

# REDRESS POLICY

## SEPTEMBER 2017

**Important:** This document can only be considered valid when viewed on the CCG's website.

If this document has been printed or saved to another location, you must check that the version number on your copy matches that of the document online.

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<b>This policy will impact on:</b>	All CCG employees, any staff seconded to the CCG and contract and agency staff.	
<b>Policy Area:</b>	Finance	
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<b>Author:</b>	Victoria Rimmington, Finance Manager	
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## 1. INTRODUCTION

**Redress** is to set right, to remedy the action taken by an individual(s) against the CCG in order to counteract the effects of fraud and security breaches/criminal activity.

One of the primary aims of NHS Protect is to reduce fraud and security breaches within the NHS. By keeping low levels of fraud maintained eliminating fraud, the right funds are available for better patient care and services.

It is vital that all who come into contact with NHS Hull Clinical Commissioning Group, e.g. employee, contractor or patient, understand that fraud and security breaches against the NHS and against the CCG are unacceptable and will not be tolerated and that the CCG is committed to applying all appropriate sanctions.

This policy outlines the CCG's position in terms of the sanctions and the actions should there be a need to apply them.

## 2. SCOPE

This policy applies to all employees of the CCG, any staff who are seconded to the CCG, contracted and agency staff, or any other individual engaged in any capacity on behalf of the CCG.

This policy is available on the CCG website.

## 3. POLICY PURPOSE AND AIMS

NHS Protect has developed strategies to counter fraud and maximise security in the NHS.

The processes to deliver these strategies are fully supported by NHS Hull CCG and this work covers three main objectives:

1. To educate and inform those who work for or use the NHS about crime in the health service and how to tackle it.
2. To prevent and deter crime in the NHS by removing opportunities for it to occur or to re-occur.
3. To hold to account those who have committed crime against the NHS by detecting and prosecuting offenders and seeking redress where viable.

The CCG, the CCG's Local Counter Fraud Specialist (LCFS) and Local Security Management Specialist (LSMS) work to deter fraud and security breaches and have in place preventative measures to reduce the risks.

Please refer to the relevant Local Anti-Fraud, Bribery and Corruption policy or Security Management policy in circumstances where fraud or security breaches are suspected. These will be investigated by the LCFS/LSMS on behalf of the CCG.

## **4. IMPACT ANALYSIS**

### **4.1 Equality**

The CCG is committed to:

- Eliminating discrimination and promoting equality and diversity in its policies, procedures and guidelines, and
- Designing and implementing services, policies and measures that meet the diverse needs of its population and workforce, ensuring that no individual or group is disadvantaged.

### **4.2 Bribery Act 2010**

NHS Hull Clinical Commissioning Group has a responsibility to ensure that all staff are made aware of their duties and responsibilities arising from The Bribery Act 2010.

The Bribery Act 2010 makes it a criminal offence to bribe or be bribed by another person by offering or requesting a financial or other advantage as a reward or incentive to perform a relevant function or activity improperly performed. The penalties for any breaches of the Act are potentially severe. There is no upper limit on the level of fines that can be imposed and an individual convicted of an offence can face a prison sentence of up to 10 years.

For further information see <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-quick-start-guide.pdf>.

If you require assistance in determining the implications of the Bribery Act please contact the Local Counter Fraud Specialist on telephone number 01482 866800 or email at [nikki.cooper1@nhs.net](mailto:nikki.cooper1@nhs.net)

Due consideration has been given to the Bribery Act 2010 in the development of this policy.

## **5. NHS CONSTITUTION**

5.1 The CCG is committed to:

- The achievement of the principles, values, rights, pledges and responsibilities detailed in the NHS Constitution, and
- Ensuring they are taken account of in the production of its Policies Procedures and Guidelines.

5.2 This policy supports the NHS Constitution by committing to use NHS resources responsibly and fairly and providing best value for taxpayer's money.

## **6. ROLES / RESPONSIBILITIES / DUTIES**

### **6.1 Senior Management Team**

The Chief Officer, as Accountable Officer, will provide assurance the Governing Body that this policy and procedure is adhered to through delegation to the appropriate committees and personnel.

The Chief Finance Officer will maintain a robust financial control and budgetary framework for the CCG and pursue, where appropriate, sanctions against any employee or anyone else acting on behalf of the CCG found to be guilty of fraud, corruption, bribery or theft.

