



## Anti-Fraud & Bribery Policy

EQUALITY IMPACT ASSESSMENT				
1. Document Responsibility	Carolyn Kipling			
2. Date of Impact Assessment	3 February 2014			
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4. Date of Governors Approval	26 March 2018			
5. Date of Future Review	24 Months			
6. Purpose of Policy or Document (What does this cover?)	This document sets out the policy towards detected or suspected acts of fraud, bribery or other irregularity whether relating to employees, Governors and / or External Members, students, suppliers, contractors, sub-contractors, partners or any other related third party.			
How could this Policy/Document impact on the Protected Characteristics listed?				
	No Disproportionate Impact	Positive Impact	Negative Impact	Evidence (from consultation, sources of advice, guidance and feedback)
Race	<input checked="" type="checkbox"/>			
Disability	<input checked="" type="checkbox"/>			
Gender	<input checked="" type="checkbox"/>			
Pregnancy/Maternity	<input checked="" type="checkbox"/>			
Religion/Belief	<input checked="" type="checkbox"/>			
Sexual Orientation	<input checked="" type="checkbox"/>			
Age	<input checked="" type="checkbox"/>			
Gender Reassignment	<input checked="" type="checkbox"/>			
Marriage & Civil Partnership	<input checked="" type="checkbox"/>			
Accessible to all				In accordance with College requirements
If you have ticked the Negative Impact box of any of the above please complete details of the Actions necessary below				
Actions required	Date	Comments Received	Action Taken	
N/A	N/A	N/A	N/A	
Equality Impact Assessment carried out by: (Please list staff members involved in process)			Lin Barry	



## Anti-Fraud & Bribery Policy

### 1 Introduction

This document details Middlesbrough College's policy towards detected or suspected acts of fraud, bribery or other irregularity, whether relating to employees, Governors and / or External Members, students, suppliers, contractors, sub-contractors, partners or any other related third party.

The College receives the majority of its funding from public funds, and one of the basic principles governing its actions is the proper use of public money.

All staff will be informed, via the Staff Portal and the Governing Body Website, of the existence of the Anti-Fraud & Bribery Policy, as well as the Gifts & Hospitality Policy, and in doing so, all staff should make themselves aware of this policy and its consequences, in order that they conduct themselves in an appropriate manner.

**Staff must ensure that they have read, understood and comply with the policy**

This policy does not prohibit normal and appropriate hospitality (given and received) to or from third parties, and staff should read the Gifts & Hospitality Policy in conjunction with this policy.

### 2 Your Responsibility

The prevention, detection and reporting of bribery and other forms of corruption is the responsibility of all those working for the College or under its control.

All staff are required to avoid any activity that might lead to, or suggest, a breach of this policy.

Staff must notify the Vice Principal - Finance & Registry as soon as possible if they believe or suspect that a conflict with this policy has occurred, or may occur in the future.

Any member of staff that breaches this policy will face disciplinary action, which could result in suspension, dismissal or exclusion for gross misconduct under the College's Disciplinary, Suspension & Dismissal Procedure. The College may also contact the Police, and in doing so reserves the right to terminate the contractual relationship with staff if they breach this policy.

### 3 Values

Three fundamental values underpin the College's activities and these are:

#### **Accountability**

Everything done by those who work in the College must be able to withstand comprehensive scrutiny.

#### **Probity**

Absolute honesty and integrity should be exercised in dealing with students, Governors / External Members, staff, assets and third parties.

#### **Openness**

The College's activities should be sufficiently open and transparent to promote confidence between the College and its students, Governors / External Members, staff and any other interested third party.

All employees, Governors and External Members should be aware of, and act in accordance with, these values.

### 4 The College's Policy

In accordance with these values, Middlesbrough College is committed to maintaining an honest, open and well-intentioned atmosphere within its working environment. It is therefore also committed to the prevention and elimination of wrong-doing within its sphere of operation, and to the rigorous investigation, and taking of any action required. This could include the instigation of the Disciplinary, Suspension & Dismissal Procedure, and where such action is necessary, this will be taken against an individual regardless of seniority.

