

**JOHN LEGGOTT COLLEGE**

**ANTI-FRAUD, BRIBERY AND**

**CORRUPTION POLICY**

# Contents

	Page
<b>1. Introduction</b>	<b>3</b>
<b>2. Responsibilities</b>	<b>3</b>
<b>3. Code Of Conduct</b>	<b>5</b>
<b>4. Receiving Gifts or Hospitality</b>	<b>6</b>
<b>5. Appendix 1: Fraud Response Plan</b>	<b>7</b>
<b>6. Appendix 2: Fraud Response Plan Flowchart</b>	<b>12</b>
<b>7. Appendix 3: The Seven Principles of Public Life</b>	<b>13</b>
<b>8. Appendix 4:</b>	
<b>Extract from Department for Business, Innovation &amp; Skills</b>	
<b>Regulation of Further Education College Corporations in England</b>	<b>14</b>

## **1. Introduction**

- 1.1. It is recommended by the Education & Skills Funding Agency (ESFA) funding bodies that colleges have in place an Anti-Fraud, Bribery and Corruption Policy which sets out the responsibilities of members, managers and staff regarding the prevention of fraud, bribery and corruption and also gives guidance of procedures to be followed where fraud, bribery or corruption is detected or suspected.
- 1.2. This policy shall be considered by the Audit Committee from time to time and supplements the college's policies on Whistleblowing, Fraud Response Plan (**Appendix 1**), Disciplinary, Hospitality, Financial Regulations, Standing Orders, a declaration of interest procedure and a system of internal control and, as such, should be read in conjunction.
- 1.3. The Principal, as Accounting Officer for the college, shall be responsible for the maintenance of this policy.
- 1.4. The Principal, or his nominated representative, shall act as Money Laundering Reporting Officer under the terms of the Money Laundering Regulations 2007.

## **2. Responsibilities**

### 2.1. Responsibilities of the College:

The College's Financial Memorandum with the ESFA states that:

- 2.1.1. The Corporation of the College has wide responsibilities under statute which are not repeated here. Specifically, it is responsible for ensuring that the college's funds are used only in accordance with the Corporation's powers under the Act, this financial memorandum and any other conditions that the funding body may from time to time impose.
- 2.1.2. The Corporation has wide discretion over its use of the college's funds and it is ultimately responsible for the proper stewardship of those funds. The Corporation must ensure that it uses its discretion reasonably, and takes into account any relevant guidance on accountability or propriety issued from time to time by the funding body, the National Audit Office or Parliament.
- 2.1.3. The respective responsibilities of the Corporation and the Principal are set out in the college's articles of government. Within this framework, the Corporation shall require the Principal to take personal responsibility, which shall not be delegated, to assure them that there is compliance with the financial memorandum and all terms and conditions referred to above.
- 2.1.4. As Accounting Officer, the Principal may be required to appear before the Parliamentary Committee of Public Accounts, alongside the accounting officers of the funding body and the DfES, on matters relating to the college's use of public funds and College funds.
- 2.1.5. The Principal shall be responsible for advising the Corporation in writing if, at any time, in his or her opinion, any action or policy under consideration by the Corporation is incompatible with the terms of the financial memorandum. The Principal shall be similarly responsible for advising the Corporation in writing if the Corporation appears to be failing to act where required to do so by the terms and conditions of the financial memorandum. Where the Corporation determines to proceed despite the advice of the Principal, the Principal should consider the reasons the Corporation gives for its decision. If, after considering the reasons given by the Corporation, the Principal still considers that the action proposed by the Corporation is in breach of the financial memorandum, the Principal shall advise in writing the ESFA's accounting officer of the position.

