

# Counter Fraud and Corruption Policy & Response Plan

Subject:	Counter Fraud and Corruption Policy and Response Plan
Policy Number	TBC
Ratified By:	Windsor and Maidenhead CCG Governing Body Slough CCG Governing Body Bracknell and Ascot CCG Governing Body
Date Ratified:	10 November 2017 – Audit Committee
Version:	1.3
Policy Executive Owner:	Director of Finance
Designation of Author:	Local Counter Fraud Specialist
Name of Assurance Committee:	Joint Federated Audit Committee
Date Issued:	
Review Date:	November 2018
Target Audience:	CCG including staff, contractors, agency workers (this include the CSU staff) etc.
Other Linked Policies:	WAM CCG's Constitution and related Standing Orders Slough CCG Constitution Standing Orders Windsor Ascot and Maidenhead Constitution and related Standing Orders Financial Scheme of Delegation Prime Financial Policies Travel Policy Expenses Policy Standards of Business Conduct including Gifts and Hospitality Relevant HR policies
Key Words:	Fraud, deception, corruption, policy

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## Version Control Sheet

Version	Date	Author	Status	Comment
1.1		B. Eadle	Draft	
1.2	June 15	B.Eadle	Draft	Review to bring in line with Standards for Commissioners
1.3	Nov 17	B. Eadle	Draft	Review in respect of changes to 1. NHS Protect which is now known as NHS Counter Fraud Authority. 2. The former paragraph 8.3 removed as role of the Area Anti-Fraud Specialist has gone as a result of NHSCFA restructuring. 3. Change of title Director of Finance now known as Director of Finance 4. Removal of Form 2 Fraud and Corruption Referral Form as not relevant.

## **1. INTRODUCTION**

- 1.1 One of the basic principles of public sector organisations is the proper use of public funds. The NHS is a public funded organisation and consequently it is important that every employee and associated person acting for, or on behalf of, Bracknell and Ascot Clinical Commissioning Group, Slough Clinical Commissioning Group and Windsor, Ascot and Maidenhead Clinical Commissioning Group (CCG); which shall be known throughout this policy the Clinical Commissioning Groups (CCG) is aware of the risk of fraud, corruption and bribery, the rules relating to fraud, corruption and bribery, the process for reporting their suspicions and the enforcement of these rules.
- 1.2 This document sets out the CCG's policy and response plan for detected or suspected fraud, corruption or bribery. It has the endorsement of the CCGs' Governing Bodies. The CCGs' Governing Body endorses the NHS Counter Fraud Strategy as set out under HSC 1998/231.
- 1.3 **Governing Body Statement** -The CCG is absolutely committed to maintaining an ethical work environment characterised by the honesty and integrity of each CCG employee. It is therefore committed to eliminating any fraud within the CCG, and to the rigorous investigation of any such cases. Where any acts of fraud or corruption are proven, the CCG will ensure that the culprits are appropriately dealt with, and will also take all appropriate steps to recover any losses in full.
- 1.4 **The policy** reflects the CCG's Governing Body's wish to embed a culture of best practice in anti-fraud, anti-corruption and anti-bribery measures, and enforcement of the policy will reduce the risk that the CCG or any staff, contractors, or persons working for the CCG will incur any criminal liability or reputational damage.
- 1.5 The CCG already has procedures in place that reduces the likelihood of fraud, corruption and/or bribery occurring. These include the CCG Standing Orders and Constitution, Prime Financial Policies and Financial Scheme of Delegation and other documented policies and procedures, a system of internal control, and a system of risk assessment. The CCG Governing Body seeks to ensure that a risk awareness culture exists in the CCG (which includes fraud, corruption and bribery awareness), and have complied with the Standards for Commissioners in nominating a Local Counter Fraud Specialist.
- 1.6 The CCG Governing Body wishes to advise that it is the responsibility of all staff to report any reasonable suspicions of fraud or corruption. It is also the Governing Body's policy that an employee should not suffer detriment as a result of reporting reasonably held suspicions.
- 1.7 The role of **NHS Protect** is changing and a new special health authority is being created to tackle fraud, bribery and corruption in the NHS and wider health group. This new organisation will be called **NHS Counter Fraud Authority (NHSCFA)** and will be launched on the 1<sup>st</sup> of November 2017. NHSCFA will have responsibility for all policy and operational matters relating to the prevention, detection and investigation of Fraud, Bribery and Corruption in the NHS and any investigations undertaken by the Local Counter Fraud Specialist will be handled in accordance with NHSCFA guidance.

