

## Counter Fraud and Corruption Policy

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<b>Status</b>	LIVE		
<b>Target Audience-</b> who does the document apply to and <u>who should be using it.</u> - The target audience has the responsibility to ensure their compliance with this document by:	This Policy applies to all workforce including locum, agency workers, bank workers, volunteers, contractors or suppliers (hereby referred to as employees) and anyone else to report any concerns they may have regarding fraud or bribery concerns which may cause a loss to the NHS.		
	<ul style="list-style-type: none"> <li>• Ensuring any training required is attended and kept up to date.</li> <li>• Ensuring any competencies required are maintained.</li> <li>• Co-operating with the development and implementation of policies as part of their normal duties and responsibilities.</li> </ul>		
<b>Special Cases</b>	None		
<b>Accountable Director</b>	Director of Finance		
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<b>Regulatory Position</b>			
<b>Review period.</b> This document will be fully reviewed every three years in accordance with the Trust's agreed process for reviewing Trust -wide documents. Changes in practice, to statutory requirements, revised professional or clinical standards and/or local/national directives are to be made as and when the change is identified.			

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## Instant Information – Action to be Taken on Discovery / Suspicion of Any Fraudulent or Criminal Activity

**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.

- **Report your suspicions**

Confidentiality will be respected – delays may lead to further financial loss.

### DO NOT

- **Confront the suspect or convey concerns to anyone other than those authorised**

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 Local Counter Fraud Specialist 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.

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

- contacting the Local Counter Fraud Specialist; or
- telephoning the freephone NHS Fraud and Corruption Reporting Line, or
- contacting the Director of Finance.

Your Local Counter Fraud Specialist is:

**Claire Baker**

E: [Claire.baker36@nhs.net](mailto:Claire.baker36@nhs.net)

T: 07583 255 921

All calls will be treated in confidence and investigated by professionally trained staff.

NHS Fraud and Corruption Reporting Line: **0800 028 40 60**

**[www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk)**

If you would like further information about the NHS Counter Fraud Authority, please visit <https://www.cfa.nhs.uk/>

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# 1 Introduction & Purpose

## 1.1 Introduction & Purpose

One of the basic principles of public sector organisations is the proper use of public funds. The National Health Service (NHS) is a public funded organisation and consequently it is important that every employee and associated person acting for, or on behalf of, the Great Western Hospitals NHS Foundation Trust (the Trust) is aware of:

- The risk of fraud, corruption and bribery.
- The rules relating to fraud, corruption and bribery and,
- The process for reporting their suspicions and the enforcement of these rules.

The definition of fraud, corruption and bribery is detailed in Section 2.

This document sets out the Trust's policy and response plan for detected or suspected fraud, corruption or bribery. It has the endorsement of the Trust's Board and Executives. In addition the Board endorses the NHS Counter Fraud Strategy, and subsequent guidance.

Great Western Hospital does not tolerate any form of fraud or bribery by its employees or bribery of its employees, associates or any person or body acting on its behalf. The Trust will ensure all allegations are investigated thoroughly and that the strongest sanctions including criminal sanctions are taken against any employee or an external party found to be or having committed an offence of fraud or bribery.

This policy reflects the Board's wish to embed a culture of best practice in anti-fraud, anti-corruption and anti-bribery measures, and enforcement of this policy will reduce the risk that the Trust or any employees, contractors, volunteers, students, governors or persons working for the Trust will incur any criminal liability or reputational damage.

The Trust already has procedures in place that reduces the likelihood of fraud, corruption and/or bribery occurring. These include the Standing Financial Instructions, other documented procedures, a system of internal control, and a system of risk assessment.

The Board seeks to ensure that a risk awareness culture exists in the Trust (which includes fraud, corruption and bribery awareness), and has complied with the Secretary of State's Directions in nominating a Local Counter Fraud Specialist (LCFS). Where required, the LCFS conducts investigations as directed by the NHS Counter Fraud and Corruption Manual, as required by the Secretary of State's Directions.

