



# Anti-Bribery Policy 2021-2024

**Policy prepared by:** Executive Director of Finance and Resources

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## **ANTI- BRIBERY AND ANTI-CORRUPTION POLICY**

### **1. Objective, Scope and Purpose**

The College has a zero-tolerance for bribery and corruption. The College's reputation with the community it serves and other stakeholders is underpinned by ethical behaviour, financial probity and honesty.

The College aims to limit its exposure to bribery by:

- I. Setting out a clear anti-bribery policy, which is proportionate to the risks that the College is exposed to;
- II. Embedding awareness and understanding of the College's anti-bribery policy amongst all staff, "associated persons" (any person performing services for or on behalf of the College), and external persons/organisations with whom the College has commercial relations;
- III. Training staff as appropriate so that they can recognise and avoid the use of bribery by themselves and others;
- IV. Encouraging staff to be vigilant and to report any suspicion of bribery, providing them with suitable channels of communication (as defined in the College's Whistleblowing Policy) and ensuring sensitive information is treated appropriately;
- V. Rigorously investigating instances of alleged bribery in accordance with the College disciplinary procedure; and assisting the Police and other appropriate authorities in any resultant prosecution;
- VI. Taking firm and vigorous action against any individual(s) involved in bribery.

This policy applies to all employees and anyone acting for, or on behalf of, the College ("associated persons"), including governors, other volunteers, temporary workers, consultants and contractors.

### **2. Responsibilities**

The Principal as the Chief Accounting Officer has overall responsibility to ensure that procedures are in place to minimise the possibility of the occurrence of bribery or corrupt activities in the College and to report and take action in the case of any incidents. The Principal is supported by the Executive Director of Finance and Resources in ensuring adequate procedures are in place and monitored.

All employees, governors and other associated persons have a responsibility to adhere to this policy.

### **3. The Bribery Act 2010**

The relevant legislation behind this policy is The Bribery Act 2010 which came into effect on 1st July 2011.

It applies to 'relevant commercial organisations' being any organisation which is incorporated in the UK irrespective of where it carries out business and whether or not it pursues primarily charitable or educational aims.

Colleges will definitely be covered by the Act if they engage in commercial activities but given the scope of the Act, colleges are advised to assume the Act applies across the full range of activities.

Directors, Governors and Senior Officers of an organisation can be personally liable if bribery involving the organisation is committed with their 'consent or connivance'. Bribery convictions can carry unlimited fines for corporations and individuals and incumbents can also face up to 10 years imprisonment.

The Bribery Act includes four offences:

1. Bribing a person to induce or reward them to perform a relevant function improperly
2. Requesting, accepting or receiving a bribe as a reward for performing a relevant function improperly
3. Using a bribe to influence a foreign official to gain a business advantage
4. 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).

#### **4. 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.

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.

## **5. Risk impact**

Failure of the policy could have significant financial and reputational implications for the College. The controls and mitigating actions applied by the College include the existence of robust policies and procedures covering all key aspects of the College's operations, an organisation with clear accountability and responsibilities, segregation of duties where possible, internal audits and a whistleblowing policy.

## **6. The Policy**

All employees and associated persons (i.e. persons providing services to the College such as subcontractors, consultants and suppliers) are responsible for maintaining the highest standards of business conduct and are expected to behave honestly and with integrity. Any breach of this policy will constitute a serious disciplinary offence, which may lead to dismissal and may become a criminal matter for the individual. The College prohibits employees and associated persons from offering, giving, soliciting or accepting any bribe. The bribe might include cash, a gift or other inducement, to or from any person or organisation, wherever they are situated, and irrespective of whether or not they are a public official/body or private person or company, by any individual governor, employee, agent or other person or body acting on the College's behalf. The bribe might be made in order to:

- Gain any commercial, contractual or regulatory advantage for the College in a way which is unethical;
- Gain any personal advantage, pecuniary, or otherwise, for the individual or anyone connected with the individual.

This policy is not intended to prohibit appropriate corporate entertainment and/or hospitality undertaken in connection with the College's business activities, provided the activity is customary under the circumstances, is proportionate, and is properly recorded/disclosed to the College in accordance with its procedures defined in the College's Financial Regulations, Gifts and Hospitality.

Employees and associated persons are requested to remain vigilant in preventing, detecting and reporting bribery. Employees and associated persons are expected to report any concerns regarding any suspected bribery in accordance with the College's procedures as outlined in the College's Counter Fraud Plan.

## **6. How to raise a concern**

The college's strategy for establishing, developing and monitoring the counter fraud culture across the college is set out in the College's Counter Fraud Plan.

The actions to be undertaken in the case of a suspected instance of bribery or other potentially corrupt activity or financial irregularity are laid out in the Fraud Policy. Key points include:

*Extract from the Fraud Policy:*

*3.2 When a member of staff of the College has grounds to suspect that fraud or corruption has occurred, he/she should report his/her concerns without delay. Time may be of utmost importance; delay may result in further loss to the College or may allow evidence to be destroyed.*

*3.3 In the first instances members of staff should report their concerns or suspicions to the Executive Director Finance and Resources. If the suspicions seem well founded, the Executive Director Finance and Resources will inform the Principal.*

*3.4 If a member of staff's suspicions involve a member of the Board of Governors, the Principal, or the Clerk to the Corporation, the Executive Director Finance and Resources will report their suspicions directly to either the Chairman of the Board of Governors, or in his/her absence, the Chairman of the Audit Committee as well as the Internal Audit Service.*

*3.5 Where the member of staff's suspicions are in respect of the Executive Director Finance and Resources, he/she should report the matter to the Chairman of the Board of Governors. If required, the member of staff may seek the assistance of the Clerk to the Corporation in reporting to the Chair.*

## **7. Policy Evaluation and Review**

The policy is scheduled for formal review every three years at a minimum but should be updated more regularly if required, eg if new legislation is introduced.