## **2. AIMS AND SCOPE**

- 2.1 This policy relates to all forms of fraud and corruption and is intended to provide direction and help to employees who may identify suspected fraud. It provides a framework for responding to suspicions of fraud, advice and information on

various aspects of fraud and implications of an investigation. It is not intended to provide a comprehensive approach to preventing and detecting fraud and corruption. The overall aims of this policy are to:

- improve the knowledge and understanding of everyone in the CCG, irrespective of their position, about the risk of fraud and corruption within the organisation and its unacceptability
- assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly
- set out the CCG's responsibilities in terms of the deterrence, prevention, detection and investigation of fraud and corruption
- ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
  - criminal prosecution
  - civil prosecution
  - internal/external disciplinary action.

2.2 This policy applies to all employees of the CCG, regardless of position held, as well as the Central Southern Commissioning Support Staff, consultants, vendors, contractors, and/or any other parties who have a business relationship with the CCG. It will be brought to the attention of all employees and form part of the induction process for new staff.

### **3. STANDARDS for COMMISSIONERS**

3.1 The CCG is committed to taking all necessary steps to counter fraud and corruption. To meet its objectives, it has adopted the Standards for Commissioners which sets out the Key Principals designed to tackle fraud and corruption within the NHS. These principles are:

#### **STRATEGIC GOVERNANCE**

- This section sets out the standards in relation to the organisation's strategic governance arrangements. The aim is to ensure that anti-crime measures are embedded at all levels across the organisation.
- The CCG will ensure that the providers it contracts to deliver NHS services using the NHS Standard Contract comply with the Standards for Providers, as required under Service Condition 24.2 of the contract. The organisation crime profiles will be reviewed to ensure the information provided in them is accurate.
- The CCG will review the anti-fraud, bribery and corruption arrangements in place within the providers it contracts to deliver NHS services, to ensure they comply with the conditions set out in Service Condition 24 of the NHS Standard Contract. Where necessary, the CCG will recommend corrective action and follow it up to ensure it has been implemented.
- NHSCFA (formally NHS Protect) will give assurance to the CCG that the provider is complying with the anti-fraud, bribery and corruption requirements set out in the NHS Standard Contract, following quality assurance and/or assessment.

#### **INFORM and INVOLVE (The Creation of an ANTI-FRAUD CULTURE)**

- The CCG will use counter fraud publicity material to persuade those who work in this organisation that fraud and corruption is serious and takes away resources from important services. Such activity will demonstrate that fraud and corruption is not acceptable and is being tackled.

### **PREVENT and DETER (Maximum Deterrence of FRAUD)**

- Deterrence is about increasing the expectation that someone will be caught if they attempt to defraud – this is more than just tough sanctions. The CCG Trust will introduce such measures to minimise the occurrence of fraud and corruption.

### **Successful Prevention of FRAUD that cannot be deterred**

- The CCG has policies and procedures in place to reduce the likelihood of fraud and corruption occurring. These include a system of internal controls, Standing Financial Instructions and documented procedures, which involve physical and supervisory checks, financial reconciliations, segregation and rotation of duties, and clear statements of roles and responsibilities. Where fraud and corruption has occurred, the CCG will ensure that any necessary changes to systems and procedures take place immediately to prevent similar incidents from happening in the future.

### **HOLD TO ACCOUNT (Professional investigation of fraud)**

- The LCFS will be professionally trained and accredited to carry out investigations into suspicions of fraud and corruption to the highest standards. In liaison with the NHSCFA, the LCFS will professionally investigate all suspicions of fraud and corruption to prove or disprove the allegation.

### **Prompt detection of Fraud which cannot be prevented.**

- The CCG will develop and maintain effective controls to prevent fraud and corruption and to ensure that if it does occur, it will be detected promptly and referred to the LCFS for investigation.

### **Effective sanctions, including appropriate legal action against people committing fraud and corruption**

- Following the conclusion of an investigation, if there is evidence of fraud, available sanctions will be considered in accordance with the guidance issued by the NHSCFA – ‘Applying Appropriate Sanctions Consistently’. This may include criminal prosecution, civil proceedings and disciplinary action, as well as referral to a professional or regulatory body.

