

<b>Policy &amp; Procedure</b>	Anti-Bribery and Corruption Policy
<b>Policy Area</b>	Finance
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<b>Responsible Senior Manager</b>	Director of Finance

## History of Amendments

Date	Version/Pages/Sections Affected	Summary of changes
10/01/2018	3	Reviewed by Director Finance and Estates
4/3/2020	4	Overall review for relevance
1/8/2022	5	Reviewed and updated in line with best practice

### Policy Statement

West College Scotland is committed to carrying out its functions in an honest and ethical manner and to observing the provisions of the Bribery Act 2010, in respect of its conduct both at home and overseas. The Bribery Act creates several bribery and corruption offences and holds the College liable for failing to prevent bribery carried out on its behalf, irrespective of whether the bribe takes place in the UK or overseas.

The College takes a zero-tolerance approach to bribery and corruption and are committed to acting professionally, fairly and with integrity in all College business dealings and relationships wherever it operates and implementing and enforcing effective systems to counter bribery and corruption.

The Anti-Bribery and Corruption Policy sets out the College's and staff members responsibilities in observing and upholding the institutional position on bribery and corruption and provides information and guidance to staff on how to recognise and deal with bribery and corruption issues.

### Equality Statement

The College is committed to providing equal opportunities to ensure its students, staff, customers, and visitors are treated equally regardless of gender reassignment, race, religion, or belief; disability; age; marriage and civil partnerships; pregnancy and maternity; sexual orientation; sex.

Please note this document is available in other formats, to request another format please email [Charlene.Clark@wcs.ac.uk](mailto:Charlene.Clark@wcs.ac.uk)

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## **1. Introduction**

1.1 The College is committed to carrying out its teaching and business functions in an honest and ethical manner and to observing the provisions of the Bribery Act 2010, in respect of its conduct both at home and overseas.

1.2 The provisions of the Bribery Act 2010 apply to all College business. The Bribery Act contains several bribery and corruption offences and holds UK businesses and institutions liable for failing to prevent bribery carried out on their behalf, irrespective of whether the bribe takes place in the UK or overseas. The sanctions for these offences include up to 10 years' imprisonment for the individuals responsible. In addition, if the College is found to have connived in or consented to acts of corruption undertaken in its name, the penalties include personal liability for senior managers and an unlimited fine and significant reputational damage for the College.

1.3 In relation to the College, the principal applicable laws regarding Bribery and Corruption are:

- Criminal law in the UK and particularly the UK Bribery Act 2010 which has extra-territorial reach and the implications for all College operations irrespective of their location
- Other criminal laws, including those that arise in the local jurisdictions of College operations and relations worldwide

1.4 This Policy outlines how the College is implementing and enforcing effective systems to counter bribery. The purpose of this Policy is to:

- Set out the College's responsibilities, and of those working for us, in observing and upholding our position on bribery and corruption; and
- Provide information and guidance to those working for us on how to recognise and deal with bribery and corruption issues.

- 1.5 This Policy should be read in conjunction with other College policies, including in particular:
- Financial Regulations
  - Fraud and Corruption Policy and Procedures
  - Policy and Procedure for the Acceptance of Gifts and Hospitality
  - Register of Interests – SMT and Staff Policy
- 1.6 Employees are reminded of the requirement to familiarise themselves with the most recent version of the Anti-Bribery and Corruption Policy and all policies referenced within this document.
- 1.7 The College has a zero-tolerance policy towards Bribery and Corruption.
- 1.8 The Audit Committee of the Board of Management will consider the suitability and effectiveness of this Policy. In addition, the Senior Management Team will establish adequate procedures to monitor the implementation of, and ongoing compliance with, this Policy in each geographical location.
- 1.9 The College is committed to providing equal opportunities to ensure its students, staff, customers, and visitors are treated equally regardless of gender reassignment, race, religion, or belief; disability; age; marriage and civil partnerships; pregnancy and maternity; sexual orientation; sex.

## **2. Who is covered by this Policy?**

- 2.1 This Policy applies to all individuals working at all levels and grades, including Board of Management members, Board of Management Committee members, senior managers, employees (whether permanent, fixed term or temporary), consultants, seconded staff, agency staff, volunteers, interns, agents, sponsors, or any other person associated with the College wherever located.

2.1 Top-level commitment is an essential feature of compliance of the Bribery Act and staff with management responsibility are expected to share the Board of Management's commitment to observe and implement the spirit and terms of this Policy.

### **3. What is Bribery?**

3.1 The UK is a signatory to the UN Convention Against Corruption, which requires participating countries to put in place anti-bribery criminal laws - Bribery Act 2010.

