

# Anti-Fraud, Bribery and Corruption Policy

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# Summary of policy

West Nottinghamshire College conducts itself in a legal and ethical manner and is committed to the prevention of fraud, bribery and corruption.

The purpose of this policy is to provide definitions of fraud, bribery and corruption, and define authority levels, responsibilities for action and reporting lines in the event of suspected, attempted or actual fraud, bribery or irregularity.

## **Fraud**

West Nottinghamshire College operates a zero-tolerance attitude to fraud and requires staff, students and our partners to act honestly and with integrity at all times and to report all reasonable suspicions of fraud.

## **Bribery**

The Bribery Act 2010 requires staff and postgraduate research students to not, either directly or indirectly:

- Offer, give, solicit or accept any bribe, either in cash or any other form of reward, to or from any person or company, wherever they are located and whether they are a public official or body, or private person or company.
- Give or retain any commercial, contractual or regulatory advantage through unethical or illegal means when conducting business on behalf of West Nottinghamshire College or its subsidiaries.

Staff and postgraduate research students must understand and strictly comply with the UK anti-bribery laws in all countries of the world.

## **Corruption**

Corruption is the misuse of power for personal gain. Staff and students must act with integrity at all times and must ensure their activities, interests and behaviours do not conflict with this obligation, regardless of their seniority.

## **Reporting suspected incidents of fraud, bribery and corruption**

Staff should report all suspected or actual incidents of fraud, bribery or other irregularity without delay to the Finance Director.

Where staff and students feel unable to report in this way, they should report this through West Nottinghamshire College's [Whistleblowing Policy](#).

## Scope

This policy applies to West Nottinghamshire College employees, students, other members of West Nottinghamshire College, and any other associated person acting on West Nottinghamshire College's behalf.

An associated person is someone who provides services to West Nottinghamshire College or acts on West Nottinghamshire College's behalf, and could be an employee of any type, consultant, agent, and/or other form of intermediary and subsidiary.

For the purposes of fraud, this policy applies to all students contracted with West Nottinghamshire College, no matter where they are situated, including students studying with collaborative provision and apprentices.

References to "staff and students" within this document cover all these categories of individuals.

### What this document does not cover

The bribery elements of this policy would not usually apply to students unless they are themselves contracted by West Nottinghamshire College to provide a service.

## Related Documentation

Refer to the following documentation in conjunction with this document:

### Internal guidance

All

- [Whistleblowing Policy](#)
- [Financial Regulations](#)

### External guidance

- [Bribery Act Guidance](#) (published by Ministry of Justice)
- [Corporate Code of Ethics](#) (published by Chartered Institute of Purchasing and Supply)
- Professional Body Code of Ethics (for staff who are members of professional bodies)

# Introduction

West Nottinghamshire College conducts its business in a legal and ethical manner, and operates a zero-tolerance attitude to fraud, bribery and corruption.

Staff and students are responsible for acting honestly and with integrity, and they must ensure that their activities, interests and behaviours do not conflict with these obligations, regardless of their seniority. Staff and students must report all reasonable suspicions of fraud and bribery.

## Policy

### 1. Purpose

- 1.1 The purpose of this policy is to provide definitions of fraud, bribery and corruption, and to define authority levels, responsibilities for action and reporting lines in the event of suspected, attempted or actual fraud, bribery or irregularity.

### 2. Policy principles and strategy to counter fraud

- 2.1 West Nottinghamshire College has a zero-tolerance approach to fraud, bribery and corruption; as such, all forms of fraud, bribery and corruption are prohibited.
- 2.2 This policy applies to West Nottinghamshire College officers, employees, other members of West Nottinghamshire College, and any other associated person acting on West Nottinghamshire College's behalf. It applies to all of West Nottinghamshire College's activities and operations and to all of its dealings and negotiations with third parties in all countries in which its employees, agents, partners and associates operate.
- 2.3 **Counter fraud strategy**
- West Nottinghamshire College will address risks of fraud, bribery and corruption by ensuring that adequate and proportionate measures are developed and implemented to mitigate them.
  - Financial regulations and procedures will seek to ensure clear segregation of duties and appropriate spend levels.
  - Lessons learnt will be used to revise job roles and processes to ensure strong and appropriate controls are in place .
  - the ESFA Audit Code of Conduct – Annex D of the Code anti-fraud checklist will be reviewed and used to identify cross sector areas of risk that should be considered by the college.
  - The Audit Committee will ensure that an appropriate Internal Audit programme

remains in place which addresses the key organizational risk and ensure external oversight of internal controls.

