

IMPERIAL COLLEGE LONDON

ORDINANCE C2

POLICY AND RESPONSE PLAN FOR THE TREATMENT OF FRAUD, BRIBERY, CORRUPTION & IRREGULARITIES

INTRODUCTION

1. The objective of this Policy is to safeguard the proper use of the College's finances and resources, including the finances and resources of its subsidiary companies. The College derives much of its income from public funds, benefactions and charitable organisations, and so has a particular responsibility to ensure that income and resources are used solely for the purposes intended.
2. As the aftermath of fraud is costly, time-consuming, disruptive and unpleasant, and may lead to unwelcome adverse publicity, a major thrust of this fraud policy is prevention.
3. The first line of defence for an organisation against fraudulent acts is the establishment and maintenance of carefully designed and consistently operated management procedures, which deny opportunities for fraud. In particular, management¹ has the prime responsibility for establishing internal control arrangements to minimise the risk of fraud and other irregularity within their areas of responsibility, and for providing staff with appropriate training.

DEFINITIONS

4. **Fraud** - For the purposes of this Policy, the definition of "fraud" is as covered in the Fraud Act 2006² and is characterised by dishonest acts, whereby the individual knowingly makes a false representation, or similar, with the intention of acquiring a gain for themselves and/ or others, or where the College is at the risk of a loss. It is important to note that the Fraud Act 2006 focuses on the 'intention' of the act, so

¹ Management in this context refers equally to both academic and administrative managers.

² Many of the offences referred to as fraud were previously covered by the Theft Acts of 1968 and 1978 with fraud for practical purposes defined as the use of deception with the intention to obtain an advantage, avoid an obligation, or cause loss to another party. This definition implied deliberate intent and thus could exclude negligence. The Fraud Act 2006 makes it no longer necessary to prove a person has been deceived. The focus is now on the dishonest behaviour of the subject and their intent to make a gain or loss. Section 1 of the Fraud Act 2006 includes the following offences of fraud:

- Dishonestly making a false representation (i.e. untrue or misleading) with a view to gain for himself or with the intent to cause loss or to expose another to a risk of loss (Section 2);
- Dishonestly (and with a view to gain or with intent to cause loss etc.) failing to disclose information when under a legal duty to disclose it (Section 3);
- Dishonest abuse of a position (and with a view to gain or with intent to cause loss etc.) (Section 4);

Section 11 of the Fraud Act also provides that obtaining services dishonestly can also constitute fraud.

whether there has been an actual gain or loss is immaterial to whether a fraud has been committed.

Additionally, for the purposes of this Policy, fraud includes acts such as forgery, theft, extortion, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

5. **Corruption** - For the purposes of this Policy, “corruption” is defined as the “offering, giving, soliciting or acceptance of an inducement or reward, which may influence a person to act against the interest of the organisation”. Corruption relates to rewards or inducements, such as bribes.
6. **Bribery** – For the purposes of this Policy “Bribery” is defined as offering, promising or giving anything of value to influence a person to improperly perform a function or activity; or requesting or accepting anything of value as a reward for, or as an inducement to, act improperly. Bribes do not always involve cash and can also be gifts, hospitality and entertainment. Under the Bribery Act 2010 it is an offence to either directly or through a third party bribe another person; request, agree to receive, or accept a bribe; bribe a foreign public official in order to obtain, or retain, business, or an advantage in the conduct of business. The Act also includes a corporate offence of failing to prevent bribery. Offences under the Bribery Act are punishable with a custodial sentence and/or an unlimited fine. Further details on how to identify bribery and corruption, what preventative actions to take, and high-risk areas are set out in the annex to this Policy.
7. Fraud can be perpetrated by persons outside as well as inside an organisation.
8. Offences covered by the Proceeds of Crime Act 2002 and the Terrorism Act 2000 will usually be considered and investigated in accordance with the College’s Anti-Money Laundering Policy but, if appropriate, may also be considered and investigated in accordance with the procedures set out in this Policy.

