



TyneCoastCollege

FRAUD AND BRIBERY POLICY

This policy is available on-line at: www.tynecoast.ac.uk

- We will consider any request for this policy to be made available in an alternative format or language. Please note that the College may charge for this. Please contact: Assistant Principal of Student Services
- We review our policies regularly to update them and to ensure that they are accessible and fair to all. We welcome suggestions for improving the accessibility or fairness of this policy.
- All our policies are subject to equality impact assessments*. We are always keen to hear from anyone who wishes to contribute to these impact assessments. Please contact: Assistant Principal of Student Services

*Equality Impact Assessments are carried out to see whether the policy has, or is likely to have, a negative impact on grounds of: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

Approved by:	Version:	Issue Date:	Review Date:	Contact Person:
Board	v.2	November 2017	December 2020	Chief Operating Officer

Equal Opportunities: Impact Assessed

Review:

POLICY NUMBER 26

FRAUD POLICY

1 Policy Statement

The College's reputation with the community it serves and other stakeholders is underpinned by ethical behaviour, financial probity and honesty.

(i) The Fraud Act defines fraud as follows:

- The defendant must have been dishonest, and have intended to make a gain or to cause a loss to another.
- In addition, the defendant must carry out one of these acts:
 - Making a false or misleading representation.
 - Failing to disclose to another person information which he is under a legal duty to disclose.
 - Abusing a position of trust.

There is no reliance on the concept of "deception". It does not matter whether the false information actually deceives anyone, it is the misleading *intention* which counts.

(ii) The Bribery Act 2010 defines four offences that constitute bribery, these are:

- Promising or giving a bribe
- Requesting, agreeing to receive, or accepting of a bribe
- Bribery of a foreign public official in order to obtain or retain business or an advantage in the conduct of business
- Failure to prevent bribery on behalf of a commercial organisation

(iii) The purpose of this Policy is to state explicitly the College's responsibilities with regard to fraud, bribery and and corruption, either in relation to attempts on the College or from within it and to lay down explicitly the College's commitment to effective anti-fraud, bribery and corruption strategies. These are designed to:

- Encourage prevention;
- Promote detection;
- Ensure that there are clear routes for impartial investigation.

(iv) Tyne Coast College has a zero-tolerance policy to fraud, bribery and corruption. All dealings by college governors, staff, agents, consultants and contractors and others on behalf of the College should be open and transparent. The College will take action against any person or organisation regardless of seniority or status who is found to be in breach of this Policy. Prosecutions under the Bribery Act are punishable for individuals by up to ten years imprisonment and/or an unlimited fine for the college. There are similar maximum penalties under the Fraud Act.

2 Scope

This Policy applies to all employees and anyone acting for, or on behalf of, the College (“associated persons”), including Governors, other volunteers, temporary workers, students, consultants and contractors. It also applies to organisations the college contracts with to supply goods or services on its behalf.

This Policy applies to all College business and activities wherever in the world they occur.

3 Legislation

Fraud Act 2006
Bribery Act 2010

4 Responsibilities

4.1 It is the College’s expectation that all governors, the Chief Executive, the Senior Executive Group and members of staff at all levels will be led by propriety and accountability and will ensure that they adhere to legal requirements, rules, procedures and practices. The College expects that the College Governors, the Chief Executive, the Senior Executive Group and staff will act with the highest integrity and that individuals and organisations with whom the College has any contact will act towards it with integrity and without thought or action involving fraud, bribery or corruption.

4.2 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.

4.3 Staff are encouraged and expected to raise any concerns they have, on these issues, associated with the Colleges activities. They are encouraged to do this in the knowledge that such concerns will be treated in confidence, will be properly investigated, will be handled fairly and the raising of such issues does not threaten their own position. In order to ensure that such concerns may be raised in an appropriate forum, staff are invited to discuss any concerns in the first instance with their line manager or the College’s Deputy Chief Executive and Chief Operating Officer. If this route does not seem to be appropriate, staff may raise such concerns directly with the Director of Governance using the College’s Public Interest Disclosure Procedure.

4.4 Any members of the College who are not staff are encouraged to report their concerns through the above routes or to use the College’s Complaints Procedure.

