

Local counter fraud, bribery and corruption policy

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CCG owner:	Pam Hobbs
Links to other policies:	Conflicts of Interest Policy Contracts of Employment Risk Management Policy Standards of Business Conduct Standing Financial Instructions (SFI) Code of Financial Procedures Public statement regarding counter fraud Whistleblowing Policy Travel and Subsistence Rules and Guidance Payroll Over and Under Payments Policy Conduct, Performance, Grievance and Absence Management Policy
Review date:	June 2021
For action by:	This policy applies to all directly and indirectly employed staff and other persons working within the CCG.
Policy statement:	The objectives of this policy are to ensure that: <ul style="list-style-type: none"> • All members of staff are aware of the process to be followed when fraud, bribery or corruption is suspected. • No employee will suffer as a result of reporting reasonably held suspicions. • All members of staff understand the key roles.
Responsibility for dissemination to new staff:	Line Managers
Mechanisms for dissemination:	Via newsletter and staff briefing
Training implications:	All Staff at induction and through the course of mandatory training.
Resource implications:	There are no resource implications in relation to this policy.
Equality analysis completed?	Yes
Approved by:	North Hampshire CCG Finance and Performance Committee (for North Hampshire CCG)
Date approved:	21 st June 2018

LOCAL COUNTER-FRAUD, BRIBERY & CORRUPTION POLICY

QUICK REFERENCE GUIDE

For quick reference the guide below is a summary of key policy points. This does not negate the need for the document author and others involved in the process to be aware of and follow the detail of this policy.

Disclaimer: It is your responsibility to check that this is the most recent issue of this document.

- The Hampshire CCG Partnership has a zero tolerance to fraudulent and corrupt behaviour. For North Hampshire CCG this policy is endorsed by the Finance and Performance Committee of the CCG
- All employees, both directly and indirectly employed, and other persons working within the CCGs must take effective action to minimise the risk of fraud and corruption to the organisation.
- The CCGs have an appointed local counter fraud specialist (LCFS) who will take action to minimise the impact of fraud within the organisation.
- Employees must ensure all gifts and hospitality, and outside business interests are reported in accordance with the CCGs' Standards of Business Conduct and Managing Conflict of Interest Policy.
- Any allegations or suspicions of fraud or corrupt behaviour should be reported to the LCFS immediately. All allegations are treated in confidence and will be taken seriously. Allegations can also be reported to the CCGs' Chief Finance Officer (CFO).
- If the concern relates to the LCFS or CFO, a report can also be made to the National Fraud and Corruption Reporting Line or on the fraud reporting website.
- All allegations will be investigated to determine whether offences have been committed contrary to the Fraud Act 2006, the Bribery Act 2010 and other relevant legislation. The CCGs will pursue appropriate sanctions against those shown to have acted dishonestly. Sanction action can include: criminal sanctions (including warnings, cautions and criminal prosecution action), disciplinary sanctions (including oral and written warnings and dismissal), referral to professional body, and recovery of monies lost.

LOCAL COUNTER-FRAUD, BRIBERY AND CORRUPTION POLICY

CONTENTS

- 1. PURPOSE..... 5**
- 2. SCOPE 5**
- 3. DEFINITIONS 5**
- 4. ROLES AND RESPONSIBILITIES 6**
 - 4.1 Chief Officer 6
 - 4.2 Chief Finance Officer (CFO)..... 7
 - 4.3 Internal and external audit..... 7
 - 4.4 Human Resources 7
 - 4.5 Local Counter Fraud Specialist (LCFS) 8
 - 4.6 Managers 9
 - 4.7 Employees 9
- 5. INFORMATION MANAGEMENT AND TECHNOLOGY 9**
- 6. RESPONSE PLAN.....10**
 - 6.1 Bribery and corruption10
 - 6.2 Reporting fraud, bribery or corruption.....10
 - 6.3 Sanctions and redress.....10
- 7. IMPLEMENTATION / TRAINING IMPLICATIONS.....12**
- 8. EQUALITY ANALYSIS RELATING TO THIS POLICY12**
- 9. MONITORING COMPLIANCE AND EFFECTIVENESS.....12**
- 10. REVIEW OF THIS POLICY13**
- 11. USEFUL LINKS.....13**
- 12. CONTACT INFORMATION14**
- Appendix A Reporting fraud aide memoire15**

LOCAL ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY

1. PURPOSE

- 1.1 The purpose of this policy is to provide employees with information regarding fraud, bribery and corruption and the counter fraud arrangements in place within North Hampshire CCG aligned with the CCG's in the Hampshire CCG Partnership. It also provides information to help employees prevent, deter and detect fraud or corruption and defines the appropriate lines of reporting should fraud or corruption be suspected.

