AUDIT COMMITTEE REPORT

BORDERS COLLEGE REGIONAL BOARD

Subject: Updated Fraud and Corruption Policy	**Purpose:** **For Approval** ☒ **For Discussion** ☐ **For Information** ☐
Prepared by: Kirsty Robb, Vice Principal – Finance & Corporate Services	**Date of Committee: 11 May 2023**

Purpose: To approve the updated Anti-Fraud and Corruption Policy.

Executive Summary:
The Audit Committee provides assurance to the Board that "appropriate measures" are in place for a key number of governance and control activities. This includes the governance and oversight of any improprieties or fraud.

A key tool to reduce the risk of impropriety or fraud is Colleges Anti-Fraud and Corruption Policy which is required to be approved by the Audit Committee.

The Policy is reviewed every 3 years, or when changes to legislation or corporate governance require it. The last review was undertaken in January 2019 and the revised Policy approved by the Audit Committee on 7th February 2019.

Key items:
Following discussion at the Audit Committee on 9 February a full review has been undertaken of the Policy, relevant legislation and guidance. The updated Policy is contained in Appendix 1 and shows all the changes made. The main changes are summarised below:

1.3 – Amended to further emphasis the College's reputational commitment to ethical behaviour, financial probity and reliability.

Section 3 – Definitions section added

Section 5 – increased section on prevention and inclusion of responsibilities.

Section 6 – additional section on identification of Fraud.

Section 7 – additional section detailing actions required if fraud suspected.

Section 8 – increased section to provided clarity around the procedure for investigations.
Section 9 – Increased to detail responsibilities

Appendix A – Fraud response plan added

Questions that Members should ask themselves when reading the paper: Does the policy meet the legislative and guidance requirements and are the controls included in the policy sufficient?	
Linked to Strategic Ambition(s): **Create high quality learning and training opportunities which are relevant, enabling and flexible** Choose an item. **Performance Measures:** An Agile & Creative Staff Body Choose an item.	
Linked to Strategic Risk Register: 4b - Governance Choose an item.	
Recommendation: It is recommended the Committee approve the updated Anti-Fraud and Corruption Policy contained in appendix 1.	
Previous Committee Approvals:	
For publication ☒	**Not for publication** ☐ **If not, why not?**

BORDERS COLLEGE

Regionally Focused – Globally Engaged

Anti-Fraud and Corruption Policy

May 2023~~March 2019~~

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History of Changes

Version	Description of Change	Authored by	Date
1.1	Bring in appropriate references to SPFM: zero tolerance, danger signs, ways to report concerns, Requirement for reporting to SFC. Terminology updates	H Robertson	January 2019
1.2	Change to Corporate Governance Code, inclusion of Definitions, identification of fraud, making suspicions known, investigation, response plan and checklist section plus increase to responsibilities section	Kirsty Robb	May 2023

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1.0 Introduction

1.1 One of the essential functions of public sector organisations is to ensure the proper use of public funds. This policy sets out the College's position in the prevention of and response to fraud and corruption.

1.2 In developing this policy, the College has taken account of existing external guidance and legislation, including the Scottish Public Finance Manual, UK Corporate Governance Code 2018~~0~~ and Bribery Act 2010.

1.3 The College values its reputation for ethical behaviour and for financial probity and reliability. The College recognises that any involvement in fraud or corruption will reflect adversely on its image and reputation. The College therefore has a zero-tolerance culture to fraud. The College ~~and~~ will treat any instances of fraud or corruption by its employees, board members, or contractors as serious breaches of discipline and as potentially criminal acts. Bribery of or by any College employee, board member or contractor for either personal or organisational gain will be similarly treated. The College will co-operate fully with any criminal investigations carried out in response to instances of fraud, corruption or bribery.

2.0 Scope

2.1 This policy forms part of the College's internal control and corporate governance arrangements.

2.2 The policy applies to all activities undertaken on behalf of the College by members of the Board of Management, Senior Management Team and all staff of the College and its subsidiaries.

3.0 Definitions

3.1 Fraud is the illicit gaining of cash or other benefit by deception

3.2 Corruption is the misuse of public office or power for private gain, or misuse of private power in relation to business outside the realm of government.

3.3 Acts of bribery or corruption are designed to influence the individual in the performance of their duty and incline them to act dishonestly. The person being bribed is generally someone who will be able to obtain, retain or direct business. This may involve initiatives such as buying or selling, or it may involve the handling of administrative tasks such as licences, customs, visas or taxes. It does not matter whether the act of bribery is committed before or after the activity has been undertaken.

