



**Thurrock
Clinical Commissioning Group**

Anti-Fraud, Bribery and Corruption Policy

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1 INTRODUCTION

- 1.1 This document sets out the NHS Thurrock CCG's Clinical Commissioning Group's ("TCCG") Anti-Fraud and Bribery Policy and the steps that must be taken where fraud or bribery are suspected or discovered.
- 1.2 All employee's / Board members (including Lay Members) / third parties working on behalf of TCCG should be aware of this, and managers must bring its contents to the attention of their staff. Any person who becomes aware of any instances of fraud, bribery or other illegal act and does not follow this Policy could be subject to disciplinary action.
- 1.3 TCCG has a nominated Local Counter Fraud Specialist (LCFS) whom staff should contact promptly and in confidence with any concerns relating to fraud or bribery.
- 1.4 The NHS Thurrock Clinical Commissioning Group ("TCCG") is committed to reducing fraud, bribery and corruption in the NHS and will vigorously investigate all allegations made. Furthermore, TCCG will seek the appropriate disciplinary, regulatory, civil and criminal sanctions against persons who are convicted of fraud or bribery and where possible will attempt to recover losses.
- 1.5 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 fraud, bribery and corruption and means of enforcing internal policies and procedures and criminal legislation against fraud, bribery and any other illegal acts involving dishonesty. For simplicity all such offences are thereafter referred to as "fraud and bribery", except where the context indicates otherwise. This document sets out TCCG's policy and response to instances where fraud and/or bribery is detected or suspected and provides a guide for employees on what fraud and bribery is in the NHS, what everyone's responsibility is to prevent fraud and bribery and how to report it. All genuine suspicions of fraud and bribery can be reported to the organisations Local Counter Fraud Specialist ("LCFS"), to the Chief Finance Officer (CFO) or anonymously to the NHS Fraud and Corruption Reporting Line (FCRL) on freephone 0800 028 4060 or <https://cfa.nhs.uk/home>.
- 1.6 The Board already has procedures in place that reduce the likelihood of fraud and/or bribery occurring. These include standing orders, standing financial instructions, documented procedures, a system of internal control and a system of risk assessment. In addition, the Board tries to ensure that a risk and fraud awareness culture exists within the organisation. A counter fraud work plan is agreed between the LCFS, the CFO and the Audit Committee which sets out the organisations counter fraud objectives for each financial year.
- 1.7 This policy should be read in conjunction with the organisation's [Freedom to Speak Up: Raising Concerns \(Whistleblowing\) Policy](#), and applies to all staff; Board members, volunteers, interns, including Lay members; contractors; consultants; vendors and any other internal or external stakeholders working on behalf of the organisation.
- 1.8 Appendix B sets out potential warning signs to be aware of in relation to possible instances of fraud or bribery.
- 1.9 Appendix C sets out the do's and don'ts to be aware of with regard to acting upon any concerns or suspicions.

2 PURPOSE / POLICY STATEMENT

2.1 The Board's Policy

- 2.1.1 The Board is absolutely committed to maintaining an honest, open and well-intentioned culture within the organization. It is, therefore, also absolutely committed to the elimination of fraud, bribery or any other illegal act which occurs either within or against the organization.
- 2.1.2 Whilst every effort will be made to prevent fraud and bribery from occurring, where this isn't possible, the Board is committed to the rigorous investigation of any such cases. Consequently, all cases of suspected fraud, bribery and dishonesty will be considered for investigation. Where appropriate, criminal prosecution and civil court action may be taken to recover money, costs and interest. Employees of the CCG or of third parties acting on behalf of the CCG may also be subject to disciplinary action and or referral to a professional regulator.
- 2.1.3 The Board wishes to encourage anyone having reasonable suspicions of fraud and/or bribery to report them. Therefore, it is also the Board's policy, which will be rigorously enforced, that no individual will suffer in any way as a result of reporting a reasonably held suspicion, provided that they have acted in 'good faith' when doing so. For these purposes "reasonably held suspicions" shall mean any suspicions other than those, which are raised maliciously and found to be groundless. TCCG is committed to ensuring employees are treated in line with the Public Interest Disclosure Act 1998. TCCG maintains a [Freedom to Speak Up: Raising Concerns \(Whistleblowing\) policy](#) which should be consulted by employees who are concerned about making a report.
- 2.1.4 It should be added that under no circumstances should a member of staff speak or write to representatives of the press, TV, radio, or to any other third party about a suspected fraud without the written authority of the Accountable Officer. Care needs to be taken to ensure that nothing is done that could give rise to an action for slander or libel.

