

**Procedure:**           **Fraud Policy and Response Plan**

**Procedure Ref:**

**Approved By:**       Corporation

**Date:**               **June 2021**

**Signature:**

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## **1    Scope and Purpose**

This policy and procedure applies to all Governors, staff, students, contractors and suppliers and other organisations or members of the public.

1.1    The purpose of this policy and response plan is:

1.1.1    To prevent fraud by raising awareness of the Corporation's position on fraud and the controls that should be practised to prevent fraud;

1.1.2    To detect fraud, by giving confidence to staff to recognise and report fraud;

1.1.3    To investigate allegations of fraud in a swift and impartial manner and to ensure that reporting is made to the authorities where appropriate to do so (noting the potential for police involvement).

## **2    Policy Statement**

2.1    Lakes College West Cumbria has a duty to its stakeholders to take all reasonable steps to prevent fraud and theft occurring and will maintain robust control mechanisms to be prevent and detect fraud and theft.

2.2    All members of staff have a responsibility to protect the assets and reputation of the College and are expected to be alert to the potential for fraud and theft, and to sue the mechanisms in place to report suspected frauds to management. All staff should be familiar with procedures and should not be inhibited to challenge matters which do not appear to be correct.

2.3    The College expects the highest standards of ethical behavior and financial probity of all its staff, students and stakeholders and has a zero tolerance policy to fraud and theft.

### **3 Definitions**

3.1 Fraud is one or more of the following:

3.1.1 False representation. "False" in this respect means the representation must be untrue or misleading, and the person making it must know it is, or might be, untrue or misleading;

3.1.2 Failing to disclose information that one is under a legal duty to disclose;

3.1.3 Abuse of a position in which is expected to safeguard, or not act against, the financial interests of another person. To commit this offence, the person's conduct must be dishonest with the intention of making a gain or causing a loss to another.

3.3 Theft means dishonestly appropriating property, including money or other assets.

***For the purpose of this policy, an act will be considered fraudulent if it involves the use of deception with the intention of obtaining an advantage, avoiding an obligation or causing loss to another party (including the College)***

### **4. Fraud Risks**

4.1 The College has identified some of the fraud risks to which it may be open:

- Timesheet fraud – for example contract lecturers claiming payment for classes they have not delivered;
- False expenses claims (eg travel);
- Fraudulent Job Applications (eg false qualifications);
- Working for another organization while claiming sick pay from the college;
- Falsely ordering goods or services for personal benefit;
- Data fraud – for example knowingly submitting falsified records to funders for financial or other benefit (the latter includes the falsification of academic records).

4.2 The College has put in place the following mitigating actions to prevent and identify fraud:

- policies and procedures as part of the internal control and assurance framework;
- authorisation processes, routine checks, monitoring, reconciliation and audit checks by management to ensure procedures are being followed (particularly in the areas of greatest risk);
- risk register with control barriers;
- internal audit plan, which will review the controls in place in the areas of greatest risk;

- external audit by funding bodies and college appointed auditors.

## 5. **Responsibilities and Obligations**

5.1 All staff are responsible for reporting practices, which they think may be fraudulent. However, prime responsibility for preventing fraud and theft lies with the Executive through

- Identifying risks;
- Designing, implementing and operating internal controls;
- Fostering an environment that promotes compliance with internal controls'
- Promoting fraud awareness among staff
- Fostering an anti-fraud culture.

5.2 The Audit Committee shall be responsible for overseeing this policy and ensuring that, subject to any directions from the ESFA, all allegations of fraud are properly investigated and that appropriate action is taken

The Audit Committee will also ensure that arrangements are made for the reporting of significant sums, normally in excess of £10,000, to the ESFA or any offence which is thought to be novel, unusual or complex or is likely to excite the public interest.

The Audit Committee will also ensure that such instances are reported to *Action Fraud* in line with a recommendation in the Post-16 Audit Code of Practice.

5.3 All staff have a responsibility to be aware of fraud and to take steps to minimize the risk of theft to the college. To this end, staff should also be aware of the Whistle-blowing policy, which is available on the College intranet.

5.4 All investigations will follow the procedures set out in the Fraud Response Plan, appended to this policy.

## **FRAUD RESPONSE PLAN**

### **PURPOSE**

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- 1 The purpose of this plan is to define authority levels, responsibilities for action and reporting lines in the event of a suspected fraud or irregularity. The use of the plan should enable the college to:
  - recover and prevent further loss
  - establish circumstances in which external specialists should be involved
  - establish and secure evidence necessary for criminal and disciplinary action, and inform the police if appropriate to do so.
  - assign responsibility for carrying out a thorough and independent investigation
  - take appropriate disciplinary action
  - review the reasons for the incident, the measures taken to prevent a recurrence, and any action needed to strengthen future responses to fraud
  - notify the ESFA, if the circumstances are covered by the mandatory requirements of the audit code of practice
  - deal with requests for references for employees disciplined or prosecuted for fraud

### **INITIATING ACTION**

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- 2 Under the Post 16 Audit Code of Practice, the Audit Committee has specific responsibility for commissioning a special investigation into instances of fraud or irregularity. Where a significant fraud is alleged or identified, the Audit Committee may not proceed with the investigation without first securing the approval of the Education and Skills Funding Agency.