## 1.2 Glossary/Definitions

The following terms and acronyms are used within the document:

<b>CQC</b>	Care Quality Commission
<b>EIA</b>	Equality Impact Assessment
<b>HR</b>	Human Resources
<b>IG</b>	Information Governance
<b>IM &amp;T</b>	Information Management and Technology
<b>IP&amp;C</b>	Infection Prevention and Control
<b>LCFS</b>	Local Counter Fraud Specialist
<b>NHS</b>	National Health Service
<b>NHSCFA</b>	National Health Service Counter Fraud Authority

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## NHS Counter Fraud Authority (NHSCFA)

The NHSCFA has the responsibility for the detection, investigation and prevention of fraud and economic crime within the NHS. Its aim is to lead the fight against fraud affecting the NHS and wider health service, by using intelligence to understand the nature of fraud risks, investigate serious and complex fraud, reduce its impact and drive forward improvements.

For more information on the NHSCFA refer to the NHSCFA strategy: Leading the fight against NHS fraud: Organisational strategy 2017-2020 (Ref 6).

## Counter Fraud Functional Standards

A requirement in the NHS standard contract is that providers of NHS services (that hold a Monitor's Licence or is an NHS Trust) must take the necessary action to comply with the NHSCFA counter fraud functional standards. Others should have due regard to the standards. The contract places a requirement on providers to have policies, procedures and processes in place to combat fraud, corruption and bribery to ensure compliance with the standards. The NHSCFA carries out regular assessments of health organisations in line with the standards.

**Fraud** - To act dishonestly with the intent of making a financial gain for oneself or causing a financial loss to another.

**Irregularity** - an irregularity is an action that does not completely follow the agreed standards, though it does not violate them. By itself, a single irregularity can be of little consequence, but when many irregularities occur together, they may be signs of hidden fraud, or misconduct.

**The Fraud Act 2006** (Ref 8) - details it is no longer necessary to prove a person has been deceived as had been the case prior to the 2006 Act being introduced. The focus is now on the dishonest behaviour of the suspect and their intent to make a gain or to cause a loss. The Act includes eight separate offences; those most applicable to the NHS and this policy are:

1. Fraud by false representation - is defined by Section 2 of the Act. A person may be guilty of an offence if he dishonestly makes a false representation, and intends, by making the representation to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss. For example, an employee claiming travel expenses for journeys they have not done.
2. Fraud by failing to disclose information - is defined by Section 3 of the Act. A person may be guilty of an offence if he dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and intends, by failing to disclose the information to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss. For example, failing to disclose criminal convictions when asked to do so as part of the recruitment process, in order to obtain employment.
3. Fraud by abuse of position - is defined by Section 4 of the Act. A person may be guilty of an offence if he occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person, dishonestly abuses that position, and intends, by means of the abuse of that position to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss. For example, a manager creating ghost employee's and paying the salaries into his/her own bank account.
4. Possession of articles for use in fraud(s) - is defined by Section 6 of the Act. A person may be guilty of an offence if he has in his possession or under his control any article for use in the course of or in connection with any fraud. For example, using a false passport or other documentation to secure employment.

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5. Making or supplying articles for use in fraud(s) - is defined by Section 7 of the Act. A person may be guilty of an offence if he makes, adapts, supplies or offers to supply any article knowing that it is designed or adapted for use in the course of or in connection with fraud, or intending it to be used to commit, or assist in the commission of, fraud. For example, producing a prescription in a patient's name with the intention of obtaining drugs and retaining them for personal use, or supplying them to another.

### Examples of NHS Fraud

There is no one type of fraud – there is in fact an enormous variation in the types of fraud that are committed, as there are in the people who commit them. Among more recurrent frauds are (of which this list is not an exhaustive list):

- Timesheet fraud (e.g. employees and professionals claiming money for shifts that they have not worked, claiming for sessions that they have not carried out).
- False expense claims (e.g. falsified travel or subsistence claims).
- Fraudulent job applications (e.g. false qualifications or immigration status).

**If an employee has a suspicion that someone is working illegally at the Trust then they MUST inform the LCFS immediately of their suspicions.**

- Working elsewhere whilst off sick (e.g. usually working for another organisation without informing the Trust).
- Advertising scams (e.g. false invoices for placing advertisements in publications).
- Patient fraud (e.g. false travel claims, fraudulently claiming exemptions from pharmaceutical charges).
- Misappropriation of assets (e.g. falsely ordering goods for own use or to sell).
- Procurement Fraud (e.g. the ordering and contracting of goods or services).
- Fraud by professionals (i.e. Pharmacists – constitutes specific types of fraud such as false claims for treatment, unauthorised use of NHS facilities/equipment).
- Pharmaceutical fraud by companies (e.g. overcharging for drugs, supplying inferior or reduced quantities of drugs etc.)

