



# Anti-Fraud and Anti-Bribery Policy and Procedure

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## **Anti-Fraud and Anti-Bribery Policy**

### **1. Introduction**

This policy is intended to deter any actions of fraud and to guide employees and anyone acting for, or on behalf of, the College (“associated persons”), including governors, other volunteers, temporary workers, consultants and contractors, in the detection and prevention of fraud, bribery and corruption. The overall aims of this policy are to:

1. Improve knowledge and understanding about the risk of fraud and bribery and its unacceptability;
2. Set out the College’s responsibilities in terms of the deterrence, prevention, detection and investigation of fraud, bribery and corruption;
3. Be clear that all suspected fraud or bribery offences, will be investigated

### **1. Key Principles**

1. The College requires all staff at all times to act honestly and with integrity and to safeguard the public money and resources for which they are responsible.
2. The College has zero tolerance for fraud, bribery and corruption
3. The College’s reputation with the community it serves and other stakeholders is underpinned by ethical behaviour, financial probity and honesty.
4. The College is determined to prevent, deter and detect all forms of fraud, bribery and corruption committed against it, whether by internal or external parties.
5. All employees and associated persons are responsible for maintaining the highest standards of business conduct and are expected to behave honestly and with integrity and play a key role in promoting an anti-fraud culture.
6. 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.

### **2. Responsibility**

1. The prevention, detection and reporting of bribery, fraud and other forms of corruption is the responsibility of all those working for the College and mandatory training on anti-fraud and anti-bribery will be provided to all staff to ensure that they are aware of their obligations and responsibilities.
2. The College’s zero-tolerance approach to corruption, bribery and fraud will be communicated to all suppliers, contractors and business partners.
3. It is the responsibility of the corporation, as set out in grant funding agreements and contracts with the 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).
4. The Board of Governors and the Principal are responsible for:
  - Establishing an effective and proportionate counter fraud strategy which sets out the approach to raising awareness, prevention, detection, investigation and sanction (including seeking redress where appropriate) of suspected fraud.
  - Developing and maintaining effective controls to prevent fraud, bribery and corruption.
  - Carrying out prompt investigations if fraud, bribery or corruption occurs and reporting the matter to the appropriate authorities.
5. Managers are responsible for implementing and ensuring control measures are being complied with.

6. Individual members of staff are responsible for acting with propriety in the use of College resources and the use of public funds and reporting details immediately to their line manager or other responsible person if they suspect fraud, bribery or corruption has been committed.

### **3. Legislation or Policy**

1. Fraud Act 2006
2. The Bribery Act 2010
3. Post-16 Audit Code of Practice
4. Financial regulations
5. Whistleblowing Policy
6. Anti-Money Laundering Policy

## **Anti-fraud and Anti-bribery Policy**

### **1. Introduction**

Craven College is committed to prevention and detection of all forms of fraud, bribery and corruption. The following procedures detail how the objectives of the Anti-fraud and Anti-bribery Policy will be met and identifies:

1. Key Processes
2. Roles and Responsibilities
3. Objectives
4. Communication
5. Implementation
6. Monitoring
7. Reporting
8. Assessment of Impact
9. Continuous Improvement
10. Associated Documentation

### **2. Key Processes**

This policy applies to all employees and associated persons who are responsible for maintaining the highest standards of business conduct and are expected to behave honestly and with integrity and play a key role in promoting an anti-fraud culture.

Employees and associated persons are requested to remain vigilant in preventing, detecting and reporting fraud or bribery. Employees and associated persons are expected to report any concerns regarding any suspected fraud in accordance with the College's Fraud Response Plan appended to this Policy (Appendix 4).

### **3. Roles and Responsibilities**

1. It is the responsibility of the corporation, as set out in grant funding agreements and contracts with the 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). The College is obliged to report to the ESFA where the amounts are significant (exceeding £10,000 in value), where there is likely to be public interest because of the nature of the fraud or the people involved, the particulars of the fraud are novel or complex, or the fraud is systematic or unusual in nature.
2. The Board of Governors and the Principal are responsible for:
  - Establishing an effective and proportionate counter fraud strategy which sets out the approach to raising awareness, prevention, detection, investigation and sanction (including seeking redress where appropriate) of suspected fraud.
  - Developing and maintaining effective controls to prevent fraud, bribery and corruption.
  - Carrying out prompt investigations if fraud, bribery or corruption occurs and reporting the matter to the appropriate authorities.
3. The Audit Committee shall be responsible for overseeing this policy and shall ensure that:
  - The external and internal auditor are informed of investigation outcomes and other matters of fraud, irregularity and impropriety, and that appropriate follow-up action has been planned/actioned