- The College will link with other sector organization to share intelligence about key risks and gain information about lessons learnt.
- The college will prioritise cyber security to seek to ensure that external attempts to subvert college systems to secure resources are minimized.
- High risk areas will be monitored via the College's risk register.
- Policies and Procedures will be amended in the light of any lessons learnt.

### 3. Definition of fraud

3.1 Fraud describes a number of activities including theft, false accounting, embezzlement, bribery and deception. The Fraud Act 2006 defines three classes of fraud:

- False representation: a person commits fraud by intentionally and dishonestly making a false representation. A false representation includes intentionally giving a misleading or untrue statement.
- Failing to disclose information: a person commits a fraud if they dishonestly fail to disclose information.
- Abuse of position: a person commits a fraud if they dishonestly abuse their position.

3.2 To have committed a fraud, a person must have acted dishonestly and with the intent to:

- make a gain for themselves or anyone else; and/or
- cause loss to anyone else; or expose anyone else to a risk of loss.

### 4. Definition of corruption

4.1 Corruption is the misuse of power for personal gain.

### 5. Definition of bribery

5.1 Bribery is where a financial or other advantage is offered as a reward to another party to persuade them to carry out their functions improperly. Bribery can be through the offering, promising, giving, demanding or accepting of an advantage such as gifts, hospitality, fees, rewards, jobs, internships, examination grades or favours.

5.2 An action is still classed as bribery regardless of whether the bribe is given or received

directly or through a third party or whether it is for the benefit of the recipient or someone else.

- 5.3 Staff and postgraduate research students are required by the Bribery Act 2010 to not either directly or indirectly:
- Offer, give, solicit or accept any bribe, either in cash or any other form, to or from any person, company or other party. This applies no matter where that person is located and whether they are a public official or body, or a private person or company.
  - Give or retain any commercial, contractual or regulatory advantage through unethical or illegal means when conducting business on behalf of West Nottinghamshire College or its subsidiaries.
- 5.4 Staff must understand and strictly comply with the UK anti-bribery laws in all countries of the world. There is further guidance available on facilitation payments, which are common in some countries, and this is also outlawed under the Bribery Act.
- 5.5 The action or exchange of a bribe does not need to have taken place – promising to give or agreeing to receive a bribe would be considered bribery.
- 5.6 Arrangements with third parties will be subject to clear contractual terms, including specific provisions requiring them to comply with standards and procedures relating to the prevention of bribery and corruption. West Nottinghamshire College will not engage, or continue business with, any individual or third party who we know or reasonably suspect of engaging in fraud, bribery or corruption.
- 5.7 Staff will not suffer penalty or other adverse consequences for refusing to pay a bribe, even if a refusal may result in loss of business.

## 6. Key responsibilities

- 6.1 The Finance Director is responsible for developing, implementing and maintaining adequate systems of internal control to prevent and detect fraud, bribery and corruption.
- 6.2 Senior managers are responsible for familiarising themselves with the types of fraud, dishonesty, bribery and corruption that might occur in their directorates or departments, monitoring compliance with internal controls and agreed policies and procedures and notifying their line manager (or any of the people specified in the procedure below) or any indications of fraudulent activity.
- 6.3 All staff are responsible for protecting the college's interests and not engaging in activity which could be interpreted as fraud, dishonesty, bribery or corruption. If staff become aware of activity which might be fraud, dishonesty, bribery or corruption, they must report this to their line manager or senior manager. If a member of staff feels unable to do this, they should consult the Whistleblowing Policy for further guidance.

- 6.4 Students must act with integrity in respect of their studies, and provide full, accurate and truthful information when seeking any form of support or financial assistance. They should report any activity of the employees of West Nottinghamshire College, or other staff which they consider may be in breach of this policy.