3 DEFINITIONS

3.1 Fraud

NHS Counter Fraud Authority	NHS Counter Fraud Authority ("NHSCFA") has responsibility for all policies and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS and ensuring that any investigations will be handled in accordance with NHSCFA guidance.
Fraud	The Fraud Act 2006 came into effect on 15 January 2007 and gave a statutory definition of the criminal offence of fraud, as classified under the following headings: <ul style="list-style-type: none"> • Fraud by false representation; • Fraud by (wrongfully) failing to disclose information; • Fraud by abuse of position; • Possession of articles for use in frauds; • Making or supplying articles for use in frauds.
Fraud by false representation	A person is in breach of this section if he/she: <ul style="list-style-type: none"> • Dishonestly makes a false representation, and • Intends, by making the representation to make a gain for themselves or another, or to cause loss to another or to expose

	<p>another to a risk of loss.</p> <p>A representation is false if:</p> <ul style="list-style-type: none"> • It is untrue or misleading, and • The person making it knows that it is, or might be, untrue or misleading.
Fraud by (wrongfully) failing to disclose information	<p>A person is in breach of this section if he/she:</p> <ul style="list-style-type: none"> • Dishonestly fails to disclose to another person information which they are under a legal duty to disclose, and • Intends, by failing to disclose the information to make a gain for themselves or another, or to cause loss to another or to expose another to a risk of loss.
Fraud by abuse of position	<p>A person is in breach of this section if he/she:</p> <ul style="list-style-type: none"> • Occupies a position in which he/she 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 themselves or another, or to cause loss to another or to expose another to a risk of loss. <p>A person may be regarded as having abused their position even though their conduct consisted of an omission rather than an act.</p>
Possession of articles for use in frauds	<p>A person is 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.</p>
Making or supplying articles for use in frauds	<p>A person is guilty of an offence if he makes, adapts, supplies or offers to supply any article -</p> <ul style="list-style-type: none"> • 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.

The Act states that the terms “Gain” and “Loss” should be read in accordance with the following:

- As extending only to a gain or loss in money or other property; and
- As including any such gain or loss whether temporary or permanent.

“**Property**” means any property whether real or personal (including things in action and other intangible property).

“**Gain**” includes a gain by keeping what one has, as well as a gain by getting what one does not have.

“**Loss**” includes a loss by not getting what one might get, as well as a loss by parting with what one has.

Those found guilty under the Act are liable for a fine and or imprisonment, with a maximum sentence of up to 10 years.

3.2 Bribery

- 3.2.1 The Bribery Act 2010 came into effect on 1 July 2011 and its provisions apply to all business.
- 3.2.2 The Act strengthens previous UK anti-bribery legislation and creates an offence which can be committed by organisations which fail to have adequate provisions in place to prevent bribery from occurring.
- 3.2.3 Bribery involves offering, promising or giving a payment or benefit in order to influence someone’s decision or action. This can take the form of ‘a financial or other advantage’ – it does not have to be cash. Offering and requesting constitutes an offence – it does not have to be paid. It does not have to go directly to the person being influenced – it can be a donation to a chosen organisation. It does not have to be substantial – there is no materiality threshold in the Act.
- 3.2.4 In addition to the corporate offence, there are three offences which individuals could be found guilty of.
- 3.2.5 A summary of the offences is as follows:

	Section	Offence	Detail	Sanction
Individuals	Section 1	Bribing another person	Offering, promising or giving a bribe in the UK or abroad, in the public or private sector.	Individuals could face a 10 year prison sentence and unlimited fines.
	Section 2	Receiving a bribe	Requesting, agreeing to receive or accepting of a bribe in the UK or abroad, in the public or private sector.	
	Section 6	Bribery of foreign public officials	Bribery of a foreign public official in order to obtain or retain business.	
Organisations	Section 7	Failure to prevent bribery	Failure by an organisation to prevent a bribe being paid by those who perform services for, or on behalf of the organisation (“associated persons”).	Organisations could face unlimited fines and reputational damage could be significant.

3.3 Theft

- 3.3.1 Theft is defined within the Theft Act 1968 as ‘dishonestly appropriating property belonging to another with the intention of permanently depriving the other of it.’
- 3.3.2 The Theft Act 1968 also includes robbery, burglary and abstracting electricity amongst other offences.
- 3.3.3 Should theft or similar offences be suspected by any person the organisations Local

Security Management Specialist (“LSMS”) should be informed to review security measures and may refer it to Essex Police if appropriate. (For contact details see section 8).