### 2.2. Responsibilities of Holders of Public Office and their employees

2.2.1. The college condemns fraud and corruption in public life, and expects holders of public office and its employees to:

- Take decisions solely in pursuance of the college's statutory functions and in the public interest to the exclusion of private and personal interest.
- Not to place themselves under undue financial or other obligation to outside individuals or organisations that might influence or be perceived to influence them on the performance of their duties.
- Carry out public duties, including making public appointments, awarding contracts, or recommending individuals for awards and benefits, and to make choices on merit in accordance with defined guidelines.
- Be accountable for their decisions and actions to the public and submit themselves to whatever scrutiny is appropriate to their office.
- Be as open as possible about all the decisions and actions that they take; to give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- Declare any private interest which is relevant to their public duties.
- Take positive steps to resolve any conflicts of interest in a way that first protects the public interest and maintains public confidence; and to take advice from senior officers in any case of doubt.
- Promote and support these principles by leadership and by example.
- ESFA has issued a further Post 16 Code of Practice.
- The Seven Principles of Public Life are attached at **Appendix 3**.
- The Department of Business, Innovation & Skills has issued Regulation of Further Education College Corporations in England Information note to FE colleges – appointment of the Secretary of State as Principal Regulator of FE colleges as exempt charities as attached at **Appendix 4**.

### 2.3. Responsibility of The Clerk - Director of Governance

2.3.1. The Clerk is responsible for the administrative support for the Corporation's work, for advising on proper procedure, and for intervening when the Clerk considers that the Corporation is acting inappropriately or beyond its powers, in which case the Clerk may need to seek external advice. College Corporations are advised to agree procedures they would expect the Clerk and the Corporation to follow if there were difficulties in this area. ESFA would not consider that action within such procedures should provide grounds for disciplinary action or the suspension of the Clerk.

2.3.2. If the Clerk considers that the Corporation may be at risk of breaching any of its legal obligations or exceeding its power, then he or she will:

- Speak with the Principal and Chair of Corporation, in the first instance outlining the concerns.
- Seek external advice eg, from the college's auditors (including fraud advice), external auditors; or, if appropriate, legal advice on behalf of the Corporation.
- Ensure that all members were informed of the concerns raised by the Clerk and the external advice provided by the appropriate bodies.

2.3.3. Where there are suspicions of fraud, the Clerk will record details immediately in a fraud log. The fraud log will contain details of all reported suspicions, including those dismissed as minor or otherwise not investigated. It will also contain details of action taken and conclusions reached. This log will be submitted to the Audit Committee, who in turn will report any significant matters to the Governing Body.

#### 2.4. Responsibilities of Line Managers

2.4.1. Line Managers are responsible for ensuring that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively. The responsibility for the prevention and detection of fraud, bribery and corruption, therefore, rests primarily with managers. There is a need for all managers to assess the types of risk involved in the operations for which they are responsible; to review and test the control systems for which they are responsible; to regularly ensure that controls are being complied with; and to satisfy themselves that their systems continue to operate effectively.

2.4.2. In terms of establishing and maintaining effective controls it is generally desirable that:

- Wherever possible, there is a separation of duties so that control of a key function is not vested in one individual.
- Backlogs are not allowed to accumulate.
- In designing any new system, consideration is given to building in safeguards against internal and external frauds.

#### 2.5. Responsibilities of Staff

2.5.1. Every member of staff has a duty to ensure that public funds are safeguarded, whether they are involved with cash or payment systems, receipts, stocks or dealings with contractors or suppliers. Staff should alert their line manager where they believe the opportunity for fraud exists because of poor procedures or lack of effective oversight.

2.5.2. It is the responsibility of every member of staff to report details immediately to their line manager or next most senior person if they suspect that fraud or corruption may have been committed or if they see any suspicious acts or events (see Financial Regulations). If staff cannot feel that it is appropriate to report to their direct supervisor or manager the **college's Whistle Blowing Policy** outlines the alternatives that are available.

2.5.3. Senior Leadership Team, all budget holders and staff with a financial responsibility are required to provide the Finance Team with information regarding their direct or indirect pecuniary interests and to keep that information up-to-date.

### 3. **Code Of Conduct**

3.1. The college is committed to the highest standards of openness, integrity and accountability. As stewards of public funds all staff must have, and be seen to have, high standards of honesty, propriety and personal integrity. Staff are required to report any potential conflict of interest to the Principal.