2. SCOPE

- 2.1 This policy and procedure will be applied fairly and consistently to all employees regardless of their protected characteristics as defined by the Equality Act 2010 namely, age, disability, gender reassignment, race, religion or belief, gender, sexual orientation, marriage or civil partnership, pregnancy and maternity; length of service, whether full or part-time or employed under a permanent or a fixed-term contract, irrespective of job role or seniority within the organisation. It will also apply to any temporary or agency staff, volunteers and self-employed staff, contractors, consultants, and any other internal and external stakeholders who are working for and supervised by CCG's who are part of the Hampshire CCG Partnership.

3. DEFINITIONS

- 3.1 **NHS Counter Fraud Authority (previously known as NHS Protect)**
The NHS Counter Fraud Authority (NHSCFA) has responsibility for all national policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS. It also has a responsibility to ensure that any investigations are conducted in accordance with the guidance document, 'Tackling crime against the NHS: A strategic approach'.

3.2 **Fraud**

Fraud involves dishonestly making a false representation, failing to disclose information or abusing a position held, with the intention of making a financial gain or causing a financial loss.

Fraud is a criminal offence contrary to the Fraud Act 2006. Fraud by definition is an intentional and deliberate act; it is not possible to commit fraud accidentally.

- **False representation**
Any representation as to fact or law, either express or implied, which a person knows to be untrue or misleading.
- **Failing to disclose information**
Failing to disclose any information to a third party where there is a legal duty to disclose such information.

- **Abuse of position**

Where a person occupies a position in which they are expected to safeguard the financial interests of another person or organisation, and abuses that position; this includes cases where the abuse consisted of an omission rather than an overt act.

3.3 **Bribery and corruption**

Bribery and corruption involves offering, promising or giving a payment or benefit-in-kind in order to influence others to use their position in an improper way to gain an advantage. There are four offences:

- **Offering a bribe**

To offer, promise or give a bribe to another person to perform a relevant 'function or activity' improperly, or to reward a person for the improper performance of such a function or activity.

- **Accepting a bribe**

Requesting, agreeing to receive or accepting a bribe to perform a function or activity improperly, irrespective of whether the recipient of the bribe requests or receives it directly or through a third party, and irrespective of whether it is for the recipient's benefit.

- **Bribing a foreign public official**

- **Failure of a commercial organisation to prevent bribery**

(An NHS health body is considered a 'commercial organisation').

The CCG in line with the CCG's who are part of the Hampshire CCG Partnership will demonstrate a 'zero tolerance' approach to individuals that are shown to have acted corruptly.

It is essential that:

- a) Staff, or their family and friends, must not profit in any way from their employment with the organisation apart from their salary and other entitlements.
- b) Staff must declare any interests, which may prejudice their requirement to act honestly and fairly at all times; please refer to the Standards of Business Conduct & Management of Conflict of Interest Policy.
- c) Staff must be, and be seen to be honest and incorruptible in their dealings with colleagues, patients and other persons or organisations.
- d) Staff must declare all gifts and hospitality in accordance with the CCG Conflicts of Interest Policy.

4. **ROLES AND RESPONSIBILITIES**

4.1 **Chief Officer**

4.1.1 The Chief Officer has the overall responsibility for funds entrusted to each CCG. This includes instances of fraud, bribery and corruption. The

Chief Officer must ensure adequate policies and procedures are in place to protect the organisation and the public funds it receives.

4.2 Chief Finance Officer (CFO)

- 4.2.1 The Chief Finance Officer (CFO) has powers to approve financial transactions across the organisation in accordance with the CCG Constitution and the associated documents including Standing Orders and Code of Financial Procedures.
- 4.2.2 The CFO prepares, documents, and maintains detailed financial procedures and systems and applies the principles of separation of duties and internal checks to supplement those procedures and systems.
- 4.2.3 The CFO will report annually to the Board on the adequacy of internal financial controls and risk management as part of the Board's overall responsibility to prepare a Governance Statement which forms part of the CCG's Annual Report.
- 4.2.4 The CFO will, depending on the outcome of initial investigations, inform appropriate senior management of suspected cases of fraud, bribery and corruption, especially in cases where the loss may be above an agreed limit or where the incident may lead to adverse publicity.
- 4.2.5 The CFO is responsible for nominating a suitably qualified local counter fraud specialist (LCFS) and ensuring that the LCFS delivers an agreed risk assessed counter fraud work plan which meets NHS Counter Fraud Authority guidance and protects the organisation from the risk of fraud or corruption.

