

## ANTI FRAUD AND CORRUPTION POLICY

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## 1. Policy Statement

The purpose of this policy is to establish a framework within the College that facilitates the prevention, detection, investigation and elimination of fraud.

Inverness College UHI is committed to taking all practical steps:

- to prevent being subjected to fraud whether perpetrated by staff, members of the Board of Management, students, contractors, suppliers, members of the public, or other public or private sector organisations;
- to facilitate confidential and protected reporting of known or suspected fraud in association with the College's Public Interest Disclosure ("Whistleblowing") policy and procedures;
- to identify and detect any instances of fraud at the earliest opportunity;
- to investigate any instances of fraud, with police involvement where appropriate;
- to take appropriate action to deal with any instances of fraud and with any perpetrators after investigation.

In developing this policy, the College has taken account of existing external guidance and legislation, including the Scottish Public Finance Manual, UK Corporate Governance Code 2010, and Bribery Act 2010.

The College has a zero-tolerance culture to fraud and will treat any instances of fraud or corruption by its employees of the College and any of its subsidiaries (including temporary and agency workers and any unpaid members of staff and voluntary workers) ("employee"), board members, or service provider/contractors (which includes agents and others who represent the College wherever located) ("contractor") as serious breaches of discipline and as potentially criminal acts. Bribery of or by any College employee, board member or contractor for either personal or organisational gain will be similarly treated. The College will co-operate fully with any criminal investigations carried out in responses to fraud, corruption, or bribery.

Robust control mechanisms are in place to prevent fraud. All line managers have a responsibility for maintaining documented control systems and must be seen to be setting an example by complying fully with all procedures, regulations and controls. The effectiveness of controls will be subject to periodic review by the College's internal auditors.

All members of the College community have a responsibility to protect the assets and reputation of the College and are expected to be alert to the potential for fraud.

The College is committed to ensuring that these arrangements keep pace with future developments, in both preventative techniques.

The key elements of the College's approach to combat theft, fraud and corruption are:

- An open and honest culture;
- Adequate preventative measures;
- Confidential methods for reporting;
- Robust systems for detection and investigation;
- Understanding and awareness of systems and procedures within the College;

- Consistent and thorough methods for dealing with perpetrators after investigation.

## **2. Legislative framework / related policies**

- 2.1. The Public Interest Disclosure Act 1998
- 2.2. Bribery Act 2010
- 2.3. Financial Memorandum between UHI and Inverness College UHI (1 January 2016)
- 2.4. The Scottish Public Finance Manual
- 2.5. Related policies
- 2.6. Financial Regulations
- 2.7. Public Interest Disclosure Policy
- 2.8. Procurement Strategy

## **3. Scope**

3.1. The policy applies to all members of the Board of Management, staff, contractors, suppliers and students of Inverness College UHI.

3.2. The College recognises that it is already subject to a high degree of scrutiny of its affairs by a variety of parties. This includes the general public, staff, students, Internal Auditors, Board of Management, Scottish Ministers/ the Scottish Government, Members of the Scottish Parliament (MSPS), the Scottish Funding Council (SFC), External Auditor, Education Scotland, HM Revenue and Customs and Audit Scotland.

3.3. The College has internal and external auditors who advise the Board of Management about the adequacy of arrangements for the prevention and detection of fraud and corruption.

3.4 While this external scrutiny assists in protecting against fraud and corruption the College has a clear strategy of its own to mitigate this risk.

3.5. The Board of Management already has procedures in place that reduce the likelihood of fraud/ corruption occurring. These include standing financial procedures, a system of internal control and a system of risk assessment. In addition, the Board of Management will ensure that a risk awareness culture exists by issuing guidance on prevention of fraud.

3.6. It is the responsibility of the College and its' management to maintain adequate and effective internal controls to facilitate detection of fraud. The role of Internal Audit is to evaluate these systems of control. It is not the responsibility of Internal Audit to detect fraud, but to identify potential weaknesses in systems that may give rise to error of fraud.

