

# Fraud, Bribery and Corruption Policy

## 2019 - 2020

<b>Version:</b>	1.0
<b>Approved by:</b>	Audit and Governance Committees
<b>Date approved:</b>	November 2019
<b>Date of issue (communicated to staff):</b>	December 2019
<b>Next review date:</b>	November 2022
<b>Document author:</b>	Counter Fraud Specialist / Chief Finance Officer

<b>CONTROL RECORD</b>			
<b>Reference Number</b> N&N GOV-007	<b>Version</b> 1.0	<b>Status</b> Final	<b>Author</b> Counter Fraud Specialist/ Chief Finance Officer
			<b>Sponsor</b> Chief Finance Officer
			<b>Team</b> Finance
<b>Title</b>	Fraud, Bribery and Corruption Policy		
<b>Amendments</b>	Developed across Nottingham and Nottinghamshire CCGs from previous CCG policy.		
<b>Purpose</b>	To set out Nottingham and Nottinghamshire CCGs' shared policy on suspected and detected fraud, bribery and corruption.		
<b>Superseded Documents</b>	<ul style="list-style-type: none"> <li>• Fraud, Bribery and Corruption Policy, Nottingham City CCG</li> <li>• Fraud, Bribery and Corruption Policy, Nottingham North and East CCG</li> <li>• Fraud, Bribery and Corruption Policy, Nottingham West CCG</li> <li>• Fraud, Bribery and Corruption Policy, Rushcliffe CCG</li> <li>• Fraud, Bribery and Corruption Policy, Mansfield and Ashfield CCG</li> <li>• Fraud, Bribery and Corruption Policy, Newark and Sherwood CCG</li> </ul>		
<b>Audience</b>	All employees of the Nottingham and Nottinghamshire CCGs (including those working within the organisation in a temporary capacity).		
<b>Consulted with</b>	Counter Fraud, 360 Assurance		
<b>Equality Impact Assessment</b>	Completed		
<b>Approving Body</b>	Nottingham and Nottinghamshire CCGs' Audit and Governance Committees	<b>Date approved</b>	29 November 2019
<b>Date of Issue</b>	December 2019		
<b>Review Date</b>	November 2022		
<p><b>This is a controlled document and whilst this policy may be printed, the electronic version available on the CCGs document management system is the only true copy. As a controlled document, this document should not be saved onto local or network drives.</b></p>			

**Nottingham and Nottinghamshire CCGs' policies can be made available on request in a range of languages, large print, Braille, audio, electronic and other accessible formats from the Engagement and Communications Team at [ncccg.team.communications@nhs.net](mailto:ncccg.team.communications@nhs.net)**

## Contents

	<b>Page</b>
1 Introduction	4
2 Definitions	5
3 Scope	6
4 Purpose	6
5 Roles and Responsibilities	6
6 Standards for Commissioners	8
7 Proactive Prevention and Detection	8
8 Effective Sanctions	9
9 Seeking Redress	9
10 Reporting Suspicions	9
11 Communication, Monitoring and Review	10
12 Staff Training	10
13 Equality and Diversity Statement	10
14 Interaction with Other Policies and Procedures	11
15 References	11
16 Equality Impact Assessment	12
<b>Appendix A – Fraud Response Plan</b>	14
<b>Appendix B – Fraud Referral Form</b>	21
<b>Appendix C – Prevalent Frauds in the NHS</b>	22
<b>Appendix D – Do's and Don'ts</b>	23

