

Hull Clinical Commissioning Group

Local anti-fraud, bribery and corruption policy

September 2015

A decorative graphic at the bottom of the page consisting of numerous vertical blue lines of varying heights, creating a textured, wave-like effect.

Tackling fraud and managing security

Local anti-fraud, bribery and corruption policy for Hull Clinical Commissioning Group

DOCUMENT CONTROL

Title:	<i>The local anti-fraud, bribery and corruption policy template for Hull CCG</i>
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Author:	<i>Nikki Cooper – Local Counter Fraud Specialist</i>
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Lead officer:	<i>Emma Latimer – Senior Officer</i>
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1 Introduction

1.1 General

The Governing Body is committed to maintaining an honest, open and well-intentioned atmosphere within Hull Clinical Commissioning Group (CCG), so as best to fulfil the objectives of the organisation and of the NHS. It is therefore also committed to the elimination of fraud, bribery and corruption in the NHS and will seek the appropriate disciplinary, regulatory, civil and criminal sanctions against fraudsters and where possible will attempt to recover losses. This policy is endorsed and supported by the Integrated Audit and Governance Committee.

1.2 Aims and objectives

The purpose of this document is to provide guidance to staff on what fraud is, what everyone's responsibility is to prevent fraud, bribery and corruption and how to report suspicions of fraud, bribery or corruption.

1.3 Scope

This policy applies to all CCG employees, Council of Members, Members of the Governing Body, members of its committees and sub-committees, Lay Members, any staff seconded to the CCG and contract and agency staff. Any reference to staff or individuals applies to all the aforementioned.

2 Definitions

2.1 NHS Protect

NHS Protect has national responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS and that any investigations will be handled in accordance with NHS Protect guidance and standards. The NHS Protect strategy is detailed in the document *'Tackling crime against the NHS: A strategic approach'*.

2.2 Fraud

Fraud can be defined as 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.

The Fraud Act 2006 introduced a new way of investigating fraud. It is no longer necessary to prove a person has been deceived. The focus is now on the dishonest behaviour of the suspect and their intent to make a gain or cause a loss.

Section 1 of The Fraud Act 2006 introduces a new offence of fraud, which can be committed in three ways:

- **Fraud by false representation (Section 2)** – being dishonest about something using any means, e.g. by words or actions, running a fake website.
- **Fraud by failing to disclose (Section 3)** – not saying something when you have a legal duty to do so, e.g. not declaring information on a tax return.
- **Fraud by abuse of a position of trust (Section 4)** – abusing a position where there is an expectation to safeguard the financial interests of another person or organisation, e.g. insider employee fraud.

Other offences to consider are:

- **Possession of articles intended for the use in fraud (Section 6)** – includes any article found, e.g. cloned credit cards, software, electronic data.
- **Making or supplying articles for use in fraud (Section 7)** – must know or intend the article to be used to commit or facilitate fraud.
- **Fraudulent business carried out by sole trader (Section 9)**
- **Obtaining services dishonestly (Section 11)** – e.g. using a stolen credit card on the internet.

All offences occur where the act or omission is committed dishonestly and with intent to cause gain or loss. The gain or loss does not have to succeed, so long as the intent is there.

2.3 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.

Under the Bribery Act 2010, it is a criminal offence to:

- Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so, and
- Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so.

These offences can be committed directly or by and through a third person and, in many cases, it does not matter whether the person knows or believes that the performance of the function or activity is improper.

It is, therefore, extremely important that staff adhere to this and other related documentation (as detailed at section 6) when considering whether to offer or accept gifts and hospitality and/or other incentives.

2.4 Money Laundering

Money laundering is a process by which the proceeds of crime are converted into assets which appear to have a legitimate origin, so that they can be retained permanently or recycled into further criminal enterprises. Legislation defines money laundering as 'concealing, converting, transferring criminal property or removing it from the UK; entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person; and/or acquiring, using or possessing criminal property.' The Money Laundering Regulations 2007 apply to cash transactions in excess of €15,000 (approximately £10,000). However, the Proceeds of Crime Act 2002 applies to all transactions and can include dealings with agents, third parties, property or equipment, cheques, cash or bank transfers.