Senior management are collectively responsible for ensuring that this policy is understood and adopted by all to whom it applies.

### **6.2 Human Resources**

As the investigation into a suspicion of fraud, bribery, corruption or theft commences and proceeds, both Human Resources and the LCFS/LSMS will advise the CCG on the full range of sanctions that are available.

The Human Resources Team will provide any appropriate technical advice and support to enable losses to be identified at the earliest opportunity. This will allow the LCFS/LSMS to reference them in any disciplinary hearings so that redress is considered throughout the process.

### **6.3 Finance Team**

The Finance Team, once a decision has been taken to impose a financial sanction will follow up debts through their usual processes.

### **6.4 Employees**

All employees will comply with this and any other associated policies and procedures, associated documents are listed at section 11 below.

### **6.5 Local Counter Fraud Specialist (LCFS)**

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

### **6.6 Local Security Management Specialist (LSMS)**

The LSMS is responsible for taking forward all security management work locally in accordance with national standards and reports directly to the Chief Finance Officer.

The LSMS will investigate security incidents in accordance with the instructions of NHS Protect.

## **7. PROCEDURES**

### **7.1 Contact**

Where there is a suspected fraud, theft or security incident, it should be reported to the following teams.

The CCG's Counter Fraud Team is provided by Audit One. The Local Counter Fraud Specialist (LCFS) should be approached to discuss any fraud, bribery or corruption aspect of this policy in general and to receive fraud referrals.

The LCFS is contactable on 01482 866800, mobile 07872 988939 or by email: [nikki.cooper1@nhs.net](mailto:nikki.cooper1@nhs.net).

The CCG's LSMS should be approached to discuss any security incidents. The LSMS is contactable via the main Audit One Counter Fraud office on 0191 441 5936.

### **7.2 Investigation**

When a suspected fraud, theft or security incident has been reported, the LCFC/LSMS will lead an investigation.

During the investigation they will identify and quantify the loss to the CCG or the NHS in general working in conjunction with Human Resources, Payroll and the relevant departments or organisations, to calculate the amount of monies lost due to the alleged fraud/theft.

Where fraud/theft is proven, all options will be considered, including criminal, civil and disciplinary procedures. Further detail is provided at Section 7.3 Every attempt to redress the incident to minimise the effect/loss to the CCG will be sought.

The LCFS/LSMS will report the total of the loss to the Chief Finance Officer advising of the possible actions available to recover any monies lost.

The Chief Finance Officer will make the recommendation to the Chief Officer whether to pursue a recovery detailing the most cost effective method of recovery.

It is vital that the CCG ensures that if an employee, contractor or member of the public has committed fraud/theft then they do not profit from their crime and that any financial gain is recovered, including any costs associated with such recovery.

### **7.3 Sanctions**

There are four main sanctions, which can be applied by the CCG  
Each sanction will play an equally important role in creating and maintaining an anti-crime culture across the organisation:

## **1. Civil**

Civil sanctions can be taken against those who commit fraud, bribery, corruption and theft to recover money and/or assets which have been obtained, including interest and costs.

## **2. Criminal**

The LCFS/LSMS 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.

## **3. 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; however, dishonesty - including fraud, theft or providing false information - constitutes gross misconduct which may result in dismissal

## **4. Professional body investigation**

The CCG will report an individual to their professional body where it is felt their fitness to practice is impaired on account of their actions and as a result of a successful investigation and/or prosecution.

The CCG reserves the right to use whatever means are available to recover the loss, including legal redress.

The application of a criminal, civil or disciplinary proceeding will not be a stand-alone sanction. Dependent on the outcome of an investigation, each sanction is capable of being applied and it is not unusual for each of the sanctions to overlap.

It is however, important that when running parallel sanctions, that one proceeding does not undermine the other(s) and although there is no set rule,

It is usual that a criminal proceeding will take precedence over the other three types of sanction.

### **7.3.1 Civil Proceedings**

The civil recovery route is available to the CCG and this could include a number of options including the Small Claims Court and Debt Collection Agencies.

When weighing up the cost effectiveness of such action, as well as considering the amount of the outstanding debt and the likelihood of success, the CCG should also consider the likely deterrent effect a successful civil court action would achieve.