# 1. Introduction

- 1.1 This policy applies to the Nottingham and Nottinghamshire Clinical Commissioning Groups (NHS Nottingham City CCG, NHS Nottingham West CCG, NHS Nottingham North and East CCG, NHS Rushcliffe CCG, NHS Mansfield and Ashfield CCG and NHS Newark and Sherwood CCG), hereafter referred to as 'the CCGs'. The document sets out the policy for suspected fraud, bribery and corruption.
- 1.2 In April 2019 the CCGs established joint governance arrangements and staffing structures. This policy has been developed for implementation across the CCGs to ensure a consistent approach and aligned working practices. It is important to remember that the regulatory requirements for procurement remain the responsibility of each individual CCG. As such, each CCG will need to continue to be able to demonstrate its own compliance with regulatory obligations, national policy and statutory guidance.
- 1.3 One of the basic principles of public sector organisations is the proper use of public funds. It is, therefore, important that all those who work in the public sector are aware of the risk of, and means of enforcing the arrangements against fraud, bribery and corruption.
- 1.4 The CCGs do not tolerate fraud, bribery and corruption within the NHS. The aim is to eliminate this as far as possible as it ultimately leads to a reduction in the resources available for patient care. The CCGs require all staff to always act honestly and with integrity to safeguard public resources they are responsible for. The CCGs will not tolerate any acts of fraud, bribery or corruption perpetrated against it or involving its employees and will actively pursue all available criminal and civil actions including the recovery of any loss suffered as a result.
- 1.5 The NHS Counter Fraud Authority (NHSCFA) is accountable to the Department for Health Anti-Fraud Unit and works collaboratively with key stakeholders, including NHS England, NHS Improvement and the Cabinet Office. They have responsibility for overseeing the NHS Counter Fraud arrangements. The CCGs are committed to taking all steps necessary to counter fraud, bribery and corruption. To meet their objectives, they have adopted four key principles, which are set out in the [NHSCFA strategy](#), namely:
- **Strategic Governance:** A member of the Executive Team is responsible for the provision of strategic management of all counter fraud, bribery and corruption work within the organisation, which includes but is not limited to, employing or contracting an accredited Counter Fraud Specialist (CFS), conducting risk assessments and reporting annually on how it has met standards set by the NHSCFA.
  - **Inform and Involve:** It is necessary to inform and involve those who work for, or use the health service, on the risks of crime and how to tackle it.

- **Prevent and Deter:** To remove the opportunities for crime within the NHS to occur or to re-occur.
- **Hold to Account:** The investigation of fraud and pursuance of sanctions and redress.

## 2. Definitions

2.1 The following terms and definitions apply for the purposes of this policy and the corresponding Fraud Response Plan attached at **Appendix A**.

Term	Definition
<b>Fraud</b>	<p>The 'Fraud Act (2006)' came into force on 15 January 2007 and introduced the general offence of fraud. It is no longer necessary to provide that a person has been deceived. The focus is now on <b>dishonest behaviour</b> and any <b>intent</b> to make a <b>gain or cause a loss</b> to another party. Put simply, fraud is a dishonest act intended for gain or to cause loss to another.</p> <p>The offences of fraud can be committed three ways:</p> <ul style="list-style-type: none"> <li>• 'Fraud by false representation' (lying about something using any means, for instance words or actions);</li> <li>• 'Fraud by failure to disclose' (not saying something when you have a legal duty to do so); and</li> <li>• 'Fraud by abuse of position' (abusing a position where there is an expectation to safeguard the financial interests of another person or organisation).</li> </ul> <p>It should be noted that all offences under the Fraud Act 2006 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.</p>
<b>Bribery</b>	<p>The 'Bribery Act 2010' came into force on 1 July 2011 and created three general offences of bribery:</p> <ul style="list-style-type: none"> <li>• Offering, promising or giving a bribe to induce someone to behave improperly, or to reward someone for having already done so;</li> <li>• Requesting, agreeing or accepting a bribe either in exchange for acting improperly, or where the request or acceptance is itself improper; and</li> <li>• Bribery of a foreign public official.</li> </ul> <p>A new corporate offence was also introduced:</p>

Term	Definition
	<ul style="list-style-type: none"> <li>• Failure by a company to prevent a bribe being paid to obtain or retain a business advantage.</li> </ul> <p>Bribing anyone is absolutely prohibited. Employees will not pay a bribe to anybody. This means you will not offer, promise, reward in any way or give a financial or other advantage to any person in order to induce that person to perform their function or activities improperly. It does not matter whether the other person is a UK or foreign official, political candidate, party official, private individual, private or public sector employee or any other person.</p> <p>Bribery does not have to involve cash or an actual payment exchanging. It can take many forms such as a gift, lavish treatment during a business trip or tickets to an event.</p>
<b>Corruption</b>	<p>Bribery is a form of corruption, but corruption also includes many other dishonest practices such as fraud, nepotism, collusion and abuse of power/position. Corruption does not always result in a loss and the corrupt person may not always benefit directly from their deeds, however, they may be unreasonably using their position to give some advantage to another.</p>

### 3. Scope

- 3.1 This policy is mandatory and applies to all employees (permanent, seconded, contractors, management and clinical trainees, apprentices, temporary staff and volunteers) of the CCGs, including Governing Bodies and Committee members. It also applies to CCG employed staff who carry out work within another organisation's premises. These are collectively referred to as 'individuals' hereafter.