Offences covered by the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007 may be considered and investigated in accordance with this Policy.

3 Roles and responsibilities

3.1 Senior Officer

The Senior Officer has overall responsibility for funds entrusted to the organisation as the accountable officer. This includes instances of fraud, bribery and corruption. The Senior Officer must ensure adequate policies and procedures are in place to protect the organisation.

3.2 Chief Finance Officer

The role of Chief Finance Officer has been summarised in the NHS Commissioning Board guidance *Clinical commissioning group governing body members: Role outlines, attributes and skills* (October 2012) as:

- a) being the Governing Body's professional expert on finance and ensuring, through robust systems and processes, the regularity and propriety of Expenditure is fully discharged;
- b) making appropriate arrangements to support and monitor the Group's finances;
- c) overseeing robust audit and governance arrangements leading to propriety in the use of the Group's resources;
- d) being able to advise the Governing Body on the effective, efficient and economic use of the group's allocation to remain within that allocation and deliver required financial targets and duties; and
- e) producing the financial statements for audit and publication in accordance with the statutory requirements to demonstrate effective stewardship of public money and accountability to the NHS Commissioning Board

The Chief Finance Officer prepares documents and maintains detailed financial procedures and systems and that they incorporate the principles of separation of duties and internal checks to supplement those procedures and systems.

The Chief Finance Officer 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.

The Chief Finance Officer will ensure the Local Counter Fraud Specialist (LCFS), or the specialist investigators, are given access to staff and records where required/necessary.

The Chief Finance Officer will present the views of the organisation on the conduct of the investigation and any possible sanctions against any employee, if required to do so by NHS Protect.

The Chief Finance Officer will, where considered necessary, pursue sanctions against any employee found to be guilty of fraud, corruption or bribery where the advice of NHS Protect is that a criminal prosecution will not be pursued by them.

3.3 Internal and external audit

Internal and external audit work regularly includes reviewing controls and systems and ensuring compliance with financial instructions. Internal and external audit have the duty to pass on any suspicions of fraud, bribery or corruption to the LCFS.

3.4 Human resources/Workforce

When Workforce staff (currently part of Commissioning Support) are advised of suspected cases of fraud, bribery or corruption, they undertake to advise the LCFS as soon as possible. Workforce staff and the LCFS will liaise during the conduct of any investigation to ensure information is shared, duplication avoided and the actions of neither party compromises each other's work in accordance with the Protocol for LCFS and Workforce co-operation which is in place.

3.5 Local Counter Fraud Specialist

The LCFS is responsible for taking forward all anti-fraud work locally in accordance with national standards and reports directly to the Chief Finance Officer.

The LCFS will work with key colleagues and stakeholders to promote anti-fraud work and effectively respond to system weaknesses and investigate allegations of fraud and corruption.

The LCFS will investigate allegations of fraud and corruption in accordance with the instructions of NHS Protect.

The LCFS will provide regular updates on current investigations to the Chief Finance Officer and the Integrated Audit and Governance Committee and is responsible for all external reporting requirements.

The LCFS will play an active part in raising fraud awareness and enforcing the message that fraud within the CCG is not acceptable and will not be tolerated.

3.6 Area Anti Fraud Specialists

Area Anti-Fraud Specialists (AAFSs) are the frontline face of NHS Protect for all health bodies within their region. The AAFS is responsible for the management and vetting of all local investigation case papers and evidence and witness statements submitted for the consideration of prosecutions.

AAFSs ensure that local investigations are conducted within operational and legislative guidelines to the highest standards for all allegations of fraud in the NHS. They provide help, support, advice and guidance to Chief Financial Officers, LCFSs, Integrated Audit and Governance Committees and other key stakeholders in their region.