In order to pursue a claim through the Court, the CCG must demonstrate that attempts have been made to recover the money, and all reasonable avenues of redress have been sought.

Civil recovery should not be considered as a first option.

For external bodies or NHS contractor, recovery should be affected by formal contact. They should be written to advising them of the debt and inviting a proposal to pay.

Should they not respond, or the proposal is deemed to be unacceptable, they should be written to making a formal demand for the money. This letter should be sent by "Recorded Delivery".

Should this demand be ignored, the external body or contractor should be sent a third and final letter again by "Recorded Delivery" advising them that the CCG will be considering legal action through the Civil Court process in order to secure the recovery.

In this instance the Chief Finance Officer should seek the advice from the Solicitors concerning recovery. Costs associated with the recovery should be included in the claim submitted to the Court.

For employees, ex-employees, external bodies or NHS contractors, if following a conviction, the court awards compensation and/or costs the action will be awarded from the court and collected from the individual by the court. The LCFS/LSMS will notify the Finance Department of the award and the expected periodical payment.

Where the payment from the court does not materialise after a period not exceeding three months, the Finance Department will be responsible for following the matter up with the relevant court.

### **7.3.2 Disciplinary Action**

Decisions regarding the disciplinary will be made in line with the CCG's Disciplinary Policy. Recovery of loss can be settled through earnings.

#### **Payment from Earnings**

Following disciplinary action, if the employee is still employed by the CCG, recovery can be affected through payroll until the debt is met.

The employee should be written to confirming the debt and a reasonable proposal will be made for recovery. An agreement will be sought with the employee to ensure that recovery is made in the shortest possible time

Where an employee is in the process of leaving, they should be advised that the recovery can be actioned through the final salary payment.

Where the available funds are insufficient, they should be written to advising them of the debt and inviting a proposal to pay.

## **Attachment of Earnings**

Where an individual is employed elsewhere, an arrangement can be made through the Courts to recover losses via payroll. An attachment of earnings order is a method by which money will be stopped from the employee's wages to pay back the debt.

The amount to be paid each month is determined by the Courts, who work out the minimum amount of money the person needs to live on, referred to as the 'protected earnings rate'. If the person earns more than the protected earnings rate, an order will be made; if the person is on a low wage, it may not be possible to make an attachment of earnings order.

### **7.3.3 Criminal Prosecution**

During the course of an investigation, the LCFS/LSMS will keep in regular contact with NHS Protect who will provide advice in relation to the level of evidence and potential sanctions.

The decision regarding the application of criminal prosecution will rest with the Chief Finance Officer but will be decided following advice from NHS Protect and the Crown Prosecution Service.

Depending on the extent of the loss and the circumstances of the case, a criminal prosecution may prove the most judicious route for the recovery of losses to be obtained under the Proceeds of Crime Act 2002.

Costs and compensation associated with a criminal prosecution will be determined through the investigation process and based on the evidence.

The LCFS/LSMS will keep a record of the time spent on the investigation and this will be converted to a cost based on an hourly rate. This information will be passed to the Crown Prosecutor at the earliest opportunity and prior to the commencement of a court case.

## **Confiscation of Assets**

In cases of serious fraud (generally £5,000 or more), NHS Protect can apply to the courts to make orders concerning the restraint and confiscation of the proceeds of criminal activity. Restraint orders are generally obtained when a suspect is charged with a relevant criminal offence.

Confiscation and compensation orders can only be made if an offender is found guilty of an offence from which he has benefited. It is therefore important to identify assets at an early stage of the investigation in order to prevent a defendant from moving assets beyond reach. In such cases the LCFS/LSMS will work closely with NHS Protect and the Chief Finance Officer.

## **7.4 Redress Process**

Whilst further action may be taken the CCG should attempt to recover the loss

incurred. This should be attempted to be recovered where and as soon as possible

#### **7.4.1 Voluntary Repayment**

If an offer to repay is received it must only be accepted on the condition that it is 'without prejudice' of any other criminal, civil or disciplinary action that may still be undertaken

If voluntary repayment is to occur, then a single payment in full will be the preferred method. Payment should be made payable to the CCG.