### 4. Purpose

- 4.1 The purpose of this document is to set out the CCGs shared policy on suspected and detected fraud, bribery and corruption, and to help individuals who may identify suspected fraud. It provides a framework for responding to suspicions of fraud.

### 5. Roles and Responsibilities

- 5.1 **Chief Finance Officer (CFO):** The CFO accepts overall responsibility for all matters relating to fraud, bribery and corruption within the CCGs.

5.2 **Audit and Governance Committees:** The Audit and Governance Committees should be satisfied that the organisation has adequate arrangements in place for counter fraud, bribery and corruption to meet the NHSCFA's [standards](#).

5.3 **Counter Fraud Specialist (CFS):** The CFS is responsible for conducting all anti-fraud work locally and ensuring that the CCGs have appropriate anti-fraud, bribery and corruption arrangements in place.

The Local Counter Fraud Service will:

- Ensure that the CFO is informed about all referrals/cases;
- Be responsible for the day-to-day implementation of the four key principles as set out in the NHSCFA [strategy](#);
- Investigate cases of fraud;
- In consultation with the CFO report any case to the Police or NHSCFA as agreed and in accordance with the NHSCFA guidance; and
- Adhere to the fraud response plan.

5.4 **Managers:** Line Managers are responsible for implementing and maintaining the policy in their area of management, including ensuring that procedures are in place and individuals are adequately trained and controls are being complied with.

5.5 **Human Resources Staff:** Human Resources staff provide advice, guidance and support to the CCGs managers and officers investigating disciplinary matters. All disciplinary matters which involve suspected fraud, bribery and corruption offences may also be subject to parallel criminal investigation by the CCGs' CFS. Close liaison between the CFS and HR is essential to ensure that any parallel sanctions (for instance criminal, civil and disciplinary sanctions) are applied effectively and in a co-ordinated manner.

5.6 **Individuals:** All individuals are expected to ensure that they are familiar with and act in accordance with this policy and attend all fraud training as required. All individuals are required to comply with the CCGs' policies and procedures and apply best practice in order to prevent fraud, bribery and corruption. All individuals have a duty to ensure that public funds are safeguarded and where they have a suspicion that a fraud exists, they should report it to CFS ([taelor.martin@nhs.net](mailto:taelor.martin@nhs.net)) or to the NHS Fraud and Corruption Reporting Line (0800 028 4060) or through the online [NHS Fraud Reporting Form](#).

5.7 **Fraud Response Plan:** The CCGs have developed a Fraud Response Plan (**Appendix A**) which should be used as a checklist of actions and a guide to follow in the event that fraud is suspected. It covers:

- Notification of suspected fraud;

- The investigation process;
- Sanctions and redress;
- Recovery action;
- Roles and responsibilities; and
- Monitoring and review.

## 6. Standards for Commissioners

- 6.1 NHSCFA requires CCGs to ensure appropriate anti-fraud, corruption and bribery arrangements are in place within their organisations, as specified within the [Standards for Commissioners](#).
- 6.2 It is the responsibility of the CCGs to ensure they meet the required standards. In order to demonstrate compliance, NHSCFA quality inspectors require CCGs to submit an annual self-review of anti-fraud, corruption and bribery activity undertaken within their organisations. This is achieved via the Self-Assessment Review Toolkit (SRT). Upon completion, the SRT provides a **red**, **amber** or **green** (RAG) rating for the organisation. The RAG system is a management method of rating for issues or status reports, based on levels of compliance with the standards. As such, the colours are used in a traffic light rating system with **red** being non-compliant, **amber** being partially compliant and **green** being fully compliant.
- 6.3 The NHSCFA Quality and Compliance Team (QCT) use the completed SRT as a basis for selecting organisation for detailed assessment.