## **4. Awareness**

4.1. The college recognises that the continuing effectiveness of this process depends largely on the awareness and responsiveness of Board members, staff, students and contractors and their willingness to highlight these issues. It is essential that Board members and employees are made aware of this policy and its procedures when they join the College and either receive a copy for inclusion in their personal records or have access to this policy online and, in addition, have ready access to all other relevant documents, policies and procedures, which regulate the College's activities.

4.2 Action will be taken on a regular basis to remind both Board Members staff of the importance the College places on avoiding and preventing fraud, bribery, and corruption.

## **5. Definitions**

5.1. For practical purposes, so far as this document is concerned, fraud may be taken to mean the use of deception with the intention of obtaining an advantage, avoiding an obligation, or causing loss to another party. The essential elements of fraud are dishonesty, which can include non-disclosure of important facts, making false representations, and dishonestly abusing their power and deprivation or risk of deprivation. This includes any fraudulent crime conducted electronically or via a computer or computer data.

5.2 Corruption is generally the abuse of entrusted power for private gain which includes the dishonest influence of actions and decision.

5.3. Bribery is either giving or receiving an inducements or reward offered, promised, or provided to gain personal, commercial, regulatory, or contractual advantage. A summary of the Bribery Act as well as the relevant definition of terms can be found at Appendix A

5.4 The term is used to describe such acts as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion. This may involve:

- Falsification or alteration of accounting records or other documents.
- False accounting and/or making fraudulent statements with a view to personal gain or gain for another: for example, falsely claiming overtime, travel and subsistence, sick leave, or special leave (with or without pay).
- Misappropriation of cash, assets, or theft.
- Suppression or omission of the effects of transactions from records or documents.
- Recording transactions which have no substance.
- Willful misrepresentations of transactions.

5.5 This policy also includes:

- Theft - including any misappropriation, stealing, and damage, malicious or otherwise, incurred during a theft, and actual or attempted break-in.
- Computer misuse/fraud - where information technology equipment has been used to manipulate programs or data dishonestly (for example, by altering, substituting, or destroying records, or creating spurious records), or where the use of an IT system was a material factor in the perpetration of fraud. Theft or fraudulent use of computer time and resources, including unauthorised personal browsing on the Internet, is included in this definition.
- Corruption - where someone is influenced by bribery, payment, or benefit in kind to unreasonably use their position to give some advantage to another (for example awarding of contracts where there is a personal advantage).

## **6. Compliance**

6.1 This policy is a cross wide college policy; and all staff must work to meet the requirements outlined within the policy. Compliance with the Policy will be monitored through regular internal and external audits, with outcome reports being reported to the Audit Committee.

## **7. Monitoring**

7.1 Each college policy will be monitored, and its implementation evaluated. Appropriate procedures for monitoring and evaluation are the responsibility of the Lead Officer.

## **8. Review**

8.1 This policy will be reviewed in (3 years from now)

## APPENDIX A

### Guidance Notes on the Inverness College Anti-Bribery Policy

These Guidance Notes supplement the College's Anti-Bribery Policy. They are designed to assist staff on the practical application of the Policy. In addition, they include important obligations on specific areas, which staff must adhere to.

#### 1. Frequently Asked Questions about the Bribery Act

- 1.1. *It is customary to provide gifts in some countries outside of the UK when visiting or meeting with public officials. Can College staff offer gifts to their counterparts at an overseas college?*

The fact that something is a local custom is not a defence under the Bribery Act, so a cautious approach is required to ensure any gift or other advantage that is offered overseas is not construed as a bribe based on UK standards of conduct. Secondly, in this scenario it is possible that a member of an overseas college will be classed as a "foreign public official" under the Bribery Act. If so, it is very easy to fall foul of the law. Any financial or other advantage offered to them will be seen as a bribe if the offeror intends to influence the official and intends to obtain or retain any business advantage. This guidance does not however preclude the College or its staff from giving small, low value gifts seen as a 'mark of respect' to other public officials.