### Bribery and Corruption

**Bribery** - There is no specific definition within the Bribery Act 2010 (Ref 10) of this term. The Act however does set out four offences of bribery from which a definition can be inferred as a financial or other type of advantage that is offered or requested intending to induce another person to perform improperly one of their functions in their position of trust or responsibility, or as a reward for improper performance.

In essence, bribery is offering an incentive or reward to someone to do/for doing something that they would not normally do.

The Act creates a number of criminal offences and those most applicable to the NHS and this policy are:



1. Offence of bribing another person - is defined by section 1 of the Act. It is an offence for a person to offer, promise, or give a financial or other advantage to another person as an inducement for, or as a reward for, them improperly performing any duty. For example, providing excess hospitality to a potential purchaser or commissioner of the organisation's services.
2. Offence of being bribed - is defined section 2 of the Act. It is an offence for a person to request, or agree to receive, or accept a financial or other advantage as an inducement to, or as a reward for, the improper performance of any function or activity. For example, where an employee who sells confidential information to a third party or provides preferential treatment to suppliers or patients for a fee.
3. Failure of a commercial organisation to prevent bribery — is defined within section 7 of the Act. If an individual bribes another person to obtain or retain business, or an advantage in the conduct of business for an organisation, then that organisation may also be guilty of an offence. For example if an NHS Trust fails to put adequate controls in place to prevent bribery and an employee offers a bribe to a commissioning Clinical Commissioning Group.

A "financial or other advantage" has a wide meaning and could include holidays or entertainment, contracts, non-monetary gifts and offers of employment etc.

A "relevant function or activity" covers "any function of a public nature; any activity connected with a business, trade or profession; any activity performed in the course of a person's employment; or any activity performed by or on behalf of a body of persons whether corporate or unincorporated".

A legal defence within the Bribery Act 2010 (Ref 10) requires organisations to demonstrate that they have "adequate procedures" in place to prevent any bribery from occurring. To demonstrate that the Trust has sufficient and adequate procedures in place and to demonstrate openness and transparency all individuals working for the Trust are required to comply with the requirements of this Policy.

### Examples of Bribery

The Bribery Act 2010 (Ref 10) outlines the offences of bribery as the receipt or acceptance of a bribe, or the offer to, promise or giving of a bribe, which assists in obtaining/retaining business or financial advantage, or the inducement or reward of someone for the "improper performance" of a relevant function. There is however no set types of bribery and there is huge variation in the types of scenarios and circumstances where bribery could occur. A non-exhaustive list of examples of where bribery could take place is as follows:

#### *Offering a bribe*

An employee offers a potential client tickets to a major sporting event, but only if they agree to do business with the Trust.

#### *Receiving a bribe*

A supplier gives an employee's nephew a job but makes it clear that in return they expect the employee to use their influence in the Trust to ensure that it continues to do business with them.

Someone responsible for awarding an employment contract is offered gifts and/or hospitality by one of the candidates or someone linked to them to ensure they get the job.

Someone responsible for booking bank or agency workers is offered lavish gifts and/or hospitality, by an agency, to ensure their agency workers are booked by the Trust.

Someone responsible for choosing suppliers (medical or non-medical) or awarding business contracts is offered gifts and/or hospitality by an existing/new supplier, contractor or business to ensure they are selected as a supplier.

Someone associated with the purchasing of drugs and/or the selection of approved drugs to the Trust Formulary is offered gifts, hospitality and/or paid expenses by a medical representative or drugs company to ensure their drugs are purchased and/or added to the Trust's Formulary for prescribing.

Someone associated with the prescribing of drugs is offered gifts and/or hospitality by a medical representative or drugs company to ensure they prescribe their drugs.

Someone associated with the provision of training is offered gifts and/or hospitality by an external training company to ensure they are selected to provide training at the Trust.

## 2 Main Document Requirements

### 2.1 The Fraud, Corruption and Bribery Response Plan

The Trust is absolutely committed to maintaining an honest, open and well-intentioned atmosphere. It is, therefore, also committed to the elimination of fraud and bribery within the organisation, to the rigorous investigation of any such allegations and to taking appropriate action against wrong doers, including possible criminal prosecution, as well as undertaking steps to recover any assets lost as a result of fraud.

When fraud is discovered there is a need for clear, prompt and appropriate action. Therefore, having a fraud, corruption and bribery response plan increases the likelihood that the crisis will be managed effectively. The response will be effective and organised and will rely on the principles contained within this section.

