it will be a defence that the organisation has adequate procedures in place to prevent bribery.

The Bribery Act includes four offences:

- Bribing a person to induce or reward them to perform a relevant function improperly
- Requesting, accepting or receiving a bribe as a reward for performing a relevant function improperly
- Using a bribe to influence a foreign official to gain a business advantage
- Failure to prevent bribery – a corporate offence whereby an organisation will be liable to prosecution if it fails to stop individuals operating on its behalf from being involved in bribery (due to there being no adequate procedures in place to prevent such actions).

Fraud is wrongful or criminal deception which is intended to result in a financial or personal gain. It is a deliberate use of deception or dishonesty to disadvantage or cause loss (usually financial) to another person or party.

The Fraud Act 2006 states that a person is guilty of fraud 'if (s)he is in breach of any of the following:

- Fraud by false representation - If someone dishonestly makes a false representation and intends by making the representation to make a gain for himself or another, or to cause loss to another or expose another to risk of loss;
- Fraud by failing to disclose information - If someone dishonestly fails to disclose to another person information which he is under a legal duty to disclose and intends, by means of abuse of that position, to make a gain for himself or another, or to cause loss to another or expose another to risk of loss; and
- Fraud by abuse of position - If someone occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person, and he dishonestly abuses that position, and intends, by means of the abuse of that position, to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss.

Computer fraud is where information technology (IT) equipment has been used to manipulate or destroy computer programmes or data or where the existence of an IT system was a material factor in the perpetration of fraud – for example, by creating, altering, substituting or destroying files or records. Inappropriate use of computer time, intellectual property or resources may also be fraudulent or involve theft.

Together such activities may include; conspiracy; bribery; forgery; extortion; theft; misappropriation; collusion; false representation; concealment of facts; false accounting; embezzlement; failure to disclose information; abuse of position; supplying, making or possessing articles for use in fraudulent activities; obtaining services dishonestly.

In addition to the Bribery Act 2010 and the Fraud Act 2006 the legal framework includes the Theft Acts 1968 and 1978, the Proceeds of Crime Act 2002, and the Computer Misuse Act 1990 as well as common law offences.

3. Statement of Intent: Detect; Prevent; and Deter

In order to detect fraud and corruption the College:

- Ensures protocols are in place to facilitate data and intelligence sharing and analysis, using techniques such as data matching and data analytics, to validate data and detect control failings to support counter fraud activity;
- Maintains and enhances effective whistleblowing arrangements;
- Effectively investigates fraud referrals; and
- Utilises an appropriate mix of experienced and skills staff including access to counter fraud staff with professional accreditation.

In order to prevent fraud and corruption the College:

- Maintains and enforces Financial Regulations, Procedures and other policies and procedures, which are regularly reviewed, which set out the College's internal controls, with a view to ensuring the orderly and efficient conduct of the College's activities.
- Recruits staff in accordance with approved Recruitment and Selection policies and procedures and the Instruments and Articles of Government.
- Draws attention to the expectations of staff and governors as set out in the Codes of Conduct and Ethics during induction processes and makes these available on an ongoing basis via the College intranet.
- Highlights the responsibilities of staff and managers as set out in Financial Regulations and Procedures, during induction processes.
- Maintains a register, in line with financial regulations, for staff and governors, which records financial and other interests, gifts and hospitality, which is, at least, annually updated.
- Requires its internal, financial and regulatory auditors to enquire about and obtain an understanding of the processes and controls in place to identify and respond to the risk of fraud.

- Works, in particular, with its internal auditors to review financial and other systems on a risk based cyclical basis, with a view to identifying and responding to any risk factors identified.
- Expects all its auditors to maintain an attitude of professional scepticism in carrying out audit activities, notwithstanding the auditors' past-experience of the conduct of the organisation and those charged with management and governance.
- Ensures all its auditors have access to all financial and other relevant documentation as well as reporting rights to the Audit Committee and the Corporation.
- Reviews the reports of the internal, financial and regulatory and other auditors through meetings of the Executive Team (ET) and Senior Leadership Team (SLT), the Audit Committee and where, appropriate, the Corporation.
- Monitors the timely implementation of recommendations made by its auditors, through meetings of the Executive Team and the Audit Committee.
- Considers, when implementing new systems or reviewing policies, the risk of fraud and corruption and the safeguards to be included in procedures.

3.3 In order to deter fraud and corruption the College:

- Publishes the College's anti-fraud and corruption stance and the actions it takes against fraudsters;
- Applies sanctions, including internal disciplinary, regulatory and criminal, as appropriate;
- Seeks redress, including the recovery of assets and money where possible.