3.2 The principal provisions of the Bribery Act include:

- Two general offences covering the offering, promising, or giving of a bribe (active bribery) and the requesting, agreeing to receive, or accepting of a bribe (passive bribery) (sections 1 and 2).
- A discrete offence of bribing a foreign public official to obtain or retain business or an advantage in the conduct of business (section 6).
- An offence which can be committed by commercial organisations which fail to prevent bribery committed on their behalf (section 7).
- Raising the maximum sentence for bribery committed by an individual from 7 to 10 years imprisonment. The maximum sentence for an offence committed by a corporate body is an unlimited fine

3.3 A bribe is an inducement or reward offered, promised, or provided in order to gain any commercial, contractual, regulatory, or personal advantage. Acts of bribery or corruption are designed to influence the individual in the performance of his/her duty and incline them to act dishonestly. It is an offence under the Bribery Act to:

- Offer a bribe
- Receive a bribe
- Bribe a Foreign Official
- Consent or connive to the commission of a bribery offence by anyone associated with the College in respect of business carried out on behalf of the College

## **Examples**

### **Offering a bribe**

You offer a potential business partner or client tickets to a major sporting event, on the condition that they agree to do business with you/the College as a result.

This would be an offence as you are making the offer to gain a commercial and contractual advantage. The College may also be found to have committed an offence because the offer has been made to obtain business for the College. (See below for Gifts and Hospitality Guidance).

### **Receiving a bribe**

A supplier gives a member of your family a job but makes it clear that in return they expect you to use your position to influence the chances of obtaining College business or another advantage to them in return.

It is an offence for a supplier to make such an offer. It would be an offence for you to accept the offer as you would be doing so to gain a personal advantage. Suppliers who are found to have committed a bribery offence are automatically debarred from any future public authority tender process.

### **Bribing a foreign official**

An agency responsible for recruiting students pays a small bribe to an education department official to be allowed access to students in a highly rated school. The offence of bribing a foreign public official has been committed as soon as the offer is made. This is because it is made to gain a business advantage for you or for the College.

If the College is found to have connived in or consented to acts of corruption undertaken in its name, the penalties include personal liability for the senior managers and an unlimited fine and significant reputational damage for the College. Penalties from more than one jurisdiction may also apply in a single case of bribery or corruption.

#### **4. Public Officials**

4.1 Corrupting a Public Official is a serious legal offence and carries reputational and legal risks. It is prohibited to transfer anything of value, to a Public Official (or to any other individual or government third party at the request or consent of a Public Official) to influence a Public Official.

4.2 "Transfer" means any offer, promise, gift, or payment of anything of value, including a financial or other advantage, or any authorisation or ratification of the foregoing. It is prohibited to accept any Transfer for Anything of Value and incidents should be reported immediately to College Management.

#### **5. Potential Risk Scenarios**

5.1 The following scenarios are deemed to be "red flags" as they indicate an increased risk of an offence being committed under the Bribery Act:

- You become aware that a third party engages in, or has been accused of engaging in, improper business practices
- You learn that a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having a "special relationship" with foreign government officials
- A third party insists on receiving a commission or fee payment before committing to sign up to a contract, or carrying out a government function or process
- A third-party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made
- A third-party request that payment is made to a country or geographic location different from where the third party resides or conducts business

- A third party requests an unexpected additional fee or commission to "facilitate" a service
- A third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services
- A third-party request that a payment is made to "overlook" potential legal violations
- A third-party request that you provide employment, a place on a course, or some other advantage to a friend or relative
- You receive an invoice from a third party that appears to be non-standard or customised
- A third party insists on the use of side letters or refuses to put terms agreed in writing
- You notice that the College has been invoiced for a commission or fee payment that appears large given the service stated to have been provided
- A third party requests or requires the use of an agent, intermediary, consultant, distributor, or supplier that is not typically used by or known to the College
- You are offered an unusually generous gift or offered lavish hospitality by a third party

## **6. Training Awareness**

- 6.1 The Director of Finance will communicate the requirements of this Policy to employees at least once a year. Training and refresher training will be provided to all employees on a regular basis to accompany and supplement this annual communication.

## **7. Gifts and Hospitality**

- 7.1 This Policy does not prohibit normal and appropriate gifts or hospitality (given and received) to or from third parties. However, gifts, hospitality and political or charitable donations will be bribes if they are given or received with the intention of influencing business decisions.
- 7.2 Guidance on the College's accepted practice regarding gifts and hospitality are set out in:
- The Acceptance of Gifts, Benefits and Hospitality Policy.
  - The Travel and Subsistence Procedure.
- 7.3 In addition, when giving or receiving gifts, benefits, or hospitality, you should consider whether the following requirements are met:
- It is not made with the intention of influencing a third party to obtain or retain business or a business advantage, or to reward the provision or retention of business or a business advantage, or in explicit or implicit exchange for favours or benefits
  - It complies with any local law
  - It does not include cash or a cash equivalent (such as gift certificates or vouchers)
  - Considering the reason for the gift, it is of an appropriate type and value and given at an appropriate time
  - It is given openly, not secretly
- 7.4 Gifts should not be offered to, or accepted from, government officials or representatives, or politicians or political parties, without the prior approval of the Director of Finance.