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4.0 Key Principles

4.1 The results of fraud and/or corruption can be costly, time-consuming, disruptive and unpleasant. The College, therefore, sees that the overriding principle to be applied is that of prevention. Where this fails, however, then reporting, investigation and, where necessary, sanctions, will be pursued rigorously and swiftly.

4.2 The key elements of the College's policy to combat fraud and corruption are:

- An open and honest culture
- Adequate preventative measures
- Systems of detection and investigation
- Understanding and awareness within the college
- The adoption of a "Whistle Blowing" policy

5.0 Prevention Principles

5.1 The adoption of proper and adequate measures to prevent fraud and corruption are the responsibility of the Board, the Executive Team and the Senior Leadership Team. Preventative measures can be classified under six broad headings;

~~3.2 Preventative measures are identified under five broad headings:~~

5.1.1. **Policies and Procedures**

The College shall develop, implement and maintain such policies and procedures so as to reduce, as far as possible, the risks from fraud or corruption. These will include:

- Financial Regulations
- Scheme of Administration
- Financial Procedures
- Whistle Blowing Policy
- Anti-Bribery Policy

5.1.2 **Systems**

The College will maintain in place systems which incorporate internal controls, including adequate segregation of duties to ensure that, as far as possible, fraud and corruption can be prevented.

The finance procedure manual details key financial systems and provides guidance, which underpins the College's Financial Regulations.

5.1.3 **Internal Audit**

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The College will ensure that it agrees a programme of internal audit assignments to support the systems and procedures already in place and to assist in the reduction of the likelihood of fraud.

5.1.4 **Culture**

The College will maintain a culture of openness, honesty and accountability. This will be supported by the Whistleblowing Policy.

5.1.5 **Staff Recruitment and Training**

The College will ensure references are taken up for all permanent and temporary staff. As part of induction, staff will be made aware of all policies and procedures pertinent to their post, including those concerning governance. Training materials will be developed for completion by all staff.

The Vice Principal – Finance and Corporate Services will communicate the requirements of this Policy to employees at least once a year. Training and refreshers will be provided to all employees on a regular basis to accompany and supplement this annual communication.

5.1.6 **Responsibilities**

Directors and heads with responsibility for awarding contracts, making payments, and other financial transactions must ensure they have clear control procedures. It is important that:

- There is adequate separation of duties and proper authorisation processes for payments
- Staff dealing with these procedures are familiar with them.
- Accounting and other records, such as cash balances, bank balances, physical stock counts, are reconciled with the actual position
- Staff who are bankrupt or insolvent are not employed on duties which might permit the misappropriation of public funds.

Directors and heads are responsible for:

- Ensuring that effective internal controls are operating within their areas of responsibility
- Assessing the types of risk involved in the operations for which they are responsible and responding to minimise the opportunity for fraud
- Reporting relevant cases to the Vice Principal Finance and Corporate Services.

Each member of staff is responsible for:

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- Acting with propriety in the use of official resources and the handling and use of public funds
- Being alert to the possibility that unusual events or transactions could be indicators of fraud
- Reporting details immediately through the appropriate channel if they suspect that a fraud has been committed or see any suspicious acts or events
- Cooperating fully with whoever is conducting internal checks or reviews or fraud investigations.

6.0 Identification of Fraud

6.1 Fraud is not always easy to identify. Often suspicion may be raised but it is not acted on and reported. Fraud is often committed where there is:

- Opportunity to commit fraud. This is where internal controls are weak and access to assets and information allows fraud to occur
- Rationalisation that justifies fraudulent behaviour. This can be for a variety of reasons.
- Motivation or a need for committing fraud. This can be for financial reasons or other motivating factors

6.2 Managers and staff must always be alert to the risk of fraud, theft and corruptions. Danger signs of fraud include:

- Photocopies of documents where originals would be expected
- Discrepancies in dates and signatures
- Unexpected queries from stakeholders or suppliers, eg bank account changes
- Requests for non-standard payments
- Unexpected trends or results e.g. from reconciliations
- Excessive spending habits of staff / contractors
- Inappropriate relationships with suppliers
- Reluctance of staff to take leave.
- Abnormal travel and subsistence claims, overtime or flexible working patterns.
- Undue possessiveness of or anomalies between work records
- Pressure from colleagues to avoid normal control procedures

