FRAUD AND CORRUPTION POLICY
& RESPONSE PLAN
Fraud and Corruption Policy

1. Introduction

1.1 This document details the College's policy and response towards detected or suspected acts of fraud or corruption whether relating to employees, council members, contractors or external bodies. The College has Financial Regulations and Financial Procedures which are designed to reduce the possibility of illegal acts occurring.

1.2 The College is a public sector organisation and one of the basic principles governing its actions is the proper use of public and donated monies.

2. Public Service Values

2.1 There are three fundamental public services values underpinning the work of the College namely:

• Accountability: Everything done by those who work in the organisation must be able to withstand public and parliamentary scrutiny.
• Probity: Absolute honesty and integrity should be applied in dealing with students, patients, assets, staff, suppliers and customers.
• Openness: The College's activities should be sufficiently public and transparent to promote confidence between the College and its students, staff and the public.

3. The College's Policy

3.1 In accordance with the public service values the College is absolutely committed to maintaining an honest, open and well-intentioned atmosphere within its working environment. It is therefore committed to the elimination of wrong doing within its sphere of operation and to the rigorous investigation and taking any action required in such cases.

3.2 The College considers that this policy covers all persons involved with or working at the College in whatever way, whether a full time or part time member of staff, a person with an honorary appointment, an undergraduate or postgraduate student or somebody visiting the College for whatever reason.

3.3 The College wishes to encourage anyone having reasonable suspicions of suspected or actual fraud or malpractice to report them to their line manager or the Director Resources.

3.4 It is the College's policy that no employee should suffer as a result of reporting reasonably held suspicions. For the purposes of this policy "reasonably held suspicions" shall mean any suspicion other than those, which are groundless and raised maliciously.

4. What is fraud?

4.1 Fraud is a type of theft. To commit fraud is to deprive by deceit. The two essential elements of fraud are;

a) deception or concealment;
b) deprival or loss to the victim.

4.2 Deception or concealment may be achieved in many ways, the most common of which are;

a) unauthorised input, alteration, destruction, suppression or misappropriation of data or other records;
b) inappropriate transactions with suppliers (e.g. resulting from undisclosed favours received/expected);
c) deliberate misrepresentation of facts or manipulation of management information or company records including personal expenses.

4.3 Deprival or loss may arise indirectly from the deception as well as directly, and occurs:

a) if the person deceived is deprived of funds or assets; or
b) if the person deceived fails to receive funds or assets which would, but for the fraud, have been received.

4.4 This policy covers all fraud committed by members of the College in their capacity as members, and in particular:

a) fraud against the College; and
b) fraud against third parties in their dealings with the College.
4.5 This policy also covers all fraud committed against the College by persons other than members of the College.

4.6 Fraud is distinct from accidental error or negligence. Fraud may involve one or several people, from either within or outside of an organisation, in collusion with each other. Fraud may also include elements of corruption.

5. What is corruption?

5.1 The dishonest offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person.

5.2 Corruption involves two or more people.

6. Computer Misuse

6.1 Fraud or corruption can be, and increasingly is being, carried out using computers. Deception by altering computer records or creating false records is just as much fraud as the falsification of paper documents and signatures.

6.2 Misuse of computers and their programs, whether fraudulent or not, is specifically covered by the Computer Misuse Act 1990. A person is guilty of an offence if they access a computer, program or data which they are not authorised to access and/or they cause unauthorised modification to the contents of the computer such that the operation or access to the computer program is hindered. Unauthorised access with intent to commit a serious criminal offence, including fraud, is also an offence under the Act and carries a greater penalty. An offence is only committed if the person has intent and knowledge at the time of the act.

6.3 In many cases, falsification of computer records will be both fraud and computer misuse.

7. Confidentiality

7.1 Employees must not disclose any information about any suspected fraud or malpractice to anyone except their line manager, the Director of Resources and any other person nominated by the Director of Resources.

7.2 Employees must not make available any documentation concerning the case under review to anybody not falling within paragraph 7.1. If information must be released the express permission of the Principal or the Director of Resources is required.

7.3 If the matter has been referred to the Police, documents must only be released to the Police via the Director of Resources.

7.4 Under no circumstances should an employee communicate with the press, radio or to another third party about a suspected act of fraud or corruption or [a similar] irregularity.

7.5 The College has a policy on Whistleblowing, which offers guidance to College staff on the handling of allegations made by staff members relating to the running of the College or the activities of colleagues within the institution (referred to as 'whistleblowing'). The policy is based on the Public Interest Disclosure Act 1998, which sets out in detail when 'disclosures' by staff are protected by the Act. See Appendix C.