## 7. Communication

- 7.1 West Nottinghamshire College ensures that its fraud, bribery and corruption prevention, and associated policies and procedures, are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risk it faces.
- 7.2 The Executive are responsible for ensuring the communication of West Nottinghamshire College's Anti-Fraud, Bribery & Corruption Policy and other relevant policies to associated person(s). The Executive will monitor and review their procedures and action plans to ensure their suitability, adequacy and effectiveness in relation to this policy and implement improvements as appropriate.
- 7.3 Staff who process orders or arrange purchasing transactions will receive the policy and training to support them to identify suspect activity and clarify expectations of them.

## 8. Due diligence

- 8.1 West Nottinghamshire College will apply due diligence procedures, taking a proportionate and risk-based approach, in respect of persons and organisations that perform, or will perform, services for or on behalf of West Nottinghamshire College, in order to mitigate identified bribery risks.
- 8.2 Where appropriate, senior managers will complete sufficient due diligence when entering into arrangements with others, to ensure they are not acting corruptly, and will periodically monitor their performance to ensure ongoing compliance. They will take appropriate action in response to any information uncovered as a result of due diligence which gives rise to concern and report any such actions to the Finance Director.

# Procedure

## 9. Implementation and enforcement of procedure

## **Reporting fraud, bribery and corruption**

- 9.1 Staff should report without delay all other suspected or actual incidents of fraud, bribery or corruption allegedly perpetrated to the Finance Director.
- Where staff and students feel unable to report in this way, they should report this through West Nottinghamshire College's Whistleblowing Policy. This policy provides guidance on alternative reporting. Staff and external parties are able to report to the alternative roles, including to the Principal or the Chair of the Audit Committee.

## **Referral to external agencies**

- 9.2 The Chair of the Audit Committee will decide at what stage a case should be reported to the police or other external agency such as the Serious Fraud Office (SFO). Certain offences carry criminal liability for individuals concerned, and sanctions include significant fines and/or imprisonment.
- 9.3 West Nottinghamshire College must inform the ESFA about actual or suspected cases of fraud as required by the Audit Code of Conduct. The Finance Director is responsible for informing the ESFA or any such incidents. Liaison with other external bodies (for example, the Student Loans Company) will be undertaken as appropriate to individual cases.
- 9.4 By informing the ESFA, West Nottinghamshire College will be fulfilling its duty to report serious incidents arising from fraud and theft to the Charity Commission.

## **Prevention of further loss**

- 9.5 Where initial investigation provides reasonable grounds for suspicion of fraud or bribery, the Finance Director will decide how to prevent further loss. If the individual under suspicion is an employee or student, this may require the suspension of the person(s) alleged to have committed the suspected fraud or irregularity. For an employee, this suspension could be with or without pay. It may be necessary to plan the timing of the suspension to prevent the individual(s) from destroying or removing evidence that may be needed to support disciplinary or criminal action.
- 9.6 The Finance Director will, as necessary, consult with the IT, Estates and Learning Resources Director about preventing subsequent access to West Nottinghamshire College property, and may authorise the withdrawal of permissions for West Nottinghamshire College computer systems.
- 9.7 The Finance Director will consider whether it is necessary to investigate systems other than that which has given rise to suspicion, through which the individual(s) may have had opportunities to misappropriate West Nottinghamshire College's assets.

## **Establishing and securing evidence**

- 9.8 Put a fraud action plan in place for each reported incident

9.9 The Finance Director will:

- maintain familiarity with West Nottinghamshire College's disciplinary procedures, to ensure that evidential requirements are met during a fraud investigation;
- ensure that staff and students involved in fraud investigations are familiar with and follow rules on the admissibility and other evidence of criminal proceedings. This will usually involve the appointment of specialist fraud investigators; and
- ensure that the internal audit team are able to provide advice in accordance with West Nottinghamshire College's Whistleblowing Policy.

**Recovery of losses**

9.10 Recovering losses is a major objective of any fraud and/or bribery investigation. The Finance Director will ensure that, in all investigations, the amount of any loss will be quantified. Repayment of losses should be sought in all cases.

9.11 The Finance Director will, as necessary, consider seeking legal advice, for example on the freezing of the suspect's assets in cases of substantial loss and on the recovery of losses and costs through the civil courts.

**References for employees disciplined or prosecuted for fraud**

9.12 Any request for a reference for a member of staff who has been disciplined or prosecuted for fraud shall be referred to HR. HR will consider employment law when preparing any answer to a request for a reference.