7.0 Making Suspicions Known

7.1 Concerns should be raised with the Vice Principal – Finance and Corporate Services or with the Principal in the absence of the Vice Principal – Finance and Corporate Services. ~~The principles to be observed for the reporting and investigation of fraud and corruption are as follows:~~

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7.2 If the concern is thought to involve the Vice Principal – Finance and Corporate Services and/or the Principal, the concern should be raised with the Chair of the Audit Committee via a letter addressed to the Board Secretary marked "For the attention of the Chair of the Audit Committee – Private and Confidential – to be opened by the addressee only"

~~3.3.1 Concerns should be reported either to line management, the Head of Human Resources, Internal Audit, or in accordance with the College's Whistleblowing Policy. Contact details for Internal Audit can be obtained from the PA to the Vice Principals. Our comprehensive fraud response plan will include a detailed investigation of any concerns.~~

8.0 Investigation

8.1 Where a breach of this Policy is notified to the College, the College will investigate the circumstances. All cases of actual or suspected fraud will be vigorously and promptly investigated and appropriate action will be taken. Police Scotland will be informed where considered appropriate. In addition disciplinary action will be considered not only against those members of staff found to have perpetrated frauds but also against managers whose negligence is held to have facilitated frauds. Both categories of offence can be held to constitute gross misconduct, the penalty for which may include dismissal or summary dismissal. The investigation procedure is contained in Appendix A.

~~The College will deal with any instances of fraud or corruption swiftly, taking disciplinary action as necessary and informing the police if appropriate~~.

8.2 In the event that a member of the panel or the Vice Principal -Finance and Corporate Services is implicated they will be replaced by another member of the Senior Leadership Team, as identified by the Principal.

8.3 In the event that fraud is suspected on the part of contractors, agency workers or by staff involved in agency or contract work on behalf of other bodies, procedures and responsibilities for reporting and investigation are the same as for staff. The College will also inform and involve employing contractors or agencies when appropriate.

8.4 Where corruption is suspected, or public funds have been put at risk or lost due to a suspected breakdown of college policies and procedures, the Principal may launch an investigation into the corruption.

8.5 Cases of fraud with a value of £5,000 or above should be reported to the Scottish Funding Council by the Vice Principal -~~of~~ Finance and Corporate Services, or the Vice Principal Student Experience~~Curriculum and Student Services~~, or the Principal.

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8.6 Any investigations must be reported at the next Audit Committee meeting and at the audit clearance meeting for the appropriate financial year.

9.0 Responsibilities

9.1 The Regional Board is responsible for ensuring the effectiveness of internal control of the College, based on information provided by the Executive Team.

9.2 The Audit Committee is responsible for considering the suitability and effectiveness of this Policy.~~agreeing this policy and monitoring its implementation and effectiveness.~~

9.3 The Senior Leadership Team is responsible for developing appropriate systems of internal control to reduce the likelihood and impact of fraud or corruption.

9.4 The Vice Principal – Finance and Corporate Services is responsible:

- for implementing and reviewing the Policy, and
- ensuring adequate procedures to monitor the implementation of, and ongoing compliance with Policy~~The Vice Principal Finance and Corporate Services is responsible for the implementation of this Policy~~.

9.5 All College managers are responsible for ensuring that staff are made aware of their obligations under the Policy.~~Departmental managers are responsible for the application of internal controls to mitigate risks within their specified areas of responsibility~~.

9.6 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the organisation or under its control. All staff members are required to avoid activity that breaches this policy. They must:

- ensure that they read, understand and comply with this policy; and
- raise concerns as soon as possible if they believe or suspect that a conflict with this policy has occurred or may occur in the future.~~All staff members are responsible for adhering to the systems of internal control which are relevant to their role.~~

10.0 Related Documents

10.1 Financial Regulations

10.2 Financial Procedures Manual

10.3 Risk Management Framework

10.4 Whistleblowing Policy

10.5 Procurement Policy

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10.6 Gifts and Hospitality Register

10.7 Anti-Bribery Policy

10.8 Employee Disciplinary Policy and Procedures

11.0 Review

11.1 This policy will be reviewed every 3 years or whenever Corporate Governance changes affect any part of it

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Appendix A

Fraud Response Plan

Introduction

Management and staff are likely to have little experience of dealing with fraud and when suspected cases arise, may be unsure of the appropriate action to take. The objectives of this response plan are to:

- provide a documented framework which the institution can refer to in the event that fraud is suspected or reported; and
- ensure that in the event of fraud, timely and effective action is taken to prevent further losses, identify fraudsters, safeguard evidence, minimise publicity, reduce adverse effect on business and learn lessons.