8. Responsibilities

8.1 The College is responsible for:

* Developing and maintaining effective, visible controls to prevent fraud, e.g. separation of duties, proper authorisation of expenditure
* Producing a clearly defined and publicised Fraud & Corruption Policy & Response Plan, which applies to everybody in the College and encourages open reporting of concerns
* Taking appropriate legal and or disciplinary action against perpetrators of fraud and taking disciplinary action against supervisors where supervisory failures have contributed to the commission of fraud.
8.2 College Managers are responsible for:

• Identifying the risks to which systems and procedures are exposed.
• Developing and maintaining effective controls to prevent and detect fraud.
• Ensuring that controls are reviewed, updated and complied with.

8.3 College staff are responsible for:

• Acting with propriety in all College activities. This includes the handling and use of any funds associated with the College, dealing with Contractors or Suppliers or any other aspect of College business.
• Ensuring that they do not receive gifts, hospitality or benefits of any kind from a third party, which might be seen to compromise their decision making or integrity or the integrity of the College.
• Communicating their concerns to their Line Manager or the Director of Resources.
• Ensuring confidentiality about the matter under review.

8.4 The Director of Resources is responsible for directing and controlling fraud investigations. He/she may delegate this to Internal Audit, External Audit or some other suitable person.

9. The Fraud Response Plan

Initial discussions

9.1 An employee should discuss his/her suspicions as soon as possible with their Line Manager and the Director of Resources in the first instance.

9.2 This assumes that the Line Manager/Director of Resources is not the subject of any allegations. He/she must inform the Director of Resources of any information or documentary evidence they hold supporting their suspicions as soon as possible. If the Line Manager is the subject of any allegations then the employee should go direct to the Director of Resources.

9.3 If the suspicion involves another Director, a Head of Department/Division or a member of the Principal’s Steering Group then the employee must contact the Director of Resources. If the allegation involves the Director of Resources, then the Principal should be informed. A flowchart is included as Appendix B to illustrate the process. In the absence of the Director of Resources arrangements for another member of staff to act as a deputy will be made.

Log of incidents

9.4 The Director of Resources will keep a log of all reported suspicions including those dismissed as groundless. It will contain details of actions taken and conclusions reached. Details of all entries in the log will be forwarded to the Principal at least quarterly. The Audit Committee will review the log at least annually.

9.5 Significant matters will be discussed by the Audit Committee who will report such information as is necessary to retain Confidentiality to Council.

Immediate action

9.6 Where it would not prejudice any subsequent investigation, whether internal or external, the Director of Resources must take immediate action to end any losses and remedy any control weaknesses.

9.7 This might involve;

• The suspension of the employee(s) at the start of the investigation;
• Securing the employee(s) desk contents and office, preferably with the employee present. They may wish to be represented by a line manager or Union Official;
• Recovering the employee(s) office and desk keys;
• Ensuring that the employee(s), if suspended, leaves the premises immediately and does not have the opportunity to remove/destroy any potential evidence;
• Securing accounting, policy and other records including computer files and back up relevant Computer data;
• Cancelling the employee(s) network and other systems access rights;
• Checking all current and future payments to the employee(s) during the course of the review;
• Advising work colleagues of the suspension of the individual(s) and that no contact should be made with him/her/them until further notice. All contact should be through the Director of Resources.
9.8 Any College assets in the possession of the employee(s) should be retrieved as soon as possible.

9.9 If it is suspected that a computer has been used or tampered with, then instructions must be given to preserve the computer and its data.

Control improvement

9.10 In committing fraud against the College it is likely that existing weaknesses in existing controls will have been exploited. In order to prevent recurrence, it is essential that these weaknesses are fully understood by the College and addressed. The following actions must be taken by the Director of Resources;

- Isolate the underlying control weaknesses. Each weakness should be quantified in terms of its contribution to the fraud and the risk of recurrence if not addressed;
- Agree effective solutions with the appropriate manager; and
- Document the above in a report and action plan.

Informing HEFCE, Audit and the Police

9.11 The Director of Resources will consider the need to inform HEFCE Internal and External Audit, Police and other bodies.

9.12 The HEFCE Audit Code of Practice (HEFCE 98/28 paragraphs 14-15) require HEIs to notify the HEFCE Chief Executive of any attempted, suspected or actual or irregularity where;

- The sums involved are, or potentially are, in excess of £10,000;
- The particulars of the fraud are novel, unusual or complex; and
- There is likely to be public interest because of the nature of the fraud or the people concerned.

9.13 HEFCE’s Audit Service will not investigate a fraud or irregularity in an individual HEI, but they can be consulted for advice and will in the case of novel, unusual or complex frauds seek to ensure that similar instances do not happen in other HEIs.

9.14 The Director of Resources may inform Internal and External Audit of any suspected fraud or irregularity and the actions taken to investigate the matter and to remedy any control weaknesses.