### **Effective Methods for seeking redress in respect of money defrauded**

- Recovery of any losses incurred will also be sought through civil proceedings if appropriate, to ensure losses to the CCG and the NHS are returned for their proper use.

## **4. FRAUD**

4.1 The new Fraud Act of 2006 came into force on the 15th January 2007 and provides for a general offence of Fraud, the act sets out the various ways in that an individual may commit an offence contrary to this Act. The new offence of fraud can be committed in three ways:

- Fraud by False Representation
- Fraud by Failing to Disclose

- Fraud by Abuse of Position

#### 4.2 **Section 1: Fraud**

Section 1 creates the general offence of fraud and introduces the three possible ways of committing it.

#### 4.3 **Section 2: Fraud by false representation**

A person is in breach of this section if he/she

- (a) dishonestly makes a false representation and
- (b) intends, by making that representation-
  - (i) to make a gain for himself or another or
  - (ii) to cause loss to another or to expose another to a risk of loss.

A representation is false if it is untrue or misleading, and the person making it knows that it is, or might be, untrue or misleading.

#### 4.4 **Section 3: Fraud by failing to disclose information**

A person is in breach of this section if he/she-

- (a) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and
- (b) intends, by failing to disclose the information-
  - (i) to make a gain for himself or another, or
  - (ii) to cause loss to another or to expose another to a risk of loss.

#### 4.5 **Section 4: Fraud by abuse of position**

A person is in breach of this section if he/she-

- (a) occupies a position in which he/she is expected to safeguard, or not to act against, the financial interests of another person,
- (b) dishonestly abuses that position, and
- (c) intends, by means of the abuse of that position-
  - (i) to make a gain for himself or another or
  - (ii) to cause loss to another or to expose another to a risk of loss.

A person may be regarded as having abused his position even though his conduct consists of an omission rather than an act.

- 4.6 It should be noted that all offences under the Fraud Act 2006 occur where the act or omission is committed dishonestly and with intent to cause gain or loss. The gain or loss does not have to succeed, so long as the intent is there.

## 5 **BRIBERY and CORRUPTION**

5.1 **The Bribery Act of 2010** came into force on the 1<sup>st</sup> of July 2011 and the act can be broadly defined as the offering or acceptance of inducements, gifts, favours, payment or benefit-in-kind which may influence the action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another. The Act is available at :[www.legislation.gov.uk/ukpga/2010/23/data.pdf](http://www.legislation.gov.uk/ukpga/2010/23/data.pdf) and the following sections explain the elements that apply in an offence of Bribery.

## 5.2 **The Provider**

The provider is guilty of the basic offence of bribery when he makes an offer or promise of a bribe, or gives a bribe with the required intent detailed below.

## 5.3 **The Bribe**

A bribe is defined as a 'financial or other advantage'. The emphasis is less on the value or nature of the advantage and more on its purpose because coupled to the actions above there must also be present an intention on the part of the offender.

## 5.4 **The Intention**

The intention on the part of the provider must be to induce another to perform a function or activity improperly or the advantage is intended to reward another for performing a function or activity improperly. It may be that acceptance of the advantage is itself improper.

It can be seen that the actions and intentions are linked.

It should also be noted that the person being offered etc. the advantage need not be the one who is to perform the improper action or to whom the reward is directed and it is irrelevant if bribe is provided by a third person.

## 5.5 **The Receiver**

In respect of the recipient of an advantage the offence is complete when they **request, agree to receive or accept a financial or other advantage** with a similar intention that a function or activity will be performed improperly or as a reward for improper performance. Again it may be that the request, agreement or acceptance would itself be improper.

On the part of the recipient there is one other way in which the offence is complete.

Where, in anticipation of, or in consequence of, the recipient requesting etc. an advantage a function or activity is performed improperly, the offence is again complete. The function may be performed improperly by the recipient or another person at the request of the recipient or with their assent or acquiescence.

## 5.6 **The function or activity**

The Act defines relevant functions or activities as any function of a public nature, or any activity connected with business, or performed by or on behalf of a body corporate or unincorporated or performed in the course of a person's employment.