4. Responsibilities

Governors - The Corporation is ultimately responsible for the proper stewardship of public funds. Under its approved terms of reference, the Audit Committee is required to:

- oversee the corporation's policies on and processes around fraud, irregularity, impropriety and whistleblowing, and ensure:
- the proper, proportionate and independent investigation of all allegations and instances of fraud and irregularity
- that investigation outcomes are reported to the audit committee
- that the external auditor (and internal auditor if applicable) has been informed, and that appropriate follow-up action has been planned/actioned
- that all significant cases of fraud or suspected fraud or irregularity are reported to the ESFA
- risks around fraud have been identified and controls put in place to mitigate them.

Chief Executive Officer / Principal - As the accounting officer, the Principal is responsible for establishing a control environment and ensuring that an effective system of internal controls and risk management is maintained and operated by the College. The Principal has over-arching responsibility for operation of the Anti-Fraud, Corruption and Bribery report, in liaison with the Chief Accounting Officer and the Clerk to the Corporation.

Chief Accounting Officer - is charged with delivering the strategy and action plan.

Management and staff - It is the responsibility of all managers and staff to:

- maintain the control environment and comply with and develop policies and procedures to help ensure the orderly and efficient conduct of the College's business.
- ensure that controls in place operate effectively in their areas of responsibility.
- assess the types of risk involved in the operations for which they are responsible
- regularly review and test control systems for which they are responsible and satisfy themselves that controls in place are being complied with and that systems continue to operate effectively
- to follow financial regulations and procedures and to bring to the attention of management any control weaknesses or poor compliance with procedures
- all appropriate staff must complete the management representation declaration, at least annually, to confirm that they are not aware of any instances of fraud or bribery and declare any related party transactions or receipt of gifts (appropriate staff include budget-holders, managers and other staff with financial responsibility or are involved in the award of contracts).

In order to comply, this form has to be completed and returned by all budget-holders, managers and other staff members, with financial responsibility or involvement in awarding contracts for services to the College.

Financial Statements and Regularity Auditor (FSA)¹ - The Financial Statements Auditor (FSA) has a duty to plan and conduct all audits so that there is a reasonable expectation of detecting material mis-statements in the accounts arising from irregularities, including fraud or breaches of regulations.

Internal Auditor (IAS) - The IAS reviews and evaluates risk management, control and governance processes in accordance with an agreed strategic plan, based on an assessment of risk through the Board Assurance Framework. These processes include the operations, policies and procedures in place to safeguard the College's

¹ Also sometimes referred to as the External Auditor

assets and interests from losses of all kinds, including those arising from fraud, irregularity and corruption.

Where there is suspicion of fraud, corruption and bribery the Procedure, outlined in appendix A should be followed

2. Anti-Fraud, Corruption and Bribery Response Procedure

1. Reporting suspicions of fraud or other irregularities
 - a) In accordance with Financial Regulations **{insert correct reference}**, it is the duty of all members of staff, managers and governors to notify the Principal immediately whenever any matter arises which involves, or is thought to involve, irregularity, including fraud, corruption, bribery or any other impropriety.
 - b) If the concerns raised potentially involve the Principal, then the Clerk to the Corporation should be informed, who will immediately advise the Chair of the Corporation and the Chair of the Audit Committee.
 - c) The Corporation's 'Whistle blowing' Policy sets out the arrangements under which an individual may confidentially raise concerns and bring these to the attention of the Corporation. A copy of this Policy is published on the College website.²
 - d) When a matter has been raised to the Principal, he will discuss the matter with the Chief Operating Officer and the Clerk to the Corporation to determine the details of the matter and prepare the information to notify the Chair of the Corporation and Chair of the Audit Committee, as appropriate, in all cases of suspected or actual fraud or corruption, bribery and any significant irregularity. Where the matter raised relates to the Principal, Chief Accounting Officer or the Clerk, that person will not be involved in the discussion prior to notification to the Chair of the Corporation and Chair of the Audit Committee.
 - e) In accordance with the Financial Memorandum and the Post-16 Audit Code of Practice³, the College shall inform the external auditors and internal auditors when evidence of potential irregularity, including fraud, corruption, bribery or any impropriety is discovered. If appropriate, the Internal Auditor will undertake a review and consider the adequacy of the relevant controls, evaluate the implications of the fraud on the risk management, control and governance processes and consider making recommendations as appropriate. The Internal Auditor will not investigate the matter raised unless commissioned to so do.
 - f) The College, and where appropriate, its Internal Auditor or its Financial Statements Auditor shall, without delay, report to the ESFA's chief executive, serious weaknesses, significant frauds, major accounting and other controls breakdowns of which they are aware, subject to the requirements of the Proceeds of Crime Act 2002.

