

FINANCIAL REGULATIONS

Anti-Bribery & Anti-Money Laundering Policy & Procedure

Manager Responsible: Assistant Principal Finance & Risk

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AMENDMENT SUMMARY

<u>Version</u>	<u>Date</u>	<u>Remarks</u>
1.0	13/06/2017	First issue

Age, Disability, Gender & Race Equality Statement

Age, Disability, Gender and Race Equality Impact Measures will be set and monitored through analysis of all data related to potential suspected or actual abuse of this policy.

A copy of the Equality Impact Assessment Initial Screening Form is attached as an Annex to this document

Anti-Bribery Policy

Aim and Scope

This document sets out Chelmsford College's policy in respect of bribery or alleged or suspected bribery and how any such instances are raised and dealt with.

The Bribery Act 2010 introduces a new, clearer regime (by replacing a complicated and confusing combination of common law and statutory offences) for tackling bribery that applies to all organisations and their employees and representatives based in or operating in the UK. It covers all forms of bribery, the offering or receiving of a bribe, directly or indirectly, whether or not it involves a public official, in the UK or abroad. There are offences by individuals (and a corporate offence for corporate entities and partnerships) and penalties for non-compliance or transgressions are serious.

Bribery is a criminal offence for both organisations and individuals and can be punished with imprisonment of up to ten years or unlimited fines. If any individual was accused of bribery, the College's reputation might be considerably damaged and subsequent enforcement action would be time consuming and hinder the College from focussing on its core business and service delivery. Business may be lost.

As an organisation relying largely on public funds, the College has additional responsibilities to ensure that it adopts and adheres to the principles and values identified by the Nolan Committee on standards of holders of public office – these are set out in full in the Codes of Conduct for Staff and for Corporation Members.

The College has legal, reputational and moral responsibilities to prohibit any form of bribery. This policy applies to the College as a corporate entity, its subsidiary company Dovedale Nursery, its joint venture shared services company with South Essex College and all staff, officials and Members of the Corporation, irrespective of their grade or position, and shall be followed at all times.

This policy shall be read in conjunction with other College policies, regulations, and procedures. Including, Standing Orders, Scheme of Delegation, Financial Regulations, the system of internal control and risk management and the Codes of Conduct for Staff and Members of the Corporation. In addition, the College seeks to embed a comprehensive anti-bribery culture throughout the College.

This policy relates to all forms of bribery and is intended to provide direction and help to individuals who may suspect bribery. The overall aims of this policy are to improve the knowledge and understanding of all at the College about the risk of bribery and its consequences and set out the College's responsibilities to deter, prevent, detect and investigate bribery and fraud and corruption.

This policy applies to all staff, officials, Members of the Corporation of the College as well as consultants, vendors, contractors and any other parties who have a business relationship with the College. It will be brought to the attention of individuals through

training and will form part of induction processes. Everyone has a duty to report any suspicions they may have regarding bribery freely and without consequence.

1. POLICY

- 1.1** The College is committed to maintaining an honest, open and high moral atmosphere in the College so as to meet these objectives. It is therefore committed to the prevention of bribery within the College and all individuals in and related to the College must share that commitment. It is also committed to rigorous investigation of any allegations that may be made and to taking appropriate action against wrongdoers.
- 1.2.** Off the book accounts and false or deceptive bookkeeping entries are strictly prohibited. All gifts, payments or any other contribution received by or on behalf of the College whether in cash or in kind (other than gifts of a token value specifically permitted under the Codes of Conduct) shall be documented, regularly reviewed and properly accounted for in the books of the College. Record retention and archival policy must be consistent with the College's accounting systems, tax and other applicable laws and regulations.
- 1.3** The College must procure goods and services transparently with the service, quality, price and value for money determining the successful supplier or contractor, not by receiving or offering any improper benefits.
- 1.4** No individual will request or receive a bribe from anybody nor imply that such an act could be considered. This means that they will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person as an incentive or reward to perform their functions or activities improperly.
- 1.5** No individual will offer, promise, reward in any way or give a financial or other advantage to any person in order to induce that person to perform his/her function or activities improperly. This includes creating the appearance of an effort to improperly influence another person.
- 1.6** The College will not adopt policies which provide students with financial or other incentives to achieve their course successfully.
- 1.7** Under the provisions of the Act, the College is likely to be held responsible for acts of bribery committed by intermediaries acting on its behalf such as subsidiary companies, joint venture companies or partnerships, clients, business partners, contractors, suppliers, agents, advisors, consultants or other third parties. The use of intermediaries for the purpose of committing acts of bribery or corruption is prohibited.
- 1.8** All intermediaries shall be selected with care and all agreements with them will be concluded under terms that comply with this policy. The College will