Persons performing these functions and activities are expected to perform them in good faith and/or impartially and/or are performing them in a position of trust.

#### 5.7 **The improper performance**

A function or activity will be performed improperly if it is performed in breach of a 'relevant expectation'. This will include a failure to perform a function or activity if that itself would constitute a breach of a relevant expectation.

The Act deliberately leaves what is expected open to general interpretation and relies on the reasonable person in the UK to decide. Ultimately this will be the jury. This is known as the 'expectation test'.

#### 5.8 **The Corporate Offence**

The Act creates a new corporate offence based on negligence. The offence is complete when a person associated with a relevant commercial organisation bribes another person, intending to obtain or retain business for that organisation or to obtain or retain a business advantage in the conduct of business for that organisation.

It is not necessary for the person associated with the organisation to be prosecuted for bribery only that he is or would be guilty.

#### 5.9 **The corporate defence**

The Act provides a defence to the corporate offence, this being that the relevant commercial organisation had in place adequate procedures designed to prevent persons associated with the organisation from undertaking such conduct.

This is commonly known as 'adequate procedures to prevent bribery'.

### 6. **THEFT**

- 6.1 *"A person is guilty of theft if he/she dishonestly appropriates property belonging to another person with the intention of permanently depriving the other of it"* Fraud or theft also covers the dishonest misuse of the resources of the East Berkshire CCGs or any resources which the CCGs may manage on behalf of others.

### 7. **PUBLIC SERVICE VALUES**

- 7.1 Staff must be impartial and honest in the conduct of their business and remain above suspicion whilst carrying out their role within the CCG. The CCG has a Standards of Business Conduct Policy which includes reference to the seven fundamental public service values as specified in the Nolan Report; Code of Conduct for NHS Managers and the Professional Standards Authority standards for members of NHS Boards including CCG Governing Bodies.
- **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.

## 7.2 Furthermore, staff, and those working for the CCG are expected to:

- Ensure that the interest of patients remains paramount at all times
- Be impartial and honest in the conduct of their official business
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money
- Not abuse their official position for personal gain or to benefit their family or friends
- Not to seek advantage or further private business or other interests in the course of their official duties.
- All those who work in the organisation should be aware of, and act in accordance with, these values.

## 8. **RESPONSIBILITIES WITHIN THE ORGANISATION**

### 8.1 Director of Finance

The Director of Finance and has overall responsibility for ensuring compliance with the Standards for Commissioners on fraud, corruption and bribery.

In compliance with the Standards the Director of Finance is responsible for ensuring that fraud and corruption is prevented, detected and investigated. Combating fraud and corruption requires an understanding of how and why it happens, the ways in which it can be minimised and how to professionally investigate it. In line with the Standards for Commissioners the Director of Finance has nominated a Local Counter Fraud Specialist to tackle fraud, corruption and bribery within the CCG.

Where a referral concerning fraud or corruption has been made to the Director of Finance, the Director of Finance shall inform the Local Counter Fraud Specialist at the first opportunity and delegate to him/her responsibility for leading any investigation whilst retaining overall responsibility.

## 8.2 **Local Counter Fraud Specialist**

The Local Counter Fraud Specialist is responsible for managing and delivery of all counter fraud work within the CCG in accordance with an agreed annual workplan. The Local Counter Fraud Specialist is responsible for investigating allegations of fraud and corruption in compliance with the Standards for Commissioners and NHSCFA's Anti-Fraud Manual.

The Local Counter Fraud Specialist is an experienced and accredited (professionally qualified) counter fraud specialist. In essence the role of the Local Counter Fraud Specialist is to respond to and proactively tackle risks and occurrences of fraud and corruption at the CCG by providing a robust and effective prevention, detection and investigation function. The Local Counter Fraud Specialist is responsible for ensuring that the CCG achieves the four specific objectives of the National Counter Fraud strategy covering:

- **Strategic Governance**
- **Inform and Involve**
- **Prevent and Deter**
- **Hold to Account**

The Local Counter Fraud Specialist reports to the Director of Finance, but staff within the CCG will be actively encouraged to speak to and ask for advice from the Local Counter Fraud Specialist. The Local Counter Fraud Specialist is authorised to receive reports of suspected fraud from anyone, whether an employee of the CCG, independent contractors, patients or other third party. All staff have a responsibility to the CCG to raise their genuine concerns.