4.5 The College ensures that any allegations of fraud, bribery or corruption which are received are properly followed up through clearly defined procedures. Any investigation process must not be misused and any abuse such as the raising of unfounded malicious allegations may be dealt with as a disciplinary matter.

4.6 It is anticipated that Managers will deal swiftly and firmly with those who defraud the College or who are corrupt and the College is firm in its belief that any financial malpractice will be robustly handled.

5 Prevention

A. Governors

5.1 Governors are required to operate within the Code of Conduct established by the Board, the Instrument and Articles of Government and any other Laws and Regulations which may, from time to time, operate in relation to Further Education.

5.2 These matters and other guidance for the attention of Governors are drawn to their attention when they are new members through their induction and within the Governance documentation which is regularly updated by the Director of Governance.

5.3 Members of the Board are required to identify all of their business interests on an annual basis and to draw to the Director of Governance's attention any potential areas of conflict as and when they arise.

5.4 The Director of Governance will advise Governors at any time on any issues relating to this on which they require clarification.

5.5 Governors also have access to independent advice and the Director of Governance will advise them on the procedure for seeking this.

B Members of Staff

5.6 The College takes effective steps at recruitment to establish, as far as possible, the previous record of potential employees with regard to propriety and integrity. In this regard, all members of staff are treated in the same way and the policy applies to all staff, regardless of their contractual status.

5.7 All employment recruitment is conducted in accordance with the College's procedures and in particular written references regarding honesty and integrity are reviewed before employment offers are confirmed.

5.8 All members of staff are expected to follow any Code of Conduct related to their personal professional institute and to abide by the College's code of conduct for staff and their contracts of employment.

5.9 The College has in place disciplinary procedures for all categories of staff.

5.10 All staff will be informed at their initial induction of the role which they are expected to play within the College's framework of internal control.

5.11 Members of staff are reminded that they must disclose any pecuniary interests in contracts relating to the College and must not accept any fees or rewards whatsoever other than their proper remuneration. Any gifts which are received by staff must be reported to the Director of Governance and must be received in keeping with the College Financial Regulations.

C Contractors and other Third Parties

5.12 Due diligence is carried out on individuals and organisations who will be undertaking work on behalf of the College.

5.13 Where appropriate references are taken to determine their suitability for undertaking the work we want them to do.

5.14 Individuals and organisations working on behalf of the College must either have equivalent policies in place to this one or agree to abide by the College policy, wherever they are located.

D Students

5.15 All students are expected to behave honestly and with integrity and abide by the student behaviour policy.

E Internal Control Systems

5.16 The College has defined Financial Regulations which require all members of staff to act in accordance with best practice. These internal control systems are underpinned by an Internal Audit system which is reviewed by the Board's Audit Committee.

5.17 The College is committed to developing systems and procedures which are efficient and effective and incorporate such internal controls including an adequate separation of duties to ensure that error or impropriety are prevented. It is the duty of all managers to ensure that such controls, including those within a computerised environment, are properly maintained and effective and appropriately documented. Again these systems are audited by the College's Internal Audit Service.

5.18 The College also puts in place procedures to try and prevent the College being a victim of fraud by third parties, eg checking of supplier payment details.

F Arrangements with Other Agencies

5.19 The College values its partnership arrangements and wishes to continue to develop the exchange of information between the College and other agencies. In respect of fraud and anti-fraud and corruption, it expects to exchange information appropriately. This means that there is the need to liaise with a variety of external agencies.

6 Bribery – Definition and Further Guidance

6.1 As specified in the scope there are four offenses of bribery:

- Promising or giving a bribe
- Requesting, agreeing to receive, or accepting of a bribe
- Bribery of a foreign public official in order to obtain or retain business or an advantage in the conduct of business
- Failure to prevent bribery on behalf of a commercial organisation

6.2 A bribe may include (this list is not exhaustive) the giving or receiving of:

- Cash payments (including facilitation payments)
- Gifts
- Hospitality

in order to obtain business for the College or to receive business (outside any official contract or agreement) from another organisation and/or individual. This applies to activities in all parts of the world regardless of local customs.