4 ROLES AND RESPONSIBILITIES

4.1 CCG Board

4.1.1 NHS Thurrock CCG Board Members are responsible for ensuring that the CCG, staff and the Board comply with this policy and uphold the principles set out within all anti-fraud, bribery and corruption legislation and good practice guidance.

4.2 Audit Committee

4.2.1 The Audit Committee is responsible for ensuring that the arrangements in place for the management of fraud, bribery and corruption are robust and operating effectively.

4.2.2 The Audit Committee will receive reports from the Local Counter Fraud Specialist regarding the operation of those controls and any investigations being carried out and will report accordingly to the CCG Board and approve narrative included within the CCG Annual Governance Statement regarding the controls in place in this regard.

4.3 Chief Finance Officer

4.3.1 The CFO prepares documents and maintains detailed financial procedures and systems and ensures that they incorporate the principles of separation of duties and internal checks to supplement those procedures and systems.

4.3.2 The CFO will report annually to the Board on the adequacy of internal financial control and risk management as part of the Board’s overall responsibility to prepare a statement of internal control for inclusion in the NHS body’s annual report.

4.3.3 The CFO will monitor the work of the LCFS and be responsible for the organisation’s overall compliance with the NHSCFA standards in relation to fraud and bribery.

4.3.4 The CFO will, depending on the outcome of investigations and/or the potential significance of suspicions that have been raised, inform and consult with appropriate senior management accordingly. This may be in relation to required control-based actions; actions to limit and recover losses; actions to apply relevant sanctions; and actions to manage potential reputational damage.

4.3.5 The LCFS shall be responsible, in discussion with the CFO, for informing third parties such as External Audit, NHSCFA, the Police or any other relevant investigative agency at the earliest opportunity and as circumstances dictate.

4.3.6 The CFO, in conjunction with the LCFS, shall consult and take advice from the Head of Human Resources where a member of staff is to be interviewed or disciplined. The CFO and LCFS will not conduct a disciplinary investigation, but the employee may be the subject of a separate investigation by Human Resources (HR).

4.3.7 Specifically, in relation to the risk of bribery, the CFO shall be responsible for ensuring that the organisation takes adequate steps to manage the risks faced, and hence ensure an appropriate response to the Bribery Act 2010.

4.4 Employees / Board Members

- 4.4.1 All employees are required to comply with the organization's policies and procedures and apply best practice in order to prevent fraud and bribery. Staff should be aware of their own responsibilities in protecting the organization from these crimes.
- 4.4.2 Employees who are involved in or manage internal control systems should receive adequate training and support in order to carry out their responsibilities.
- 4.4.3 Should any employee with such responsibilities feel that they have inadequate training then their line manager should be informed immediately to ensure adequate training can be provided.
- 4.4.4 Employees and Board Members are expected to act in accordance with the Standards of Business Conduct and to follow guidance on the receipt of gifts or hospitality. They also have a duty to protect the assets of the organisation, including information and goodwill as well as property.
- 4.4.5 Employees and Board Members are expected to act in accordance with the standards laid down by their Professional Institutes and or regulators where applicable.
- 4.4.6 SFIs and Standing Orders place an obligation on all employees including Lay Members and Board Members to act in accordance with defined policies and procedures; including declaring and registering any interests that might potentially conflict with those of TCCG.
- 4.4.7 In addition, all employees and Board Members have a responsibility to comply with all applicable laws and regulations relating to ethical business behaviour, procurement, personal expenses, confidentiality conflicts of interest and the acceptance of gifts and hospitality. This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees and Board Members should always:
- Avoid acting in any way which might cause others to allege or suspect them of dishonesty;
 - Behave in a way which would not give cause for others to doubt that official matters are dealt with fairly and impartially; and
 - Be alert to the possibility that others might be attempting to deceive.
- 4.4.8 All employees have a duty to ensure that public funds are safeguarded, whether or not they are involved with cash or payment systems, receipts or dealing with contractors or suppliers.
- 4.4.9 All new employees to the organisation will receive fraud and bribery awareness training which can be arranged with the Local Counter Fraud Specialist. This should cover the key points of how to detect fraud, how to report it and LCFS contact details.
- 4.4.10 All employees and Board Members are responsible for reporting suspicions of fraud and bribery. Please refer to Section 8 for key contact details.