3.2. Additionally, members of the governing body, senior leadership or those involved in procurement are required to disclose interests in the institution's register of interests maintained by the Clerk (or other designated officer). They will also be responsible for ensuring that entries in the register relating to them are kept up-to-date regularly and promptly, as prescribed in the financial procedures and governors' code of conduct.

3.3. In particular, no person shall be a signatory to an institution contract where he or she also has an interest in the activities of the other party.

#### **4. Receiving Gifts or Hospitality**

4.1. It is an offence under the Bribery Act 2010 for members of staff to accept corruptly any gift or consideration as an inducement or reward for doing or refraining from doing anything in an official capacity. The guiding principles to be followed by members of the college staff must be:

4.1.1. The conduct of individuals should not create suspicion of any conflict between their official duty and their private interest.

4.1.2. The actions of individuals acting in an official capacity should not give the impression (to any member of the public, to any organisation with whom they deal, or to their colleagues) that they have been (or may have been) influenced by a benefit to show favour or disfavour to any person or organisation.

4.2. Members of staff should not accept gifts, rewards, hospitality (or have them given to members or families) from any organisation or individual with whom they have contact in the course of their work, that would cause them to reach a position whereby they might be or deemed by others, to be influenced in making a business decision as a consequence of accepting such gifts, rewards, or hospitality.

4.3. The frequency and scale of hospitality accepted should not be significantly greater than the college would be likely to provide in return.

4.4. When it is not easy to decide between what is acceptable in terms of gifts or hospitality the offer should be declined or advice sought from the appropriate line manager. Guidelines on this may be sought from the College Principal or a member of the Senior Leadership Team.

4.5. Hospitality accepted should be restricted to a level that would normally be reciprocated by the college, e.g. an occasional meal. Hospitality should not be accepted from any organisation that is responding to a tender invitation.

4.6. For the protection of those involved, the Director of Finances & Resources will maintain a register of gifts and hospitality received where the value is in excess of £25.00. Members of staff in receipt of such a gift or hospitality are obliged to notify the Director of Finance & Resources promptly.

4.7. The college is legally responsible under the Bribery Act 2010 for the conduct of third parties who provide services on behalf of, and for the college. Care should be exercised when delegating services/provision to third parties to ensure that such individuals/companies act in a manner consistent with the college's own code of conduct and at all times operate within the law.

Policy Owner:	Becky Robinson	Next Review Date:	June 2022
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# APPENDIX 1 - Fraud Response Plan

## 1) Introduction

The college's activities are supported by substantial public funds, and as a publicly funded body, the college is accountable to its stakeholders in ensuring the most efficient and effective use of its resources in support of the college's approved strategy.

It is the responsibility of all officers and members of staff to ensure the correct and honest use of all college resources and to report any circumstances which may indicate the improper use of these resources. Such report shall be made to the Director of Finance & Resources.

Whilst prevention of fraud has to be the key objective when a fraud is suspected or suggested, it is important that prompt and professional action is taken. Fraud is unpredictable, time consuming to investigate, very disruptive and unpleasant. In addition to potential financial loss there may also be a risk of reputational loss.

Primary responsibility for the prevention and detection of fraud rests with individuals who also have responsibility to manage the risk of fraud. Investigation of fraud is the responsibility of the Director of Finance & Resources who will set up a project team to investigate each case.

The Fraud Response Plan detailed below sets out the steps to be taken if fraud is reported or detected.

## 2) Definition of Fraud

The term fraud is a broad term used to describe a number of activities including, false accounting, misappropriation, bribery and corruption, deception and collusion and until the introduction of the Fraud Act 2006 there was no precise legal definition.

In general, a fraud may be described as any deception that results in a gain to one party/and or a loss to another. The Fraud Act 2006 includes three classes of fraud:

- I. Fraud by false representation.
- II. Fraud by failing to disclose information.
- III. Fraud by abuse of position.

In all three classes of fraud, the Act requires that for an offence to have occurred, the person must have acted dishonestly, and that they have acted with the intent of making gain for themselves or anyone else, or inflicting loss (or risk of loss) on another.

This policy covers all of the above.