contractually require its agents and other intermediaries in writing to comply with this policy and to keep proper books and records available for inspection by appointed auditors or other investigating authorities. In cases of non-compliance, the College will require without delay the correction of deficiencies, apply sanctions, and/or terminate the agreement.

2. GIFTS AND HOSPITALITY

- 2.1** In order to maintain proper relationships with outside organisations, clients or members of the public and to avoid conflicts of interest, the giving and receiving of gifts is not permitted, other than gifts of a token value such as calendars, diaries, inexpensive pens, flowers or chocolates, etc.
- 2.2** Hospitality should be treated with caution. Staff, officials and Members of the Corporation may accept a reasonable amount of hospitality so long as it creates no impropriety other than a proper business arrangement.
- 2.3** Staff may receive tokens of thanks from individual or groups of students for a course well taught or for particular support during a course which has helped them succeed. This is common practice and outside this policy. Staff cannot receive gifts that in any way be construed as a bribe to influence the outcome of their students' studies.
- 2.4** No cash is ever to be given or received.
- 2.5** Gifts and hospitality should never be given or received as a 'direct reward' for the letting of an order or similar transaction.

3. FACILITATION PAYMENTS

Facilitation payments are amounts disbursed to secure or expedite the performance of a routine action by a government official or agency to which the payer has a normal legal or commercial entitlement. The Bribery Act forbids such disbursements and they shall not be given.

4. POLITICAL AND CHARITABLE CONTRIBUTIONS

- 4.1.** The College will not make any contributions to politicians, political parties or election campaigns but is permitted to pay subscriptions to representative bodies such as the Association of Colleges.
- 4.2** The College may make charitable donations but such payments shall not be made to any organisation upon the suggestion of any person in order to induce that person to perform improperly the functions or activities which he or she is expected to perform in good faith, impartially or in a position of trust or to reward that person for the improper performance of such function or activities.

- 4.3** Any donations or contributions must be ethical and transparent. The recipient's identity and the planned use of the payment must be clear and the reason and purpose of it must be justifiable and documented. All charitable donations will be publicly disclosed in the annual financial statements. They shall be subject to prior approval by a member of the College Executive Group (CEG)
- 4.4** It is entirely appropriate that staff and students may themselves wish to organise fundraising events for good causes. However, if any such event is to be endorsed by the College, prior approval is required as in 4.3 above.

5. SPONSORSHIP

- 5.1** Sponsorship by the College means any contribution in money or in kind towards an event organised by a third party in return for the opportunity to raise the College's profile. Government funding will not be used for sponsorship activities. All contributions shall be transparent, proportionate to the consideration offered by the event organiser and for legitimate and ethical business purposes. All sponsorship will be publicly disclosed and subject to prior approval as in 4.3 above.
- 5.2** Where commercial sponsorship is used to fund College activities, again, it must comply with the same guidelines noted in 4.2 above. It must be made clear as part of the event in question and shall be subject to prior approval as in 4.3 above.

6. REPORTING SUSPECTED OFFENCES

The College wishes to encourage anyone having reasonable suspicions of bribery to report them in accordance with the College's Whistle Blowing procedure. No individual will suffer any detrimental treatment or adverse consequence as a result of reporting any reasonable suspicions. However, any unfounded or malicious allegations will be subject to disciplinary action.

7. ROLES AND RESPONSIBILITIES

- 7.1** The Members of the Corporation have a general duty to provide a secure environment in which to work and one in which individuals are confident to raise concerns without fear or favour. Staff must feel protected and supported when carrying out their official duties and must not be placed in a vulnerable position.
- 7.2** The Members of the Corporation have a specific duty to ensure that the College adopts an appropriate culture in which bribery and corruption and similar matters are clearly seen to be unacceptable and prohibited by all organisations and individuals associated with the College.
- 7.3** The Members of the Corporation will at all times lead by example in acting with the utmost integrity and adhering to all relevant policies, procedures and regulations ('tone from the top').