- That all significant cases of fraud or suspected fraud, theft, bribery, corruption, irregularity, major weakness or breakdown in the accounting or other control framework are reported to the ESFA, and other relevant funding authority, as soon as possible
  - Risks around fraud have been identified and controls put in place to mitigate them
4. The SMT through the Vice-Principal (Finance and Resources) shall be responsible for implementation and management of this policy; the Vice-Principal (Finance and Resources) shall normally be the investigating officer (see Appendix 4)
  5. Managers are responsible for implementing and ensuring control measures are being complied with.
  6. Individual members of staff are responsible for:
    - Acting with propriety in the use of College resources and the use of public funds whether they are involved with cash or payments systems, receipts or in dealing with contractors or suppliers;
    - Reporting details immediately to their line manager or other responsible person if they suspect fraud, bribery or corruption has been committed or see any suspicious acts or events (see appendix 4 attached)

## **7. Objectives**

The objectives of this policy are:

1. To outline the College's approach to fraud, bribery and corruption across all levels of the organisation
2. Provide staff, students and third parties with a guide to the Colleges processes for reporting fraud and bribery.

## **8. Communication**

The following principles are fundamental to the communication of the Anti-fraud and Anti-bribery Policy and Procedure:

1. The Anti-Fraud and Anti-Bribery Policy will be published on a standardised template
2. The Anti-Fraud and Anti-Bribery Policy will be reviewed by the Vice Principal – Finance & Resources and Director of Governance before being escalated to the SMT for approval.
3. The Anti-Fraud and Anti-Bribery Policy requires approval from the Audit Committee before ratification by the Board of Governors.
4. The audience of this policy is all for staff and associated persons who will be made aware of this via publication on the intranet. Students, partners and members of the public who wish for access the policy may also do so through publication on the website.
5. The document will be published on the intranet.

## **9. Implementation**

The term **fraud** is used to describe acts and offences such as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

Essentially it is defined as the use of deception with the intention of obtaining an advantage, avoiding an obligation, or causing loss to another person or party. This can include theft, the misuse of funds or other resources or more complicated crimes such as false accounting and the supply of false information.

The legal definition of fraud as defined in the Fraud Act 2006 is: 'The making of a false representation or failing to disclose relevant information, or the abuse of position, in order to make a financial gain or misappropriate assets.'

Examples of fraud include:-

- Theft
- Misuse of funds, or other resources
- Deliberate falsification of records or manipulation of data to circumvent internal controls eg false expenses claims
- Where College equipment is used for unauthorised personal use
- Where an application or CV is falsified
- Where there is fraud relating to exams or results are falsified

Wherever possible the College will attempt to recover any sums lost through fraud or theft using the civil and/or criminal law and relevant insurance policies

**Bribery** is a financial or other advantage that is intended to induce "improper performance" in 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 (ie lavish treatment during a business trip or tickets to an event).

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

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.

Under the Bribery Act, an offence has been committed even if no money or goods have been exchanged and a bribe has no minimum value.

This 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.

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 contained in this Policy.

Staff may accept **gifts or hospitality** of modest value such as diaries, pens and promotional trinkets etc. and refreshments and food arising while on College business or dinners when representing the College. These items do not require to be declared or added to the Gifts Register.

Staff must not accept corporate hospitality or entertainment designed by third parties or which could be perceived by others to reward or influence staff of the College with whom they are conducting business or purchasing goods and services.

Gifts received from students can be accepted as long as they are modest and represent small tokens of appreciation and gratitude. It is very important that on internally assessed courses that any gift cannot be perceived or portrayed as possibly having an influence on assessment decisions.

Gifts and Hospitality over the value of £25 from any source must be declared and added to the Gifts Register.

If a member of staff is uncertain as to the value of a gift they should declare the gift to the Director of Governance and add it to the Gifts Register.

If a member of staff is concerned about the intent or nature of a gift they should discuss this with their line manager.

The default position is to refuse a gift unless it would cause offence to do so.