If payment is to be made by instalments, details of the arrangement will be passed to the CCG's Finance Department who will manage recovery of the debt.

#### **7.4.2 Debtor Invoice**

A debtor invoice and notification letter may be issued by the Finance Department as a form of seeking redress.

The letter should contain a 'Without prejudice' clause to inform the subject that any repayment of an overpaid amount will not prejudice any other criminal or civil action being taken by the CCG in respect of the subject.

#### **7.4.3 Recovery of contributions from Her Majesty's Revenue and Customs (HMRC)**

Certain types of proven fraud cases such as false references used to gain employment from the outset may enable the CCG to recover contributions made to HMRC and the CCG will liaise with HMRC to ensure this is used wherever possible.

#### **7.4.4 NHS Pension Scheme**

Following a criminal prosecution of fraud if an employee is a member of the NHS Pension Scheme, redress can be sought through the scheme.

The NHS Pensions Agency is responsible for administering the scheme, and the provision for redress was introduced in the Pension Act 1995.

The Pensions Agency operates according to the code of practice set out in the NHS Pension Scheme Regulations, Statutory Instrument 1995/300. Part T5 of the regulations covers the recovery of money, which states that,  
*"If a loss of public funds occurs as a result of a member's criminal, negligent or fraudulent act or omission, the Secretary of State may reduce any benefits or other amounts payable to, or in respect of, the member by an amount equal to the loss."*

There can be a delay using this form of redress as the Pensions Agency is only able to make recovery from benefits in payment at normal pension age, or earlier in the case of retirement on health grounds.

Certain types of proven fraud cases such as false identity documents used to gain employment from the outset may enable the CCG to recover pension contributions and the CCG will liaise with the NHS Pensions Agency to ensure this is used

wherever possible.

## **7.5 Publicity**

In addition, the CCG will aim to publicise all local cases of fraud, and will stress that recovery is vigorously sought. This will act as a strong deterrent to those thinking of committing fraud and will further reinforce the message that an anti-fraud culture is embedded within the organisation.

## **8. TRAINING AND AWARENESS**

This policy will be communicated to staff via team meetings/team brief and will be available for staff on the website.

## **9. MONITORING AND EFFECTIVENESS**

The Integrated Audit and Governance Committee is responsible for monitoring the effectiveness of Counter Fraud work to provide assurance to the Governing Body that the business of the CCG is being conducted in line with the Local anti-fraud, bribery and corruption policy, 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 may include reviewing system controls on an ongoing basis and identifying weaknesses in processes.

The Senior Leadership Team is provided with an update when required on all security investigations which are carried out and the findings and recommendations will be sent to the relevant Manager for them to act upon if appropriate.

Where deficiencies are identified as a result of monitoring, the CCG should explain how appropriate recommendations and action plans are developed and how any recommendations made should be implemented.

## **10. POLICY REVIEW**

This Policy will be reviewed every three years from date of implementation or more frequently if necessary.

## **11. ASSOCIATED DOCUMENTATION**

Anti-Fraud Bribery and Corruption Policy

Security Management Policy

Disciplinary Policy

Whistleblowing Policy

Standing Financial Instructions

Standing Orders

Standards of Business Conduct

HR / Corporate Policy Equality Impact Analysis:	
<b>Policy / Project / Function:</b>	Redress Policy
<b>Date of Analysis:</b>	10 <sup>th</sup> August 2017
<b>Completed by: (Name and Department)</b>	Victoria Rimmington, Finance Manager
<b>What are the aims and intended effects of this policy, project or function?</b>	To inform of the procedures in place to redress any loss incurred by the CCG as a result of Fraud or Criminal Activity
<b>Are there any significant changes to previous policy likely to have an impact on staff / other stakeholder groups?</b>	N/A new policy
<b>Please list any other policies that are related to or referred to as part of this analysis</b>	Anti-Fraud Bribery and Corruption Policy Security Management Policy Disciplinary Policy Whistleblowing Policy
<b>Who will the policy, project or function affect?</b>	All employees of the CCG, any staff who are seconded to the CCG, contracted and agency staff and any other individual working on CCG premises.
<b>What engagement / consultation has been done, or is planned for this policy and the equality impact assessment?</b>	Director Consultation
<p><b>Promoting Inclusivity and Hull CCG's Equality Objectives.</b></p> <p>How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation?</p> <p>How does the policy promote our equality objectives:</p> <p>1. Ensure patients and public have improved access to information and minimise communications barriers</p>	<p>All employees of the CCG, any staff who are seconded to the CCG, contracted and agency staff and any other individual working on CCG premises regardless of any protected characteristics</p> <p>This policy is available on the internet and is available in different formats and languages if necessary</p>