The Trust will be robust in dealing with any fraud, corruption or bribery issues, and can be expected to deal timely and thoroughly with any person who attempts to defraud the Trust or who engages in corrupt practices, whether they are non-executives, employees, suppliers, patients or unrelated third parties.

The Local Counter Fraud Specialist will conduct all investigations in accordance with national guidance and in particular in full compliance with the NHS Counter Fraud and Corruption Manual issued by the Counter Fraud Authority. This will cover all aspects of conducting a professional investigation, including gathering evidence and interviewing.

In some cases, e.g. if a major diversion of funds is suspected, speed of response will be crucial to avoid financial loss in following the processes laid out within this policy

All employees have a personal responsibility to protect the assets of Great Western Hospital, including all buildings, equipment and monies from fraud, theft, corruption or any other irregularity.

The Trust encourages anyone having reasonable suspicions of fraud to report their suspicions. This policy, which is to be rigorously enforced, is that no individual is to suffer any detrimental treatment as a result of reporting reasonably held suspicions. Great Western Hospital recognises that, whilst cases of theft are usually obvious, there may initially only be a suspicion regarding potential fraud and thus employees must report the matter to the LCFS or Director of Finance who will then ensure that Trust's procedures are followed.

Any false or malicious allegations, including deliberately false allegations will be subject to a full investigation and appropriate disciplinary action by the Trust's Workforce and Education Division.

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All employees are to be aware that fraud is normally, dependent upon the circumstances of the case, regarded as gross misconduct, thus warranting summary dismissal without previous warnings. However, no such action is to be taken before a proper investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.

Individuals (be they employees, agency workers, locums, contractors, volunteer, governor or suppliers) must not communicate with any member of the press or other media about a suspected fraud, corruption or bribery issue without the express authority of the Chief Executive except within the provisions stated in the Trust's Freedom to Speak Up Policy. Care needs to be taken to ensure that nothing is done that could give rise to an action for slander or libel.

## 2.2 Public Service Values

Employees must be impartial and honest in the conduct of their business and remain above suspicion whilst carrying out their role within the Trust. A Code of Conduct for NHS Boards (Ref 11) was first published, by the NHS Executive, in April 1994 and set out the initial public service values. This has been superseded by the seven fundamental public service values specified in the Nolan report. A further Code of Conduct was issued in October 2002 titled "Code of Conduct for NHS Managers" (Ref 12).

**SELFLESSNESS:** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their families or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that may influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all their decisions and the actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

## 2.3 Reporting Fraud, Corruption or Other Illegal Acts

This section outlines the action to be taken where fraud, corruption or bribery are discovered or suspected.

If any of the concerns mentioned in this document come to the attention of an employee, they must inform the LCFS or the Director of Finance immediately. Contact information is listed on page three of this document. Remember to ensure the email is secure, only an email from a @nhs.net to a @nhs.net is secure

All referrals will be treated in complete confidence.

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Details of a suspected fraud, bribery or corruption can also be reported through the NHS Fraud and Corruption Reporting Line on 0800 028 40 60 or online at <https://cfa.nhs.uk/reportfraud>.

If the HR department or any other employee of the Trust receives any allegations of fraud, corruption and/or bribery, they should refer them to the LCFS before taking any further action.

All reported allegations of fraud will be referred to the Director of Finance, including those immediately dismissed as minor or otherwise not investigated. The LCFS will then decide on the next course of action and where appropriate make enquiries to investigate the matter. The LCFS and/or NHSCFA will undertake an investigation and seek to apply criminal and civil sanctions, where appropriate. Any investigation would follow set investigative procedures as required by the NHS Counter Fraud and Corruption manual.

To support the reporting of fraud using the NHSCFA fraud reporting process (as outlined above) all employees should be aware of NHS Improvement and NHS England's: Freedom to speak up: raising concern's (whistleblowing) policy for the NHS (Ref 2).

Instant Information 1 is designed to be a reminder of the key "what to do" steps - as well as contact details - to be taken where fraud or other illegal acts are discovered or suspected. Managers are encouraged to copy this to employees and to place it on notice boards in their department.

Anonymous letters, telephone calls, etc. are received from time to time from individuals who wish to raise matters of concern, but not through official channels. Whilst the allegations may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and should always be taken seriously.

Sufficient enquiries should be made by the LCFS to establish whether or not there is any foundation to the allegations. If the allegations are found to be malicious, they are also to be considered for further investigation as to their source.