9.15 The Director of Resources may instigate an internal investigation of the matter or refer the matter directly to the Police. Properly organised investigations, conducted by members of staff or auditors with a working knowledge of the College's processes would be of great assistance to any subsequent police enquiry. Liaison with the Police may begin as soon as the issues involved are identified. The Director of Resources will ensure that lines of communication are established with the Police.

9.16 It should be noted that the Police's priorities and decision to take up a case differ from that of the College with obtaining sufficient reliable evidence to obtain a criminal prosecution being their main objective rather than recovery of any losses to the College.

9.17 The decision to involve the Police will include the following considerations;

- Prosecution of the perpetrator(s) through criminal action. A successful prosecution can often assist recoveries via the civil court,
- Potential seriousness of the malpractice involved;
- Whether the malpractice is fraudulent;
- Amount of available reliable evidence;
- Involvement of organisations outside of the College;
- Need to take deterrent action; and
- Adverse publicity.

Involvement of a member of College Staff

9.18 When the suspected fraud or irregularity involves an employee or employees then the Director of Human Resources must be involved by the Director of Resources at the earliest opportunity. Consideration should be given to suspension of the employee(s), with pay, at the start of the investigation. This is for the protection of the employee(s) as much as to ensure objectivity during the course of any subsequent investigation.

Disciplinary action

9.19 The Director of Human Resources must be involved with any case involving a member of staff. The College’s Personnel Policies must be followed during the course of any disciplinary actions. Disciplinary action may be
undertaken by the College whether or not any prosecution has or is due to take place.

9.20 A copy of the relevant College Statutes and Ordinances is attached as Appendix A.

**Internal Investigations**

9.21 Any internal investigation should be carried out with great care and with due consideration of the possibility of future criminal proceedings. An internal investigation may be carried out by College Staff, Internal Audit or consultants with relevant experience. Advice may be obtained from HEFCE, External and Internal Audit as to the selection of appropriate person or organisation to undertake an internal investigation.

9.22 In order to maximize the effectiveness of fraud investigations it is crucial that clear objectives are set at the earliest opportunity. Whilst these are driven to an extent by the Fraud and Corruption Policy and Response Plan, each fraud will require a unique response. At the highest level the objectives will be one, or any combination, of the following:

a) to establish the facts;
b) to prevent repetition and deter others; and
c) the recovery of funds.

**External Bodies**

9.23 If the suspected fraud or malpractice concerns an external body such as a supplier, partner organisation or funding body then the procedures outlined above should be followed excluding the steps of informing the Director of Human Resources.

9.24 In the case of contractors, the College may have a clause in the agreement between the College and the Contractor allowing for the examination of records supporting payments claimed on behalf of the contractor, for example time records, expense records and so on. The Director of Resources may decide whether the College should ask under the terms of any agreement to inspect these records.

9.25 Following the investigation the Director of Resources will determine whether or not he/she wishes to continue trading or otherwise with the external body concerned.

**Recovery of loss**

9.26 The possibility of recovering a loss must be considered as part of any investigation, including taking civil action where appropriate. Where recovering a loss is likely to require a civil action it will be necessary to seek legal advice. College procedures for taking legal advice should be followed.

**Review events with Police**

9.27 If the case has been handed to the Police, then the Director of Resources will maintain close liaison with the police to monitor the progress of the case keep the College apprised of any issues arising and ensure that any necessary support required is available.
Appendix A
PART I: GENERAL

1. Application

(1) This Statute applies to the following:
   (i) the members of the academic staff and academic-related staff (except for those excluded from Part II by clause 5(1) below);
   (ii) such other members of staff or categories of staff of the College as are brought within its scope by the Council;
   and “member(s) of staff” in this Statute means those members of the staff to whom this Statute applies.

(2) This Statute will override any provision in any contract, term or condition of employment which is inconsistent with this Statute, whether dated before or after the commencement of this Statute, but –
   (i) it shall not affect the validity of any waiver under section 197 of the Employment Rights Act 1996, any compromise agreement under section 203 of the Employment Rights Act 1996, or any similar waiver or agreement permitted by law; and
   (ii) it shall not preclude any member of staff deciding or agreeing to terminate employment with the College, whether by voluntary severance, early retirement or otherwise, on whatever terms have been agreed.

(3) Parts II to V of this Statute shall not apply to removal from an appointment as Vice-Principal, Academic Dean or Head of Department, School or Institute, or such other posts as have been designated by the Council, to which a member of staff has been elected or appointed and which is distinct from that individual’s substantive post, where dismissal from the substantive post is not contemplated, but the Council shall by Ordinance prescribe a procedure for handling such removals prior to the prescribed or normal termination date, which shall include a hearing panel and an appeal panel.

(4) This Statute shall not apply to the Principal, except for Part III, which shall, unless the Council, with the Principal’s concurrence, resolves otherwise, apply to the Principal in post at the time it comes into effect, with such modifications and adaptations as the Council, with the Principal’s concurrence, shall prescribe, but it shall not apply to any later Principal, even if also the holder of an academic post.