8.3 **The Director of Finance will be assisted by Human Resources specialist (CSCSU) in** advising those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures, as requested. The consideration of 'triple tracking' options, namely criminal, civil and disciplinary sanctions (including Professional Regulatory Body sponsored disciplinary sanctions) shall be taken in conjunction with the Human Resources specialist and the LCFS.

## 8.4 **Audit Committee**

The purpose of the Joint Federated Audit Committee is to provide an independent check on the financial management of the CCG. The Joint Federated Audit Committee meets, receives and considers reports by the internal and external auditors on all aspects of financial processes and procedure. Both the Local Counter Fraud Specialist and the Director of Finance attend the Audit Committee and the Local Counter Fraud Specialist presents progress reports on the counter fraud work undertaken at the CCG. The Joint Federated Audit Committee can question and ask for further explanation in relation to any aspect of counter fraud work.

## 8.5 Staff

All Staff must ensure that they have read, understand and comply with this policy. The prevention, detection and reporting of fraud, bribery and other forms of corruption are the responsibility of all those working for or under the control of the CCG. All Staff are individually responsible for:

- Securing the property of the CCG
- Avoiding loss
- Conforming with the rules and regulations contained in the CCG's policies and procedures

All Staff are required to follow any Code of Conduct related to their personal professional qualifications.

If Staff suspect there has been fraud, corruption or bribery, they must report the matter to the nominated Local Counter Fraud Specialist. **See Form 1 below.**

***All Staff are required to avoid any activity that might lead to, or suggest, a breach of this policy. Any Staff found in breach of this policy may be liable to disciplinary action including summary dismissal.***

## 8.6 Internal and External Audit

Any incident or suspicion of fraud, corruption and/or bribery that comes to Internal or External Audit's attention will be passed immediately to the Local Counter Fraud Specialist.

Audit performs thorough checks on systems which detect any anomalies.

## 9. The Response Plan

### 9.1 Reporting fraud or corruption

9.2 This section outlines the action to be taken if fraud or corruption is discovered or suspected.

9.3 If an employee has any of the concerns mentioned in this document, they must inform the nominated LCFS or the CCG's Director of Finance immediately, unless the Director of Finance or LCFS is implicated. If that is the case, they should report it to the respective CCG Chair and Chief Officer, who will decide on the action to be taken.

9.4 **Form 1** provides a reminder of the key contacts and a checklist of the actions to follow if fraud and corruption, or other illegal acts, are discovered or suspected. Managers are encouraged to copy this to staff and to place it on staff notice boards in their department.

9.5 Employees can also call the NHSCFA's Fraud and Corruption Reporting Line on **freephone 0800 028 40 60** or online at **<http://www.reportnhsfraud.nhs.uk>**. This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting the NHS. It allows NHS staff who are unsure of internal reporting procedures to report their concerns in the strictest confidence. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

- 9.7 Anonymous letters, telephone calls, etc are occasionally received from individuals who wish to raise matters of concern, but not through official channels. While the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously.
- 9.8 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.

## **10. DISCIPLINARY ACTION**

- 10.1 The disciplinary procedures of the CCG must be followed if an employee is suspected of being involved in a fraudulent or otherwise illegal act.
- 10.2 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 will prevail.

## **11. POLICE INVOLVEMENT**

- 11.1 In accordance with *NHSCFAs Anti-Fraud Manual*, the Director of Finance 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 the local disciplinary procedures of the CCG.

## **12. MANAGING THE INVESTIGATION**

- 12.1 The LCFS, in consultation with the Director of Finance, will investigate an allegation in accordance with procedures documented in the Anti-Fraud Manual issued by the NHSCFA.
- 12.2 The LCFS must be aware that staff under an investigation that could lead to disciplinary action have the right to be represented at all stages. In certain circumstances, evidence may best be protected by the LCFS recommending to the CCG that the staff member is suspended from duty. The CCG will make a decision based on HR advice on the disciplinary options, which include suspension.
- 12.3 The CCG will follow its disciplinary procedure if there is evidence that an employee has committed an act of fraud or corruption.