4.5 Third Parties Acting on Behalf of TCCG

- 4.5.1 Any third party acting on behalf of the organisation shall be responsible for complying with this Policy and other relevant policies, including reporting any concerns / suspicions of fraud and bribery.

4.6 Managers

- 4.6.1 Managers must be vigilant and ensure that policies, procedures and processes within their local area are adhered to and kept under constant review to guard against fraud and/or bribery. They should be alert to the possibility of unusual events or transactions which could be symptoms of fraud and or/bribery. Where they have any doubt, they must seek advice from the nominated LCFS or the CFO.
- 4.6.2 Managers must instil and encourage an anti-fraud and bribery culture within their team and ensure that information on procedures is made available to all employees and understand the importance of protecting the organisation. The LCFS will proactively assist the encouragement of an anti-fraud and bribery culture by undertaking work that will raise fraud and bribery awareness. This includes arranging staff fraud awareness sessions and promoting relevant fraud policies.
- 4.6.3 All instances of actual or suspected fraud or bribery which come to the attention of a manager must be reported to the LCFS, the CFO or the NHS Fraud and Corruption Reporting Line (FCRL) on freephone 0800 028 4060 or at <https://cfa.nhs.uk/home> immediately. It is appreciated that some employees will initially raise concerns with their manager, however, in such cases managers must not attempt to investigate the allegation themselves, and they have the clear responsibility to refer the concerns to the LCFS, CFO or or the NHS Fraud and Corruption Reporting Line (FCRL) on freephone 0800 028 4060 or at <https://cfa.nhs.uk/home> as soon as possible.
- 4.6.4 Managers at all levels have a responsibility to ensure that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively. The responsibility for the prevention and detection of fraud and bribery therefore primarily rests with managers but requires the co-operation of all employees.
- 4.6.5 As part of that responsibility, managers are required to:
- Inform staff of the organisation's Standards of Business Conduct and Anti-Fraud and Bribery Policy as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms;
 - Ensure that all employees for whom they are accountable are made aware of the requirements of the policies;
 - Assess the types of risk involved in the operations for which they are responsible
 - Ensure that adequate control measures are put in place to minimise the risks. This must include clear roles and responsibilities; supervisory checks; staff rotation, particularly in key posts; separation of duties wherever possible, so that control of a key function is not invested in one individual; and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively;
 - Ensure that any control weaknesses are reported immediately so that policies and procedures can be amended if necessary;
 - Ensure that any use of computers by employees is linked to the performance of their duties within the organisation and complies with the organisation's IT usage policy;
 - Be aware of the Anti-Fraud and Bribery Policy and the rules and guidance covering the control of specific items of expenditure and receipts;
 - Identify financially sensitive posts;
 - Ensure that recruitment policies and procedures are adhered to;
 - Ensure that controls are being complied with;
 - Enforce disciplinary action for staff who do not comply with policies and procedures.

4.7 Internal/External Audit

- 4.7.1 The role of Internal and External Audit includes reviewing controls and systems and ensuring compliance with financial instructions. Through their work, Internal and External Audit will be alert to the risk of fraud and bribery.
- 4.7.2 Through on-going liaison with the LCFS, Internal Audit will seek to assess the control measures in place to manage key fraud and bribery risks where these falls within the scope of their audits.
- 4.7.3 Any incident or suspicion that comes to Internal or External Audit's attention will be passed immediately to the LCFS. The outcome of the investigation may necessitate further work by Internal or External Audit to review systems.

4.8 Local Counter Fraud Specialist

- 4.8.1 Under the NHS Standard Contract, each health body is required to have an LCFS. The LCFS is responsible for investigating allegations and suspicions of fraud and also for undertaking proactive work to minimize the risk of fraud occurring. The LCFS's role is to ensure that all cases of actual or suspected fraud and bribery are notified to the CFO and reported to NHSCFA
- 4.8.2 The LCFS will liaise with the CFO, who will conduct the investigation and the LCFS will, amongst other duties:
- Ensure that the CFO is kept apprised of all cases;
 - Investigate all cases of fraud unless;
 1. It is of national significance.
 2. It is of an extremely complex nature and the investigation would be beyond the reasonable responsibility of the organisation.
 3. Information has been identified as being part of a suspected criminal trend.
 4. Suspicions are already being or are about to be investigated by NHSCFA's National Investigation Service.
 5. The suspected fraud extends beyond the geographical, financial or legal remit of the NHS body affected.
 - Be responsible for the day-to-day implementation of the 4 generic areas of anti-fraud and bribery activity
 - Adhere to the Counter Fraud Professional Accreditation Board (CFPAB)'s Principles of Professional Conduct as set out in the NHS Counter Fraud and Corruption Manual
 - In consultation with the CFO report any case to the Police as necessary;
 - Report the outcome of the investigation to the CFO
 - Ensure that other departments, e.g. HR are informed where necessary. HR will be informed where an employee is a suspect. (LCFS and HR to comply with the relevant protocol between both parties);
 - Ensure that any system weaknesses identified as part of an investigation are followed through with management to implement changes; and
 - Conduct on-going risk assessments with regard to their work on preventing fraud and bribery.