2. General principles of construction and application

(1) This Statute and any Ordinances or Regulations made under it shall be applied and construed in every case to give effect to the following guiding principles:
   (i) to ensure that members of staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges;
   (ii) to enable the College to provide education, promote learning and engage in research efficiently and economically; and
   (iii) to apply the principles of justice and fairness.

(2) Where, in any proceedings under this Statute, a member of staff invokes sub-clause (1)(i) above, that claim shall be considered by a panel constituted as prescribed by Ordinance, and, if it is found that any action has been taken against the member of staff because that member of staff questioned or
tested received wisdom or put forward new ideas or controversial opinions, the panel dealing with the matter shall cancel that action and it shall be treated as invalid.

(3) Where there is any issue as to the meaning of “academic freedom” in any proceedings under Parts II, III, IV, V and VI of this Statute, regard shall be had to Sections VI and VII of the Recommendation concerning the Status of Higher-Education Teaching Personnel adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in Paris on 11 November 1997.

(4) Any reference in this Statute to a provision in an Act of Parliament shall be taken to be a reference to that provision as it may have been amended or superseded from time to time.

3. Dismissal
   (1) For the purpose of this Statute, “dismissal” shall have the same meaning as in section 95 of the Employment Rights Act 1996.

   (2) A member of staff may be dismissed if that dismissal is for a reason set out in section 98 of the Employment Rights Act 1996.

   (3) Parts II to V of this Statute shall apply to any dismissal that is proposed to take effect before the end date specified in a member of staff’s contract of employment. (i) A dismissal by reason of redundancy shall be handled in accordance with Part II; (ii) a dismissal for disciplinary reasons shall be handled in accordance with Part III; (iii) a dismissal on health grounds shall be handled in accordance with Part IV; and (iv) a dismissal on any other grounds shall be handled in accordance with Part V.

   (4) The Council shall by ordinance prescribe the procedures for handling any dismissal other than those set out in clause 3(3).

4. Hearing, appeal and grievance panels
   (1) Any panel established pursuant to clauses 8(1), 10(ii)(d) and (h), 15(2), 17(2) and 19(5) of this Statute shall consist of three persons, none of whom shall previously have had any involvement with the case, at least one of whom shall be a lay member of Council and the remainder drawn from a list agreed from time to time by the Academic Board.

   (2) Ordinances may provide for any relevant National Health Service or other relevant body to be represented on any panel established under this Statute to deal with a member of staff falling within clause 18(1) below and for the panel to be enlarged for this purpose.

   (3) At any panel within sub-clause (1) above, the member of staff shall be entitled to be represented or assisted by any person.

   (4) Any panel within sub-clause (1) above shall give a reasoned decision in writing which shall be provided to the member of staff and reported to the Council.

PART II: REDUNDANCY
5. Application
   (1) The power to dismiss, and the procedures prescribed, under this Part shall not apply to those staff defined in sub-sections (3) to (6) of section 204 of the Education Reform Act 1988, who shall for this purpose continue to be subject to such powers, if any, as applied to them prior to the introduction of the Statute made by the University Commissioners in the exercise of their powers under sections 203 and 204 of the Education Reform Act 1988.
This Part shall apply only to redundancies proposed to take effect before the end date specified in a member of staff’s contract of employment.

6. **Definition of “redundancy”**

Subject to clauses 3(3), 3(4) and 5(2) above, dismissal by reason of redundancy for the purpose of this Part has the same meaning as in section 139 of the Employment Rights Act 1996.

7. **Procedure for dismissal by reason of redundancy**

(1) The Council shall by Ordinance prescribe the procedures for dismissing members of staff on grounds of redundancy, which shall include the following:

   (i) a preliminary stage involving consultation with appropriate representatives in accordance with and to the extent required by section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and discussion with the staff concerned;

   (ii) the establishment of a Redundancy Committee as specified in the Ordinance;

   (iii) a procedure which is fair and which allows each staff member concerned, having been informed of the selection criteria to be employed, to make written and oral representations on his or her behalf;

   (iv) provision for informing any member of staff dismissed under this Part of the reasons for the dismissal and, where selection has taken place, why he or she was selected; and

   (v) authorising the Principal or other person to dismiss any member of staff selected for dismissal under this Part and requiring reports of dismissals to be submitted to the Council.

(2) The procedures following the preliminary stage may be used at any particular time only after the Council has first determined that the circumstances are such that the procedures should be instituted.

8. **Appeal against dismissal by reason of redundancy**

(1) The Ordinances shall include provision for an appeal to a panel by a member of staff who has been given notice of dismissal under this Part.