## **8. What is Not Acceptable?**

8.1 It is not acceptable for you (or someone on your behalf) to:

- Give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- Give, promise to give, or offer, a payment, gift or hospitality to a government official, agent, or representative to "facilitate" or expedite a routine procedure
- Accept payment from a third party that you know, or suspect is offered with the expectation that it will obtain a business advantage for them
- Accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return
- Threaten or retaliate against a colleague or third party who has refused to commit a bribery offence or who has raised concerns under this policy
- Engage in any activity that might lead to a breach of this policy

## **9. Facilitation Payments**

9.1 In some countries it is customary practice to make payments or gifts of small value to junior government officials to speed up or facilitate a routine action or process. However, this is not permitted under the Bribery Act and the College does not, therefore, support or endorse the making or accepting of facilitation payments by staff and anyone carrying out business on behalf. *Such payments are illegal.*

9.2 If you are asked to make a payment on behalf of the College, you should always be mindful of what the payment is for and whether the amount requested is proportionate to the goods or services provided. You should always ask for a receipt which details the reason for the payment.

9.3 If a facilitation payment is being extorted, or if you are forced to pay under duress, you must record the payment and report it without delay under the procedure set out in 'How to raise a concern' section.

## **10. Donations, Gifts and Sponsorships**

- 10.1 The College does not make contributions to political parties. The College supports charitable giving and initiatives by students and staff; however, it is only open to the College to make charitable donations at an institutional level in limited prescribed circumstances, and any such requests should first be referred to the Principal.
- 10.2 Charitable donations must not be made for the purpose of influencing Public Officials or in exchange for obtaining or retaining business or other improper advantage for the benefit of the College (or for the improper advantage of any employee, any other entity of person). All College employees and related individuals are required to seek approval from the Principal prior to any donation being made. All college employees must also comply with local laws and regulations on Lobbying including registration and reporting requirements.
- 10.3 College employees must ensure that charitable donations and sponsorships are not made as an inducement for the purpose of obtaining any improper advantage or favour. Therefore charities, organisations or individuals seeking charitable gifts (excluding employees for personal charitable activities) are subject to due diligence or enhanced due diligence as appropriate.

## **11. Responsibilities**

- 11.1 The Board of Management has overall responsibility for ensuring this Policy complies with the College legal and ethical obligations, and that all those working or acting on behalf of the College comply with it.
- 11.2 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for or associated with the College. All staff are required to avoid any activity that might lead to, or suggest, a breach of this Policy.

- 11.3 The Director of Finance has primary and day-to-day responsibility for implementing this policy, monitoring its use and effectiveness, dealing with any queries about it, and auditing internal control systems and procedures to ensure they are effective in countering bribery and corruption.
- 11.4 Effective risk assessment to evaluate and mitigate risk is an essential element of this Policy. Colleagues must assess the vulnerability of their activities, particularly overseas, on an on-going basis.
- 11.5 You must notify your manager and the Director of Finance as soon as possible if you believe or suspect that a conflict with this Policy has occurred or may occur in the future.
- 11.6 Any employee who breaches this Policy will face disciplinary action, which could result in dismissal for gross misconduct.

## **12. Recordkeeping**

- 12.1 The College has a duty to monitor the fact that the terms of the Bribery Act are being observed by employees, workers and those associated with the College. The College is required to keep financial records and to have appropriate internal controls in place which will evidence the business reason for making payments to third parties.
- 12.2 You must declare and keep a written record of all hospitality, benefits or gifts accepted or offered in accordance with the Acceptance of Gifts, Benefits and Hospitality Policy and/or the Travel and Subsistence Policy. For the protection of those involved, the Director of Finance will maintain a register of gifts and hospitality received by all members of staff where the value is more than £25. The gift register should be updated and maintained on a regular basis.

- 12.3 You must ensure all expenses claims relating to hospitality, gifts or expenses incurred to third parties are submitted in accordance with the Travel and Subsistence Policy and specifically record the reason for the expenditure.
- 12.4 The Director of Finance will maintain a central register of all reports made under this Policy to include a record of the investigation and the outcome of those investigations. All records relating to compliance and the register of incidents will be retained for at least five years from the date of testing/recording.