**Reporting to governors**

9.13 Any incident matching the criteria in the ESFA's Audit Codes of Practice shall be reported without delay by the Finance Director to the Audit Committee.

9.14 Any variation from the approved Anti-Fraud, Bribery and Corruption Policy, together with reasons for the variation, will be reported promptly to the Audit Committee.

9.15 The Audit Committee will be kept informed of the progress of any investigations relating to impropriety including:

- a description of the incident, including the value of any loss, the people involved, and the means of perpetrating the fraud.
- the measures taken to prevent a recurrence; and
- any action needed to strengthen future responses to fraud, with a follow-up report on whether the actions have been taken.

9.16 This report will normally be presented as part of the regular updates provided by the Finance Director.

## 10. Non-compliance

10.1 West Nottinghamshire College will investigate all instances of actual, attempted and suspected fraud, bribery and corruption committed by staff, students, consultants, suppliers and other third parties and will seek to recover funds and assets lost through fraud. Where individuals do not comply with this policy, they risk suspension or loss of employment and may be reported to external agencies such as the police.

## 11. Methods of appeal

11.1 Disciplinary procedures for staff and students contain information on the right of appeal. If a fraud or bribery is reported to external agencies – for example, the police – the subject will have a right of appeal in the context of any action the agency might choose to take.

# Glossary of terms

## Bribery

See definition under section 5 of this policy.

## Corruption

See definition under section 4 of this policy.

## Deception

The act of hiding the truth, usually to gain an advantage.

## Embezzlement

To secretly take money that is in your care or that belongs to an organisation or business that you work for.

## Facilitation Payment

A facilitation payment is a payment which is made with the intention of securing or speeding up an administrative process. A common example is a government official being given money or goods to perform an existing duty.

## Fraud

See definition under section 3 of this policy.

## Intermediaries

An organisation that makes business or financial arrangements between companies or

organisations that do not deal with each other directly.

## Subsidiaries

Companies which are owned by the college or in the case of external companies by larger companies.

## False accounting

This involves an employee or organisation altering, destroying or defacing any account, or presenting accounts from an individual or organisation that does not reflect their true value or the financial activities of the organisation.

## Further clarification

Staff can contact the Director of Finance via email: [finance@wnc.ac.uk](mailto:finance@wnc.ac.uk)

## Annex D: anti-fraud checklist for post-16 providers

Fraud occurs in every sector and providers need to be aware of the potential for it to occur.

EFSA has published [indicators of potential fraud: education providers](#), which provides information for academies, colleges, private training providers and employer providers in receipt of ESFA funding to help them identify potential fraud.

The 10 questions below are intended to help providers review their arrangements for preventing, detecting and dealing with fraud should it occur. Arrangements will vary according to the size, structure and complexity of the provider.

### Summary

- Responsibility and accountability embedded in the structure.
  - Adopting a risk-based approach and a focus on prevention.
  - Realistic approach to resources supporting counter fraud.
  - Audit committee engagement.
  - Assurance sought on effectiveness of counter fraud arrangements.
1. Are directors / governors / trustees, the accounting officer (if applicable) and chief financial officer (or equivalent) aware of the risk of fraud and their responsibilities around fraud?
  2. Does the provider have a regularly reviewed counter fraud strategy, fraud risk assessment processes and a fraud response plan?
  3. Has the provider established systems and processes to respond quickly and effectively to allegations of suspected fraud, and respond to actual fraud when it arises?
  4. Does the provider engender an anti-fraud culture throughout the organisation, for example: a clear statement of commitment to ethical behaviour; the appointment of an anti-fraud champion; focus on prevention; sound financial regulations (including segregation of duties); recruitment; disciplinary procedures; screening; training and induction?
  5. Is fraud risk included within the remit of the provider's audit committee?
  6. Is fraud risk considered within the provider's risk management process?
  7. Does the provider have regularly reviewed and published policies on whistleblowing, declarations of interest and receipt of gifts and hospitality?
  8. Is it clear how and to whom suspicions of fraud in the organisation or subcontractors should be reported, both within the provider, and externally (e.g. Action Fraud, external auditors, regulators, ESFA as necessary)?
  9. Does the provider periodically evaluate the effectiveness of anti-fraud measures in reducing fraud?
  10. Does the provider undertake 'lessons learned' exercises when suspected or actual fraud has taken place?