## **10. Monitoring**

Monitoring of the Anti-Fraud and Anti-Bribery policy will be carried out through:

1. Annual internal and external auditor reports to the Audit Committee
2. Annual reports to the Audit Committee on any instances of fraud, bribery or whistleblowing
3. Maintaining and monitoring of robust control mechanisms set out in the financial regulations to both prevent and detect fraud and theft.

## **11. Reporting**

1. A report summarising the application of this policy and any reported incidents will be submitted to the Audit Committee annually.
2. All allegations, concerns raised and investigation outcomes shall be reported to the Audit Committee
3. The Gifts Register will be reviewed annually by the Audit Committee.
4. The College is obliged to report to the ESFA, and where relevant, the MCA or GLA, where the amounts are significant (exceeding £10,000 in value), where there is likely to be public interest because of the nature of the fraud or the people involved, the particulars of the fraud are novel or complex, or the fraud is systematic or unusual in nature as soon as possible.
5. All fraud, including any suspected or attempted fraud, will be reported to Action Fraud to help identify systematic risks potentially affecting whole sectors (for example cybercrime).
6. All proven allegations shall be reported to the Governing Board.
7. The police shall be notified of all instances of actual irregularity of a criminal nature.

## **12. Assessment of Impact**

The impact of this policy has been assessed and reviewed alongside other control considerations within the College. As fraud and bribery are criminal offences, the impact of this is wide ranging and any breaches could have significantly operational, financial and reputational impacts. As such annual training and awareness amongst the whole staff is a key requirement to adherence with this policy.

## **13. Continuous Improvement**

Continuous improvement in this policy will be achieved through:

1. Regular dialogue between the Vice-Principal (Finance and Resources) and Director of Governance to highlight any changes in legislation or guidance that need to be adopted, including with reference to the Post-16 Audit Code of Practice.
2. Regular review of any incidents to ensure lessons are learnt and procedures implemented to prevent future occurrences
3. Biennial review of the Anti-Fraud and Anti-Bribery Policy for completeness and accuracy
4. Annual mandatory training requirement for all staff on Anti-Fraud and Anti-Bribery and related matters.



## **Appendix 1 – Fraud Response Plan**

### **1.0 Reporting Allegations or Concerns**

The College's financial statements and regularity auditor has a duty to plan and conduct the financial statements and regularity audit so that there is a reasonable expectation of detecting material mis-statements in the accounts arising from irregularities, including fraud, or breaches of regulations.

Where the financial statements and regularity auditor identifies a serious weakness or an accounting or other control breakdown it must be reported to the Principal, the Chair of the Governing Board and the Chair of the Audit Committee without delay.

The Head of the audit service shall issue written procedures to the auditors on the action to be taken if they suspect or discover fraud or irregularity and should make appropriate arrangements to be informed by the College, as soon as possible, of all suspected or discovered fraud, whether internal or external. The Principal and Chair of the Audit Committee should also be informed.

The Governing Board has approved a Whistleblowing Policy for College staff who, whether past or present, are encouraged to raise legitimate concerns without fear. All allegations or concerns should be raised internally in the first instance, orally or in writing, directly with the appropriate line manager, or Vice Principal (Finance and Resources), or Director of Governance.

In cases involving the Director of Governance, the matters should be raised directly with the Principal. If the employee is not satisfied that their concern is being properly dealt with, they may, after informing the Director of Governance, refer to the Principal, or if the allegation concerns the Principal, directly contact the Chair of the Audit Committee.

Allegations or concerns from a student or member of the public shall be dealt with in the same way as an allegation or concern raised by a member of staff.

### **1.1 Investigating Allegations**

The investigation of allegations or concerns raised shall, in the first instance, be normally carried out by the line manager or Vice Principal as appropriate in conjunction with the Director of Governance except:

- In any case involving the Vice Principal, the investigation shall be carried out by the Principal and Director of Governance
- In any case involving the Director of Governance, the investigation shall be carried out by the Principal in consultation with the Chair of the Audit Committee
- In any case involving the Principal, the investigation shall be carried out by the Director of Governance to the Corporation in consultation with the Chair of the Audit Committee.

All matters reported by the financial statements and regularity auditor and audit service shall be investigated by the Principal and Director of Governance except:

- In any case involving the Director of Governance, the investigation shall be carried out by the Principal in consultation with the Chair of the Audit Committee

- In any case involving the Principal, the investigation shall be carried out by the Director of Governance in consultation with the Chair of the Audit Committee.