(2) The panel shall be entitled to review all aspects of the matter other than the Council’s determination under clause 7(2) above.

(3) The panel shall have the power to reach a final decision on the matter or to remit the matter for further consideration by the body whose decision is being appealed.

**PART III: DISCIPLINARY PROCEDURES**

9. **Grounds for disciplinary action**

Disciplinary action under this Part may be taken, and where found to be appropriate a penalty imposed, in respect of the following:

   (i) conduct amounting to a criminal offence, whether or not there has been a prosecution and conviction, of a kind that is judged in all the circumstances to be relevant to the member of staff’s employment by the College;

   (ii) failure, refusal, neglect or inability to perform some or all of the duties or to comply with some or all of the conditions attaching to the post, or performing those duties or complying with those conditions in an unsatisfactory or inadequate manner;

   (iii) conduct of a kind judged to be inappropriate or unacceptable on the part of a holder of the post held by the member of staff, such as (but not confined to) the following:

      (a) breach of any obligation or duty arising under any of the College’s regulations regarding financial matters, harassment, equal opportunities, public interest disclosure, health and safety, or data protection or any other rules, regulations or codes binding on the member of staff;
wilful or reckless damage to or improper use of College facilities, premises, property or equipment;

disruption of, or improper interference with, the activities of the College or of any employee, student, Council member or visitor (other than any lawful industrial action);

violent, indecent, disorderly, threatening, abusive, insulting or harassing behaviour or language (whether written, spoken or in any other form);

fraud, deceit, deception or dishonesty in relation to the College or any related activity, including research and examining;

action likely to cause injury or impair safety;

divulging information or material received in confidence (unless the disclosure is permitted under the Public Interest Disclosure Act 1998 or in accordance with the College’s Public Interest Disclosure Procedure).

10. Disciplinary procedures
The Council shall by Ordinance promulgate disciplinary procedures for members of staff, which shall provide:

(i) for less serious matters to be dealt with by warnings following a fair and appropriate procedure and for a member of staff to be able to appeal against the imposition of a warning to a person designated by the Principal; and

(ii) for dealing with more serious matters, which shall include provision for the following:

(a) fair and reasonable time limits for each stage;

(b) investigating complaints and dismissing those found to be without substance;

(c) suspension, on full pay, by the Principal pending an investigation or hearing where this is necessary;

(d) a hearing by a panel, authorised by the Principal, at which the member of staff against whom the complaint has been made shall have been informed of the complaint, shall be entitled to be present, to hear the evidence, to call relevant witnesses, and to examine and cross-examine witnesses (but provision may be made for witnesses in appropriate cases to give their evidence behind a screen or from another room or place and for questions to be asked only by a representative);

(e) appropriate penalties, which in addition to warnings and dismissal shall, for staff appointed or promoted after the coming into effect of this Statute, include withholding any forthcoming increment in salary, suspension without pay (for up to three months), and reduction in grade and/or loss of title (and “promoted” for the purpose of this provision shall have the same meaning as in section 204 of the Education Reform Act 1988);

(f) the award of compensation either to the College or to an individual in respect of any loss caused or damage done;

(g) designating a member of staff’s conduct as constituting “gross misconduct” such as to merit summary dismissal without notice; and

(h) a right to appeal against the finding of, or penalty imposed by, the panel, including a finding under paragraph (g) above. An appeal shall not take the form of a re-hearing of the evidence and witnesses may be called only with the appeal panel’s permission.

11 Code of Practice
In drawing up the procedures, and in any regulations made or action taken thereunder, regard shall be had to Section 1 of the Code of Practice on Disciplinary and Grievance Procedures (as may be amended or replaced from time to time) issued in October 2004 by the Advisory Conciliation and Arbitration Service (ACAS) and brought into effect by order of the Secretary of State under section 199 of the Trade Union and Labour Relations (Consultation) Act 1992.
12. **Dismissal**

(1) The Director of Human Resources or other designated officer shall give effect to a decision of a panel that a member of staff should be dismissed:

   (i) where the panel has designated the conduct as “gross misconduct” such as to merit summary dismissal pursuant to clause 10(ii)(g), the Director of Human Resources shall forthwith dismiss the member of staff;

   (ii) in all other cases, the Director of Human Resources shall issue the notice of dismissal or dismiss together with payment in lieu of notice.

(2) Any dismissal or notice of dismissal shall be cancelled, withdrawn or modified if an appeal panel decides that the member of staff should not be dismissed or should only be dismissed with notice.

13. **Relationship with Part IV**

The Ordinances shall make provision for dealing with a case in progress under this Part where it emerges that the member of staff's conduct or performance may have been wholly or partly attributable to a medical condition, but any proceedings under this Part shall be valid even if they could have been brought under Part IV, and a member of staff may, subject to the Disability Discrimination Act 1995, be subject to penalty, including dismissal, under this Part notwithstanding the fact that his or her conduct may have been wholly or partly attributable to a medical condition.