The AAFS allocates, supervises and monitors fraud referrals and notifications to the LCFS. The AAFS provides support as to the direction of ensuing investigations as required and oversees the LCFS's performance.

The AAFS ensures that all information and intelligence gained from local investigative work is reported and escalated as appropriate at both local and national level in order to ensure that fraud trends are mapped and used to fraud-proof future policies and procedures.

3.7 Managers

All managers are responsible for ensuring that policies, procedures and processes are adhered to and those within their local area kept under constant review.

Managers have a responsibility to ensure that staff 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 staff who do not comply with policies and procedures.

If any instances of actual or suspected fraud, bribery or corruption are brought to the attention of a manager, they must report the matter immediately to the LCFS taking note of anything they hear or see relating to the suspicion including dates, times, descriptions, etc. It is important that managers do not investigate any suspected financial crimes themselves as a case can be jeopardised if evidence is not collected in the proper manner. Evidence also includes witness statements. In view of the complexity and importance of complying with all the conditions of the Police and Criminal Evidence Act 1984 (PACE), Line Managers or other staff **must not** carry out any investigations or interviews.

Managers must co-operate fully with the LCFS and provide any evidence required during the course of the enquiries, including statements. Managers are also responsible for conducting risk assessments and mitigating any identified risks of fraud, bribery or corruption.

3.8 All employees

All staff 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).

All staff have a duty to protect the assets of the organisation and encourage anyone having suspicions of fraud and corruption to report them. All members of staff can, therefore, be confident that their reasonably held suspicions will be taken seriously and that no member of staff will suffer in any way as a result of reporting suspicion of fraud, bribery or corruption. Front line staff are often in the best position to identify areas for concern and must, therefore, take responsibility to ensure that any real concerns are passed on to the LCFS and provide a statement if required.

It is NOT recommended that staff report any concerns to their line manager in the first instance – the LCFS/Chief Finance Officer should always be regarded as the first point of contact ideally (as per section 4).

The CCG also discourages anybody who has reasonably held suspicions from doing nothing, trying to investigate the matter themselves, talking to others about their suspicions or approaching or accusing any individual. Any of these actions could result in the continual perpetration of any fraud offences being committed against the CCG, or compromise or jeopardise a successful outcome of a fraud investigation.

Staff who are involved in or manage internal control systems should receive adequate training and support in order to carry out their responsibilities.

3.9 Information management and technology

The Computer Misuse Act (1990) made three new offences:

- Accessing computer material without permission, e.g. looking at someone else's files.
- Accessing computer material without permission with intent to commit further criminal offences
- Altering computer data without permission, e.g. to hide misappropriation

The fraudulent use of information technology will be reported by the corporate officer responsible for IMT to the LCFS.

4 The response plan

4.1 Bribery and corruption

The local Counter Fraud Team undertake periodic reviews of the arrangements within the organisation for countering bribery and corruption in line with the requirements of the Bribery Act 2010. This includes risk assessments in line with Ministry of Justice guidance to assess how bribery and corruption requirements may affect the organisation. As a result of these reviews proportionate procedures have been put in place to mitigate identified risks against bribery and corruption.

Staff should be aware of the organisations procedures in relation to declarations of interest/secondary employment and the hospitality/gifts register. Managers should refer staff to the appropriate policies as required.

4.2. Reporting fraud, bribery or corruption

Suspected fraud can be discovered in a number of ways, but in all cases it is important that staff are able to report their concerns and are aware of the means by which they are able to do so.

All staff should report their suspicions to the LCFS who is authorised to treat concerns raised in the strictest confidence and anonymously if so requested. A referral form can be found below (form 2) and on the CCG intranet. The LCFS will undertake to acknowledge receipt of this referral within 5 working days unless otherwise requested.