6.3 This Policy does not prohibit appropriate corporate gifts and hospitality being given and received. The overriding principle is that gifts, hospitality and entertainment, whether received or provided should be reasonable and proportionate. Bona fide hospitality and promotional activity that seeks to improve the image of the organisation, better to present products and services, or establish cordial relations is recognised as an established and important part of doing business.

6.4 Before offering or receiving gifts and hospitality the governor, member of staff, agent or other person or organisation operating on behalf of the College should assess whether it fits these categories; e.g. low value, part of business (such as meal whilst visiting an organisation), chance to improve business relations. If there are any doubts the matter should be discussed with the Deputy Chief Executive and Chief Operating Officer or Clerk to the Governors prior to acceptance.

6.5 Further guidance on the processes to be followed for gifts and hospitality is included in the College Financial Regulations.

6.6 Generally College funds should not be used for donations to charities (excluding any set up by the College) or political parties. Any exceptions to this should be approved by the Finance and Resources Committee of the Governing Body.

7 Fraud – Definition and Further Guidance

7.1 As defined in the scope fraud is where:

- The defendant must have been dishonest, and have intended to make a gain or to cause a loss to another.
- In addition, the defendant must carry out one of these acts:
 - Making a false or misleading representation.

- Failing to disclose to another person information which he is under a legal duty to disclose.
- Abusing a position of trust.

This includes (not an exhaustive list) such actions as:

- Receiving payment for goods and services that have either not been received by the College or payment for goods and services received is deliberately made to someone other than the supplier
- Claiming for overtime that has not been worked or expenses that have not been incurred on behalf of the College

7.2 The College financial regulations, expenses policy and internal finance and HR guidance provide further information on College processes to deter fraudulent activity.

8 Detection and Investigation

8.1 It is the responsibility of College Managers to prevent and detect fraud and corruption although it is often the alertness of other members of staff and members of the College community to the indicators which enable detection to occur and for appropriate action to take place.

8.2 All members of staff are required by Financial Regulations to report all suspected irregularities to the Chief Executive. Such reporting is essential to ensure:

- Consistent treatment of information regarding fraud and corruption;
- Proper investigation by an independent team;
- Proper implementation of an investigation plan;
- Optimum protection of the College's interests.

8.3 If the suspected fraud, bribery or other form of corruption is thought to involve the Chief Executive or any other senior postholder, the member of staff shall notify the Chair of the Audit Committee directly of their concerns regarding irregularities and Chair will initiate action under the College's procedure for dealing with alleged misconduct or unsatisfactory performance of senior postholders. The Chair of the Audit Committee may be contacted via the Director of Governance.

8.4 Depending on the nature and anticipated extent of the allegations, the College will notify a firm of accountants who can manage forensic investigations and work will take place closely with the Managers and any other agencies such as the Funding Bodies and Police to ensure that all allegations and evidence are properly investigated and reported upon.

8.5 A key outcome must be the maximum recovery for the College.

8.6 The College's disciplinary procedures will be used for the outcome if the investigation proves improper behaviour.

8.7 Where financial impropriety is discovered, the College's presumption is that the Police will be called in. Referral to the Police is a matter for the Chief Executive and referral to the Police will not prohibit action under the disciplinary procedure.

8.8 Any significant incident involving fraud or irregularity is to be notified to the Funding Body's Chief Auditor.

8.9 Following any fraud investigation, a report of the outcome should be given to the Audit Committee.

9 Training and Updates

9.1 Staff and other working on behalf of the College will be made aware of the Policy via intranet notifications and briefings, eg Chief Executive Briefing. Managers will receive briefings at the senior management team meetings and they will pass on relevant information to the staff in their areas.

10 Risk Assessment

10.1 A risk assessment shall be produced and shared with managers on the risks of bribery and corruption and the controls, processes and procedures in place to mitigate the risk. This shall be held and maintained as part of the College's corporate risk register.

11 Related Policies

Assessment Malpractice Policy
Staff and Senior Postholder Disciplinary Policies
Public Interest Disclosure Procedure
Financial Regulations
Staff Code of Conduct
Staff Recruitment Policy
Travel and Expenses Policy