4.9 Human Resources

- 4.9.1 HR will liaise with managers, the CFO and the LCFS, where an employee is

suspected of being involved in fraud and/or bribery. HR is responsible for ensuring the appropriate use of any disciplinary procedures operated by TCCG.

- 4.9.2 Managers must take steps at recruitment to establish, as far as possible, the previous record of potential employees in terms of their propriety and integrity. In this regard, temporary and contract employees are treated in the same manner as permanent employees.

4.10 Information Management and Technology

- 4.10.1 Information Management and Technology (IM&T) will report all cases to the LCFS in line with the Computer Misuse Act 1990, where there is suspicion that IT is being used for fraudulent purposes. This includes inappropriate Internet or E-mail use.

- 4.10.2 HR will be informed if there is a suspicion that an employee has breached the organisation's regulations.

4.11 Commissioning Support Unit

- 4.11.1 The Commissioning Support Unit (CSU) will assist the CFO, HR and the LCFS, where an employee is suspected of being involved in fraud and bribery, by allowing them access to staff and any relevant documentation they may hold.

5 POLICY DETAIL

An Overview of the Approach

On a summary level, the Board's approach to meeting its commitment to eliminate fraud and bribery comprises the following key steps, noting that it has a dedicated LCFS who leads all proactive work and reactive investigations.

5.1 The creation of an anti-fraud culture

- 5.1.1 Raising awareness and understanding of fraud and bribery risks amongst staff, Board members, and all other relevant parties, thus encouraging the reporting of concerns/suspicions, as well as assisting with the prevention, deterrence and detection of fraud and bribery.

5.2 Maximum deterrence of fraud

- 5.2.1 Publicising the actions that will be taken if fraud or bribery are committed. To confirm, where appropriate, criminal prosecution and civil court action may be taken to recover money, costs and interest. Employees of the CCG or of organisations acting on its behalf may also be subject to disciplinary action and/or referral to the relevant professional regulator.

5.3 Successful prevention of fraud which cannot be deterred

- 5.3.1 Policies and procedures are in place to reduce the likelihood of fraud and bribery occurring. These include a system of internal controls, SFIs and documented

procedures, which involve physical and supervisory checks, financial reconciliations, segregation and rotation of duties, and clear statements of roles and responsibilities.

- 5.3.2 Should employees consider the organisations current policies or procedures to be inadequate then they should immediately report their concerns to the LCFS or the CFO so any suspected weakness can be assessed and if necessary amended.
- 5.3.3 If fraud and/or bribery do occur, any necessary changes to systems and procedures will take place immediately to prevent similar incidents from happening again.

5.4 Prompt detection of fraud which cannot be prevented

- 5.4.1 The system of internal controls also includes measures to detect fraud and/or bribery where it has not been possible to prevent or deter a successful attempt from being made.
- 5.4.2 A range of additional detection-based work is also undertaken by the LCFS on an on-going basis.

5.5 Professional investigation of detected fraud

- 5.5.1 The LCFS is professionally trained and accredited to carry out investigations into suspicions of fraud and bribery to the highest standards. In liaison with NHSCFA, all suspicions of fraud and bribery will be professionally investigated.

5.6 Effective sanctions, including appropriate legal action against people committing fraud and bribery

- 5.6.1 Following the conclusion of an investigation, if there is evidence of fraud and bribery, consideration of available sanctions will be made in accordance with the guidance issued by NHSCFA – ‘*Applying Appropriate Sanctions Consistently*’. This may include criminal prosecution, civil proceedings, disciplinary action and or referral to the relevant professional regulator.