In terms of applying the Fraud Response Plan within the college, fraud may be defined as the use of deception with the intention of:

- Gaining an advantage, personally and for family and friends; or
- Avoiding liability; or
- Causing a financial and/or reputational loss to the college or one of its subsidiary companies.

## 3) The main types of irregularity are:

- **Theft:** which may include the removal, misuse of funds, assets or cash (Theft is not prosecuted as fraud but prosecuted under the various Theft Acts)
- **False accounting:** dishonestly destroying, defacing, concealing or falsifying any account, record or document required for any accounting purpose, with a view to personal gain or gain for another, or with the intent to cause loss to the college or subsidiary or furnishing information which is or may be misleading, false or deceptive (Theft Act 1968);
- **Abuse of position:** this applies where fraud is committed in situations where someone

by virtue of their position is expected to safeguard another's financial interests or not act against those interests.

- In addition to the above, some examples of the classes of fraud in the context of how these might relate to the college are set out below.

#### 4) **Fraud by false representation:**

- **Abuse of the college's expenses system** by submitting claims for reimbursement of costs which are excessive, not reflective of actual activities or were never wholly incurred.
- Completing **recruitment application** details stating that particular **qualifications** and/or membership of professional bodies are held when they are not, in order to meet the person specification requirements.
- **Using the college's logo or letterhead for personal reasons** and to imply the college has sanctioned the content of the document (and/or to imply that the document is sent for and on behalf of the college).

#### 5) **Fraud by failing to disclose information:**

- **Failure to disclose a criminal conviction** which may impact on the ability to remain employed in a particular position at the college, and when in accordance with the Rehabilitation of Offenders Act 1974.

#### 6) **Fraud by abuse of position:**

- A representative/employee of the college is awarded monies from a third party to undertake overseas research as a result of the position or work they have undertaken at the college. The college representative/employee fails to expend the grant monies in ways that were intended and **funds are used for personal benefit/gain**.

#### 7) **Fraud Response Plan:**

**(Please read this plan in conjunction with the attached flowchart)**

#### 8) **Purpose**

The purpose of this plan is to define authority levels, responsibilities for action, and reporting lines in the event of a suspected fraud or financial irregularity. The use of the plan should allow the college to:

- Respond quickly and professionally to any suspicion or suggestion of fraud or irregularity.
- Prevent further loss.
- Establish and secure evidence necessary for criminal or disciplinary action.
- Notify ESFA; if the circumstances are covered by the mandatory requirements of the Post 16 Audit Code of Practice (Financial Memorandum between ESFA and the College) or the Principal Regulator if the circumstances are as covered by the requirements detailed in **Appendix 4**.
- Minimise and recover losses.
- Take appropriate action against those who have committed the fraud.
- Deal with requests for references for employees disciplined or prosecuted for fraud.
- Review the reasons for the incident, the measures taken to prevent a recurrence, and any action needed to strengthen future responses to fraud.
- Keep all persons with a need to know suitably informed about the incident and the college's response,
- Assign responsibility for investigating the incident.
- Establish circumstances in which external specialists should be involved.
- Establish circumstance in which the police should be notified and establish lines of



communication with the police.

## **9) Initiating Action**

Suspicion of fraud or financial irregularity may be captured through a number of means, including the following:

- Requirements on all staff under Anti- Fraud Bribery and Corruption Policy / Financial Regulations to report fraud.
- Public interest disclosure/whistleblowing policy.
- The college's disciplinary procedures.
- Planned audit work.
- Operation of proper management control and procedures.

All actual or suspected incidents should be reported immediately either:

- In accordance with the Financial Regulations to the Director of Finance & Resources. The Director of Finance & Resources should then inform the Principal.

or

- Via the public interest disclosure policy to the Clerk to the Corporation or Principal.

If the disclosure involves or implicates any of the individuals detailed above then the disclosure should be made to the Chair of Governors and/or Chair of Audit Committee as appropriate.

and

- Recorded in the Fraud Log Book (This log should be reviewed and signed on an annual basis by the Chair of Audit Committee).