The College will not tolerate any form of fraud, any act of bribery or any other form of irregularity in either the United Kingdom or overseas, should the College operate outside the boundaries of the United Kingdom.

The College wishes to encourage anyone having reasonable suspicions of suspected or actual fraud, malpractice, abuse, or act of bribery to report them to their line manager, to the Principal / Chief Executive, Chairman of the Audit & Risk Committee or via the College's 'Whistleblowing' Procedures (*Public Interest Disclosure Procedure*).

It is the College's policy, which will be rigorously enforced, that no student, employee, Governor or External Member should suffer as a result of reporting reasonably held suspicions. For the purposes of this policy "reasonably held suspicions" shall mean any suspicions other than those which are groundless and / or raised maliciously.

## 5 Responsibilities

The primary responsibility for prevention and detection of fraud rests with those charged with governance and management.

The Senior Leadership Team and the Governing Body are responsible for:

- Developing and maintaining effective, efficient and visible procedures and controls to prevent and minimise the risk of fraud and bribery e.g. Scheme of Financial Management and Control..
- Producing a clearly defined and publicised Anti-Fraud & Bribery Policy, which applies to everyone in, or involved with, the College and encourages open reporting of concerns.
- Ensuring that all staff, Governors and External Members are aware of their duties and the required standards of conduct.
- Ensuring that all relationships with third parties e.g. students, suppliers, contractors, sub-contractors, partners or any other related third party are conducted on a basis that is compliant with the provisions of the Bribery Act 2010.
- Protecting and supporting against harassment or victimisation, those who, in good faith, make allegations of suspected irregularities.
- Safeguarding the rights of any persons subject to investigation.
- Carrying out vigorous and prompt investigations if suspicion of an act of fraud, bribery or other irregularity arises.
- Taking or instigating appropriate legal and / or disciplinary action against perpetrators of fraud or bribery and taking disciplinary action against supervisors / managers where supervisory failures have contributed to the breach.
- Reporting the outcome of any such investigations to the appropriate officers and authorities.

The Audit & Risk Committee reports to the Governing Body and ensures that its Terms of Reference in relation to fraud are strictly adhered to and that requirements under the Post 16 Audit Code of Practice are followed should such a situation arise.

The College's Financial Statements / Regularity Auditors are responsible for obtaining reasonable assurance that the Financial Statements are free from material misstatement caused by fraud.

Two types of fraudulent misstatement are relevant to auditors i.e. fraudulent financial reporting and misappropriation of assets.

The Senior Leadership Team, advised by its Internal Auditors, is responsible for:

- Identifying the risks within systems and procedures.
- Developing and maintaining effective controls to prevent and detect fraud or acts of bribery.
- Ensuring that policies and controls are regularly reviewed, updated and complied with.

The Vice Principal - Finance & Registry is the named officer responsible for fraud prevention, and is responsible for carrying out an annual risk assessment of fraud and bribery risks within the College and reporting these to the Risk Management Group, where appropriate.

College staff are responsible for acting with propriety in all College activities, and this includes:

- The handling and use of any funds, monies, stock or any other consumables or assets (including scrap), that have a value.
- Dealings with students, Governors, External Members, contractors or suppliers, sub-contractors or partners or any other aspect of College business.
- Ensuring that they do not request, accept, or agree to receive, gifts, hospitality or benefits of any kind from any third party that might be seen to compromise their personal judgement or integrity or infringe the Bribery Act 2010. Employees should refer to the College's Gifts & Hospitality Policy for further information.
- Ensuring that they do not offer, promise or give any form of bribe to obtain or retain business.
- Communicating their concerns as appropriate.
- Adhering to all relevant College policies regarding confidentiality and any other relevant regulations, protocols and procedures regarding their behaviour and conduct.
- Ensuring that claims for personal expenses are compiled with integrity.
- Co-operating fully with any investigation covered by this policy, whether conducted by the College's managers, Internal Auditors, the Police or other Authority.