4.3 Internal and external audit

- 4.3.1 The CCG has appointed internal and external auditors. The role of internal and external audit includes reviewing controls and systems and ensuring compliance with financial instructions. Any suspicions of fraud, bribery or corruption identified by internal or external audit are referred to the CFO and LCFS.

4.4 Human Resources

- 4.4.1 Where a suspected case of fraud or corruption affects an employee, the LCFS will liaise with the relevant human resources (HR) contact, who will consider whether a breach of CCG policy or an employee's conditions of employment may also have occurred.
- 4.4.2 Disciplinary investigations into matters relating to a fraud or corruption allegations are managed by the HR department and are conducted in accordance with employment law.
- 4.4.3 The CCGs will seek to achieve all possible sanctions on a case of proven fraud, in accordance with the NHS Counter Fraud Authority

guidance document: 'Countering Fraud in the NHS: Applying Appropriate Sanctions Consistently'.

4.5 **Local Counter Fraud Specialist (LCFS)**

- 4.5.1 The LCFS is responsible for tackling fraud, bribery and corruption affecting the CCGs in accordance with national NHS standards. Adherence to the standards is important to ensure that the CCGs have appropriate anti-fraud, bribery and corruption measures in place. The LCFS will report directly to the CFO and at least annually to the Audit and Risk Committee in Common.
- 4.5.2 The LCFS will work with key colleagues and stakeholders to promote anti-fraud work, apply effective preventative measures and investigate allegations of fraud and corruption.
- 4.5.3 The LCFS will follow guidance, as set out by the NHS Counter Fraud Authority in the investigation of all allegations of fraud, bribery and corruption. The LCFS will ensure that relevant legislation, such as the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigations Act 1996, is adhered to.
- 4.5.4 The LCFS will complete witness statements that satisfy the national training model and best practice, and follow national guidelines approved by the Crown Prosecution Service.
- 4.5.5 The LCFS will ensure that interviews under caution are conducted following the national training model, and in line with the National Occupational Standards (CJ201.2) and the Police and Criminal Evidence Act 1984.
- 4.5.6 The LCFS will develop and deliver an anti-fraud work plan in compliance with all relevant standards for fraud, bribery and corruption, which are:
- Strategic Governance – work relating to the CCGs' strategic governance arrangements. The aim is to ensure that anti-crime measures are embedded at all levels across the organisation.
 - Inform and Involve – work in relation to raising awareness of fraud, bribery and corruption risks against the NHS and working with NHS staff, stakeholders and the public to highlight the risks and consequences of such crime against the NHS.
 - Prevent and Deter – work to discourage individuals who may be tempted to commit crimes against the NHS and ensuring opportunities for crime to occur are minimised.
 - Hold to Account - work to detect and investigate crime, prosecuting those who have committed crimes and seeking redress.

4.6 Managers

- 4.6.1 All managers are responsible for ensuring that policies, procedures and processes within their local area are adhered to and kept under constant review.
- 4.6.2 Managers have a responsibility to ensure that employees are aware of fraud, bribery and corruption and understand the importance of protecting the organisation from it. Managers will also be responsible for the enforcement of disciplinary action for employees who do not comply with policies and procedures.
- 4.6.3 Managers should report any instances of actual or suspected fraud, bribery or corruption brought to their attention to the LCFS immediately. It is important that managers do not investigate any suspected financial crimes themselves.
- 4.6.4 Managers should act upon fraud prevention material received from the LCFS or the NHSCFA and ensure that it is processed promptly and its desired aims are met. They should ensure that such material is seen by all their staff.

4.7 Employees

- 4.7.1 All employees, both directly and indirectly employed as defined in the scope (see [Section 2](#)) are required to comply with the organisation's policies and procedures and apply best practice in order to prevent fraud, bribery and corruption, for example in the areas of procurement, personal expenses and ethical business behaviour. Everyone must accept responsibility and play their part in helping protect the organisation from these crimes.
- 4.7.2 Employees who are involved in or manage internal control systems should receive adequate training and support in order to carry out their responsibilities.
- 4.7.3 If an employee suspects that fraud, bribery or corruption has taken place, they should ensure it is reported to the LCFS and/or to the NHSCFA.