14. **Clinical staff**

Action under this Part or under Part IV may be taken against a member of staff falling within clause 18(1) below in respect of conduct or incapacity arising in connection with that member of staff’s clinical work or activities as if the work or the activities were performed in and for the College.

**PART IV: INCAPACITY ON HEALTH GROUNDS**

15. **Dismissal on health grounds**

(1) The Council shall by Ordinance prescribe a procedure for dealing with staff, including dismissal, because of incapacity on health grounds, whether physical or mental.

(2) The procedure shall include a hearing by a panel, with a right of appeal to another panel, and both panels shall contain an appropriately medically qualified person.

(3) No member of staff may be dismissed whether under this Part or Part III where that dismissal would contravene the Disability Discrimination Act 1995.

**PART V: OTHER DISMISSALS**

16. **Probationary appointments**

(1) This Part shall also apply to members of staff who have been appointed subject to review after a period of probationary service.

(2) The Council shall by Ordinance prescribe a procedure under which staff on probation shall be reviewed and shall include provision for non-confirmation in post at the end of the probationary period if their performance is found to be deficient or for any other substantial reason or reasons they are judged unsuitable to be confirmed in post.

(3) The review referred to in sub-clause (2) may encompass matters which, in other circumstances, would fall to be dealt with under Parts II, III or IV of this Statute.

(4) A member of staff who has not been confirmed in post under this clause shall be given full reasons for the decision and shall be entitled to have the decision reviewed by a panel in accordance with a procedure to be prescribed by Ordinance.
The panel, whose decision shall be final, shall consider whether the reasons advanced in support of the decision are reasonable and supportable.

17. **Dismissal on other grounds**
   (1) This clause covers dismissals on any ground falling within clause 3(2) other than those covered by Parts II, III, IV and clauses 16 and 18 of Part V of this Statute (i.e. “some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held” (Employment Rights Act 1996, s. 98(1)(b); “the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment” (s. 98 (2)(d)).

   (2) Dismissals covered by sub-clause (1) above shall be handled in accordance with a procedure prescribed by Ordinance, which shall include the right to be heard by a panel and the right to appeal to a panel.

18. **Clinical staff**
   (1) This clause applies to a member of the clinical academic staff who is required to engage in clinical work or activities and for that purpose to be registered with the General Medical or Dental Council or similar body and/or to have an honorary or substantive contract or status with a National Health Service trust or similar body, and may by Ordinance be extended to other groups of staff in a similar situation.

   (2) Where the registration, contract or status referred to in sub-clause (1) above is terminated, withdrawn or revoked, the Principal may, having first afforded an opportunity to the member of staff concerned to make representations, dismiss the member of staff concerned; and where the registration, contract or status is suspended, the Principal may suspend the member of staff from employment for so long as the registration, contract or status is suspended, that suspension from employment to be without pay where the registration, contract or status has been suspended as a substantive disciplinary measure.

**PART VI: GRIEVANCE PROCEDURES**

19. **Grievance Procedure**
   (1) The Council shall by Ordinance promulgate a Grievance Procedure for members of staff and in doing so shall have regard to Section 2 of the Code of Practice (as may be amended or replaced from time to time) referred to in clause 11 above.

   (2) The Procedure shall apply to grievances by members of staff concerning their appointments or employment in relation to matters affecting themselves as individuals or their personal dealings or relationships with other staff of the College, other than those for which provision is made elsewhere in this Statute or in respect of the outcome of any matter dealt with under this Statute, or where the Council has prescribed other procedures, provided those other procedures are no less favourable to the individual than under the Grievance Procedure.

   (3) The Procedure shall provide that consideration of a complaint under the Procedure may be deferred if other proceedings under this Statute concerning the individual and relevant to the application are pending or in progress.

   (4) The Procedure shall provide for the fair and speedy resolution of complaints, informally wherever possible, and for the complainant to be entitled to be assisted by any other member of staff or by a trade union representative at any hearings prior to that under sub-clause (5) below.

   (5) The Procedure shall make provision for a member of staff who is dissatisfied with the outcome of a complaint to be able to have the complaint heard by a Grievance Panel.
Approved by Privy Council, 2005
Appendix B
Employee becomes aware of possible fraud or malpractice

If suspicion concerns Line Manager:
- Employee informs Director of Resources
- Director of Resources records suspicion in log
- Police informed and undertake investigation
- Investigation results in formal charges and/or recovery of losses or no charges.

If suspicion involves Head of Department/Division or member of PSG:
- Employee informs Director of Resources
- Director of Human Resources is informed
- Disciplinary action taken depending on outcome of investigation
- Principal reports matter to Audit Committee
- Investigation results in formal charges and/or recovery or no charges.