Cases of significant fraud will have one or more of the following factors:

- There is likely to be great public interest because of the nature of the fraud or the people involved;
- The sums of money are in excess of £10,000 (or in relation to the 16-19 bursary fund, £5,000)
- The particulars of the fraud are novel or complex.

All actual or suspected incidents should be reported without delay to the Finance Director (or in his or her absence, the Principal) or by using the Whistle-blowing procedure.

In liaison with the Clerk, the relevant senior postholder will discuss and agree the way the investigation will be carried out with the Chair of the Audit Committee and if need be the Education and Skills Funding Agency, and shall inform the Chair of the Corporation of the steps being taken.

The following table shows the responsibilities for the project group, which may be proposed to co-ordinate an investigation:

Allegation against.....	Responsibility for the co-ordination of an Investigation, commissioned by the Audit Committee.
Employee	Clerk, in conjunction with either the Principal, or a Deputy Principal, and if appropriate an independent 3 <sup>rd</sup> party and the HR Manager.
The Clerk	The Principal, in conjunction with the Chair of Audit, and if appropriate an independent 3 <sup>rd</sup> party and the HR Manager.
Deputy Principal	Clerk, in conjunction with the Principal, and if appropriate one or more independent consultants.
The Principal	The Clerk in conjunction with the Chair of Audit Committee, and if appropriate one or more independent consultants.
Contractor, Sub-contractor or equivalent	The Clerk in conjunction with either the Principal or a Deputy Principal, and if appropriate one or more independent consultants.

The project group may recommend that the investigation is carried out by an independent third party with appropriate experience and knowledge of gathering evidence.

Internal and external auditors will also be kept informed of the action to be taken.

## **PREVENTION OF FURTHER LOSS**

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- 4 Where initial investigation provides reasonable grounds for suspecting a member or members of staff or a contractor of fraud, the project group will decide how to prevent further loss. This may require the suspension, with or without pay/payment of the suspects. It may be necessary to plan the timing of suspension to prevent the suspects from destroying or removing evidence that may be needed to support disciplinary or criminal action.
- 5 In these circumstances, the suspect(s) should be approached unannounced. They should 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 should be returned.
- 6 Advice should be obtained on the best means of denying access to the college while suspects remain suspended (for example, by changing locks and informing security staff not to admit the individuals to any part of the premises). Similarly, access permissions to the college's computer systems should be withdrawn without delay.
- 7 The investigator shall 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**

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- 8 A major objective in any fraud investigation will be the punishment of the perpetrators, to act as a deterrent to other personnel. The college will follow disciplinary procedures against any member of staff who has committed fraud. The college will normally pursue the prosecution of any such individual.
- 9 The investigator will:
- maintain familiarity with the college's disciplinary procedures, to ensure that evidence requirements will be met during any fraud investigation
  - request authority to establish and maintain contact with the police where appropriate
  - establish whether there is a need for audit staff to be trained in the evidence rules for interviews under the Police and Criminal Evidence Act
  - ensure that staff involved in fraud investigations are familiar with and follow rules on the admissibility of documentary and other evidence in criminal proceedings.

## **RECOVERY OF LOSSES**

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- 11 Recovering losses is a major objective of any fraud investigation. The investigator shall ensure that in all fraud investigations, the amount of any loss will be quantified. Repayment of losses should be sought in all cases.
- 12 Where the loss is substantial, legal advice should be obtained without delay about the need to freeze the suspect's assets through the court, pending conclusion of the investigation. Legal advice should also be obtained about 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.

## **REFERENCES FOR EMPLOYEES DISCIPLINED OR PROSECUTED FOR FRAUD**

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- 13 The staff handbook includes 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 the HR Manager. The director of personnel shall prepare any answer to a request for a reference having regard to employment law.

## **REPORTING TO GOVERNORS**

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- 15 Any variation from the approved fraud response plan, together with reasons for the variation, shall be agreed by the Audit Committee.
- 16 On completion of a special investigation, a written report shall be submitted to the Audit committee 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 a recurrence
  - any action needed to strengthen future responses to fraud, with a follow-up report on whether or not the actions have been taken.

This report will normally be prepared by the investigator . .

## **REPORTING LINES**

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- 17 The project group shall provide a confidential report to the Audit Committee, internal and external auditors, at least monthly.

The scope of the report shall include:

- quantification of losses
- progress with recovery action
- progress with disciplinary action
- progress with criminal action
- estimate of resources required to conclude the investigation
- actions taken to prevent and detect similar incidents.

## **RESPONSIBILITY FOR INVESTIGATION**

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- 18 All special investigations shall normally be led by an independent 3<sup>rd</sup> party. . Special investigations shall not be undertaken by management, although management should co-operate with requests for assistance from the investigator. .
- 19 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.

## **REVIEW OF FRAUD RESPONSE PLAN**

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- 20 This plan will be reviewed periodically or after each use. Any need for change will be reported to the Audit committee for approval.