To raise any suspicions of fraud and/or corruption please contact the Fraud Team: Shaun Fleming, Counter Fraud Manager or Nikki Cooper, Local Counter Fraud Specialist via:

The Fraud Team

East Coast Audit Consortium, Crosskill House, Mill Lane, Beverley, HU17 9JB Telephone (01482) 866800 Fax (01482) 882992 or email shaunfleming@nhs.net or nikki.cooper1@nhs.net

The LCFS will inform the Chief Finance Officer if the suspicion seems well founded and will conduct a thorough investigation.

Concerns may also be discussed with The Chief Finance Officer or the Integrated Audit and Governance Committee Chair who can be contacted via their Personal Assistants.

If staff prefer they may call the NHS Fraud and Corruption Reporting Line on **0800 028 40 60** between 8am and 6pm Monday to Friday or report online at www.reportnhsfraud.nhs.uk. This would also be the suggested contact if there is a concern that the LCFS or the Chief Finance Officer themselves may be implicated in suspected fraud, bribery or corruption.

Where it is the wish of the individual to report suspicions anonymously this will be respected. However, the Governing Body will always encourage individuals to give their name as this allows suspicions to be acted upon with greater effectiveness and efficiency. The Public Interest Disclosure Act 1998 protects all staff from reprisals provided the information is given in good faith and the employee making the disclosure believes it to be substantially true and is not seeking any personal gain from the allegation.

Once fraud or corruption is reported, any allegation will be investigated by the LCFS in a professional manner aimed at ensuring that the current and future interests of the CCG and the suspected individual(s) are protected. The latter is equally important as a suspicion should not be seen as guilt to be proven.

The guide included in the appendix (form 1) provides a reminder of the key contacts and a checklist of the actions to follow if fraud, bribery and/or corruption, is discovered or suspected. Managers are encouraged to copy this to staff and to place it on staff notice boards.

All reports of fraud and corruption will be taken seriously and thoroughly investigated.

4.3 Sanctions and redress

Disciplinary or capability procedures may also be initiated where an employee is suspected of being involved in a fraudulent or illegal act. The CCG disciplinary policy is available on the intranet. The disciplinary procedure will also be followed if it is found that a malicious allegation of fraud has been made.

Other sanctions or redress will be applied if appropriate (see also CCG redress policy) against individuals who commit fraud, bribery and corruption against the organisation. The NHS Protect guidance document '*Parallel Criminal and Disciplinary Investigations*' sets out the types of sanction which the organisation may apply when a financial offence has occurred:

- 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 NHS Protect, 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. Staff should refer to the organisation's disciplinary policy.
- Professional body disciplinary – if warranted, staff may be reported to their professional body as a result of a successful investigation/prosecution.

The organisation will seek financial redress whenever possible to recover losses to fraud, bribery 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.

5 Review

5.1 Monitoring and auditing of policy effectiveness

The Integrated Audit and Governance Committee is responsible for monitoring the effectiveness of this policy to provide assurance to the Governing Body that the business of the CCG is being conducted in line with this policy, the associated policy documents, relevant legislation and other statutory requirements.

Continuous monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. Arrangements might include reviewing system controls on an ongoing basis and identifying weaknesses in processes.

5.2 Dissemination of the policy

Following approval by the Integrated Audit and Governance Committee this policy will be sent to:

- The Senior Leadership Team of the CCG who will disseminate to all staff via the team briefing process.
- The Chairs of the Governing Body, the Council of Members and all other committees and sub committees for dissemination to members and attendees.
- The Practice Managers of all member practices for information.

5.3 Review of the policy

This Policy will be reviewed by the organisation's Local Counter Fraud Specialist two years from the date of implementation, or sooner where changes in legislation require it.

Minor amendments (such as changes in title) may be made prior to the formal review, details of which will be monitored/approved by the Chief Finance Officer or the Integrated Audit and Governance Committee. Such amendments will be recorded in the PPG Register and a new version of the PPG issued.