Fraud investigation checklists for line managers and the fraud investigation group are included at **Appendix 1**.

Reporting Fraud

All actual or suspected incidents of fraud should be reported without delay to the Vice Principal – Finance and Corporate Services or other member of the fraud investigation group. The members are:

- Vice Principal – Finance and Corporate Services (Chair)
- Director of Finance & Procurement
- Director of People Services
- Head of Internal Audit

When staff report suspected fraud, it is important that their suspicions are treated seriously and that all details provided by the reporting employee are recorded accurately and in a timely manner. They should be repeated back to the reporting employee to confirm understanding. It is essential that staff are put at ease, since the decision to report the suspected fraud may be traumatic for the individual concerned. Those reporting frauds should be assured that all information will be dealt with in the strictest confidence and that anonymity will be preserved if requested, unless that is incompatible with a full and fair investigation stage.

Once the Vice Principal – Finance and Corporate Services has recorded the details of the case, they should, within 24 hours, hold a meeting of the fraud investigation group to decide on the initial response.

At this stage management should also take whatever steps are necessary to prevent further losses, for example by changing procedures or suspending payments without compromising the quality of evidence or alerting the fraudsters.

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Initial Enquiry

On receiving the details of the suspected fraud, the fraud investigation group should undertake as limited review as necessary to establish whether further action needs to be taken. This will normally be an investigation, led by internal audit. The decision by the group to initiate a special investigation shall constitute authority to internal audit to use time provided in the internal audit plan for special investigations, or contingency time, or to switch internal audit resources from planned audits.

If this initial investigation suggests that suspicions are confirmed, the group will decide which body is best placed to undertake further investigative work and will inform the Principal, the Chair of Audit Committee, the Chair of the Regional Board, auditors, the funding body and the police as appropriate. The circumstances in which the college must inform the funding body of actual or suspected fraud are set out in the funding body audit code of practice. The Vice Principal – Finance and Corporate Services is responsible for informing the funding body of any such incidents.

Prevention of Further Loss

Where the initial investigation provides reasonable grounds for suspecting a member or members of staff of fraud, the fraud investigation group will need to decide how to prevent further loss. Fraudulent or corrupt activity is regarded as a breach of contract and where there are reasonable grounds for suspicion must be acknowledged, for example their right to union representation and to be informed of the reason for their suspension.

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. Suspect(s) should be supervised at all times before leaving the college's premises, offices and all college equipment should be returned.

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.

Internal Audit should consider whether it is necessary to investigate systems other than that which had given rise to suspicion, through which the suspect may have had opportunities to misappropriate the college's assets.

At this stage, the College should decide if external parties including the funding body and the police are to be involved. Delays in contacting the police may prejudice future enquiries and alerting them immediately is important since they will be able to advise the College on how best to proceed and the most effective methods to gather evidence.

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Conducting a Fraud Enquiry

Once it has been agreed that there is sufficient evidence to justify a fuller investigation, the fraud investigation group should meet with the police where appropriate to decide who is best placed to undertake further investigation. Should it be decided that an internal investigation is appropriate, either in tandem with a police investigation or on its own, it is important that it is undertaken by individuals with experience of fraud investigations. This is most likely to be internal auditors, supported as necessary by the institution's staff, who may have specialist knowledge, and external specialists where appropriate.

Where fraud and corruption are suspected, contact by the Vice Principal – Finance and Corporate Services and the Head of Internal Audit with the local fraud squad should be considered in order to agree an appropriate course of action.

For internal investigations, the fraud investigation group should agree the following:

- detailed remit and scope for the investigation; for example, is it to confirm that there is sufficient evidence to support the allegations, to gather evidence for the police, or does the institution wish to quantify the total potential loss?
- who should undertake the investigation
- reporting procedures and deadlines
- a programme of regular meetings

There is a clear requirement to record all details fully, accurately and in a manner that is accessible. The police should be able to advise on an appropriate recording format. Developing a simple form to log all events and contacts made will provide a quick summary, ease the recording process and provide documented support for any future enquiries or possible prosecution.