- 1.2. *Can gifts and hospitality be accepted from private sector companies with whom the College has a business relationship or may do in future? What about sponsorship?*

Care has to be exercised that no gift or hospitality could be considered excessive or lavish. Normal business meals and modest entertainment is normally acceptable where there is a legitimate purpose for the hospitality - such as to foster cordial relations or for reasonable public relations. No hospitality should be accepted if it could be construed as intended to induce a member of staff to perform their functions improperly. (See Policy on Receipt of Gifts and Hospitality). In relation to sponsorship, similar principles apply. Care should be exercised that the sponsorship does not improperly induce members of the College to perform their functions improperly. This could include where it compromises academic integrity or influences the outcome of a research project.

- 1.3. *Can we engage agents to recruit international students to the College?*

Yes, but a number of compliance steps must be taken. The use of overseas agents involves high risks to an organisation, whether for recruitment or other purposes. The College will be liable for any corrupt acts by anyone performing services on its behalf. The risks of engaging an agent in a particular case must be assessed and enhanced due diligence undertaken about the suitability of the agent and the nature of the services they are providing to the College. Further guidance on these steps is set out below.

- 1.4. *The College undertakes an annual research project in a jurisdiction outside of the UK with a poor reputation for corruption. The project leader needs to transport equipment to the overseas location for the project, which will be checked by local customs officials. What steps should the project leader*

*consider?*

The project leader should consider in advance the risk that members of staff or others acting on behalf of the College will be vulnerable to demands for corrupt payments, such as facilitation payments. Staff will need guidance in advance on strategies to resist any such demands. The project leader should also consider any preventative measures that can be taken in advance, such as allowing adequate time for delays in the delivery of equipment whilst any demand for a facilitation payment is resisted.

- 1.5. *The family of a student who is applying to the College offers to provide the College with a substantial donation to its development fund in return for a place at the College being offered to the student. Is this caught by the Bribery Act?*

Yes. This situation clearly involves a financial advantage being offered to the College, which is intended by the family to induce the admissions department to perform their functions improperly. It does not matter what decision is in fact reached over offering the student a place or not. The donation should be refused because of the basis on which it was offered. Donations can be bribes in other less obvious circumstances. The College due diligence procedures should always be followed to ensure a donation does not involve someone misusing their position or being induced to do so.

## **2. Further Guidance on Gifts Entertainment and Hospitality**

All members of staff should refer to the Policy for Staff on the Receipt of Gifts and Hospitality.

This guidance note is intended to supplement the provisions of the above policy. It applies to all gifts, hospitality and entertainment that members of staff give or receive in the context of their activities for the College. In cases where a member of staff pays for a gift, entertainment or hospitality, but it is not reimbursed by the College, this guidance note remains applicable in this context.

The following overarching principles in relation to gifts, entertainment and hospitality (whether given or received) are particularly important for staff to consider in the context of potential corruption risks:

Expenditure should always be reasonable and proportionate (having regard in particular to the recipient).

Expenditure should be in accordance with the Policy for Staff on the Receipt of Gifts, Hospitality; and any necessary approvals sought in accordance with that policy; and records kept in accordance with the policy.

The recipient must always be entitled to receive the gift, entertainment or hospitality under the law of the recipient's country.

## **3. Charitable and Political Donations by the College**

All charitable donations should be recorded accurately in the College's financial records and accounts.



Requests for charitable donations can sometimes mask corrupt activity by others. No charitable donations should be made if these could be construed as improperly influencing another party with whom the College has a business relationship. Should a member of staff have any ethical concerns about a proposed charitable donation, this should be reported immediately to the COO/Secretary.

The College does not under any circumstances make donations to political parties.

#### **4. Philanthropic Giving**

All donations made to the College by benefactors or others wishing to support the College's activities must be considered in the light of the Bribery Act. Donations of this kind can sometimes mask corrupt activity. No donations should be accepted without due diligence procedures being followed in respect of the purpose of the donation and the background of the donor, amongst other steps. The level of due diligence required will be proportionate to any potential corruption risk identified. No donation should be accepted if it could be construed as improperly influencing the College or another person. Should a member of staff have any ethical concerns about a proposed donation, this should be reported immediately to the COO/Secretary.