6 Policy appendices

CCG policies relevant to this policy

- Disciplinary
- Whistleblowing
- Capability
- Standing Financial Instructions
- Standing Orders
- Standards of Business Conduct
- Conflicts of Interest
- Scheme of Delegation
- Commercial Sponsorship
- Provision of Gifts and Hospitality
- Offers/Acceptance of Gifts and Hospitality
- Provision and Use of Free Gifts, Prizes and Incentives
- Redress

Other guidance relevant to this policy

- NHS Protect Commissioner Standards on countering fraud, bribery and corruption
- NHS Protect guidance: '*Tackling crime against the NHS: A strategic approach*'.
- NHS Protect guidance: '*Parallel Criminal and Disciplinary Investigations*'.

NHS fraud, bribery and corruption: dos and don'ts. A guide for Hull CCG

FRAUD is the intent to obtain a financial gain from, or cause a financial loss to, a person or party through false representation, failing to disclose information or abuse of position.

BRIBERY & CORRUPTION is the deliberate use of payment or benefit-in-kind to influence an individual to use their position in an unreasonable way to help gain advantage for another.

DO

- **Note your concerns**
Record details such as the nature of your concerns, names, dates, times, details of conversations and possible witnesses. Time, date and sign your notes.
- **Retain evidence**
Retain any evidence that may be destroyed, or make a note and advise your Local Counter Fraud Specialist (LCFS).
- **Report your suspicions**
Confidentiality will be respected – delays may lead to further financial loss.
- **Refer to the Local anti-fraud, bribery and corruption policy on the CCG intranet**

DO NOT

- **Confront the suspect or convey concerns to anyone other than those authorised, as listed below**
Never attempt to question a suspect yourself; this could alert a fraudster or lead to an innocent person being unjustly accused.
- **Try to investigate, or contact the police directly**
Never attempt to gather evidence yourself unless it is about to be destroyed; gathering evidence must be done in line with legal requirements in order for it to be useful. Your LCFS can conduct an investigation in accordance with legislation.
- **Be afraid of raising your concerns**
The Public Interest Disclosure Act 1998 protects employees who have reasonable concerns. You will not suffer discrimination or victimisation by following the correct procedures.
- **Do nothing!**

If you suspect that fraud against the NHS has taken place, you must report it immediately, by:

- directly contacting the **Local Counter Fraud Specialist (LCFS), Counter Fraud Manager** or
- telephoning the **freephone NHS Fraud and Corruption Reporting Line**, online or by telephone or
- contacting the **Chief Finance Officer**.

Do you have concerns about a fraud taking place in the NHS?

NHS Fraud, Bribery and Corruption Reporting Line: **0800 028 40 60**
calls will be treated in confidence and investigated by professionally trained staff.
Online: www.reportnhsfraud.nhs.uk

Your Local Counter Fraud Specialist is Nikki Cooper, also available is the Counter Fraud Manager, Shaun Fleming, both can be contacted by telephoning (01482) 866800 or emailing nikki.cooper1@nhs.net or shaunfleming@nhs.net
If you would like further information about NHS Protect, please visit www.nhsbsa.nhs.uk/Protect.aspx

Tackling fraud

REFERRAL FROM :

NAME

ORGANISATION/PROFESSION

ADDRESS

TEL.NO

THIS ALLEGED FRAUD RELATES TO:

NAME

ADDRESS

DATE OF BIRTH

Referrals should only be made when you can substantiate your suspicions with one reliable piece of information

Suspicion

Please provide details

Possible useful contacts

Please attach any available additional information.

Signed.....

Date.....

Please return to: the Fraud Team, East Coast Audit Consortium, Crosskill House, Mill Lane, Beverley, HU17 9JB Telephone (01482) 866800 Fax (01482) 882992 or email nikki.cooper1@nhs.net or shaunfleming@nhs.net

The Local Counter Fraud Specialist will undertake to acknowledge receipt of this referral direct to you within 5 working days unless otherwise requested.