² <https://www.wlc.ac.uk/your-college/the-corporation/policies>

³ <https://www.gov.uk/government/publications/post-16-audit-code-of-practice>

A serious weakness would be one which may result in a significant fraud or irregularity and may include cases of irregularities in expenditure which could lead to suspicions of fraud. Significant fraud is usually where one or more of the following are involved:

- Sums of money in excess of £10,000;
- Particulars of the fraud are novel or complex;
- There is likely to be public interest because of the nature of the fraud or the people involved;
- The fraud is systematic or unusual in nature.

2. Appointment of an Investigating Officer

- a) In consultation with the Chair of the Audit Committee, the Principal will appoint a suitable manager as Investigating Officer to oversee the investigation. **The investigating officer should be independent and not hold any management responsibilities in relation to the individuals or individuals under investigation.**
- b) Where the nature of the allegations or disclosures made is such that the services of specialists, internal or financial statements auditors should be appointed / commissioned to undertake an investigation, then the Principal will consult with the Chair of the Audit Committee and make a recommendation. The Chair of the Audit Committee may wish to convene a special meeting of the Audit Committee to consider this recommendation. Such meetings will be arranged by the Clerk. In any event, any such commissioning must be reported to the next scheduled meeting of the Audit Committee.
- c) The Chief Operating Officer, in conjunction with the Clerk to the Corporation, will ensure that all incidents of alleged or actual bribery, corruption and fraud are reported to the Audit Committee and minuted. The minutes will record the details of any actions taken. As a matter of good practice Fraud, Bribery and Corruption should be a standing item at every meeting of the Audit Committee.

3. The Investigation

- a) The investigation should be conducted to determine the facts and should make, where appropriate, recommendations in respect of disciplinary or other processes, the recovery of losses and the improvement of internal controls and procedures to prevent re-occurrence. The investigation should also consider whether there has been a failure of adequate supervision or application of controls.

- b) The Investigating Officer should consider throughout the investigation if the information available suggests that a criminal act might have been committed.
- c) If a criminal act is suspected, it is essential that there is the earliest possible consultation with the police. However, prior to any contact with the police, the Investigating Officer must advise the Principal, who in turn will advise the Clerk to the Corporation, the Chair of the Audit Committee, the Chair of the Corporation without delay.
- d) In any event, if a criminal act is suspected, there must be no actions taken by the College or the Investigating Officer which may alert suspects and/or precipitate the destruction or removal of evidence, before the police have been contacted. This includes, taking action to stop a loss or tighten controls or interviewing any individuals suspected of criminal activity.
- e) Where no criminal act has taken place, the investigation could lead to one of three outcomes. The most serious would be if there was evidence to sustain an allegation of gross misconduct under the disciplinary procedure. This might lead to dismissal if the allegation is proven. It would be less serious if there was evidence to sustain an allegation of negligence or error of judgement or other misconduct. This is unlikely to lead to dismissal but might involve the disciplinary procedure. Alternatively, it may be concluded there is no case for an individual to answer. The Investigating Officer should take advice from the Director of HR where there are suspicions or evidence of misconduct.
- f) The Investigating Officer will ensure that a detailed record of the investigation is maintained. This should include a chronological file recording details of all telephone conversations, discussions, emails, meetings and interviews, all documents and files and other records reviewed, tests and analyses undertaken, findings, outcomes and conclusions reached. It is important that everything is recorded, irrespective of apparent significance at the time of recording.
- g) Where evidence from witnesses is being sought, the Investigating Officer should make a chronological record using the witness's own words, which should be agreed by the witness. The witness must be prepared to sign the document as a true record.
- h) If the Investigating Officer takes possession of any physical evidence, it is important that a record is made of the time and place it is taken. If evidence consists of several items (e.g. many documents), each one should be tagged with a reference number corresponding to the written record.
- i) The Investigating Officer has authority to request and obtain information required in connection with the investigation and to meet with employees, contractors etc. Where there is no suspicion of criminal activity, any meetings involving employees will be conducted in consultation with the Director of HR. Where a criminal act is suspected, no interviews should be conducted without first having contacted the police and considering the requirements of the Police and Criminal Evidence Act (PACE).