Time may be of the utmost importance to prevent further loss to the Trust. Employees are to be encouraged to report their first suspicions and not undertake lengthy consideration of alternative explanations. They must be reassured that all initial investigations into their suspicions will be of the highest professional standard. Where during an initial investigation, no evidence of fraud is found, the LCFS will ensure there is equal protection of the innocent suspect, and the well-intentioned reportee.

## 2.4 Disciplinary Action

The disciplinary procedures of the Trust must be followed where an employee is suspected of being involved in a fraudulent or other illegal act.

## 2.5 Responding to an Allegation

Where a referral concerning fraud or corruption has been made to the Director of Finance, the Director of Finance shall inform the LCFS at the first opportunity.

On receipt of a referral/allegation of suspected fraud, the LCFS will assess the allegation to determine a course of action. This may involve making preliminary enquiries such as obtaining information from Trust systems. After such preliminary enquiries, where appropriate, the LCFS will seek agreement from the Director of Finance to carry out an investigation.

If a criminal event is believed to have occurred but fraud, corruption or bribery is not suspected, the Director of Finance must immediately inform the police and the Local Security Management Specialist

(LSMS) if theft or arson is involved, and where appropriate the Board and External auditors, in accordance with the Trust's Standing Financial Instructions.

The LCFS is responsible for investigating all instances of fraud, corruption and/or bribery in the Trust. As part of the investigation, the LCFS may request access to records, such as personnel records (timesheets, diaries, expenses claims etc.). This may be done with the consent of the employee, but can be done without consent under the Data Protection Act 2018 as fraud is a crime and the investigation is being undertaken for the detection and prevention of crime. The request for access to records must be reasonable and related to the investigation. The Information Governance (IG) team will provide advice and guidance in the event of any query or dispute.

The LCFS will regularly report to the Director of Finance on all fraud, corruption and/or bribery cases they investigate, at particular stages of individual investigations. In addition the LCFS will provide the Audit, Risk and Assurance Committee with quarterly updates as to the progress of investigations.

Depending upon the nature of the investigation, the LCFS will normally work closely with management and other agencies such as the Police to ensure that all matters are properly investigated and reported upon. The circumstances of each case will dictate who will be involved and when.

The detailed arrangements for the investigation of any suspected fraud or corruption are contained in the NHS Counter Fraud and Corruption Manual and within the Trust's policies e.g. Conduct Management Policy (Ref 3) and the Standing Financial Instructions. The LCFS will record the progress of the investigation in accordance with the legal codes of practice Police and Criminal Evidence Act 1984 (Ref 18), Regulation of Investigatory Powers Act 2000 (Ref 19), Criminal Procedures and Investigation Act 1996 (Ref 20) and other legislative requirements e.g. Data Protection Act 1998 (Ref 21).

On the conclusion of the investigation the LCFS will report their findings and recommendations to the Director of Finance. The Director of Finance is the sole person who can determine whether or not any formal action is justified and what form such action takes. However, guidance can be sought from the Chief Executive and the LCFS.

If the Director of Finance decides that formal action is to be taken against the subject(s) of an investigation then this will involve using an appropriate combination of the sanctions described below.

## 2.6 Sanctions and Redress

The types of sanction which the Trust may apply when a financial offence has occurred are given below:

**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.

**Professional body disciplinary** – Employees will be reported to their professional body as a result of a successful investigation/prosecution.

The Trust 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 Trust and the offender to repay monies lost.

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The use of parallel sanctions or the 'triple track' approach helps to maximise the recovery of NHS funds and assets whilst minimising duplication of work.

The Trust's Conduct Management Policy will be used where the outcome of the investigation indicates improper behaviour on the part of an employee/employees. The LCFS will liaise with the Director of HR regarding provision of evidence. Where the Trust has suffered a financial loss from a fraud, the Trust will take action to pursue recovery in all applicable cases, subject to authorisation from the Director of Finance.

The LCFS will seek authorisation from the Director of Finance if a matter is to be reported to the Police. The LCFS will liaise with Police by providing a prosecution file and participating in interviews and searches. The LCFS shall attend court to give evidence and liaise with the Crown Prosecution Service as required.

The LCFS acts on behalf of the Trust in the event of any formal action and must ensure there is coordination between the various parties involved such as where external legal advisers are used.