5.7 Effective methods for seeking redress in respect of money defrauded

- 5.7.1 Recovery of any losses incurred will also be sought through civil proceedings where appropriate. The Board are absolutely committed to seeking to recover all losses associated with fraud and bribery given that these are funds which should be directed to providing the highest possible standards of care for patients. Where criminal behaviour is proved, and persons convicted of Fraud and Bribery, NHS Thurrock CCG will consider the Proceeds of Crime Act 2002 (POCA) to recover lost resources.

Reporting Process

5.8 Reporting fraud and bribery

- 5.8.1 This section outlines the action to be taken where fraud and/or bribery is discovered or suspected.
- 5.8.2 Where any instance of fraud and/or bribery is identified or suspected, this must be reported to the LCFS or the CFO immediately, unless the LCFS or the CFO is implicated. If that is the case, they should report it to the NHS Fraud and Corruption

Reporting Line (FCRL) on freephone 0800 028 4060 or at <https://cfa.nhs.uk/home>, who will decide on the action to be taken.

- 5.8.3 Any suspected fraud or bribery can also be reported to NHS Counter Fraud Authority using the NHS Fraud and Corruption Reporting Line on 08000284060 or by filling in an online form at <https://cfa.nhs.uk/home>.
- 5.8.4 Anonymous letters and telephone calls are received from time to time from individuals who wish to raise matters of concern, but not through official channels. Whilst the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously and thoroughly investigated.
- 5.8.5 Reporters who submit anonymous referrals cannot be updated on the progress or outcome of a concern raised.
- 5.8.6 Sufficient enquiries will be made by the LCFS to establish whether or not there is any foundation to the suspicion that has been raised. If the allegations are found to be malicious, they will also be considered for further investigation as to their source.
- 5.8.7 The organisation wants all employees, Board members and other relevant parties to feel confident that they can expose any wrongdoing without any risk to themselves, and therefore has a [Freedom to Speak Up: Raising Concerns \(Whistleblowing\) Policy](#) in place which adheres to the provisions of the Public Interest Disclosure Act 1998. This procedure is intended to complement the organisation's [Standards of Business Conduct policy](#) and this Anti-Fraud and Bribery policy, ensuring there is full provision for raising concerns with others if you do not feel able to raise them through the designated channels.

5.9 **Disciplinary action**

- 5.9.1 The disciplinary procedures of the organisation must be followed where an employee is suspected of being involved in a fraudulent or other illegal act. It should be noted, however, that the duty to follow disciplinary procedures will not override the need for legal action to be taken (e.g. consideration of criminal action). In the event of doubt, legal statute shall prevail. For more information please refer to the CCGs Disciplinary Policy. Referrals to professional regulators will also be considered where breaches of professional conduct are suspected.

5.10 **Police involvement**

- 5.10.1 In accordance with the NHS Counter Fraud and Corruption Manual, the CFO, in conjunction with the LCFS, 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 local disciplinary procedures. In general, criminal investigations can be commenced, progressed and concluded by the LCFS. However, joint working with the Police will be considered where the LCFS lacks a legal authority eg. Obtaining a search warrant or where additional offences are suspected over which the LCFS does not have jurisdiction.

5.11 **Managing the investigation**

- 5.11.1 The LCFS is aware that staff under an investigation that could lead to disciplinary action have the right to be represented at all stages.
- 5.11.2 One way in which evidence may best be protected is by the LCFS recommending

suspension in certain circumstances to the CFO, who will make a decision (subject to advice being sought from HR on the disciplinary implications, including consideration of suspension from duty).

5.11.3 All final decisions of suspension are made by TCCG; the LCFS does not have the power to suspend an employee from duty.

5.12 Gathering evidence

5.12.1 The LCFS will take control of any physical evidence, and record this in accordance with the procedures outlined in the NHS Counter Fraud and Corruption Manual. Material seized or obtained during the course of an investigation will be stored in accordance with the Criminal Procedure and Investigation Act 1996 (CPIA).

5.12.2 Interviews under caution or to gather evidence shall only be carried out by the LCFS, if appropriate, or the investigating Police Officer in accordance with the Police and Criminal Evidence Act 1984 (PACE '84). The LCFS may interview and formally document discussions with staff as part of the investigation.

5.12.3 All employees have a right to be represented at internal disciplinary interviews by a trade union representative or accompanied by a friend, colleague or any other person of their choice, not acting in a legal capacity.

5.12.4 The application of this Anti-Fraud and Bribery Policy will at all times work in tandem with all other appropriate Trust policies e.g. Standing Financial Instructions (SFIs).