If suspicion involves Director of Resources:
- Employee informs Principal
- Record kept of suspicions
- Principal commissions an internal investigation
- Principal determines how suspicions should be investigated
- Police undertake an investigation
Queen Mary, University of London

Public Interest Disclosure (Whistle-blowing) Procedure

1.0 Introduction

1.1 Queen Mary is committed to the highest standards of openness, probity and accountability. It seeks to conduct its affairs in a responsible manner taking into account the requirements of the funding bodies and the standards in public life set out in the reports of the Committee on Standards in Public Life (see www.public-standards.org.uk).

1.2 It is a fundamental term of every contract of employment that an employee will not disclose confidential information about his or her employer’s affairs. However, where an individual discovers information which they believe shows malpractice/wrongdoing within Queen Mary then this information should be disclosed without fear or reprisal, and may be made independently of line management.

1.3. The Public Interest Disclosure Act, which came into effect on 1 January 1999, gives legal protection to employees against being dismissed, victimised or suffering any other detriment from their employers as a result of making a “qualified disclosure” i.e. disclosing information which is deemed to be in the public interest.

2.0 Scope

2.1 This procedure is designed to allow employees or other members of Queen Mary to raise concerns or disclose information where the individual has a genuine and reasonable belief of malpractice which is in the interest of Queen Mary or of the public to be investigated. These will usually include one or more of the following:

- A criminal offence, such as financial malpractice, impropriety or fraud
- The breach of a legal obligation or failure to comply with the Charter, Ordinances and Regulations of Queen Mary (or University of London)
- A miscarriage of justice
- A danger to the health and safety of any individual
- Damage or potential damage to the environment
- Academic or professional malpractice, improper conduct or unethical behaviour
- Deliberate concealment of information relating to any of the above
Matters relating to individual staff or student circumstances or concerns should be addressed through Queen Mary’s Code of Practice on Grievance or Student Complaints Procedure respectively.

2.2 Victimisation of any individual who has made a qualified disclosure using this procedure in good faith will be treated as a disciplinary offence irrespective of whether the allegations raised are subsequently upheld.

2.3 A number of other policies and procedures are in place, including Queen Mary’s Code of Practice on Discipline and Queen Mary’s Procedure for Investigating Allegations of Misconduct in Academic Research. Allegations which fall within the scope of those procedures should normally be made and considered in accordance with the relevant procedure.

2.4 The Public Interest Disclosure Act applies to employees, trainees, agency staff and contractors. Although not protected by the Act, it is expected that other members of the Queen Mary community, such as members of Council and students as well as volunteers and self employed persons providing services for Queen Mary, will also use the procedure set out below to disclose any information with they believe shows malpractice or impropriety.

2.5 It is emphasised that this procedure is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by Queen Mary, nor may it be used to reconsider any matters which have already been addressed under grievance or disciplinary procedures. It is expected that members of Queen Mary will use this procedure to raise any concerns internally in the first instance rather than with agencies external to Queen Mary.

3.0 Procedure

3.1 Making a Disclosure
All disclosures should be made in writing to the designated person(s) listed below.

3.1.1 In the first instance, disclosures should be the Principal. The Chair of Council will immediately be informed.

3.1.2 If the allegation concerns the Principal, the disclosure should be made directly to the Chair of Council or, where the issue falls within the purview of the Audit and Compliance Committee, to its Chairman. Whichever Chair receives a disclosure will then become the designated person for the purpose of these procedures.

3.1.4 If there are any major concerns about the actions of a Queen Mary employee or worker of an agency/organisation, in relation to child
abuse\(^1\), then the allegations should be made to the designated Principal Safeguarding Officer (PSO) who will take forward the concerns raised in accordance with the College’s Policy and Procedures for the Protection of Children and Vulnerable Adults.

3.1.5 The designated person will inform the Director of Human Resources of any and all disclosures they receive.

3.2 **Confidentiality**

3.2.1 Queen Mary will treat all disclosures in a confidential and sensitive manner. The identity of the individual making the allegation will be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required. The individual making the disclosure will be informed if it is felt that their identity needs to be disclosed or is likely to become apparent in the progress of an investigation.

3.2.2 Queen Mary expects the individual making the disclosure and all others involved in any subsequent investigation to observe strict confidentiality in relation to the nature of the disclosure, the identity of those involved and any other information relating to the investigation.

3.3 **Anonymous Allegations**

3.3.1 This procedure requires individuals to sign any disclosures they make. In exceptional circumstances, concerns expressed anonymously may be considered at the discretion of Queen Mary. In exercising this discretion, the factors to be taken into account will include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

3.4 **Vexatious Allegations**

3.4.1 If an individual makes an allegation in good faith, but this is not upheld by subsequent investigation, no action will be taken against that individual. However, if an individual makes malicious or vexatious allegations which are found to be motivated by personal gain or the desire to cause harm or damage to the reputation of other(s), and particularly if he or she persists in making them, disciplinary action may be taken against the individual concerned.