<p>2. To ensure and provide evidence that equality is consciously considered in all commissioning activities and ownership of this is part of everyone's day-to-day job</p> <p>3. Recruit and maintain a well-supported, skilled workforce, which is representative of the population we serve</p> <p>4. Ensure the that NHS Hull Clinical Commissioning Group is welcoming and inclusive to people from all backgrounds and with a range of access needs</p>	
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Equality Data	
<p><b>Is any Equality Data available relating to the use or implementation of this policy, project or function?</b></p> <p>Equality data is internal or external information that may indicate how the activity being analysed can affect different groups of people who share the nine <i>Protected Characteristics</i> – referred to hereafter as '<i>Equality Groups</i>'.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <p>1: Recruitment data, e.g. applications compared to the population profile, application success rates</p> <p>2: Complaints by groups who share / represent protected characteristics</p> <p>4: Grievances or decisions upheld and dismissed by protected characteristic group</p> <p>5: Insight gained through engagement</p>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p> <p>Where you have answered yes, please incorporate this data when performing the <i>Equality Impact Assessment Test</i> (the next section of this document). If you answered No, what information will you use to assess impact?</p> <p><b>Please note that due to the small number of staff employed by the CCG, data with returns small enough to identify individuals cannot be published. However, the data should still be analysed as part of the EIA process, and where it is possible to identify trends or issues, these should be recorded in the EIA.</b></p>

## Assessing Impact

Is this policy (or the implementation of this policy) likely to have a particular impact on any of the protected characteristic groups?

(Based on analysis of the data / insights gathered through engagement, or your knowledge of the substance of this policy)

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and, if applicable, justification where a <i>Genuine Determining Reason</i> <sup>1</sup> exists (see footnote below – seek further advice in this case)
Gender	✓			This has been considered and has no impact. This policy applies equally to all regardless of gender
Age	✓			This has been considered and has no impact. This policy applies equally to all regardless of age.
Race / ethnicity / nationality	✓			Potential Language barrier. Policies can be translated as necessary by using the “policies in different format” form available on the intranet
Disability	✓			Potential Visual Impairment barrier. Policy and forms can be changed into suitable format using “policies in different format” form available on the intranet.
Religion or Belief	✓			This has been considered and has no impact. This policy applies equally to all regardless of religion or belief
Sexual Orientation	✓			This has been considered and has no impact. This policy applies to all

1. <sup>1</sup> The action is proportionate to the legitimate aims of the organisation (please seek further advice)

				regardless of sexual orientation
<b>Pregnancy and Maternity</b>	✓			This has been considered and has no impact. This policy applies to all regardless of pregnancy and maternity.
<b>Transgender / Gender reassignment</b>	✓			This has been considered and has no impact. This policy applies to all regardless of transgender / gender reassignment.
<b>Marriage or civil partnership</b>	✓			This has been considered and has no impact. This policy applies to all regardless of marriage or civil partnership

### Action Planning:

**As a result of performing this analysis, what actions are proposed to remove or reduce any risks of adverse impact or strengthen the promotion of equality?**

<b>Identified Risk:</b>	<b>Recommended Actions:</b>	<b>Responsible Lead:</b>	<b>Completion Date:</b>	<b>Review Date:</b>
Potential language barrier where employees first language is not English.	Policies in different formats is available on the CCG internet	CCG Communications Team	2014	2018
Potential disability barrier where employee has visual impairment	Policies in different formats is available on the CCG internet	CCG Communications Team	2014	2018

### Sign-off

**All policy EIAs must be signed off by Mike Napier, Associate Director of Corporate Affairs**

**I agree with this assessment / action plan**

If *disagree*, state action/s required, reasons and details of who is to carry them out with timescales:

A handwritten signature in black ink, appearing to be 'M. J. ...', is written in the middle of the second section of the form.

Signed:

Date: 11 August 2017