- 7.4** The Clerk to the Corporation will monitor and ensure compliance with anti-bribery and corruption measures, including this policy, the Whistle Blowing Policy and with other relevant policies and procedures, taking advice as necessary from members of CEG.
- 7.5** The appropriate CEG manager together with the Clerk to the Corporation will decide whether there is sufficient cause to conduct an investigation into suspected bribery or corruption. They will take advice, as necessary, from the College lawyers, internal auditors, external auditors, the Chair of the Corporation, the Chair of the Audit Committee of the Corporation. They will also determine whether, after taking advice, and when the matter should be reported to the Police or other criminal investigation authority (e.g. National Crime Agency).
- 7.6** The Clerk to the Corporation shall immediately inform the Chair of the Corporation, the Chair of the Audit Committee of the Corporation and the Clerk to the Corporation of any such investigation and provide them with updates of the progress of the investigation.
- 7.7** On completion of such investigation, the appropriate CEG manager together with the Clerk to the Corporation CEG, having received all appropriate advice, including from the Chair of the Corporation and the Clerk to the Corporation, shall have authority to determine suitable sanctions.
- 7.8** The Clerk to the Corporation will report to the Board regularly as to the suitability, adequacy and effectiveness of this policy. The Clerk will provide appropriate training to members of the Board (including co-opted members of Committees).
- 7.9** Line managers at all levels have a responsibility to ensure that an adequate system of internal control exists within their areas of responsibility and that those controls operate effectively.
- 7.10** All instances of actual or suspected bribery, which come to the attention of a manager, must be reported immediately to a member of CEG, other than an accused member of CEG, if that is the case. Alternatively, the report can be made to either the Chair of the Corporation, the Chair of the Audit Committee of the Corporation or the Clerk to the Corporation.
- 7.11** The role of the Assistant Principal People & Services is to provide advice to the Principal on disciplinary procedures in accordance with the Whistle Blowing policy of the College. It is also their duty to ensure recruitment procedures are robust and effective as regards the propriety and integrity of the potential employee. All contracts of employment will include reference to employees' obligations in relation to the Code of Conduct & Ethics.
- 7.12** The Director of MIS will notify the Principal immediately in all cases where there is a suspicion of bribery that IT (including personal devices, internet/intranet, email etc.) are being used for improper purposes.

8. EXTERNAL COMMUNICATIONS

No organisation or individual involved in any investigation or other action under the provisions of this policy will communicate with any member of the media or another third party as this may seriously damage the investigation and any subsequent actions to be taken.

9. TRAINING

The College will provide anti-bribery training to all relevant individuals on a regular basis so that they are fully aware of the Act, its provisions and this policy.

10. MONITORING

Compliance with this policy will be monitored regularly. This may consist of random spot checks by the Deputy Principal Chief Executive and/or planned inspections carried out by internal audit.

Anti-money laundering

1. Policy Statement

Chelmsford College will take appropriate steps to prevent, wherever possible, the organisation and its staff being exposed to money laundering, to identify the potential areas where it may occur and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual and suspected cases.

2. Statement of Principles

The College is committed to adhering to legislation and protecting staff from money laundering. The College will proactively train relevant staff and make the Anti-money laundering policy and procedure available to all staff.

3. Explanation of Key Terms

3.1 What is money laundering

In UK law, money laundering is defined very widely. It includes all forms of using or possessing criminal property regardless of how obtained. It also includes facilitating any use or possession of criminal property. Criminal property may take any form; some examples are money, a reduction in a liability, tangible property and intangible property.

Money laundering can be carried out both in respect of proceeds from conduct that is an offence in the UK but also, in respect of proceeds from overseas conduct that would have been an offence if it had taken place in the UK.

Money laundering activity may include:

- A single act, e.g. being in possession of the proceeds of one's own crime such as evading income tax;
- Complex and sophisticated schemes involving multiple parties;
- Multiple methods of handling and transferring criminal property;
- Concealing criminal property or entering into arrangements to assist others to do so.