5.13 Financial Redress

5.13.1 In cases of fraud and/or bribery, where a loss is identified, financial redress or recovery of losses will always be considered. The decision will be taken in the light of the particular circumstances of each case and may include the costs of investigation. Redress can take the form of confiscation and compensation orders, a civil order for repayment, repayment under POCA or a local agreement between the organisation and the offender to repay monies lost.

5.13.2 Redress allows resources that are lost to fraud and bribery to be returned to the NHS for use as intended, for provision of high quality patient care and services.

5.14 Reporting the results of the investigation

5.14.1 Following investigation, the LCFS will prepare a report for the CFO, setting out the following details, as appropriate:

- the circumstances;
- the investigation process;
- the findings;
- the estimated loss;
- the steps that should be taken to prevent a recurrence;
- the steps that should be taken to recover the loss; and
- any other recommended actions.

5.14.2 In cases of serious fraud and/or bribery, it is recommended that parallel sanctions are applied. For example, disciplinary action relating to the status of the employee in the NHS; use of civil law to recover lost funds; and use of criminal law to apply an appropriate criminal penalty upon the individuals, and/or a possible referral of information and evidence to external bodies, for example, professional bodies if

appropriate.

5.14.3 NHSCFA can also apply to the courts to make a restraining order or confiscation order under the POCA. This means that a person's money is taken away from them if it is believed that the person benefited from the crime. It could also include restraining assets during the course of the investigation.

5.14.4 Actions which may be taken when considering seeking redress include:

- no further action to be taken;
- Criminal investigation - the LCFS will work in line with NHS Counter Fraud Authority standards, 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. Civil recovery - civil sanctions can be taken against those who commit fraud and bribery to recover money and/or assets which have been fraudulently obtained, including interest and costs.
- Disciplinary action - disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act. More information about this can be found in the CCG's disciplinary policy on the staff intranet.
- Professional body disciplinary - if warranted, staff may be reported to their professional body as a result of a successful investigation/prosecution or where breaches of a professional code of conduct is suspected
- confiscation order under POCA; and
- Recovery may also be sought from monthly salary payments.

5.14.5 In some cases (taking into consideration all the facts about a case) it may be that the organisation, under guidance from the LCFS and ultimately approved by the CFO, decides that no further recovery action is taken.

5.14.6 Criminal investigations are used for dealing with any criminal activity. The main purpose is to determine if activity was undertaken with criminal intent. Following such an investigation, the LCFS will work in partnership with NHSCFSA, the police, any other investigative agency and the Crown Prosecution Service to bring a case to court against an alleged offender.

5.14.7 The civil recovery route is also available for those who commit fraud and bribery to recover money and/or assets which have been fraudulently obtained, if it is considered to be cost-effective and desirable for deterrence purposes. This could involve a number of options such as applying through the Small Claims Court and/or recovery through debt collection agencies. Each case needs to be discussed with the CFO to determine the most appropriate action.

5.14.8 The appropriate senior manager, in conjunction with the HR department, will be responsible for initiating any disciplinary action that is found to be necessary. Arrangements may be made to recover losses via payroll if the staff member remains employed. In all cases current legislation must be complied with.

5.15 **Fraud and Corruption Reporting Line**

5.15.1 The NHS Fraud and Corruption Reporting Line (FCRL) on freephone 0800 028 4060 or at <https://cfa.nhs.uk/home>

5.16 Key Contacts

Maria Wheeler	Chief Finance Officer	Email: maria.wheeler2@nhs.net
Eleni Gill	Local Counter Fraud Specialist	Mobile: 07827 308906 Email: eleni.gill@nhs.net
John Kelly	Local Security Management Specialist	Mobile: 07500 225027 Email: john.kelly4@nhs.net

6 MONITORING COMPLIANCE

- 6.1 Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent fraud. System controls should be reviewed on an ongoing basis identifying weaknesses in processes.
- 6.2 Where deficiencies are identified as a result of monitoring, the NHS body should explain how appropriate recommendations and action plans are developed and how any recommendations made should be implemented.
- 6.3 This policy will be disseminated to all members of staff via the staff intranet and through team meetings.

7 STAFF TRAINING

- 7.1 All CCG employees, Board Members, members of committees and sub-committees are required to complete mandatory Counter Fraud Training either provided face to face by the LCFS or on the CCG e-learning portal.

8 ARRANGEMENTS FOR REVIEW

- 8.1 This policy will be reviewed no less frequently than every two years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance.
- 8.2 If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the CCG Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the CCG Board.