5. INFORMATION MANAGEMENT AND TECHNOLOGY

- 5.1 The Computer Misuse Act became law in 1990; the Act identifies three specific offences:
 - Unauthorised access to computer material.
 - Unauthorised access with intent to commit or facilitate commission of further offences.

- Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer, etc.
- 5.2 Unauthorised access to computer material could include using another person's identifier (ID) and password without proper authority in order to use data or a program, or to alter, delete copy or move a program or data.
- 5.3 Unauthorised access with intent to commit or facilitate commission of further offences could include gaining unauthorised access to financial or administrative records with intent.
- 5.4 Unauthorised acts with intent to impair, or with recklessness as to impairing the operation of computer, could include: destroying another user's files; modifying system files; creation of a virus; changing clinical records; and deliberately generating information to cause a complete system malfunction.
- 5.5 The fraudulent use of information technology will be reported by the NHS South, Central & West Commissioning Support Unit (SCWCSU) Head of Information Security (or equivalent) to the LCFS. (SCWCSU provide the IT infrastructure / support to the CCG).

6. RESPONSE PLAN

6.1 Bribery and corruption

- 6.1.1 Proportionate procedures have been put in place to mitigate identified risks. All employees are required to be aware of the requirements of the CCGs' Conflict of Interest Policy.

6.2 Reporting fraud, bribery or corruption

- 6.2.1 Concerns should be reported to the LCFS or, as an alternative to internal reporting procedures and if members of staff wish to remain anonymous, may be reported to the NHS Counter Fraud Authority.
- 6.2.2 If there is a concern that the LCFS or the CFO may be implicated in suspected fraud, bribery or corruption, this should be reported direct to the NHS Counter Fraud Authority.
- 6.2.3 Contact details of relevant persons and organisations can be found in [Section 12](#) of this policy. An aide memoire for reporting fraud, bribery or corruption can be found at [Appendix A](#).

6.3 Sanctions and redress

- 6.3.1 All allegations of fraud will be investigated in accordance with relevant criminal legislation including: the Fraud Act 2006, the Theft Act 1968, the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, the Regulation of Investigatory Powers Act 2000 and all relevant Codes of Practice. Allegations of corruption will be referred to the NHS Counter Fraud Authority for investigation in

accordance with all appropriate legislation including the Acts listed above and the Bribery Act 2010.

6.3.2 Where it is identified that members of staff may be involved in the commission of an offence or offences, the LCFS will liaise with the HR department at the earliest opportunity. The LCFS will work with the HR department in accordance with the guidance document 'Applying Appropriate Sanctions Consistently' which outlines the types of sanction which the organisation may apply when a financial offence has occurred i.e.:

- **Civil**
Civil sanctions can be taken against those who commit fraud, bribery and corruption to recover money and/or assets which have been fraudulently obtained, including interest and costs.
- **Criminal**
The LCFS will work in partnership with the NHS Counter Fraud Authority, the police and/or the Crown Prosecution Service to bring a case to court against an alleged offender. Outcomes can range from a criminal conviction to fines and imprisonment.
- **Disciplinary**
Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act in accordance with the Conduct, Performance, Grievance and Absence Management Policy: disciplinary procedure.
- **Professional body disciplinary**
If warranted, staff may be reported to their professional body as a result of a successful investigation/prosecution.

6.3.3 Where legally appropriate the LCFS will make relevant evidence available to the HR department for use during internal disciplinary proceedings.

6.3.4 Criminal and disciplinary processes have different purposes, different standards of proof, and are governed by different rules. As such, it would not be appropriate for one investigation to cover both criminal and disciplinary matters. The LCFS may conduct criminal investigations to ascertain whether a crime has been committed, with a view to the possible institution of criminal proceedings.

6.3.5 In conducting an investigation, the investigator will pursue all reasonable lines of inquiry, whether these point towards or away from the suspect. What is reasonable in each case will depend on the particular circumstances. There is no requirement for the investigator to notify the suspect that they are being investigated. At the point that evidence to indicate that an offence has been committed may be identified, the suspect will normally be provided with an opportunity to give an explanation regarding any evidence that has been gathered. The investigator will not normally make contact with a suspect prior to

this (other than to make arrangements for the interview) to ensure that the investigation process is not prejudiced.