A person commits a money laundering offence if he:

- Conceals, disguises, converts or transfers criminal property;
- Enters into or becomes concerned in an arrangement which he knows or suspects facilitates money laundering; or
- Acquires, uses or has possession of criminal property except where adequate consideration was given for the property.

3.2 What laws exist to control money laundering

Laws have been passed which shift significantly the burden for identifying acts of money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, being up to 14 years' imprisonment and/or an unlimited fine for those who are convicted of breaking the law. The main legislation is contained in the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007.

All staff need to be alert to the possibility that attempts may be made to involve the College in a transaction involving money laundering. Accordingly, the College will maintain a procedure intended to deter money laundering and for verifying the identity of counterparties and reporting suspicions to the Assistant Principal Finance & Risk, who is the Money Laundering Reporting Officer (MLRO) for the College and its subsidiary and joint venture companies. Relevant staff members will be provided with appropriate money laundering training to ensure that they are:

- aware of their duties under the relevant legislation
- understand how to put these requirements into practice when performing their roles
- updated with any changes to the policies, systems and controls that are used by the College for anti-money laundering purposes, or to the changing money laundering risks facing the College

There are three principal offences:

Concealing is where someone knows or suspects a case of money laundering but conceals or disguises its existence.

Arranging is where someone involves himself or herself in an arrangement to assist in money laundering.

Acquisition is where someone seeks to benefit from money laundering by acquiring, using or possessing the property concerned.

There are two 'third party' offences – failure to disclose one of the three principal offences and 'tipping off'. Tipping off is where someone informs a person or people who are, or are suspected of being involved in money laundering, in such a way as to reduce the likelihood of their being investigated or prejudicing an investigation.

All the money laundering offences may be committed by an organisation or by the individuals working for it.

Money laundering offences may be tried at a magistrate's court or in the Crown Court depending upon the severity of the suspected crime. Trials at the former can attract fines of up to £5,000, up to six months in prison or both. In a Crown Court, fines are unlimited and sentences from two to fourteen years may be handed out.

The offences of failing to report or tipping off attract maximum penalties of 5 years' imprisonment and/or a fine.

4. Responsibilities and Duties

4.1 The College is required to establish internal procedures to prevent the use of its services for money laundering and is required to:

- appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity;
- implement a procedure to require the reporting of suspicions of Money Laundering;
- train staff (specifically MIS Director, finance staff and budget holders) in the policy and procedures;
- maintain client identification procedures in certain circumstances; and
- maintain record keeping procedures.

Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as practicable to the MLRO. The disclosure should be as soon as the information comes to your attention, it is an offence to fail to disclose and you may be liable to prosecution. Your disclosure should be made to the (MLRO) and should include as much detail as possible.

4.1.1 Once you have reported the matter to the MLRO you must follow the reporting template given to you. You must not make any further enquiries into the matter yourself. Do not voice any suspicion to the person(s) whom you suspect of money laundering, otherwise you may commit a 'tipping off' offence. Similarly, do not make any reference on a client file to a report having been made to the MLRO. The MLRO will keep appropriate records in a confidential manner.

4.2 Once the MLRO has evaluated the disclosure report and any other relevant information, the MLRO must make a timely determination as to whether

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that this is the case; or
- whether the suspicion of an offence needs to be reported to the National Crime Agency (NCA); and
- whether the MLRO needs to seek consent from the NCA for a particular transaction to proceed.

4.3 All Suspicious Activity Reports referred to the MLRO and reports made by the MLRO to the NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

4.4 The MLRO commits a criminal offence if the MLRO knows or suspects, or has reasonable grounds to do so, through a disclosure being made to the MLRO, that another person is engaged in money laundering and the MLRO does not disclose this as soon as practicable to the NCA.

5. Client identification procedure

5.1 Where the College carries out relevant business (teaching, learning and assessment) in the UK and overseas and:

- forms an on-going business relationship with a client; or
- undertakes a one-off transaction involving payment by or to the client of; or
- it is known or suspected that a one-off transaction (or a series of them) involves money laundering

then staff must obtain satisfactory evidence of the identity of the prospective client and all records should be kept for at least 5 years. This is so that they may be used as evidence in any subsequent investigation by the authorities into money laundering. The precise nature of the records is not prescribed by law, however, they must be capable of providing an audit trail, for example, identifying the client and the relevant transaction and recording in what form any funds were received or paid.