## **13. GATHERING EVIDENCE**

- 13.1 The LCFS will take control of any physical evidence, and record this in accordance with the procedures outlined in *NHSCFAs Anti-Fraud Manual*. If evidence consists of several items, such as many documents, LCFSs should record each one with a separate reference number corresponding to the written record. Note that in criminal actions, evidence on or obtained from electronic media needs a document confirming its accuracy.
- 13.2 Interviews under caution or to gather evidence will 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). The LCFS will take written statements where necessary.
- 13.3 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 in connection with the case.

- 13.4 The application of the counter fraud and corruption policy will at all times be in tandem with all other appropriate CCG policies, e.g. Prime Financial Policies, Scheme of Financial Delegation, CCG Constitution etc

#### **14. RECOVERY OF LOSSES INCURRED TO FRAUD AND CORRUPTION**

- 14.1 The seeking of financial redress or recovery of losses should always be considered in cases of fraud or corruption that are investigated by either the LCFS or NHS CFS where a loss is identified. As a general rule, recovery of the loss caused by the perpetrator should always be sought. The decisions must be taken in the light of the particular circumstances of each case.

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

#### **15. REPORTING THE RESULTS OF THE INVESTIGATION**

- 15.1 The investigation process requires the LCFS to review the systems in operation to determine whether there are any inherent weaknesses. Any such weaknesses identified should be corrected immediately.

- 15.2 If fraud or corruption is found to have occurred, the LCFS should prepare a report for the Director of Finance and the next the CCG audit committee meeting, setting out the following details:

- the circumstances
- the investigation process
- the estimated loss
- the steps taken to prevent a recurrence
- the steps taken to recover the loss.

- 15.3 This report should also be available to the CCG Governing Body

#### **16. ACTION TO BE TAKEN**

- 16.1 NHSCFAs Anti-Fraud Manual provides in-depth details of how sanctions can be applied where fraud and corruption is proven and how redress can be sought. To summarise, local action can be taken to recover money by using the administrative procedures of the CCG or the civil law.

- 16.2 In cases of serious fraud and corruption, 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 individual(s), and/or a possible referral of information and evidence to external bodies – for example, professional bodies – if appropriate.

- 16.3 NHSCFA can also apply to the courts to make a restraining order or confiscation order under the Proceeds of Crime Act 2002 (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.

- 16.4 Actions which may be taken when considering seeking redress include:

- no further action
- criminal investigation
- civil recovery
- disciplinary action
- confiscation order under POCA
- recovery sought from ongoing salary payments.

16.5 In some cases (taking into consideration all the facts of a case), it may be that the CCG, under guidance from the LCFS and with the approval of the Director of Finance, decides that no further recovery action is taken.

16.6 Criminal investigations are primarily used for dealing with any criminal activity. The main purpose is to determine if activity was undertaken with criminal intent. Following such an investigation, it may be necessary to bring this activity to the attention of the criminal courts (magistrates' court and Crown court). Depending on the extent of the loss and the proceedings in the case, it may be suitable for the recovery of losses to be considered under POCA.

16.7 The civil recovery route is also available to the CCG if this is 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 Chief Finance Office to determine the most appropriate action.

16.8 The appropriate senior manager, in conjunction with the HR department, will be responsible for initiating any necessary disciplinary action. Arrangements may be made to recover losses via payroll if the subject is still employed by the CCG. In all cases, current legislation must be complied with.

## **17. TIMESCALES**

17.1 Action to recover losses should be commenced as soon as practicable after the loss has been identified. Given the various options open to the trust, it may be necessary for various departments to liaise about the most appropriate option.

## **18. RECORDING**

18.1 In order to provide assurance that policies were adhered to, the Director of Finance will maintain a record highlighting when recovery action was required and issued and when the action taken. This will be reviewed and updated on a regular basis.

## **19. APPROVAL OF POLICY**

19.1 This policy is sponsored by the Director of Finance and approved by the CCG Governing Body.

## **20. RESPONSIBILITY FOR DOCUMENT DEVELOPMENT**

20.1 The nominated author for this policy is the Local Counter Fraud Specialist.

The lead Director for this policy is the Director of Finance

The committee charged with monitoring the development of this document is the Joint Federated Audit Committee.

## **21. EQUALITY IMPACT ASSESSMENT**

21.1 Under the Race Relation (Amendment) Act 2000 the CCG are required to undertake equality impact assessments on all policies/guidelines and practices. This obligation has been expanded to include equality and human rights with regard to disability, age, gender and religion.