When a fraud, corruption or bribery has occurred at the Trust, the LCFS will strengthen the control environment in which the event occurred by identifying system weaknesses and making recommendations to the Trust to address these weaknesses to reduce the risk of such an event occurring again.

The Director of Finance is responsible for the smooth running of this protocol and where clarification is required his, or her, decision will be final.

For all alleged cases reported to the LCFS, the LCFS will liaise with the appropriate Human Resources manager and subject's line manager, where necessary and appropriate. Communication during an investigation will be limited to relevant witnesses to protect the confidentiality of the investigation.

## 2.7 Police Involvement

In accordance with the NHS Counter Fraud and Corruption Manual, the Director of Finance, in conjunction with the LCFS, is to decide whether or not a case should be referred to the police. Taking into consideration the potential loss or risk to the organisation, the likelihood of possible sanctions, and any circumstances surrounding the case. The HR and line managers will be involved as necessary. Any referral to the police is not to prohibit action being taken under the Trust's disciplinary procedures, and will take into consideration the

**Any abuse or non-compliance with this policy or procedures will be subject to a full investigation and appropriate disciplinary action.**

## 2.8 Subsequent Action

Following the conclusion of each case a written report will be drafted and presented to the Director of Finance. Consideration will be given to the circumstances in which the fraud occurred, and the need for changes to controls or audit activity to prevent such a fraud occurring again.

The Trust may also publicise the outcome of any successful prosecution to support its aim of deterring fraud and creating an anti-fraud culture.

### 3 Monitoring Compliance and Effectiveness of Implementation

The arrangements for monitoring compliance are outlined in the table below: -

Measurable policy objectives	Monitoring or audit method	Monitoring responsibility (individual, group or committee)	Frequency of monitoring	Reporting arrangements (committee or group the monitoring results is presented to)	What action will be taken if gaps are identified
Monitor employees knowledge of policy	Counter Fraud Annual Survey / Training presentations	LCFS	Annual / On-going	Audit, Risk and Assurance Committee	The LCFS will set out an improvement action plan

### 4 Duties and Responsibilities of Individuals and Groups

#### 4.1 Chief Executive

The Chief Executive is ultimately responsible for the implementation of this policy.

#### 4.2 Ward Managers, Matrons and Managers for Non Clinical Services

All Managers are to ensure that new or revised policies, competencies, clinical guidelines, strategies, plans, protocols or procedural documents are drawn to the attention of all employees, and that employees within their area are able to implement the document and that any superseded documents are destroyed.

In implementing this Policy, managers must ensure that all employees are treated fairly and within the provisions and spirit of the Trust's Equality and Diversity Policy. Special attention should be paid to ensuring the policy is understood where there may be barriers to understanding caused by the individual's circumstances, where the individual's literacy or use of English is weak or where the individual has little experience of working life.

- Managers must be vigilant and ensure that procedures to guard against fraud and corruption are followed. They should be alert to the possibility that unusual events or transactions could be symptoms of fraud or corruption. Where they have any doubt they must seek advice from the LCFS.
- Managers must establish an anti-fraud and corruption culture within their team and ensure that information on procedures is made available to all employees, and staff are aware of fraud, bribery and corruption and understand the importance of protecting the organisation from it.
- Managers must ensure fraud risks are considered when developing new procedures, and actions raised by the LCFS to improve the control environment to prevent fraud are implemented in a timely manner.
- All instances of actual or suspected fraud or corruption, which come to the attention of a manager, must be reported immediately. It is appreciated that some employees will initially raise concerns with their manager however; in such cases the manager has clear responsibility to refer the concerns to the LCFS as soon as possible.

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- Managers will also be responsible for the enforcement of disciplinary action for staff who do not comply with policies, procedures and processes

#### 4.3 Document Author and Document Implementation Lead

The document Author and the document Implementation Lead are responsible for identifying the need for a change in this document as a result of becoming aware of changes in practice, changes to statutory requirements, revised professional or clinical standards and local/national directives, and resubmitting the document for approval and republication if changes are required.

#### 4.4 The Director of Finance

The Director of Finance will:

- Prepare, document and maintain detailed financial procedures and systems and apply the principles of separation of duties and internal checks to supplement those procedures and systems.
- In conjunction with the Chief Executive monitor and ensure compliance with the NHSCFA standards and the NHS standard contract, on fraud and corruption.
- In consultation with the NHSCFA and the LCFS, will decide whether there is sufficient cause to conduct an investigation, and whether the police and external audit need to be informed.
- Report annually to the Board on the adequacy of internal financial controls and risk management as part of the Board's overall responsibility to prepare a statement of internal control for inclusion in the provider's annual report.
- Depending on the outcome of investigations (whether on an interim/on-going or a concluding basis) and/or the potential significance of suspicions that have been raised, inform the Chair of the Trust and the Chair of the Audit, Risk and Assurance Committee of cases as may be deemed appropriate or necessary.