COLLEGE POLICY

9. Fraud, bribery and corruption are a serious matter, and the College is committed to investigating all cases of suspected fraud, bribery or corruption. Any member of staff, regardless of their position or seniority, against whom prima facie evidence of fraud, bribery or corruption is found, will be subject to disciplinary procedures that may result in dismissal. The College will normally involve the police and may seek redress via civil proceedings, and in cases of money laundering the Anti-Money Laundering Policy will prescribe the necessary course of action. This Policy will apply to all members of the College, including those granted honorary staff status.
10. Any member of the College, staff or person of honorary status within the College who has reason to believe that a fraudulent, or any other irregularity has taken, or is about to take, place (including those involving cash, stores, equipment, facilities, information, staff time, physical or intellectual property, non-disclosure of any personal, financial or beneficial interest as required under the College Registers of Interests, etc.) is required to inform the College Secretary immediately. Reports of money laundering should be made to the Money Laundering Reporting Officer (MLRO) in accordance with the College’s Anti-Money Laundering Policy.
11. Similarly, anyone who has reason to believe that a member of the College has either directly or through a third party offered, promised or given a bribe; requested, agreed to receive, or accepted a bribe; or offered, promised or given a bribe to a foreign

public official for any reason is required to inform the College Secretary immediately. Failure to report suspected fraud, bribery, corruption or money laundering to the MLRO or to the College Secretary, as appropriate, will itself constitute a breach of this Policy, which could result in disciplinary action, up to and including dismissal for gross misconduct.

12. On being notified, the College Secretary will inform the members of the Fraud Project Group immediately. Internal Audit may then be commissioned to undertake such investigations as are considered appropriate in line with the College's Fraud Response Plan. This may involve liaising with the College's Internal Security Department or (with the approval of the College Secretary) the police where necessary.

PUBLIC INTEREST DISCLOSURE POLICY

13. Anyone suspecting fraud may also make use the College's Public Interest Disclosure Policy, Ordinance D18, which provides protection against reprisal for any such disclosure.

FRAUD RESPONSE PLAN

PURPOSE

14. The purpose of this Fraud Response Plan is to define authority levels, responsibilities for action and reporting lines in the event of suspected fraud, bribery, corruption or irregularity. Those investigating a suspected fraud should:
 - Aim to prevent further loss.
 - Establish and secure evidence necessary for criminal and disciplinary action
 - Notify the Police and the HEFCE, where necessary.
 - Endeavour to recover any losses.
 - Take appropriate action against those responsible.
 - Deal with requests for references for employees who have been disciplined and/ 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 personnel with a need to know suitably informed about the incident and the College's response.

INITIATING ACTION

15. Any member of the College, staff or person of honorary status within the College who has reason to believe that a bribe, fraudulent, or any other irregularity has taken, or is about to take, place should report it as soon as possible to the College Secretary. This includes instances where you are offered a bribe by a third party, are asked to make one or suspect that this may happen in the future, or if you believe that you are a victim of another form of unlawful bribery, fraud or corruption activity. The College

aims to encourage openness and will support anyone who raises genuine concerns in good faith under this Policy, even if they turn out to be mistaken.

16. No investigation shall commence without the authority of the College Secretary. Reports of money laundering should be made to the MLRO in accordance with the Anti-Money Laundering Policy. If the suspected incident involves the College Secretary, the incident should be reported to the MLRO or the Chief Financial Officer.
17. The College Secretary should, as soon as possible (and with the aim of acting within two working days), convene a meeting of the fraud project group to decide on the initial response. The Fraud Project Group will consist of the following individuals, using properly appointed deputies where necessary, and may be augmented by other members, such as the Vice-Provost (Education), the Director of ICT or the Head of Security as appropriate:
 - College Secretary (Chair)
 - Director of Finance
 - Director of Financial Services & Procurement
 - Money Laundering Reporting Officer, where appropriate
 - Internal Audit Manager
 - Director of HR
18. If the actual or suspected incident concerns or implicates the Chief Financial Officer or a member of the President's Board or of the Provost's Board, it should be reported without delay to the President, Chair of Council and Chair of the Audit & Risk Committee. Should the incident concern or implicate any other member of the project group, the College Secretary will appoint a suitable substitute. If the incident concerns or implicates the College Secretary, the Chief Financial Officer will be responsible for implementing this Fraud Response Plan.
19. The project group will decide on the action to be taken. This will normally be an investigation led by the Internal Auditors or another qualified investigator appointed by the Internal Audit Manager for this purpose. A decision by the project group to initiate an investigation will constitute authority to the Internal Audit Manager to use time provided in the Internal Audit Plan for investigations, or contingency time, or to switch internal audit resources from planned audits. The report of the investigation and review of the circumstances surrounding the incident shall include those items listed in paragraph 33.

INVESTIGATION

20. On the decision being made that an investigation will be undertaken, the Internal Audit Manager will either undertake, or nominate an appropriately qualified investigator to undertake, the investigation. The investigation will consist of, but not be limited to, the interviewing of all necessary witnesses by the investigator, and the collection and analysis of all relevant records available.
21. In the early stages of any fraud investigation the Internal Audit Manager, in conjunction with the investigator, will make an assessment on the appropriateness of referring the matter to the police.