- j) The Investigating Officer will report in writing at the conclusion of the investigation, to the Principal and to the Chair of the Audit Committee. Where an investigation is protracted, then interim reports should be produced, keeping the Principal and the Committee advised of progress. These reports will be considered by the Audit Committee and through the minutes of the Audit Committee to the Corporation. The final report should include recommendations in respect of disciplinary or other processes, the recovery of losses and the improvement of internal controls and procedures to prevent re-occurrence, and, where appropriate, lessons learned and an implementation action plan.

4. Timescales

Where possible, the investigation will be completed within 15 working days of the appointment of the Investigating Officer. However, it should be noted that investigations may take longer depending on the complexity of the issues being considered.

Where auditors are conducting the investigation, they must report back to the Audit Committee within a time scale agreed by the Audit Committee. The Clerk will arrange any meetings required in the usual way.

Where there is a criminal investigation, the Principal will keep the Audit Committee informed of progress, as appropriate.

5. Action and Recovery of Loss

Disciplinary and dismissal procedures: College disciplinary procedures must be followed if it is proposed to take any disciplinary action against an employee (including dismissal). This may involve the Investigating Officer giving evidence to a disciplinary hearing and reporting the results of the investigation.

Recovery of Losses: The College will take appropriate steps to recover losses. If the cost of recovery outweighs the loss or there are other reasons for not taking steps to recover losses in full, these must be reported to the Audit Committee.

Where recovering a loss is likely to require a civil action, the College will consider seeking external legal advice. Where external legal advisors are used, the College's legal advisors should ensure that there is co-ordination between the various parties involved.

Where any loss is potentially covered by the College's insurance arrangements, advice will be sought from the College's insurers and where appropriate, a claim will be prepared.

The Audit Committee should be kept informed of the progress of any recovery of losses.

3. Anti-Fraud, Corruption and Bribery Strategy 2020//23

1. Introduction

This strategy outlines the College's commitment and approach to tackling fraud, bribery and corruption and applies to all those who work for, or interact with the College including employees, Governors, contractors, suppliers and stakeholders. Fraud against the College is not acceptable in any form and the College will seek full redress through criminal and/or civil courts to counter any internal or external fraudulent activities perpetrated against it.

To help organisations recognise and address their fraud risks, the Chartered Institute of Public Finance & Accountancy (CIPFA) produced a Code of Practice on Managing the Risk of Fraud and Corruption. The Code consists of the following principles:

- Acknowledge the responsibility of the Corporation for countering fraud and corruption.
- Identify the fraud and corruption risks.
- Develop an appropriate counter-fraud and corruption strategy.
- Provide resources to implement the strategy.
- Take action in response to fraud and corruption.

This strategy contributes towards the achievement of the College's approach to ensure value for money and to the effective and efficient use of resources, ensuring the solvency of the institution and in safeguarding its assets.

2. Aims and Objectives

The general aims and objectives of this strategy are to:

- Create and promote a robust 'anti-fraud' culture across the organisation, highlighting the College's zero tolerance of fraud, bribery and corruption, which is also acknowledged by others outside the College.
- Encourage individuals to promptly report suspicions of fraudulent or corrupt behaviour and provide them with effective means for doing so.
- Protect the College's valuable resources and minimise the likelihood and extent of losses through fraud and corruption.
- Enable the College to apply appropriate sanctions and recover all losses.
- Direct the College's counter fraud resources on the key areas of fraud risk and ensure that the resources dedicated to combatting fraud are sufficient and those involved are appropriately skilled.
- Work with partners and other investigative bodies to strengthen and continuously improve the College's resilience to fraud and corruption.

3. Context: Threat of Risk in the FE Sector

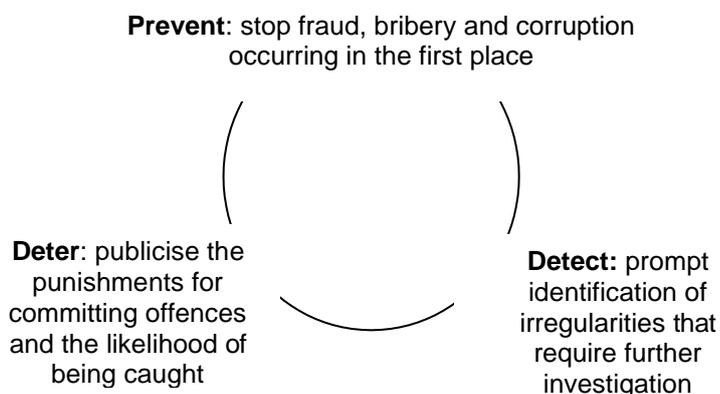
It is essential that the College continues to maintain strong defences against fraud and irregularity. There is an enhanced focus on financial sustainability in the sector and this has resulted in an increase in the number of publications and checklists provided for colleges relating to fraud and insolvency to support them in assessing risks and to be able to ensure on-going value for money and sustainability.