#### **5. Honorary Degrees and Fellowships**

Under no circumstances may an honorary degree or fellowship be awarded as an improper inducement to the individual recipient to provide additional services to the College. In addition, the College's Nominations Committee will oversee the award of honorary degrees and fellowships and will ensure the guidance in this policy is taken into account when considering nominations for such degrees.

#### **6. Agents, Other Third Parties, and Joint Ventures**

In some parts of the College's commercial activities, it needs to engage agents and other intermediaries.

All appointments of agents and other parties who provide the College with services must follow risk-based due diligence procedures. This includes where the College enters in to any form of partnership with another organisation or a joint venture arrangement.

For the appointment of any overseas agents, a high level of due diligence is required. A non- exhaustive list of steps that must be considered is set out in Section 7 below.

Advice should be sought from COO/Secretary on due diligence steps required for any joint venture, whether in the UK or overseas. All appointments of agents and joint venture partners must be monitored and reviewed on a periodic basis and ongoing due diligence procedures adopted, proportionate to any corruption risks that have been identified.

Any agents or other parties who are performing services for, or on behalf of the College, will be expected to agree to a contractual clause which confirms that they will comply with the College's Anti-Bribery Policy or adhere to an equivalent policy, standard or other procedures they may have in place to prevent bribery. This clause

will confirm that any breach of these anti-corruption obligations can lead to termination of the contractual relationship.

## **7. Due Diligence**

Appropriate risk-based due diligence must be conducted in relation to any party outside of the College who is performing services for it or on its behalf. Enhanced due diligence should be conducted in relation to overseas agents and joint venture partners of the College. The following guidance indicates the steps that should be considered in planning and conducting Due Diligence in these types of relationship.

Require the party/agent to provide details of the party/agent's ownership; details of senior management of the party/agent; a copy of CVs of key personnel performing services for the College; details of referees for the party/agent and key personnel who will be providing services under the proposed agreement; details of other directorships held, existing partnerships, and third- party relationships, and any relevant judicial or regulatory findings about the party/agent or key personnel of the party/agent, and details of the jurisdictions in which the agent operates.

Undertake research, including reasonable internet research (dependent on risk), on the party/agent and any individuals who have a degree of control if the agent is a corporate entity.

Check independently that the party/agent does not appear on any applicable sanctions list or have outstanding court actions or judgments against it.

Make enquiries with any relevant authorities, including contacting a commercial attaché at the embassy in the territory where the party/agent operates, to verify information obtained and seek any independent background information about the party/agent's reputation.

Take up references and assess responses received.

Conduct any further enquiries of the party/agent to clarify any matters arising from the information provided, including arranging a face to face meeting if required.

Request and review copies of the party/agent's anti-bribery policies and any relevant procedures they operate to prevent bribery and corruption.

Assess relevant commercial considerations for the College's activities, e.g.:

- is the appointment necessary?
- does the party/agent have the required expertise to provide the services?
- is the party/agent going to interact with a public official, or are there any other connections between a party/agent and a public official?
- are the proposed payment terms of the party/agent reasonable and in accordance with the market rate?
- have appropriate steps been taken to consider alternative appointments/competitors to this party/agent?

## 8. Facilitation Payments

Facilitation payments are typically small unofficial payments paid to speed up an administrative process or secure a routine government action by an official. They are more common in certain overseas jurisdictions in which the College conducts its activities, but it is possible that they could arise in the UK.

Facilitation payments are treated as bribes by the Bribery Act and are prohibited by this Policy. Examples of when such payments may be requested include:

- To obtain or expedite a permit, licence or other official document or approval.
- To facilitate provision of utilities, such as connecting water, electricity, gas or telephone services
- At border controls or crossings to allow safe or prompt entry or exit from a jurisdiction
- To avoid unwarranted delays when goods are held by a customs official
- To ensure personal security or preservation of property from law enforcement officials

Facilitation payments should be contrasted with official, lawful payments (typically to an organisation rather than an individual) to expedite certain functions (e.g., where there is an official system to choose a premium fast track service to obtain a passport). Sometimes demands for facilitation payments are forms of extortion (e.g., unless the demand is met, a person's safety or liberty is placed in jeopardy). However, identifying when a payment is a lawful, official payment and when it is a facilitation payment, and a bribe is not always easy. In these cases, it is important for staff to seek confirmation wherever possible of the lawfulness of the payment from an independent source and seek additional guidance from the COO/Secretary immediately.

