

Policy description:

This purpose of this document is to set out the College policy in relation to Bribery.
The policy also outlines the College's approach to gifts received by the College and staff.

Supporting documentation:

- The Financial Regulations
- Tender procedures

Links to other policies:

- Fraud Policy
- Whistleblowing Policy
- Staff Recruitment Policy

Contents

1.0 Introduction

- 1.1 This purpose of this document is to set out the College policy in relation to Bribery. The policy also outlines the College's approach to gifts received by the College and staff.
- 1.2 The College has 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.
- 1.3 In general terms the default position is that staff should not accept any gifts or rewards or benefits from third parties in relation to their work with the College subject to section 3 below.
- 1.4 All employees and associated persons 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.

2.0 Bribery

- 2.1 The Bribery Act 2010 ("Act"), which is in force from 1st July 2011, replaces and enhances fragmented and complex existing laws which date from 1889, 1906 and 1916.
- 2.2 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:
 - 2.2.1 Gain any commercial, contractual or regulatory advantage for the College in a way which is unethical;
 - 2.2.2 Gain any personal advantage, pecuniary, or otherwise, for the individual or anyone connected with the individual.
- 2.3 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.
- 2.4 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.
- 2.5 The key policies and procedures for the prevention of bribery include: -
 - 2.5.1 The Financial Regulations
 - 2.5.2 Tender procedures
 - 2.5.3 The Fraud Policy
 - 2.5.4 Staff Recruitment Policy
 - 2.5.5 Whistleblowing Policy
- 2.6 Any instances of suspected or reported bribery will be reported to the Audit Committee as soon as is practicable.

3.0 Gifts and Hospitality

- 3.1 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.

- 3.2 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.
- 3.3 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.
- 3.4 Gifts and Hospitality over the value of £25 from any source, unless covered by item 3.1, must be declared and added to the Gifts Register.
- 3.5 If a member of staff is uncertain as to the value of a gift they should declare the gift and add to the Gifts Register.
- 3.6 If a member of staff is concerned about the intent or nature of a gift they should discuss this with their line manager.
- 3.7 The default position is to refuse a gift unless it would cause offence to do so.
- 3.8 The Gifts Register will be reviewed annually by the Audit Committee.

4.0 Reporting Bribery

- 4.1 All members of the College have a responsibility to help detect, prevent and report not only bribery but all other suspicious activity or wrongdoing. This responsibility will be included in the staff induction briefings.
- 4.2 All concerns or suspicions of bribery, fraud or corruption must be reported so that action can be taken under the College's Fraud Policy.
- 4.3 The arrangements for reporting concerns can be found by consulting the following policies:
 - 4.3.1 Fraud Policy
 - 4.3.2 Whistleblowing Policy

Appendix 1 – The offences under the new 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.