As soon as practicable, ideally within 24 hours, a meeting should be convened normally consisting of the following group to decide on the initial response:

- Principal.
- Director of Finance & Resources.
- Director of Governance (Clerk to the Corporation).

At some stage it may also be necessary to involve the Deputy and Assistant Principals if there are potential public relations/media issues.

The project group will decide:

- Whether an investigation is required
- Who should undertake the investigation.
- Whether the individual needs to be suspended.
- Whether the matter should be reported to the police.

The Chair of the Audit Committee should be advised at the earliest possible time that an investigation is taking place.

## **10) Prevention of further loss**

Where initial investigation provides reasonable grounds for suspecting a member/members of staff of fraud, the project group will decide how to prevent further loss. This may require the suspension of the individual(s) suspected of fraud. It may be necessary to plan the timing of suspensions to prevent individuals from destroying or removing evidence that may be needed to support the investigatory process.

Suspension will be in accordance with college's disciplinary procedures.

The Director of Finance & Resources should be required to advise on the best method of denying access, while individuals remain suspended. Similarly, the IT Team should be

instructed to withdraw without delay access permission to the college's computer systems.

Investigatory officers shall consider whether it is necessary to investigate systems other than that which has given rise to suspicion, through which the individuals/respondents may have had opportunity to misappropriate the college's assets.

### **11) Establishing and securing evidence**

The college will follow established disciplinary procedures against any member of staff who has committed fraud. The college will normally pursue the prosecution of any such individual.

Those investigating the incident will:

- Maintain familiarity with the college's disciplinary procedures, ensure that evidence requirements will be met during any fraud investigation.
- Obtain approval from college management prior to establishing and maintaining contact with the police.
- Ensure that staff involved in fraud investigations are familiar with and follow rules on the admissibility of documentary and other evidence in criminal proceedings.

### **12) Notifying ESFA/Principal Regulator**

The circumstances in which the college must inform ESFA/Principal regulator about actual or suspected frauds are detailed in the Post 16 Audit Code of Practice and the Financial Memorandum between ESFA and in the Regulation of Further Education College Corporations in England Information note to FE colleges – appointment of the Secretary of State as Principal Regulator of FE colleges as exempt charities.

The college is required to report all material fraud or irregularity to ESFA, defined in the Post 16 Audit Code of Practice to be where one or more of the following apply:

- The sums involved are or are potentially in excess of £10,000 (£10,000 to the Principal Regulator or £5,000 for 16-19 Bursary Funding).
- The particulars of the fraud or irregularity are novel, unusual or complex.
- There is likely to be public interest because of the nature of the fraud or irregularity, or the people involved.

There may be cases of fraud or other impropriety or irregularity which fall outside the above criteria. In such cases the college may seek advice or clarification from the funding provider.

The Principal is responsible for informing ESFA/Principal Regulator of any such incidents.

### **13) Recovery of Losses**

Recovering losses is a major objective of any fraud response investigation. Those investigating the incident should ensure that in all fraud investigations the amount of any loss is quantified. Repayment of losses should be sought in all cases.

Where the loss is substantial, legal advice should be obtained without delay about the need to freeze an individual's assets through the courts pending conclusion of the investigation. Legal advice should also be sought about the prospects for recovering losses through the civil court; where the perpetrator refuses repayment. The college would normally expect to recover costs in addition to losses.

The college may also liaise with its insurers if appropriate.

### **14) References for employees disciplined or prosecuted for fraud**

It is a requirement that any request for a reference for a member of staff who has been disciplined or prosecuted for fraud shall be referred to Human Resources. Human Resources shall prepare any answer to a request for a reference having regard for employment law.

## **15) Reporting to governors**

Any incident matching the criteria in the Post 16 Audit Code of Practice shall be reported without delay to the Principal and to the chairs of both Corporation and the Audit Committee.

Any variation from the approved fraud response plan, together with reasons for the variation, shall be reported promptly to the chairs of both the Corporation and Audit Committee.

On completion of the special investigation the project group will submit to Audit Committee a report containing:

- 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 recurrence.
- Any action needed to strengthen future responses to fraud with follow up report on whether the actions have been taken.