## 7. Proactive Prevention and Detection

- 7.1 The CCGs will ensure (through 'fraud proofing') that their systems, policies and processes are sufficiently robust so that the risk of fraud, corruption and bribery is reduced to a minimum. Checks will be conducted in areas identified to be most at risk to fraud, corruption or bribery in order to proactively detect instances that might otherwise be unreported.
- 7.2 The CFS will review new and existing policies and procedures to ensure that appropriate counter fraud measures are included. This includes (but is not limited to) policies and procedures in human resources, standing orders, standing financial instructions and other finance and operational policies.
- 7.3 The NHSCFA [standards](#) mandate a number of fraud prevention and detection activities. These activities relate to:
- **Pre-Employment Checks:** The organisation should ensure that all new staff are subject to the appropriate level of pre-employment checks, as set out in General Condition 5.9 of the [NHS Standard Contract](#)

- **Procurement:** The organisation should have proportionate processes in place for preventing, deterring and detecting fraud, bribery and corruption in procurement.
- **Invoicing:** The organisation should ensure proportionate processes are in place for preventing, deterring and detecting invoice fraud, including reconciliation, segregation of duties, processes for changing supplier bank details and checking of deliveries.
- **Code of Conduct:** The organisation must have a fully implemented code of conduct that includes reference to fraud, bribery and corruption and the requirement of the Bribery Act 2010.

7.4 Additional preventative activities may also be conducted. These activities will be targeted at those areas of the CCGs considered to be at a higher risk of fraud, bribery or corruption. The purpose of these activities is to identify gaps in the CCGs' governance framework which could allow fraud to be perpetrated. These activities will be conducted in line with [guidance](#) issued by the NHSCFA where appropriate.

## 8. Effective Sanctions

8.1 Where fraud, bribery or corruption offences are committed, criminal sanctions (including prosecution) will be pursued. Employees of the CCGs found to have committed such offences will also be dealt with in accordance with internal disciplinary procedures and referred to professional bodies where appropriate.

## 9. Seeking Redress

9.1 The CCGs will consider initiating civil recovery action if this is cost-effective and desirable for deterrence purposes. This could involve a number of options such as making an application to the Small Claims Court and/or recovery through debt collection agencies. Each case will be discussed with the CFO in order to determine the most appropriate action.

## 10. Reporting Suspicions

10.1 All concerns or suspicions relating to fraud, bribery or corruption must be reported to the CCGs' nominated Counter Fraud Specialist - Taelor Martin (telephone: 0115 883 5319, [taelor.martin@nhs.net](mailto:taelor.martin@nhs.net)) or using the Fraud Referral Form attached at **Appendix B** of this policy. Concerns may also be brought to the attention of the CFO ([s.poynor@nhs.net](mailto:s.poynor@nhs.net)), or reported via the NHS Fraud and Corruption Reporting Line (0800 028 4060).

## 11. Communication, Monitoring and Review

- 11.1 This policy will be made available to all staff via the staff intranet.
- 11.2 The effectiveness and accuracy of this policy will be reviewed on an annual basis by the CFO and the CCGs' appointed CFS.
- 11.3 All of the CCGs' policies which are produced, revised or reviewed should be provided to the CFS prior to implementation to allow for 'fraud proofing' of the policy. It is for the CFS to judge whether 'fraud proofing' is required in respect of any given policy and recommendations made by the CFS should be used to ensure all policies minimise the risk of fraud, corruption or bribery.
- 11.4 Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role should contact the 'Document Author'.

## 12. Staff Training

- 12.1 The CFS will promote fraud, bribery and corruption awareness through the delivery of face-to-face presentations, the provision of eLearning modules and/or the distribution of newsletters and other materials. Should staff require any other assistance, or advice, they should contact the CFS ([taelor.martin@nhs.net](mailto:taelor.martin@nhs.net)).
- 12.2 Examples of fraud which are prevalent in the NHS are provided at **Appendix C**. These examples are provided in order to give an insight into the breadth of risk of fraud to the organisation.

## 13. Equality and Diversity Statement

- 13.1 The Nottingham and Nottinghamshire CCGs pay due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation, both as commissioners and as employers.
- 13.2 As a commissioning organisation, we are committed to ensuring our activities do not unlawfully discriminate on the grounds of any of the protected characteristics defined by the Equality Act, which are age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 13.3 We are committed to ensuring that our commissioning activities also consider the disadvantages that some people in our diverse population experience when accessing health services. Such disadvantaged groups include people experiencing economic and social deprivation, carers, refugees and asylum seekers, people who

are homeless, workers in stigmatised occupations, people who are geographically isolated, gypsies, roma and travellers.