The College reserves the right to prosecute those suspected of acts of fraud or bribery.

## Definitions

### What is Fraud?

Fraud is defined in the Fraud Act 2006 and includes fraud by false representation, fraud by failing to disclose information and fraud by abuse of position, as detailed below.

### Fraud by false representation

A person commits fraud by false representation if they:

- Dishonestly make a false representation with intention:
  - To make a gain for himself or another, or
  - To cause loss to another or to expose another to a risk of loss.

A representation is false if:

- It is untrue or misleading, and
- The person making it knows that it is, or might be, untrue or misleading.

A representation may be expressed or implied.

A representation may be regarded as made if it is submitted in any form to any system or device designed to receive, convey or respond to communications. This will include any form of electronic communication or social media.

### Fraud by failing to disclose information

A person commits fraud by failing to disclose information if they:

- Dishonestly fail to disclose to another person information which they are under a legal duty to disclose, and;
- Intend, by failing to disclose the information:
  - To make a gain, either for himself or for another, or
  - To cause loss to another or to expose another to a risk of loss.

## **Fraud by abuse of position**

A person commits fraud by abuse of position if they:

- Occupy a position in which they are expected to safeguard, or not to act against, the financial interests of another person, and.
- Dishonestly abuse that position, and
- Intend, by means of the abuse of that position to
  - Make a gain for himself or another, or
  - Cause loss to another or to expose another to a risk of loss.

A person may be regarded as having abused their position either through an omission or by a specific act.

A 'gain' means a gain in money or other property, either temporary or permanent, and can include 'keeping what one has', as well as 'getting what one does not have'.

## **Obtaining services dishonestly**

Under the Fraud Act 2006, a person may be found guilty of obtaining services dishonestly if they are aware that payment is due for the services received by them and they either intend not to pay or do not pay in full for the services or do not pay for them at all.

A fraud may involve one or several people, from either within and / or external to the College, in collusion with each other.

## **What is Bribery?**

The Bribery Act 2010 defines four key offences of bribery:

- A general offence of offering, promising or giving a bribe.
- A general offence of requesting, agreeing to receive, or accepting a bribe.
- A distinct offence of bribing a foreign public official to obtain and / or retain business.
- Failure of a corporate body to prevent bribery by an associated person, for the organisation's benefit.

Generally a bribe is defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.

The consequences for breaches of the Bribery Act 2010 are serious and include unlimited fines and the prevention of bidding for a government contract for the College. For an individual, it could mean imprisonment.

The College, as a commercial organisation, also has in place a number of “adequate procedures” to prevent bribery, and these include:

- Proportionality.
- Top level commitment.
- Risk Assessment.
- Due Diligence.
- Communication (including training).
- Monitoring and Review.

More information in relation to above are detailed in the guidance document.

<https://www.gov.uk/government/publications/bribery-act-2010-guidance>

### **What are Facilitation Payment & Kickbacks?**

**Facilitation payments** are typically small, unofficial payments made to secure or expedite a routine government action by a government official. They are not commonly paid in the UK, but are common in some other jurisdictions, and staff should always be mindful of what the payment is for and whether the amount requested is reasonable, justifiable and proportionate to the goods or services provided. If staff have any suspicions, concerns or queries regarding such a payment, this should be raised with the Vice Principal - Finance & Registry.

**Kickbacks** are typically payments made in return for a business favour or advantage. All workers must avoid any activity that might lead to, or suggest, that a facilitation payment or kickback will be made or accepted by us.

### **What is an Irregularity?**

An irregularity may be any significant matter or issue, other than fraud or bribery which is so defined and prescribed by the Audit & Risk Committee as to fall within the general principles of this policy and which may warrant consideration or investigation under the related Fraud & Bribery Response Plan.