## **16) Reporting lines during the investigation**

The project group shall provide a confidential report to the chair of Corporation, the chair of Audit Committee, the Principal, the external audit partner and the head of marketing (currently the Principal) on a monthly basis or at different frequencies if agreed. The scope of the report shall include:

- Circumstances surrounding the case and contributory factors.
- Quantification of losses.
- Progress with recovery action.
- Progress with disciplinary action.
- Progress with criminal action.
- Estimate of resources required to conclude the investigation.

## **17) Responsibility for investigation**

Special investigations should not be undertaken by management, although management should co-operate with requests for assistance from the investigator.

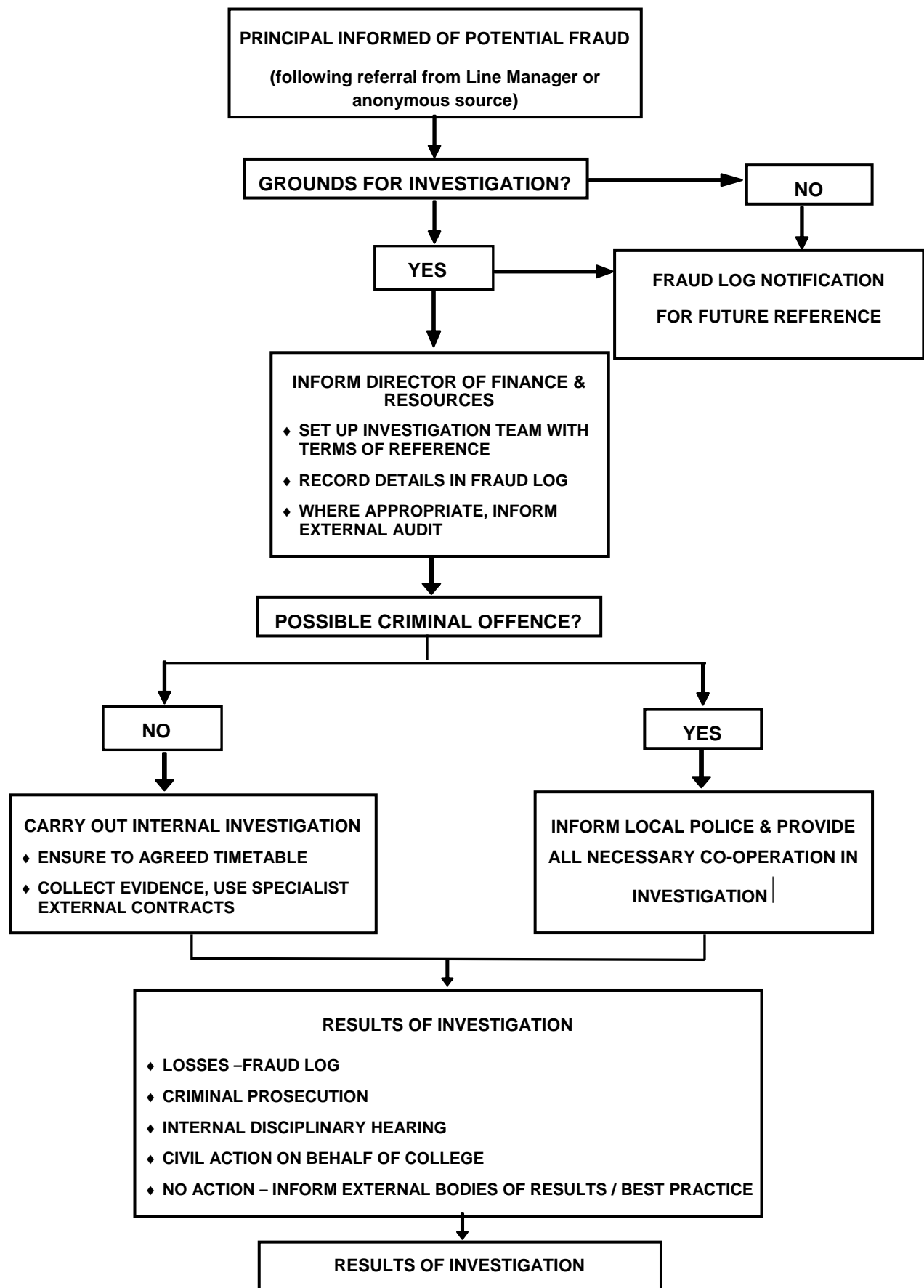
Some special investigations may require the use of technical expertise. In these circumstances the project group may approve the appointment of external specialists to lead or contribute to the special investigation.