If it is not possible to undertake the above steps and if a member of staff is unsure as to the validity of an official's request for a payment, the steps below should be followed as far as they are applicable and as far as it is possible to do so:

The member of staff should:

- Contact their line manager.
- Ask the official for proof of the validity of the fee.
- Request that a receipt be provided confirming the validity of the payment.
- If no proof of validity will be provided, politely decline to make the payment and explain they cannot make the payment because of the College's policy and anti-bribery laws.
- If possible, ask to see the official's supervisor

- Make a full note of the request, the circumstances and the parties involved.
- At all times remain calm, respectful and polite.

The College policy is that it strictly prohibits any kind of facilitation payments made by members of staff or third parties acting on its behalf. However, if a member of staff is in fear for their safety or at risk of loss of liberty, they should not refuse the demand for a payment. In all circumstances members of staff must report any demand for facilitation payments immediately to the COO/Secretary for advice and guidance

## **APPENDIX B**

### **Summary of Bribery Act**

#### **1. What Is Bribery and Corruption?**

The Bribery Act defines corruption offences very widely. Most offences apply equally to private and public sector activities. This Appendix sets out further details of the offences and how they may apply to the College.

As a summary of the key provisions in the UK law, members of staff should follow these three principles:

- Do not make payments to someone (or favour them in any other way) if you know that this will involve someone in misuse of their position.
- Do not misuse your position in connection with payments (or other favours) for yourself or others.
- Do not deliberately use advantages to try to influence foreign public officials for business reasons. If you need to promote the College's business with a foreign public official, always check in advance with your Head of School/Support Department.

A bribe does not need to be a monetary sum. It can be any form of advantage: e.g., lavish hospitality or gifts; an offer of employment; or the provision of services free of charge or with a substantial discount. A person who is offered or agrees to accept a bribe does not need to benefit personally.

Actual payment of a bribe does not need to occur for there to be a criminal offence. An offer or request would be sufficient.

Sometimes offering or making a payment (or giving some other favour such as lavish hospitality) is an act of bribery in itself – i.e., where this is improper without the recipient needing to do anything else as a consequence.

#### **2. How Does Corruption Affect The College?**

Risks of corruption can arise in a wide range of the College's activities and its interaction with third parties. Some examples of these are as follows:

- International operations
- Recruitment of students and awards of degrees
- Gifts and donations to or from the College or its staff
- College Fundraising Activities
- Sponsorship and partnerships with private sector organisations in the UK or overseas and other commercial activities

- Procurement processes across the College and relationships involving estate and property management.
- Appointment of agents or representatives in the UK or overseas who perform services for or on behalf of the College.
- Relationships with other academic institutions, regulatory or funding bodies
- Field trips and overseas research in jurisdictions where there are particular corruption risks.

The College will undertake periodic risk assessments of its activities, including risks relating to: the sector in which it operates; its international business activities; its existing processes for gifts and hospitality and donations; its relationships with a wide range of third parties in the UK and overseas who provide services to it or on its behalf; its procedures for procurement and other internal policies; and its other business structures, such as private sector joint ventures or joint research collaborations.

### **3. What is the Law?**

The offences under the Bribery Act are extensive in scope, broadly defined and, in some circumstances, also allow for crimes committed anywhere in the world to be prosecuted in UK courts. The College's standards therefore apply to conduct that occurs both in the UK and in any activity it undertakes abroad.

The UK law has serious consequences for anyone found guilty of an offence. For individuals, a maximum prison sentence of ten years and/or an unlimited fine can be imposed; for commercial organisations, an unlimited fine can be imposed. Other measures can include the ability to confiscate assets, where these are found to be the proceeds of criminal activity including corruption.