6.3.6 Following an investigation a decision will be made whether to submit a file to the Crown Prosecution Service (CPS) for a decision on whether a prosecution should take place. Any charging decision would be made by the CPS, which is an independent prosecutor and will make charging decisions in respect of all cases referred to it in accordance with the Code for Crown Prosecutors.

6.3.7 The LCFS will advise the CFO on appropriate methods of recovering money lost to fraud and corruption. Redress can take the form of confiscation and compensation orders, a civil order for repayment, or a local agreement between the organisation and the offender to repay monies lost. Where appropriate, the LCFS will make evidence available to the CCGs for use during financial recovery procedures.

7. IMPLEMENTATION / TRAINING IMPLICATIONS

7.1 It is the responsibility of directors and service managers to ensure that all members of staff for whom they are responsible are made aware of the requirements of the policy.

7.2 All employees need to be aware of this policy and their responsibilities with regard to fraud. This will be achieved by:

- This policy being made available to all staff via the CCGs' websites.
- Mandatory fraud awareness training every three years.
- Fraud awareness sessions can be provided by the LCFS.
- All new employees are made aware of the Counter-Fraud, Bribery & Corruption Policy as part of their induction either through presentation or the induction literature.

8. EQUALITY ANALYSIS RELATING TO THIS POLICY

8.1 This policy has been assessed as having a low impact on groups protected under the Equality Act 2010. As the policy describes how CCG employees should raise concerns about fraud or corruption and includes measures to protect staff, the policy aims to have a positive impact.

8.2 There is potential for malicious allegations to be motivated by prejudice or discrimination, and so investigating officers should consider this when using this policy.

9. MONITORING COMPLIANCE AND EFFECTIVENESS

9.1 The effectiveness of this policy is monitored through the number of incidents of staff using the policy to highlight concerns to the LCFS for investigation. Investigation closure reports are reported to the Audit and Risk Committee in common and the source of investigations monitored.

10. REVIEW OF THIS POLICY

- 10.1 This document may be reviewed at any time at the request of the any of the CCG's in the Hampshire CCG Partnership or from the forums which represent staff e.g. in North Hampshire the Staff Partnership Forum, but will automatically be reviewed on a bi-annual basis.

11. USEFUL LINKS

North Hampshire CCG as host organisation for the Hampshire and Isle of Wight Fraud and Security Management Service

www.nhsfraud.org

NHS Counter Fraud Authority

www.cfa.nhs.uk/reportfraud

Policy Approved; by the Finance and Performance Committee North Hampshire CCG in relation to North Hampshire CCG On 21st June 2018

12. CONTACT INFORMATION

Position	Name	Tel Number	e-mail / web address
Local Counter Fraud Specialist	Jennison Baskerville	02380 725487	jennison.baskerville@nhs.net
Chief Finance Officer NHS Fareham and Gosport CCG	Andrew Wood	02380 627429	andrew.wood5@nhs.net
Chief Finance Officer NHS Isle of Wight CCG	Lesley MacLeod	01983 822099	Lesley.macleod@iow.nhs.uk
Chief Finance Officer NHS North East Hampshire and Farnham	Roshan Patel	01252 335153	roshan.patel@nhs.net
Chief Finance Officer NHS North Hampshire CCG	Pam Hobbs	01256 705504	pamhobbs@nhs.net
Chief Finance Officer NHS South Eastern Hampshire CCG	Andrew Wood	02380 627429	andrew.wood5@nhs.net
NHS Counter Fraud Authority	National Fraud and Corruption Reporting Line	0800 028 40 60	www.cfa.nhs.uk/reportfraud

Appendix A Reporting fraud aide memoire

When and how should I report a concern?

Could it be fraud?

- Has somebody taken advantage of their position for personal gain?
- Is there something to suggest that information has been deliberately misrepresented?

Could it be bribery or corruption?

- Has someone offered or promised an inducement to another?
- Has someone requested, agreed to receive or accepted any inducement?
- Has someone failed to declare a financial interest in a decision where they have influence?

Do you have relevant documentation?

- Keep it safe
- Don't start your own investigation

Who should I contact with my concerns?

- Concerns can be raised in confidence or anonymously by contacting either:
- The CCG's Local Counter Fraud Specialist: jennison.baskerville@nhs.net OR
- The CCG's Chief Finance Officer
- If you do not wish to raise internally you can contact the National Fraud and Corruption Reporting Line: 0800 028 40 60 / www.reportnhsfraud.nhs.uk

Need more information?

- Visit www.nhsfraud.org