22. Where necessary, the Internal Audit Manager and investigator will liaise with the Director of HR on matters that may concern or influence any disciplinary proceedings.
23. On conclusion of the fraud investigation an investigation report will be provided to the College Secretary and where necessary the Director of HR.

PREVENTION OF FURTHER LOSS

24. Where initial investigation provides reasonable grounds for suspecting a member or members of staff or others of fraud, the project group will decide how to prevent further loss. This may require the suspension of the suspect or suspects, under the appropriate disciplinary procedure. It may be necessary to plan the timing of suspension to prevent suspects from destroying or removing evidence that may be needed to support disciplinary or criminal action.
25. In these circumstances, the suspect or suspects will be approached unannounced and will be supervised at all times before leaving the College's premises. They should be allowed to collect personal property under supervision but should not be able to remove any property belonging to the College. Any security passes and keys to premises, offices and furniture will be returned. The Head of Security may be asked to advise on the best means of denying access to the College while suspects remain suspended, for example by changing locks, deactivating swipe cards and informing security staff not to admit the individuals to any part of the premises. Similarly, the Director of ICT may be instructed to withdraw without delay access permissions to the College's networks and computer systems.
26. The project group will consider whether it is necessary to investigate systems other than that which has given rise to suspicion, through which the suspect may have had opportunities to misappropriate the College's assets.

ESTABLISHING AND SECURING EVIDENCE

27. Any member of staff or student alleged to have committed fraud will be subject to the College's disciplinary procedures. In addition, the College will normally refer such an individual to the police for possible prosecution through the criminal courts.
28. To ensure that disciplinary and/ or criminal proceedings may be pursued, The Internal Audit Manager will:
 - (a) take reasonable care to preserve evidence during any fraud investigation.
 - (b) ensure that staff involved in fraud investigations are familiar with and follow rules on the admissibility of documentary and other evidence in criminal proceedings.
29. The College's Head of Security will be responsible for establishing and maintaining contact with the police and will liaise with the Internal Audit Manager and/ or the nominated fraud investigator prior to making any contact with the police on fraud related matters.

RECOVERY OF LOSSES

30. Recovering losses is a major objective of any fraud investigation. The Internal Audit Manager will ensure that in all fraud investigations the amount of any loss is quantified. Repayment of losses will be sought in all cases.

31. Where the loss is substantial, legal advice may be obtained about the need to freeze the suspect's assets through the court, pending conclusion of the investigation. Legal advice may also be obtained about prospects for recovering losses through the civil court, where the perpetrator refuses repayment. The College will normally seek to recover its costs in addition to any losses as a result of the fraud.

REPORTING

32. Any attempted, suspected or actual fraud or irregularity where the value of the loss, fraud or theft is in excess of £25,000 should be reported without delay to the Chair of the Council, the Chair of the Audit & Risk Committee and the External Audit Partner.
33. During the course of an investigation, the project group will provide a confidential report to the President, Chair of the Council, Chair of the Audit & Risk Committee and External Audit Partner on a monthly basis, unless the report recipients agree to less frequent reports. This report will include:
- (a) a quantification of the likely losses.
 - (b) progress with recovery action.
 - (c) progress with disciplinary action.
 - (d) progress with criminal action.
 - (e) an estimate of the resources required to conclude the investigation.
 - (f) actions taken to prevent and detect similar incidents.
34. On completion of a special investigation, a written report, normally prepared by the Internal Audit Manager, shall be submitted to the Audit & Risk Committee containing:
- (a) a description of the incident, including the value of any loss, the people involved, and the means of perpetrating the fraud.
 - (b) measures proposed to reduce the likelihood of a recurrence with a follow-up report on whether the actions have been taken.
 - (c) any action needed to strengthen future responses to fraud.
35. The Vice-President (Communications & Public Affairs), in consultation with the College Secretary, will be responsible for dealing with any enquiries from the press and other media.

REFERENCES FOR EMPLOYEES OR STUDENTS DISCIPLINED OR PROSECUTED FOR FRAUD

36. Any request for a reference for a member of staff or a student who has been disciplined or prosecuted for fraud must be referred to the College Secretary for advice.

REVIEW OF FRAUD RESPONSE PLAN

37. This Fraud Response Plan will be reviewed annually for fitness of purpose. Any recommended change will be reported to the Audit & Risk Committee for consideration and to the Council for approval.