- 13.4 As employers, we are committed to promoting equality of opportunity in recruitment, training and career progression and to valuing and increasing diversity within our workforce.
- 13.5 To help ensure that these commitments are embedded in our day-to-day working practices, an Equality Impact Assessment has been completed for, and is attached to, this policy.

## **14. Interaction with Other Policies and Procedures**

- 14.1 This policy should be read in conjunction with the following CCGs' policies and procedures:
- Raising Concerns (Whistleblowing) Policy 2019-2020.
  - Managing Conflicts of Interest Policy 2019–2020.
  - Gifts, Hospitality and Sponsorship Policy 2019–2020.
- 14.2 Individuals should also be mindful of any other policies regarding procurement, disciplinary and freedom to speak up as the above list is not exhaustive.

## **15. References**

This policy has been developed with guidance from the following publications and websites:

- [Criminal Procedure and Investigations Act 1996](#);
- NHS Counter Fraud Authority. [Guidance](#);
- NHS Counter Fraud Authority (2017). [Leading the Fight against NHS Fraud - Organisational Strategy](#);
- NHS Counter Fraud Authority (2019). [Standards for Commissioners](#);
- [The Bribery Act 2010](#);
- [The Fraud Act 2006](#);
- [The Police and Criminal Evidence Act 1984](#);
- [The Proceeds of Crime Act 2002](#); and
- [The Public Interest Disclosure Act 1998](#).

## 16. Equality Impact Assessment

<b>Date of assessment:</b>	September 2019			
<b>For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:</b>	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
<b>Age<sup>1</sup></b>	No	N/A	N/A	No
<b>Disability<sup>2</sup></b>	No	N/A	N/A	No
<b>Gender reassignment<sup>3</sup></b>	No	N/A	N/A	No
<b>Marriage and civil partnership<sup>4</sup></b>	No	N/A	N/A	No
<b>Pregnancy and maternity<sup>5</sup></b>	No	N/A	N/A	No

<sup>1</sup> A person belonging to a particular age (for example 32 year olds) or range of ages (for example 18 to 30 year olds).

<sup>2</sup> A person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

<sup>3</sup> The process of transitioning from one gender to another.

<sup>4</sup> Marriage is a union between a man and a woman or between a same-sex couple.

Same-sex couples can also have their relationships legally recognised as 'civil partnerships'.

<sup>5</sup> Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

<b>Date of assessment:</b>	September 2019			
<b>For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:</b>	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
<b>Race<sup>6</sup></b>	No	N/A	N/A	No
<b>Religion or belief<sup>7</sup></b>	No	N/A	N/A	No
<b>Sex<sup>8</sup></b>	No	N/A	N/A	No
<b>Sexual orientation<sup>9</sup></b>	No	N/A	N/A	No
<b>Carers<sup>10</sup></b>	No	N/A	N/A	No

<sup>6</sup> Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

<sup>7</sup> Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

<sup>8</sup> A man or a woman.

<sup>9</sup> Whether a person's sexual attraction is towards their own sex, the opposite sex, to both sexes or none. <https://www.equalityhumanrights.com/en/equality-act/protected-characteristics>

<sup>10</sup> Individuals within the CCGs which may have carer responsibilities.

## Appendix A

### Fraud Response Plan

#### 1. Introduction

- 1.1 This fraud response plan provides a checklist of actions and a guide to follow in the event that fraud is suspected. Its purpose is to define authority levels, responsibilities for action and reporting lines in the event of suspected fraud, theft or other irregularity. It covers:
- Notification of suspected fraud;
  - The investigation process;
  - Sanctions and redress;
  - Recovery action;
  - Roles and responsibilities; and
  - Monitoring and review.

#### 2. Notifying Suspected Fraud

- 2.1 It is important that all staff are able to report their concerns without fear of reprisal or victimisation and are aware of the means to do so. The 'Public Interest Disclosure Act (1998)' commonly referred to as the 'Whistleblowers Act', provides appropriate protection for those who voice genuine and legitimate concerns through the proper channels.
- 2.2 If an employee has any concerns or suspicions of fraud they must inform the nominated [Counter Fraud Specialist \(CFS\)](#) or the CCGs [Chief Finance Officer \(CFO\)](#).
- 2.3 If the CFO, CFS or Chief Executive Officer (CEO) are implicated, then concerns should be reported to the NHS Counter Fraud Authority through their [online reporting form](#) or through their 24-hour reporting line on 0800 028 40 60.
- 2.4 **Appendix D** of the Fraud, Bribery and Corruption Policy, provides a reminder and checklist of the key actions (Do's and Don't's) if fraud, corruption or bribery are suspected. Staff are encouraged to familiarise themselves with this document.