An example of an irregularity, for example, may be where a member of staff makes a genuine error or mistake in the course of their duties / responsibilities, but where this error or mistake is subsequently hidden from the College, perhaps to the on-going detriment to the College. Additionally, an irregularity may also involve consideration of the possible inappropriate use of College funds or assets, but which may not technically constitute a fraud.



## **7 Computer Misuse**

Fraud can be, and increasingly is being, carried out using computers. Misuse of computers and their programs (i.e. software) are specifically covered by the Computer Misuse Act 1990.

A person is guilty of such an offence if, with intent, they access any program or data held on a computer which they are not authorised to access and / or they cause unauthorised modification to the contents of the computer such that the operation or access to the computer or program is hindered. Unauthorised disclosure of any personal data held on computers may also result in an offence under the Data Protection Act 1998.

Please refer to the Staff Computer Acceptable Use Policy for further information.

## **8 Confidentiality & Reporting Arrangements**

Employees, Governors and / or External Members must not disclose details of any suspected fraud or malpractice to anybody except their Line Manager, the Principal / Chief Executive or any other person that the Senior Leadership Team and / or Governing Body nominates or specifies under the terms of the College's Public Interest Disclosure (i.e. 'Whistleblowing') Procedure.

This assumes that those officers are not the subject of any allegations.

If any of those named officers are the subject of allegations then the Chairman of the Audit & Risk Committee should be contacted.

Employees must not make available any documentation concerning the case under review to anybody. This includes any other member of staff, Governor or External Member, contractors etc. If information must be released, the express permission of the Principal / Chief Executive or the Chairman of the Audit & Risk Committee must be obtained.

If the matter has been referred to the Police, documents must only be released to the Police via the Principal / Chief Executive or the Chairman of the Audit & Risk Committee, or their nominated representative.

Under no circumstances must an employee, Governor or External Member communicate with members of the press, radio or other third party about a suspected act of fraud, bribery or other irregularity.

Similarly, no employee, Governor or External Member should notify anyone they suspect of fraud, bribery or other irregularity.

## 9 Involving the Police

Anyone suspecting fraud should not, under any circumstances, attempt to carry out their own investigations.

Decisions regarding the appropriate form of any investigation must only be taken by the Principal / Chief Executive in consultation with the Chairman of the Audit & Risk Committee.

Any investigation should only be carried out by competent persons.

A separate, confidential **Fraud & Bribery Response Plan** sets out these arrangements in more detail. Only the Principal / Chief Executive, the Chairman of Governors and / or the Chairman of the Audit & Risk Committee, on advice from the Internal Auditors, have authority to involve the Police.

## 10 Public Interest Disclosure

Nothing in this policy shall be taken to override or supersede the College's policy set out in its Public Interest Disclosure (i.e. 'Whistleblowing') Procedure.

**Related Documents** - This document is one of a series that, together, constitute the policies of the College in relation to Anti-Fraud and Anti-Bribery.

The other documents are

- Financial Regulations.
- Public Interest Disclosure Procedure (*Whistleblowing Policy*).
- Disciplinary, Suspension & Dismissal Procedure.
- Gifts & Hospitality Policy.
- Register of Interests Policy.
- Code of Conduct.
- Human Rights Act / RIPA Compliance Policy.
- Fraud & Bribery Response Plan.

Consideration should also be given to the requirements of the Post 16 Audit Code of Practice relating to fraud and bribery.

## **Notes for implementation**

- This should be a distinct document, not hidden within other procedures.
- The policy statement should be widely disseminated to staff.
- This document also separates out the Fraud & Bribery Response Plan arrangements, which are not intended for public consumption but which are meant for management advice and direction.
- Consideration should be given to ensuring that other standard documentation makes reference to the Anti-Fraud & Bribery Policy i.e. contracts of employment; supplier contracts, Policies and procedures etc.