Required client identification procedures are:

(a) Where identity relates to individuals:

- Government issued photo-ID should be obtained (for example photo driving licence or passport);
- Other acceptable proof of identity where the individual is assessed as low risk; and
- Acceptable proof of residential address and date of birth

(b) Where identity relates to an organisation

(i) For companies:

- Determine who are the beneficial owners, i.e. those who control 25% or more of the company. This could be achieved by searching the Register of Companies on the Companies House website. In complex group structures or where the company is controlled overseas, advice as to the appropriate procedures to be performed should be sought from the MLRO.
- Identification procedures as detailed above should then be performed on the individuals who are the beneficial owners.

(ii) For charities:

- Determine who are the trustees. This could be achieved by searching the Charity Commission website.
- Identification procedures as detailed above should then be performed on the individuals who are the most significant trustees, e.g. the Chair and the Chair of the Finance Committee.

(iii) For other entities:

- Guidance should be sought from the MLRO as to the appropriate identification procedures to be performed.

Money Laundering Risk Assessment Considerations

1. Is the client based outside the UK?
2. Does the sector the client operates in; its scale or locations differ substantially from the majority of other existing clients?
3. Have we met any senior representatives of the client face to face?
4. Does the client (and where relevant its beneficial owners) have significant overseas transactions or activities (including 'offshore' transactions)?
5. Is the client a politically exposed, high profile or controversial figure or associated with such a figure?
6. Is it unclear why the client wishes to use our services?

7. Are there any other factors which might suggest the client poses a higher than normal risk of money laundering?

Examples of situations most likely to give rise to money laundering or suspicion of it (adapted from CIPFA 2005 and IIA 2003 guidance)

A transaction involving an **unusually** large amount of cash. This will particularly be suspicious if the cash paid exceeds the amount necessary to settle a transaction and would result in a non-cash refund. This would include double payments.

Transactions or trades that appear to **make no commercial or economic sense** from the perspective of the other party. A money launderer's objective is to disguise the origin of the criminal funds, and not necessarily to make a profit. A launderer may therefore undertake transactions at a financial loss if it will assist in disguising the source of the funds and allow the funds to enter the financial system by appearing to be legally derived.

Payments received from **third parties**. Money launderers will often look to legitimate business activity to 'clean' criminal funds by making payments on behalf of a legitimate company.

Transactions where the **identity of the party** is difficult to establish or is undisclosed or where the party is **evasive as to the source or destiny of funds**.

Transactions with companies or individuals in **offshore jurisdictions**. Some jurisdictions can provide money launderers with the facility to hide their true identity. Extra care should be taken when undertaking business with such companies/individuals.

Changes to **payment instructions** to the use of offshore funds. Payments are normally made to or from a UK bank to establish a business relationship and then changed to a bank in an off shore jurisdiction.

Equality Impact Assessment (EIA) Initial Screening Form

Name of the Policy, Procedure, Practice or Proposal being screened:

Financial Regulations – Appendix G – Anti-Bribery & Anti- Money Laundering Policy & Procedures

Provide a brief description of its purpose:

To keep staff information of legislation concerning bribery and corruption and money laundering so as to protect them and the College

Are there controls in place to monitor the uniform application of this practice? (if no please explain below)

Yes

Does the policy or process have the potential to affect a particular group disproportionately in either a positive or negative way? Please provide comments with supporting evidence:

No

If you have identified a medium or high equality impact please complete the following, otherwise leave blank. Add additional comment below the questions as necessary.

Are there any other policies or practices that need to be assessed alongside this screening?

No

Should the policy or practice proceed to a full Equality Impact Assessment?

	No
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If the answer to the above question is no, please give the reasons for this decision:

If a full impact assessment is required, please give the date by which it will be completed

(Note – If you have assessed a negative impact as high, you must seek advice and conduct a full EIA on a high priority basis)

Declaration:

We are satisfied that an initial screening has been carried out and a full Equality Impact Assessment [is not] required at this time.

(If a full EIA is required, a template form is available within the EIA Guidance Notes which must be read before completing a full EIA).

Manager:

Signature:

Debs Hurst

Date:

13/06/2017

Countersigned

Signature:

Andy Sparks

Date:

13/06/2017