- Approved by the Council: 11 July 2008
- Revisions approved by the Council: 7 February 2014
- Revisions approved by the Council: 14 July 2017
- Revisions approved by the Council: 17 May 2019
- Revisions approved by the Council: 27 November 2020

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Annexure 1 Identifying Bribery and Corruption

1. Bribes can take a number of forms, but typically they involve corrupt intent. Usually, both parties will benefit from the bribe. Common examples of bribery are:
 - suppliers offering 'incentives' or 'extras' to staff involved in the award of contracts;
 - agents working for the College acting improperly;
 - staff being asked for payments when travelling overseas such as to facilitate the shipping of equipment, or the arranging of visas and licences for overseas research;
 - students or staff working with sensitive subject matter or data being tempted to supply information or access for a fee.
2. Ingenious methods of making the payments are sometimes used by those involved, including moving the money through a number of offshore companies (that on the face of it have nothing to do with the intended recipient) registered in various jurisdictions. The secret nature of the agreement means that it is difficult for anyone other than those involved to know what is going on.
3. There are a number of indicators which may suggest that someone is involved in bribery or a corrupt activity. Examples of these indicators are:
 - pressure exerted for payments to be made urgently or ahead of schedule;
 - unusual cash payments;
 - private meetings with contractors or companies hoping to tender for contracts;
 - lavish gifts being received;
 - an official never takes or holidays or time off (even if ill), or insists on dealing with specific contractors him/herself;
 - making unexpected or illogical decisions accepting projects or contracts;
 - abusing decision process or delegated powers in specific cases;
 - agreeing contracts not favourable to the College either in respect of terms or time period;
 - unexplained preference for certain contractors;
 - avoidance of independent checks on processes;
 - raising barriers around specific roles or departments which are key in the tendering/contracting process;

- bypassing normal tendering/contractors' procedure;
- invoices being agreed in excess of contract without reasonable cause;
- missing documents or records regarding meetings or decisions;
- college guidelines not being followed.

WHAT STEPS SHOULD COLLEGE EMPLOYEES AND OTHER MEMBERS OF COLLEGE TAKE TO PREVENT BRIBERY AND CORRUPTION?

Risk Assessment

4. All staff and other members of College should regularly assess the vulnerability of their activities, particularly overseas activities on an ongoing basis and discuss potential vulnerabilities with their line manager, or if appropriate, the Chief Financial Officer or College Secretary.
5. Bribery and fraud risk should be regularly assessed by individual Faculties, departments and committees as well as by the Risk Committee.
6. Significant transactions – those that are of high value, or assessed to be high risk, or high profile – should always be subject to a specific bribery and fraud risk assessment.
7. Proportionate preventative and detective controls should be identified and implemented, together with regular reviews to determine their efficacy.
8. Where risk assessments indicate a significant risk that bribery or fraud might occur appropriate due diligence must be conducted prior to proceeding with the relevant transaction.

Accurate books and record keeping

9. Many serious bribery and corruption offences have been found to involve some degree of inaccurate record-keeping. Accurate records and financial reporting must be maintained for all activities and for all third party representatives acting on behalf of the College. False, misleading or inaccurate records of any kind could potentially damage the reputation of the College.

Effective monitoring and internal control

10. It is essential to ensure that where any risks of bribery or corruption are identified and highlighted that procedures are reviewed and amended as necessary to help mitigate these risks.

Third parties

11. Third parties acting for, or providing services on behalf of, the College are expected not to commit bribery or fraud and should be advised to familiarise themselves with the provisions of this Policy.

WHAT ARE THE AREAS OF HIGH RISK?

Gifts, entertainment and hospitality

12. College employees should be familiar with the College's policy on the acceptance of gifts and hospitality by staff, which sets out the process required to record gifts and hospitality and the circumstances under which gifts and hospitality should be refused.

Facilitation payments

13. In many countries, it is customary business practice to make payments or gifts of small value to junior government officials in order to facilitate or speed up a routine action or process. Such payments are not permitted under this Policy and if any such payment is made (whether under duress or otherwise) it should be reported. Where such a payment is made under genuine duress or fear for safety, it may form a legal defence – however, this is a complex area and should not be relied on lightly.

Use of third-party representatives

14. The College is responsible for ensuring that any third parties (such as agents) are familiar with this Policy. When a third party is engaged by the College, staff should carry out an evaluation to determine if the activity that the third party is involved with carries any risk of bribery.