## **18) Review of fraud response plan**

This plan will be reviewed for fitness of purpose at least annually or after each use. Future changes to this policy will be reported to the Audit Committee for approval.

If any suspected fraud directly involves an officer referred to in this document, then the relevant reference should be replaced by their line manager.

## APPENDIX 2 - Fraud Response Plan



# APPENDIX 3

## The Seven Principles of Public Life

'Seven Principles of Public Life' should apply to all in the public service. These are:

### 1) **Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

### 2) **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

### 3) **Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

### 4) **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

### 5) **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### 6) **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### 7) **Leadership**

Holders of public office should promote and support these principles by leadership and example.

## APPENDIX 4

(Extract from “formally known as Department for Business, Innovation & Skills Regulation of Further Education College Corporations in England” now titled Department for Business, Energy and Industrial Strategy.

Information note to FE colleges – appointment of the Secretary of State as Principal Regulator of FE colleges as exempt charities – February 2014)

### Annex (i) – Serious Incidents and Complaints

#### Process for Reporting Serious Incidents

When a corporation identifies a serious incident it should notify the Principal Regulator promptly – see contact details in at the end of this appendix. Emails should be headed up “Principal Regulator – Incident Report” and provide full details of the issue, together with any investigative action already taken by the corporation.

Where the incident relates to fraud over the value of £10,000, or £5,000 for 16-19 Bursary Funding, corporations must also notify the ESF, following the guidance in the Joint Audit Code of Practice.

When the Principal Regulator receives a serious incident report, his/her main interest is to understand how the corporation has managed the incident, including how it has reviewed systems and controls to minimise the risk of recurrence. In most cases, if the initial report is comprehensive, the expectation is that there will be no requirement to seek more information or take further action.

If further action is deemed necessary the Principal Regulator will work with the ESFA to open an investigation – see below

#### Investigating concerns about FE colleges’ compliance with charity law

Most problems in charities can be resolved by the charity trustees themselves. Others will be examined and resolved by the Principal Regulator and the ESFA, using the Agency’s standard complaints investigation procedures without the need to open an investigation.

However, in the most serious cases, the Principal Regulator may need to work with the Charity Commission to formally investigate matters further.

In these cases BIS, acting on behalf of the Secretary of State, will write to the Chair of the Governing Body setting out the concern and inviting a response. Further actions will depend both on the nature of that response and on the seriousness of the issue. We would hope to be able to resolve incidents through correspondence but if this is not possible, or in case of a particularly serious incident, we may ask the Charity Commission to assist us in the investigation.

Where there are serious concerns of abuse in a charity, the Charity Commission may investigate and open a statutory inquiry under section 46 of the Charities Act 2011.

The Commission have a range of statutory powers that they can use to stop abuse and protect charitable assets and beneficiaries, including:

**Formation gathering powers** which require the Commission to obtain information or documents or require named individuals to meet them to answer questions.

**Temporary protective powers** which allow the Commission to protect charity property for a temporary period while they continue investigating.

**Remedial powers** which allow the Commission to implement long term solutions to problems often identified by an inquiry.

The Commission has published guidance on its regulatory approach at:

<http://www.charitycommission.gov.uk/our-regulatory-work/how-we-regulate-charities/how-we-ensure-charities-comply-with-their-legal-requirements/charity-commission-risk-framework>

**Contact Details:** The Principal Regular can be contacted by emailing at [fegovernance@bis.gsi.gov.uk](mailto:fegovernance@bis.gsi.gov.uk)