The Bribery Act includes a new offence of failure of commercial organisations to prevent bribery. In light of its various commercial activities, the College will be treated as a commercial organisation for this purpose even though it has primarily educational aims.

### **4. Offences under the Bribery Act**

The Bribery Act contains four main offences:

- **Paying bribes** - Can apply to members of staff and the College.
- **Receiving bribes** - Can apply to members of staff and the College.
- **Bribery of a foreign public official** - Can apply to members of staff and the

College.

- **Failure of a commercial organisation to prevent bribery** - Can apply to the College and its subsidiary companies.

In addition, if a senior officer of a commercial organisation consents to or connives in an act of bribery by that organisation, they can be separately prosecuted.

As a reference guide, set out below are brief explanations of what each of the four main offences mean.

#### 4.1 Paying bribes

It is an offence if a person offers, promises or gives a financial or other advantage with the intention of inducing another person to **perform a function or activity improperly** or to reward that person for doing so.

It is not necessary to prove that this person intended this consequence in all cases: it is also an offence if the person knows or believes that acceptance of the advantage by another is in itself an improper performance of their function or activity.

#### 4.2 Receiving bribes

It is an offence if a person requests, or agrees to accept, or receives a financial or other advantage intending that a **function or activity** should be **performed improperly** as a result.

It is also an offence:

- Where the request or receipt of the advantage is in itself an improper performance of a function or activity;
- Where the request or receipt is a reward for the person's or someone else's improper performance in the past;
- Where their improper performance takes place in anticipation or as a consequence of a request or receipt of an advantage.

In these other scenarios, it does not matter whether the person knows or believes that the performance of a function or activity is improper.

With both of the above offences, it does not matter that no money changed hands, or that a person received no personal benefit or enrichment.

Both offences can also apply to acts of bribery that take place outside of the UK, where the person or organisation paying or receiving a bribe has a close

connection to the UK. This includes all UK citizens, other persons ordinarily resident in the UK, and UK incorporated companies.

#### **4.3 What activities do these offences apply to?**

The offences could apply to any function or activity involving the College and any activities of its staff, connected with a business, performed in the course of employment, or on behalf of the College or a subsidiary company. Examples include the College's dealings with:

- private sector businesses, or third parties including subcontractors or agents.
- other publicly funded organisations, grant giving bodies, and relevant public bodies.
- service providers or agents
- individuals, including students and prospective students, donors and other sponsors.

#### **4.4 What does improper performance mean?**

Whether an activity or function is **performed improperly** will be measured on an objective basis, not necessarily on a person's own perception of the circumstances of the activity. The test will be whether a function has been performed in breach of how a reasonable person in the UK would expect it should be performed. This means customary or historic practices will not necessarily be acceptable.

#### **4.5 Bribery of a foreign public official**

It is an offence if a person offers or gives a financial or other advantage to a foreign public official with the intention of influencing the foreign public official and to obtain or retain business or a business advantage. Foreign public officials include persons performing functions at state owned or controlled enterprises and agencies - and therefore could potentially include those working for public universities outside of the UK.

The College has identified that it has relevant international activities where it may have dealings with foreign public officials, including;

- in territories where it engages overseas agents for student recruitment
- in territories where members of the College undertake research or other academic activities from time to time

The Bribery Act contains no exemption for "facilitation payments" (see also the section of this Guidance Notes to the College Policy relating to Facilitation Payments).



If a member of staff of the College in the UK or overseas needs to promote the College's business with a foreign public official, the member of staff must contact the COO/Secretary in advance to confirm what steps are appropriate in any dealings they intend to have with the foreign public official.

#### **4.6 Failure of commercial organisations to prevent bribery.**

It is an offence for the College in relation to its commercial activities if a person associated with the College bribes another person intending to:

- obtain or retain business for the College; or
- obtain or retain an advantage in the conduct of business for the College.

A person is associated with the College if they perform services for or on behalf of the College. This covers a wide category of people where the College has a potential liability for their acts. It does not matter in what capacity they are acting. Associated persons include all employees of the College as well as other persons outside of the College such as agents, joint ventures to which the College is party, and those with whom the College contracts to perform services.