The Director of Finance is also responsible for informing the Audit, Risk and Assurance Committee of all categories of loss.

#### 4.5 Local Counter Fraud Specialist

The LCFS will:

- Take forward all counter-fraud work locally in accordance with national NHSCFA Functional Standards and report directly to the Director of Finance. Adhering to the NHSCFA counter fraud standards is important to ensure the Trust has appropriate counter fraud, bribery and corruption arrangements in place and the LCFS will look to achieve the highest standards possible in their work.
- Work with key colleagues and stakeholders to promote counter fraud work, apply effective preventative measures and investigate allegations of fraud and corruption.
- Conduct risk assessments in relation to their work to prevent fraud, bribery and corruption, and ensure the Trust's risk management, incident and losses reporting systems are followed.
- Investigate all cases of fraud as per guidance and NHSCFA requirements. Include ensuring the Director of Finance is kept apprised of all referrals/cases, and other relevant parties are

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informed where necessary e.g. The Human Resources Directorate will be informed where an employee is a suspect.

- Ensure that any system weaknesses identified as part of the investigation are followed up with management or Internal Audit

#### 4.6 The Board

The Board will provide a clear and demonstrable support and strategic direction for counter fraud, bribery and corruption work. They will review the proactive management, control and the evaluation of counter fraud, bribery and corruption work.

The Board will also scrutinise NHSCFA assessment reports, where applicable, and ensure that the recommendations are fully actioned.

Any incident or suspicion that comes to a Board member's attention will be passed immediately to the Trust LCFS.

#### 4.7 Internal and External Audit

Any incident or suspicion that comes to Internal or External Audits' attention will be passed immediately to the Trust LCFS.

#### 4.8 The Human Resources Director

The Human Resources Director will ensure members of the Human Resources Directorate:

- Liaise closely with Managers and the LCFS from the outset where an employee is suspected of being involved in fraud or corruption. The Human Resources Directorate are responsible for ensuring the appropriate use of the Trust's Disciplinary procedure. The Human Resources Directorate shall advise those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures. Close liaison between the LCFS and the Human Resources Directorate will be essential to ensure that any parallel sanctions (i.e. criminal and disciplinary) are applied effectively and in a coordinated manner.
- Take steps at recruitment to establish, as far as possible, the previous record of potential employees as well as the veracity of required qualifications and memberships of professional bodies in terms of their propriety and integrity. In this regard, temporary and fixed term contract employees are treated in the same manner as permanent employees.

#### 4.9 Information Management and Technology

The Information Security Officer will contact the LCFS immediately in all cases where there is suspicion that Information Technology (IT) (the application of computers and telecommunications equipment to store, retrieve, transmit and manipulate data) is being used for fraudulent purposes. This includes inappropriate Internet or e-mail use as outlined in the Trust policy (Internet and Email Usage Policy (Ref 13)). The HR directorate will be informed if there is a suspicion that it is being used by an employee for fraudulent purposes.

## 5 Further Reading, Consultation and Glossary

### 5.1 References, Further Reading and Links to Other Policies

The following is a list of other policies, procedural documents or guidance documents (internal or external) which employees should refer to for further details:

Ref. No.	Document Title	Document Location
1	Standing Financial Instructions	T:\Trust-wide Documents
2	Freedom to Speak Up Policy	T:\Trust-wide Documents
3	Conduct Management Policy	T:\Trust-wide Documents
4	Absence Management (sickness) Policy	T:\Trust-wide Documents
5	Equality and Diversity Policy	T:\Trust-wide Documents
6	NHS Counter Fraud Strategy	www.cfa.nhs.uk
7	NHS Counter Fraud and Corruption Manual	Authorised access only
8	The Fraud Act 2006	<a href="https://www.legislation.gov.uk">https://www.legislation.gov.uk</a>
9	Public Interest Disclosure Act 1998	<a href="https://www.legislation.gov.uk">https://www.legislation.gov.uk</a>
10	Bribery Act 2010	<a href="https://www.legislation.gov.uk">https://www.legislation.gov.uk</a>
11	Code of Conduct for NHS Boards	<a href="http://www.nhsbsa.nhs.uk">http://www.nhsbsa.nhs.uk</a>
12	Code of Conduct for Managers	www.admin.nice.org.uk
13	Internet and Email Usage Policy	T:\Trust-wide Documents
14	Theft Act 1968 and Theft Act 1978	www.legislation.gov
15	Report an immigration crime - GOV.UK	www.legislation.gov
16	Penalties for employing illegal workers - GOV.UK	www.legislation.gov
17	<a href="https://www.reportnhsfraud.nhs.uk">https://www.reportnhsfraud.nhs.uk</a>	<a href="https://www.reportnhsfraud.nhs.uk">https://www.reportnhsfraud.nhs.uk</a>
18	Police and Criminal Evidence Act 1984	www.legislation.gov.uk
19	Regulation of Investigatory Powers Act 2000	www.legislation.gov.uk
20	Criminal Procedures and Investigation Act 1996	www.legislation.gov.uk
21	Data Protection Act 1998	www.legislation.gov.uk

### 5.2 Consultation Process

The following is a list of consultees in formulating this document and the date that they approved the document:

Job Title / Department	Date Consultee Agreed Document Contents
Julie Soutter, ARAC Chair & Non-Executive Director	ARAC 15/07/2021

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Job Title / Department	Date Consultee Agreed Document Contents
Lizzie Abderrahim, Non-Executive Director Nick Bishop, Non-Executive Director Faried Chopdat, Non-Executive Director Andy Copestake, Non-Executive Director Helen Spice, Non-Executive Director	ARAC 15/07/2021
Liam Coleman, Chairman	ARAC 15/07/2021
Kevin McNamara, Chief Executive	ARAC 15/07/2021
Caroline Coles, Company Secretary	ARAC 15/07/2021
Simon Wade, Director of Finance & Strategy	ARAC 15/07/2021
Anne-Marie Howroyd, Deputy Director of Finance	ARAC 15/07/2021

## 6 Equality Impact Assessment

An Equality Impact Assessment (EIA) has been completed for this document and can be found at Appendix A.

## Appendix A - STAGE 1: Initial Screening For Equality Impact Assessment

At this stage, the following questions need to be considered:			
1	What is the name of the policy, strategy or project? Fraud and Corruption Policy		
2.	Briefly describe the aim of the policy, strategy, and project. What needs or duty is it designed to meet? This policy outlines the Trust's approach to preventing and detecting fraud and corruption, including the actions to be taken if any suspected fraud or corruption is identified.		
3.	Is there any evidence or reason to believe that the policy, strategy or project could have an adverse or negative impact on any of the nine protected characteristics (as per Appendix A)?		<b>No</b>
4.	Is there evidence or other reason to believe that anyone with one or more of the nine protected characteristics have different needs and experiences that this policy is likely to assist i.e. there might be a <i>relative</i> adverse effect on other groups?		<b>No</b>
5.	Has prior consultation taken place with organisations or groups of persons with one or more of the nine protected characteristics of which has indicated a pre-existing problem which this policy, strategy, service redesign or project is likely to address?		<b>No</b>

Signed by the manager undertaking the assessment	Claire Baker
Date completed	30/06/2021
Job Title	Local Counter Fraud Specialist

On completion of Stage 1 required if you have answered YES to one or more of questions 3, 4 and 5 above you need to complete a [STAGE 2 - Full Equality Impact Assessment](#)

## Equality Impact Assessment

### Are we Treating Everyone Equally?

Define the document. What is the document about? What outcomes are expected?

Consider if your document/proposal affects any persons (Patients, Employees, Carers, Visitors, Volunteers and Members) with protected characteristics? Back up your considerations by local or national data, service information, audits, complaints and compliments, Friends & Family Test results, Staff Survey, etc.

If an adverse impact is identified what can be done to change this? Are there any barriers? Focus on outcomes and improvements. Plan and create actions that will mitigate against any identified inequalities.

If the document upon assessment is identified as having a positive impact, how can this be shared to maximise the benefits universally?

### Our Vision

Working together with our partners in health and social care, we will deliver accessible, personalised and integrated services for local people whether at home, in the community or in hospital empowering people to lead independent and healthier lives.



Trust Equality and Diversity Objectives			
Better health outcomes for all	Improved patient access & experience	Empowered engaged & included staff	Inclusive leadership at all levels

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