9 ASSOCIATED DOCUMENTATION

9.1 Associated Policies

- Conflicts of Interest Policy
- Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy
- Standards of Business Conduct (Gifts and Hospitality) Policy
- Disciplinary Policy

10 REFERENCES

- Fraud Act 2006
- Bribery Act 2010
- Proceeds of Crime Act 2002
- Computer Misuse Act 1990
- Criminal Procedure and Investigations Act 1996
- Police and Criminal Evidence Act 1984

11 LIST OF STAKEHOLDERS CONSULTED

Date Policy Circulated	Name of Individual or Group	Were Comments Received?	Were Comments incorporated into Policy?	If no, why not?
July 2019	Audit Committee	No	N/A	
September 2019	Integrated Governance Group	No	N/A	

12 Results of Equality Impact Assessment

- 12.1 The EIA has identified no equality issues with this policy.
- 12.2 The EIA has been included as Appendix A.

13 Change History:

Date	Version	Author	Description
21/06/19	1.1	Eleni Gill, Local Counter Fraud Specialist	Policy review in light of new LCFS in post.

Equality Impact Assessment

To be completed and attached to any policy/procedural document when submitted to the appropriate committee for consideration and approval.

		Yes/No	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	<ul style="list-style-type: none"> ▪ Race 	No	
	<ul style="list-style-type: none"> ▪ Ethnic origins (including gypsies and travellers) 	No	
	<ul style="list-style-type: none"> ▪ Nationality 	No	
	<ul style="list-style-type: none"> ▪ Gender 	No	
	<ul style="list-style-type: none"> ▪ Culture 	No	
	<ul style="list-style-type: none"> ▪ Religion or belief 	No	
	<ul style="list-style-type: none"> ▪ Sexual orientation including lesbian, gay and bisexual people 	No	
	<ul style="list-style-type: none"> ▪ Age 	No	
	<ul style="list-style-type: none"> ▪ Disability - learning disabilities, physical disability, sensory impairment and mental health problems 	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	N/A	
4.	Is the impact of the policy/guidance likely to be negative?	N/A	
5.	If so can the impact be avoided?	N/A	
6.	What alternatives are there to achieving the policy/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action?	N/A	

Warning Signs

Whilst by no means being proof on their own, the circumstances below may indicate that fraud or bribery are taking place, and should therefore put managers, employees and Board members on the alert.

Contractors / Suppliers / Third Parties

- Invoices being submitted on non-headed paper;
- Altered documents (correcting fluid, different pen or handwriting);
- Requests for payment for goods/services that have not yet been delivered;
- Submission of duplicate invoices;
- Notification of an organisation's bank details changing;
- Tender submissions which are priced much higher or lower than other submissions;
- Complaints from public or staff regarding service quality;
- Unexpected requests for an additional fee or commission to "facilitate" a service;
- Requests that you provide employment or some other advantage to a friend or relative;
- Requests to use an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to the CCG; and
- Offers of an unusually generous gift or hospitality by a third party.

Employees

- Altered documents (correcting fluid, different pen or handwriting);
- Changes in normal patterns of, for example, cash takings or expense claim details;
- Text erratic or difficult to read or with details missing;
- Delay in completion or submission of expense claim forms;
- Lack of vouchers or receipts in support of expense claims;
- Seemingly living beyond their means;
- Under constant financial or other stress;
- Choosing not to take annual leave (and so preventing others becoming involved in their work), especially if solely responsible for a 'risk' area;
- Always working late;
- Refusal of promotion;
- Insistence on dealing with a particular individual; and
- Complaints from public or staff regarding service quality.

Acting upon your suspicions – The Do's and Don'ts

If you suspect fraud or bribery within the workplace, there are a few simple guidelines that should be followed:

DO:

- Make an immediate note of your concerns;
- Where possible note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved;
- Convey your suspicions to someone with the appropriate authority and experience, as set out within this Anti-Fraud and Bribery Policy; and
- Deal with the matter promptly. Any delay may cause the CCG to suffer further financial loss.

DON'T:

- Do nothing;
- Be afraid of raising your concerns. You will not suffer any recrimination from the CCG as a result of voicing a reasonably held suspicion, and any matter you raise will be dealt with sensitively and confidentially;
- Approach or accuse any individuals directly. If the suspected individual is made aware of the allegation against them, they could destroy or conceal evidence before an official investigation has begun;
- 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 compromise the case; and
- Convey your suspicions to anyone other than those with the proper authority.