Recovery of Losses

It is important that any losses incurred by the institution are fully and accurately recorded and that costs are correctly apportioned. In addition to the direct cost of losses attributable to fraud, all costs associated with enquiries should be recorded. These will be required under loss reporting procedures and may also be required by the courts if the decision to prosecute is taken and in determining any assessment of costs or compensation and insurance recoveries.

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.

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Staffing Issues

A major objective in any fraud investigation will be the punishment of the perpetrators, to act as a deterrent to other personnel. The institution must follow disciplinary procedures against any member of staff who had committed fraud.

The institution will normally pursue the prosecution of any such individual. Of crucial importance is the need to conduct enquiries within the parameters of relevant laws and regulations. Employees have certain statutory rights, and if infringed, the likelihood of success of disciplinary action is diminished. It is vital, therefore, that any interviews with suspects are undertaken strictly in accordance with established procedures. No interviews should take place without first seeking advice from the police and from the Director of People Services on the relevant procedures and rules to be followed. In particular all those involved in interviewing suspects should have knowledge of the 1984 Police and Criminal Evidence Act.

Internal audit will need to:

- maintain familiarity with the institution's disciplinary procedures, to ensure that evidence requirements will be met during any fraud investigation.
- 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.

If fraud is proven which involves staff, appropriate disciplinary action will be taken. Such action may be considered not only against those found to have perpetrated the fraud, but also against managers whose negligence may have facilitated it.

Reporting During the Investigation

The fraud investigation group should provide a confidential report to the Chair of the Regional Board, the Chair of Audit Committee, the Principal and the external audit partner at least monthly, unless the report recipients request a lesser frequency. The scope of the report should 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

Any variation from the approved fraud response plan, together with reasons for the variation, should be reported promptly to the chairs of both the governing body and the audit committee.

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Concluding an Investigation

At the end of a case, irrespective of the outcome, it is important that the progress of the investigation is reviewed to see what lessons can be learned and to assess the effectiveness of the action taken. Such reviews will help identify any weaknesses in internal control that initially led to the fraud and should highlight any deficiencies in these systems for reporting and investigating, enable more effective future enquiries and precipitate changes to internal procedures designed to prevent reoccurrence.

On completion of a special investigation, a written report should be submitted to the audit committee for consideration and discussion 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 internal audit.

References for Employees Disciplined or Prosecuted for Fraud

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 should be referred to the Head of HR and Development. The Director of People Services should prepare any answer to a request for a reference having regard to employment law.

Review of the Fraud Response Plan

This plan will be reviewed for fitness of purpose at least annually or after each use. Any need for change will be reported to the Audit Committee for approval.

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Appendix 1

Checklist for Line Managers

The following is a checklist of points for consideration following the reporting of an alleged fraud to management:

- Do not rush in – consider all options and plan the approach.
- Establish the facts without alerting anyone.
- Maintain confidentiality
- Make an immediate note of everything reported. Repeat these notes to whoever is reporting the details to ensure clear understanding.
- Take steps to minimise any immediate further losses.
- Secure any evidence.
- Inform the Vice Principal – Finance and Corporate Services or member of the fraud investigation group.

Checklists for the Fraud Investigation Group

The following is a checklist of points for consideration following the reporting of an alleged fraud by line management to a member of fraud investigation group:

- Convene a meeting of the group to consider the allegation.
- Conduct an initial investigation to establish the substance of the allegation.
- Consider legal implications.
- If substantiated, inform the principal, etc.
- Agree if further investigation is required and who will undertake it.
- Agree a remit and establish scope and reporting deadlines for the investigation.
- Ensure the investigating team has adequate resources, including secure storage.
- Prepare for interviews thoroughly.
- Ensure existing staff disciplinary procedures are followed.
- Secure any evidence.
- Assume the worst-case scenario in terms of losses and staff involved.
- If not already requested to undertake the investigation, inform the police and the funding body as appropriate.
- Hold regular progress meetings at which progress and agreed action are documented.
- Identify all internal and external sources of information for evidence.

Status:	Approved by Audit Committee
Policy Dated:	November 2008 (revised September 2009, November 2012, August 2014, January 2019, May 2023)
Author:	Vice Principal – Finance and Resources
Review Date:	January 2026~~2~~
Equality Impact Assessed:	January 2023~~Yes~~

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