3.5 **Investigating a Disclosure**

3.5.1 Within ten working days, the designated person will consider the information made available to him/her and decide on, and advise the individual who has made the disclosure of, the form of investigation to be undertaken. This may be:

- to investigate the matter internally

\(^1\) Details of the Principal Safeguarding Officer can be obtained from the HR Department
• to refer the matter to the police
• to arrange for an independent inquiry.

3.5.2 If the decision is that investigations should be conducted by more than one of these means, the designated person should satisfy him/herself that such a course of action is warranted.

3.5.3 Where the matter is to be the subject of an internal inquiry, the designated person will then determine:
• who should undertake the investigation (see 3.5.4)
• the procedure to be followed
• the scope of the concluding report.

3.5.4 In deciding who should undertake the investigation, the designated person will check with the proposed investigator that they:
• are not responsible for or substantially connected to the matter raised
• are able and willing to conduct the investigation in a timely way (see 3.5.7)
• are adequately experienced or knowledgeable about conducting investigations of this character
• do not believe themselves to conflicted in any other respect.

3.5.5 Where the allegation concerns a breach of Queen Mary’s Financial Regulations and/or procedures, Queen Mary’s Internal Auditor will normally undertake the investigation as the investigating officer.

3.5.6 Where the allegation does not involve a breach of Queen Mary’s Financial Regulations and/or procedures, the investigation may be undertaken by another member of staff of Queen Mary appointed as the investigating officer by the designated person for this purpose.

3.5.7 The investigating officer will report his/her findings to the designated person. Any investigation will be conducted as sensitively and speedily as possible and normally within 20 working days.

3.5.8 A member of the HR Department will be nominated to keep the individual who has made the disclosure advised of progress and likely timescales.

3.5.9 Where a disclosure is made, the person or persons against whom the disclosure is made will be informed of the nature of the allegation, the evidence supporting it and will be given the opportunity to comment on the evidence and present any explanation before any conclusions are reached.

3.5.10 In instances where there is reasonable belief that any individual implicated by the allegation raised through a disclosure could jeopardise the progress of an investigation, for example by destroying records, then that individual may be temporarily suspended from duty. Any such suspension will:
• be without prejudice i.e. will not imply or assume any actual or potential wrong doing on the part of that individual
• be confirmed in writing to the individual in question, setting out the reason(s) for the suspension and any practical arrangements for the duration of their suspension.
• be on full pay
• be of the shortest duration possible and reviewed on a regular basis.

3.5.11 As a result of this investigation, other internal procedures may be invoked, such as:
  • Code of Practice on Discipline
  • Code of Practice on Grievance
or it might form the basis of a separate investigation.

In some instances it may be necessary to refer the matter to an external authority for further investigation.

3.6 Reporting of Outcomes
3.6.1 After the investigation, the designated person will inform the individual making the disclosure, normally within five working days, of what action is to be taken where this does not breach confidentiality for other individuals concerned (for example if an outcome is that disciplinary action is to be instigated against another individual).

3.6.2 If the allegation is not upheld following an investigation, the individual concerned will be informed of the reason for this.

3.6.3 The designated person will submit a report of all disclosures and any subsequent actions taken to the Audit and Compliance Committee. Where the issue falls within the purview of the Committee, a detailed report will be submitted, in other cases a summary report, in order to allow the Committee to monitor the effectiveness of the procedure. Copies of the report will be retained for a minimum of three years by the designated person.

4.0 Appeal

4.1 The individual will be given the opportunity to remake the disclosure, in writing, stating in full the grounds for appeal, within ten working days. An appeal can be made on the grounds that either the procedure was applied incorrectly or the action taken was inappropriate in the circumstances.

4.2 The allegation should be remade to a second appropriate person. For example, if the initial disclosure was made to an officer of Queen Mary then the subsequent disclosure might be made to the Chair of the Audit Committee or to the Chair of Council.
4.3 This second designated officer will consider all the information presented, the procedures that were followed and the reasons why the allegations were not upheld. The outcome of this will be either to confirm that no further action is required or to decide that further investigation is required. In the latter case, the second designated officer will follow the procedures referred to in 3.5 above.

4.4 In the event that the disclosure is remade to a second appropriate person, the individual making the disclosure will not subsequently have access to the further College policies or procedures for the continued pursuance of the same matter.

5.0 Review

5.1 The Secretary to Council and Academic Secretary may review this policy following the conclusion of an investigation if any procedural or other problems were experienced during the course of an investigation, or if there is a change to best practice or national guidance in respect of public interest disclosures. Queen Mary’s trades unions will normally be consulted on any substantive changes proposed.