### **13. How to Raise a Concern**

- 13.1 You are encouraged to raise concerns about any issue or suspicion of malpractice at the earliest possible stage. If you are unsure whether a particular act constitutes bribery or corruption, or if you have any other queries, these should be raised with your line manager in the first instance. If you or your line manager requires further guidance, you should contact the Director of Finance.
- 13.2 Malpractice may be reported by following the procedure set out in the [College's Public Interest Disclosure \(Whistleblowing\) Policy](#).

### **14. Third Parties and Transactions**

- 14.1 The definition of third parties is broad, and could include agents, business partners, service providers, contractors or any individual who is nominated to act on behalf of the company. Whilst the use of agents and business partners can help us to reach our goals, we need to be aware that these arrangements can potentially present College with significant risks.
- 14.2 Risk can be identified where a business partner conducts activities on the College's behalf, so that the result of their action can be seen as benefiting the College. Business partners who act on the College's behalf must be advised of the existence of and always operate in accordance with this policy. Local management is responsible for the evaluation of each relationship and determining whether it falls into this category.

Furthermore, a risk assessment exercise should be carried out to determine whether the third-party intermediary is a high, medium, or low risk to the College. Due diligence checks must be carried out when appointing and retaining third parties and such checks include (but are not limited to):

- An assessment of the rationale for engaging the third-party intermediary
- An evaluation of the third party's ability to deliver the service
- An evaluation of the integrity of the third party, including background checks on publicly available records on individuals/companies
- Financial and credit checks (where appropriate)
- Standard terms and conditions which specify the scope of the work and inform the third party of the College's Anti-Bribery Policy and includes the right to audit, right to exit in the event of a suspicion and/or breach occurring

## **15. What to do if you are the Victim of Bribery or Corruption**

15.1 It is important that you tell your line manager as soon as possible if you are offered a bribe by a third party, are asked to make one, suspect that this may happen in the future, or believe that you are a victim of another form of unlawful activity. Any instances of bribery or attempted bribery should also be reported promptly to the Director of Finance. If the bribery concerns your line manager, your concern may be reported directly to the Director of Finance.

## **16. Protection**

16.1 Colleagues who refuse to accept or offer a bribe, or those who raise concerns or report another's wrongdoing, are sometimes worried about possible repercussions. The College will support anyone who raises genuine concerns in good faith under this Policy.

16.2 The College is committed to ensuring no one suffers any detrimental treatment because of refusing to take part in bribery or corruption, or because of reporting in good faith their suspicion that an actual or potential bribery or other corruption offence has taken place or may take place in the future. Detrimental treatment

includes dismissal, disciplinary action, threats, or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform your line manager. The College's Organisational Development and HR Department may be contacted for advice and support. If the matter is not remedied, and you are an employee, you should raise it formally using the Disciplinary Procedure for College Staff.

## Appendix 1 - EQUALITY IMPACT ASSESSMENT

**Name of policy/procedure/decision:**

Anti-Bribery and Corruption Policy

**Provide a brief summary of the aims of the policy/procedure/decision and main activities:**

The purpose of the Policy is to set out the College's and employees' responsibilities in ensuring compliance with the Bribery Act 2010. It provides information and guidance on how to recognise and deal with bribery and corruption issues.

**Assessed By:**

Alan Ritchie

**Date:** 1 August 2022

**This stage establishes whether a policy, procedure or decision will have a differential impact from an equality perspective on people who share protected characteristics or whether it is "equality neutral" (i.e., have no effect either positive or negative).**

**The protected characteristics are age, disability, gender reassignment, pregnancy or maternity, race, religion or belief, sex, and sexual orientation.**

**1. Who will benefit from this (students/staff/stakeholders)? Is there likely to be a positive impact on people who share protected characteristics, and if so, how? Or is it clear at this stage that it will be equality "neutral"? i.e., will not have a differential impact on any equality group/s?**

It is submitted that this will have a neutral impact on people who share protected characteristics. There is no reason to believe that the policy will apply or be applied differently to people because of their being female, having a disability etc.

It is recognised that there can be a variation of societal cultures regarding corruption and cultural dimensions can influence an individual's perception of ethical situations. This could mean that people from different culture could have different interpretations. However, the Policy itself is very clear and training will be provided.

**2. Is there likely to be an adverse impact on people who share protected characteristics? If so, who may be affected and why? Or is it clear at this stage that it will be equality “neutral”?**

It is not likely that this policy will have an adverse impact on people who share protected characteristics, and it is submitted that this will have a neutral impact on people who share protected characteristics.

**3. What action will you take to ensure that you are monitoring the impact of this policy?**

No direct monitoring of this policy in terms of equality data is necessary given its neutral impact. Indirect monitoring of the Disciplinary Policy and Procedure will continue to take place.