### **3. The Investigation Process**

- 3.1 The CFS will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised.
- 3.2 The CCGs want all employees to feel confident that they can expose any wrongdoing without any risk to themselves. In accordance with the provisions of the 'Whistleblowers Act', the CCGs have implemented a Raising Concerns (Whistleblowing) Policy and Freedom to Speak Up Guardians such as their manager, or the Associate Director of Governance, or the Chair of the CCGs' Audit and Governance Committees, who can provide an independent and impartial source of advice to staff at any stage of raising a concern. The appropriate contact details are as follows:

#### **Freedom to Speak Up Guardian**

Name: Jon Towler

Email: [jon.towler@btinternet.com](mailto:jon.towler@btinternet.com)

#### **Associate Director of Governance**

Name: Lucy Branson

Email: [lucy.branson@nhs.net](mailto:lucy.branson@nhs.net)

#### **Chair of the Audit and Governance Committee**

Name: Sue Sunderland

Email: [sue.sunderland1@nhs.net](mailto:sue.sunderland1@nhs.net)

- 3.3 A CFS investigation may identify conduct or performance that may be of concern to the CCGs or to the employee's Professional Body, whether related to fraud or otherwise. Where appropriate, relevant CCGs policies and procedures, including Disciplinary Procedures will be followed where such concerns arise. This may result in disciplinary action and/or notification to the relevant Professional Body where appropriate.
- 3.4 In accordance with the NHS Counter Fraud Authority (NHSCFA) [Standards for Commissioners](#), the CFO, in conjunction with the CFS, will decide whether or not a case should be referred to the police. Any referral to the police will not prohibit action being taken under any local disciplinary procedures of the CCGs unless expressly stipulated by the police.

- 3.5 The CFS, in consultation with the CCGs' CFO, will investigate allegations in accordance with procedures and documents referenced in the NHSCFA standards.
- 3.6 The CCGs will follow their disciplinary procedure if there is evidence that an employee has committed any act of fraud, bribery or corruption. The CFS must be aware that staff under investigation which could lead to disciplinary action, have the right to procedural fairness and the CFS must seek advice from the CCGs' HR department during the investigation process where appropriate.
- 3.7 The CFS will take control of any physical evidence and record this in accordance with the procedures outlined in the NHS Anti-Fraud Manual. For reasons of confidentiality, access to this manual is restricted.
- 3.8 Interviews under caution will only be carried out by the CFS or, if appropriate, the police in accordance with the 'Police and Criminal Evidence Act (1984)'. The CFS will also take written statements where necessary.
- 3.9 If fraud, bribery or corruption is found to have occurred, the CFS will prepare a report for the CFO and the Audit and Governance Committees, setting out the following:
- The circumstances;
  - The investigation process;
  - The estimated or actual loss;
  - The steps taken to prevent recurrence;
  - The steps taken to recover loss; and
  - System control weaknesses that require correction.

#### **4. Sanctions and Redress**

- 4.1 The seeking of financial redress or recovery of losses will always be considered in cases of fraud, bribery and corruption that are investigated by either the CFS or NHSCFA where a loss is identified.
- 4.2 Recovery of losses may involve action under the 'Proceeds of Crime Act (2002)' but each decision will be taken in light of the particular circumstances of each case.
- 4.3 Redress allows for resources that are lost to fraud, bribery or corruption to be returned to the NHS for use as intended and for the provision of patient care and services.