A further increased risk for the sector and beyond relates to increasing reliance on IT systems and the growing need to respond to cyber-attacks. This emergent risk has changed the nature of fraud markedly for all organisations and requires on-going and pro-active reactivity to ever-changing and increasingly sophisticated attacks.

The College will need to continue to work closely with partners, contractors and all stakeholders to overcome any barriers to effective fraud fighting and making the best use of available information and intelligence.

4. Approach to Countering Fraud and Irregularities

The College's approach for meeting the aims and objectives of the Strategy and addressing fraud, bribery and corruption focusses on three core elements:



The College's approach for meeting the aims and objectives of the Strategy and addressing fraud, bribery and corruption focusses on three core elements:

1. Detection: Despite the best efforts to prevent fraud occurring in the first place, it is difficult to eradicate it from the system entirely. Therefore, measures need to be in

place to ensure inappropriate activity is detected and reported for further investigation. Detection and investigation is a key priority of this strategy.

2. Fraud risk assessment: The College has robust risk assessment processes, which includes identification of fraud. This is identified in the Strategic Risk Register and Board Assurance Framework, but there are a number of ways that the risk of fraud can be assessed, including:

- Using internal auditors, external auditors or a specialist consultant to conduct a fraud risk review. External auditors undertake annual fraud risk assessment exercise.
- Using external reference material to identify the frauds experienced by colleges and other provider.
- Working with external agencies, like the National Centre for Cyber Security (NCSC), to identify risk and prevent cyber-attacks.
- Regular review of the Strategic Risk Register and Board Assurance Framework and Area Risk Registers.

3. Effective confidential reporting and whistleblowing arrangements:

Employees and individuals who work closely with the College are often the best placed to identify bad practice and wrongdoing. Therefore, it is essential that they have the confidence to raise concerns and trust that their concerns will be taken seriously.

The College has in place a confidential reporting Whistle-blowing Policy and an Anti-Fraud, Bribery and Corruption Policy⁴, which both outline how to raise concerns and the protection available once those concerns have been raised. To further encourage individuals to report suspicions, this strategy will focus on the following:

- Undertake a review of the whistle-blowing arrangements, taking best practice guidance into consideration.
- Promote the Whistle-blowing Policy to increase confidence in raising concerns.

Ongoing assurance will be provided by External and Internal Audit's planned audit work and fraud activity will be focused on those fraud risks that are of a high priority or where residual risks have been identified.

Prevent: Everyone who works for, or with, the College has a responsibility for ensuring public funds and resources are being used appropriately. The College promotes a zero-tolerance culture where fraud, bribery and corruption are

⁴ See <https://www.wlc.ac.uk/your-college/the-corporation/policies>

recognised as unacceptable behaviour and whistleblowing of suspected wrongdoers is actively encouraged.

Maintain a strong anti-fraud culture to increase resilience to fraud: The College promotes a zero-tolerance culture to fraud, bribery and corruption and actively encourages whistle-blowing. The College's commitment to good ethical conduct is evident in the comprehensive framework of policies and procedures that deter fraudulent activity, such as the Code of Conduct for Staff, The Code of Good Governance of English Colleges⁵, Financial Regulations and Procedures and specific anti-fraud policies.

Deter: The College recognises the importance of deterring individuals from committing fraud, bribery and corruption and will take action, as appropriate, when individuals or groups are found to be guilty of committing such offences against the College.

5. Counter-Fraud Action Plan 2019/20

The detail of this strategy has been translated into a set of actions that are proportionate to the size and activities of the College, the risks it faces and the level of resources deployed.

Any events adversely affecting the level of resources to deliver the Action Plan will be reported to senior management and the Audit Committee at the appropriate time. The strategy will be reviewed every three years, with the Action Plan being reviewed annually to focus on new and increasing risks as part of the College's risk management work.

6. Strategy Achievement and Annual Report

An annual report to be produced to clarify achievement of the Action Plan, updates regarding the contextual situation regarding fraud and irregularity in the sector and any other issues that have arisen since the last report.

⁵ See <https://www.aoc.co.uk/funding-and-corporate-services/governance/governance-resources/code-good-governance-english-colleges>