In any case where the Governing Board considers that the above arrangements may not be satisfactory, the Governing Board may initiate a separate investigation by the audit service or other outside body.

## **1.2 Communication**

In the case of any allegation or concern raised, the Director of Governance, or the Principal in any case involving the Director of Governance, shall send a written acknowledgement of the allegation or concern raised to the informant's home address. Thereafter, the informant shall be kept informed of the progress of the investigation and of the outcome.

## **Appendix 2 – The offences under the Bribery Act 2010**

### **1. Active Bribery**

- 1.1 An offence is committed where an individual or the College gives, promises or offers any financial or other advantage which is intended to induce or reward the improper performance of a public function or business activity or is made in knowledge or belief that acceptance of the financial or other advantage will itself amount to improper performance.
- 1.2 It does not matter whether the financial or other advantage is given, promised or offered directly or through a third party.
- 1.3 The financial or other advantage does not actually have to be given – the offer is sufficient to commit the offence.
- 1.4 Reasonable and proportionate corporate hospitality should not be caught by the Act. However, entertaining which is disproportionate, lavish or beyond what would be reasonably necessary to ‘cement good relations’ may be evidence of intent to induce or reward improper performance.

### **2. Passive Bribery**

- 2.1 An offence is committed where an individual or the College requests, accepts or agrees to receive a financial or other advantage which is intended to induce or reward the improper performance of a public function or business activity.
- 2.2 It does not matter whether the financial or other advantage is requested, accepted or agreed directly or through a third party.
- 2.3 The financial or other advantage does not actually have to be received - requesting or agreeing to accept it is sufficient to commit the offence.
- 2.4 Reasonable and proportionate corporate hospitality should not be caught by the Act. However, entertaining which is disproportionate, lavish or beyond what would be reasonably necessary to ‘cement good relations’ may be evidence of intent to induce or reward improper performance.
- 2.5 It does not matter who pays the bribe, e.g. if a director pays a bribe to ensure that his company is awarded a contract, that is still caught by the Act.

### **3. Bribing a Foreign Official**

- 3.1 An offence is committed where an individual or the College gives, promises or offers any financial or other advantage to a foreign official which is intended to:
  - Influence that foreign official in the performance of his/her official functions; and
  - Secure business or an advantage for the College.
- 3.2 It is only a bribe if the financial or other advantage is not required or permitted under local laws.
- 3.3 A belief that local practice permits the payment is not a defence.

3.4 There is no exception for facilitation payments (small bribes paid to facilitate routine Government action).

#### **4. Corporate Offence**

4.1 The offence is committed where the College fails to prevent any employee or other “associated person” (see below) from committing “active bribery” or bribery of a foreign official on College’s behalf.

4.2 “Associated person” is someone who is providing the College with services so includes employees, governors, agents, consultants, contractors and external partner organisations.

4.3 The bribe is caught even if it takes place outside the UK.

4.4 The bribe must be intended to induce or reward the improper performance of a public function or business activity.

4.5 The bribe must also be intended to secure business or other advantage for the College.

4.6 Knowledge of the bribe by the College is irrelevant.

4.7 The College is automatically liable for the bribery unless it can show that it had “adequate procedures” to prevent the bribery.

4.8 If the College is a member of a company (e.g. joint venture or spin-out) the College is only liable for the corporate offence in respect of bribes paid by that company if that company is providing services to the College and the bribes are paid for the benefit of the College rather than the company itself.

## Appendix 3

### Seven Principles of Public Life

Underpinning the anti-fraud culture are the Seven Principles of Standards in Public Life. They were first set out by Lord Nolan in 1995.

The principles apply equally to members, associates, staff and third parties working on our behalf and are:

**Selflessness** - holders of public office should take decisions solely in terms of the public interest. They should not do so to gain financial or other material benefits for themselves, their families or friends.

**Integrity** – holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in their official duties.

**Objectivity** – in carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards or benefits, holders of public office should make choices on merit.

**Accountability** – holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever public scrutiny is appropriate to their role.

**Openness** – holders of public office should be as open as possible about all the decisions and actions they take. They should give clear reasons for their decisions and restrict information only when the wider public interest (or legislation) demands.

**Honesty** – holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership** – holders of public office should promote and support these principles by leadership and example.

## Appendix 4: Reporting Fraud or Bribery