- 4.4 The NHS Anti-Fraud Manual provides in depth detail of how sanctions can be applied and redress sought. Local action can also be taken to recover money using the administrative procedures of the CCG or civil law.
- 4.5 In cases of serious fraud, bribery and corruption, parallel sanctions can be applied, for example:
- Disciplinary action;
  - Use of civil law to recover lost funds; and
  - Use of criminal law to apply an appropriate criminal penalty, possible referral of information and evidence to a professional body if appropriate.
- 4.6 The NHSCFA can also apply to the courts to make a restraining order or confiscation order under the 'Proceeds of Crime Act (2002)'. This means that a person's money can be taken away from them if it is believed that the person benefited from the crime. This can also include restraining assets during an investigation.
- 4.7 The range of available sanctions which may be pursued by the relevant decision makers includes:
- **No further action:** In some cases it may be that the CCGs, under guidance from the CFS and with the approval of the CFO, decides that no further action is taken.
  - **Criminal investigation:** Following an investigation it may be necessary to bring the matter to the attention of the criminal courts such as Magistrates or Crown Court.
  - **Civil recovery:** The civil recovery route is available to the CCGs if this is cost effective and desirable. This could involve a number of options such as applying through the small claims court. Each case will be discussed with the CFO to determine the most appropriate action.
  - **Disciplinary action:** The appropriate person, in conjunction with the HR department, will be responsible for initiating any disciplinary action.
  - **Confiscation under the Proceeds of Crime Act:** Depending upon the extent of the loss and the proceedings in the case, it may be suitable for the recovery of losses to be considered under the Proceeds of Crime Act.
  - **Recovery from on-going salary payment:** Arrangements can be made to recover losses via payroll if the subject is still employed by the CCGs.
  - **Professional body disciplinary:** During an investigation, if clear evidence exists of a healthcare professional's involvement in fraud, bribery or corruption, the appropriate regulatory body will be informed so they can consider whether 'fitness to practice' procedures should be invoked.

Regulatory bodies have statutory powers to place conditions on, suspend or remove the registration of professionals whose fitness to practice has been impaired.

## 5. Roles and Responsibilities

- 5.1 The codes of conduct for NHS Boards and NHS Managers set out the key public service values. They state that high standards of corporate and personal conduct, based on the recognition that patients come first, have been a requirement throughout the NHS since its inception. All staff should be aware of, and act in accordance with, these values. The values can be summarised as:
- Accountability;
  - Probity; and
  - Openness.
- 5.2 **Role of the CCGs:** The CCGs will take all necessary steps to counter fraud, bribery and corruption in accordance with its Fraud, Bribery and Corruption policy and the NHSCFA [Standards for Commissioners](#).
- 5.3 The CCGs will appoint a CFS to undertake work as set out by the NHSCFA [strategy](#). The CCGs are committed to taking all steps necessary to counter fraud, bribery and corruption. To meet their objectives, they have adopted the four key principles, which are set out in the NHSCFA strategy, namely:
- **Strategic Governance:** A member of the Executive Team is responsible for the provision of strategic management of all counter fraud, bribery and corruption work within the organisation;
  - **Inform and Involve:** It is necessary to inform and involve those who work for, or use the health service, on the risks of crime and how to tackle it;
  - **Prevent and Deter:** To remove the opportunities for crime within the NHS to occur or to re-occur; and
  - **Hold to Account:** The investigation of fraud and pursuance of sanctions and redress.
- 5.4 All employees are required to comply with the CCGs' policies and procedures in order to prevent fraud, bribery and corruption.
- 5.5 All those who work in the CCGs, or are otherwise engaged with the CCGs, should be aware of and act in accordance with the public service values and the [Nolan Principles for Standards in Public Life](#).

5.6 Employees are expected to act in accordance with the standards laid down by their professional institutes where applicable.

5.7 All employees have a responsibility to comply with all applicable laws and regulations relating to ethical business behaviour, procurement, personal expenses, conflicts of interest, confidentiality and the acceptance of gifts and hospitality.

5.8 **The CFS will:**

- Ensure that the CFO is informed about all referrals and cases;
- Be responsible for the day-to-day implementation of the key standards of counter fraud, bribery and corruption activity as set out by the NHSCFA strategy;
- Investigate cases of fraud;
- In consultation with the CFO, report any case to the police of NHSCFA as agreed and in accordance with NHSCFA Standards for Commissioners;
- Report any case and the outcome of the investigation through the NHSCFA national case management system (referred to as FIRST);
- Ensure that other relevant parties are informed where necessary, for instance HR;
- Ensure that the appropriate CCGs' incident and losses reporting systems are followed;
- Ensure that any system weaknesses identified as part of any investigation are followed up with management and reported to internal audit; and
- Ensure that cases are managed appropriately, taking into account appropriate legislation and regulation and the needs of procedural fairness in the employment relationship.

5.9 **NHSCFA (formerly NHS Protect) will:**

- Provide a single anti-crime organisation at a national level;
- Provide intelligence led crime prevention work;
- Maintain oversight of, and monitor, anti-crime across the NHS;
- Define and set anti-crime standards and assess performance against them;
- Assess, benchmark and assure the performance of local anti-crime delivery against those standards;
- Provide anti-crime management information to the NHS to drive improvement; and

- Provide a central investigation capacity for complex fraud cases that local NHS CFS are not able to pursue.

## **6. Monitoring and Review**

- 6.1 The CFS will report regularly to the CFO. The CFS will provide regular reports to the Audit and Governance Committees and provide an annual report containing details of reported and investigated cases of fraud. The NHSCFA monitors the work of the CFS.
- 6.2 The CCGs are required to complete the NHSCFA Self Review Toolkit and Annual Report and submit these annually to the NHSCFA. The CCGs must mark themselves against each standard as either Compliant (**Green**), Partially Compliant (**Amber**) or Non-Compliant (**Red**). A work plan is required to address all non-compliant standards which will be monitored by the Audit and Governance Committees.
- 6.3 An assessment process may be conducted by the NHSCFA. This is a means of evaluating the effectiveness of the CCGs in dealing with the fraud, bribery and corruption risks it faces through one of four types of assessment: full, focussed, thematic or triggered.
- 6.4 The CFS raises fraud awareness by a number of means such as arranging road shows, giving presentations to staff teams and new starters on induction.

## Appendix B – Fraud Referral Form

**Referral From:** *(Note: This referral may be made anonymously, however, it is helpful if you can provide at least a telephone contact number so that contact might be made to clarify details if necessary. This number will not be used to attempt to identify you).*

NAME:

ORGANISATION / PROFESSION:

ADDRESS:

TEL. NO:

**The alleged fraud, corruption or bribery relates to:**

NAME:

ADDRESS:

DATE OF BIRTH:

**SUSPICION**

**DETAILS**

**POSSIBLE USEFUL CONTACTS**

**PLEASE ATTACH ANY AVAILABLE EVIDENCE OR ADDITIONAL INFORMATION**

Signed:

Date:

.....

.....

Please return this form, marked **private and confidential** to:

360 Assurance Counter Fraud Service, Stapleford Care Centre, Church Street, Stapleford, Nottingham, NG9 8DB or email to the Counter Fraud Specialist at [taelor.martin@nhs.net](mailto:taelor.martin@nhs.net).

## **Appendix C**

### **Prevalent Frauds in the NHS**

#### **Staff Frauds**

- Working While Sick (WWS);
- Timesheet Fraud;
- False Expense Claims;
- Private Work in NHS Time;
- False Qualifications/Applications for Employment; and
- Misuse of Purchasing Cards.

#### **Patient/Visitor Frauds**

- False ID;
- Prescription Frauds; and
- Bed Hopping/Feigning Illness.

#### **Third Party Frauds**

- Suppliers invoicing or overcharging for goods/services they have not provided;
- Individuals pretending to be genuine suppliers in order to change bank account details and divert funds;
- Bribery; and
- Price Fixing.

## Appendix D

### Do's and Don't's

#### ✓ Do...

- Make an immediate note of your concerns – note all relevant details such as what was said in telephone or other conversations, the date, time and the names of any parties involved. If appropriate, these may be discussed or passed onto your line manager for further action or decisions.
- Report your suspicions immediately and directly to the CCGs' appointed [CFS](#), or [Chief Finance Officer](#).
- Deal with the matter promptly, if you feel your concerns are warranted – any delay may cause the CCGs to suffer further financial loss.

#### ✗ Don't...

- Do nothing.
- Be afraid of raising your concerns – you will not suffer any recrimination from the CCGs as a result of voicing a reasonably held suspicion. The CCGs will treat any matter you raise sensitively and confidentially.
- Approach or accuse any individuals directly.
- Try to investigate the matter yourself – there are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may destroy the case. The CCGs' appointed CFS is trained in handling investigations in accordance with the NHSCFA Anti-Fraud Manual.
- Convey your suspicions to anyone other than the CFS, Chief Finance Officer or NHSCFA.