## **22. CONSULTATION APPROVAL AND RATIFICATION PROCESS**

### **22.1 Consultation process**

The following are identified:

- Director of Finance
- Head of Corporate Affairs
- Joint Federated Audit Committee

### **22.2 Policy Approval and Ratification Process**

The policy will be approved by the Joint Federated Audit Committee.

The policy will be ratified by the CCG Governing Body .

### **22.3 Dissemination and Implementation**

The policy will be communicated to all Staff and Managers via the CCG's members website and intranet.

## **23. PROCESS FOR MONITORING COMPLIANCE and EFFECTIVENESS**

### **23.1 Standards/Key Performance Indicators**

The following monitoring processes are in place for this policy:

<b>Standard</b>	<b>Monitoring Process</b>
Monitoring arrangements for compliance and effectiveness.	A report will be provided to the approving committee.
Responsibility for conducting the monitoring/audit.	The Local Counter Fraud Specialist will monitor the effectiveness of this policy.
Frequency of the monitoring/audit.	Annual.
Process for reviewing results and ensuring improvements in performance occur.	The Audit Committee will review the results of this audit/report. The discussion and action any action points will be recorded in

	the minutes and followed up by the Audit Committee.
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## 24. **REFERENCES**

- Human Rights Act 1998. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- NHS Litigation Authority. (2007). An Organisation-wide Policy for the Development and Management of Procedural Documents, [Online], Available:
- Race Relations (Amendment) Act 2000. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- The Sex Discrimination (Gender Reassignment) Regulations 1999. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- The Sex Discrimination Act 1975 (Amendment) Regulations 2003. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- NHSCFAs Anti-Fraud Manual – NHSCFA, London.
- Applying Appropriate Sanctions Consistently. NHSCFA, London. Available at [www.nhsbsa.nhs.uk/CounterFraud/Documents/Countering\\_Fraud\\_In\\_NHS\\_Applying\\_App\\_Sanctions.pdf](http://www.nhsbsa.nhs.uk/CounterFraud/Documents/Countering_Fraud_In_NHS_Applying_App_Sanctions.pdf)
- Fraud Act 2006. Available at: <http://www.legislation.gov.uk/ukpga/2006/35/contents>
- The Bribery Act 2010. Available at: [www.legislation.gov.uk/ukpga/2010/23/data.pdf](http://www.legislation.gov.uk/ukpga/2010/23/data.pdf)

## 25. **ASSOCIATED DOCUMENTATION** (hyperlinks to be inserted)

- **CCG Disciplinary Policy**. Available at: <http://consulthr.cscsu.nhs.uk>
- **CCG Whistleblowing Policy**. Available at: <http://consulthr.cscsu.nhs.uk>
- **CCG Standards of Business Conduct including Gifts and Hospitality**. Available at [www.sloughccg.nhs.uk](http://www.sloughccg.nhs.uk)
- **CCG Constitution and Standing Orders** Available at [www.sloughccg.nhs.uk](http://www.sloughccg.nhs.uk)
- **CCG Prime Financial Policies and Financial Scheme of Delegation** Available at [www.sloughccg.nhs.uk](http://www.sloughccg.nhs.uk)

:

**FORM 1**

**NHS Fraud and Corruption: Dos and Don'ts**

**FRAUD** is the dishonest 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.

**CORRUPTION** is the deliberate use of bribery or payment of 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 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 LCFS.
- **report your suspicion** - Confidentiality will be respected – delays may lead to further financial loss.

Complete a fraud report and submit in a sealed envelope marked 'Restricted – Management' and 'Confidential' for the personal attention of the LCFS.

If you suspect that fraud against the NHS has taken place, you must report it immediately, by:  
directly contacting the **Local Counter Fraud Specialist**, or telephoning the **freephone NHS Protect Fraud and Corruption Reporting Line** on, **0800 028 40 60** or online at <http://www.reportnhsfraud.nhs.uk> or contacting the **Director of Finance** on 01753 636024

**DO NOT**

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

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

If so, any information can be passed to the NHS Fraud and Corruption Reporting Line: **0800 028 40 60** or online at <http://www.reportnhsfraud.nhs.uk>

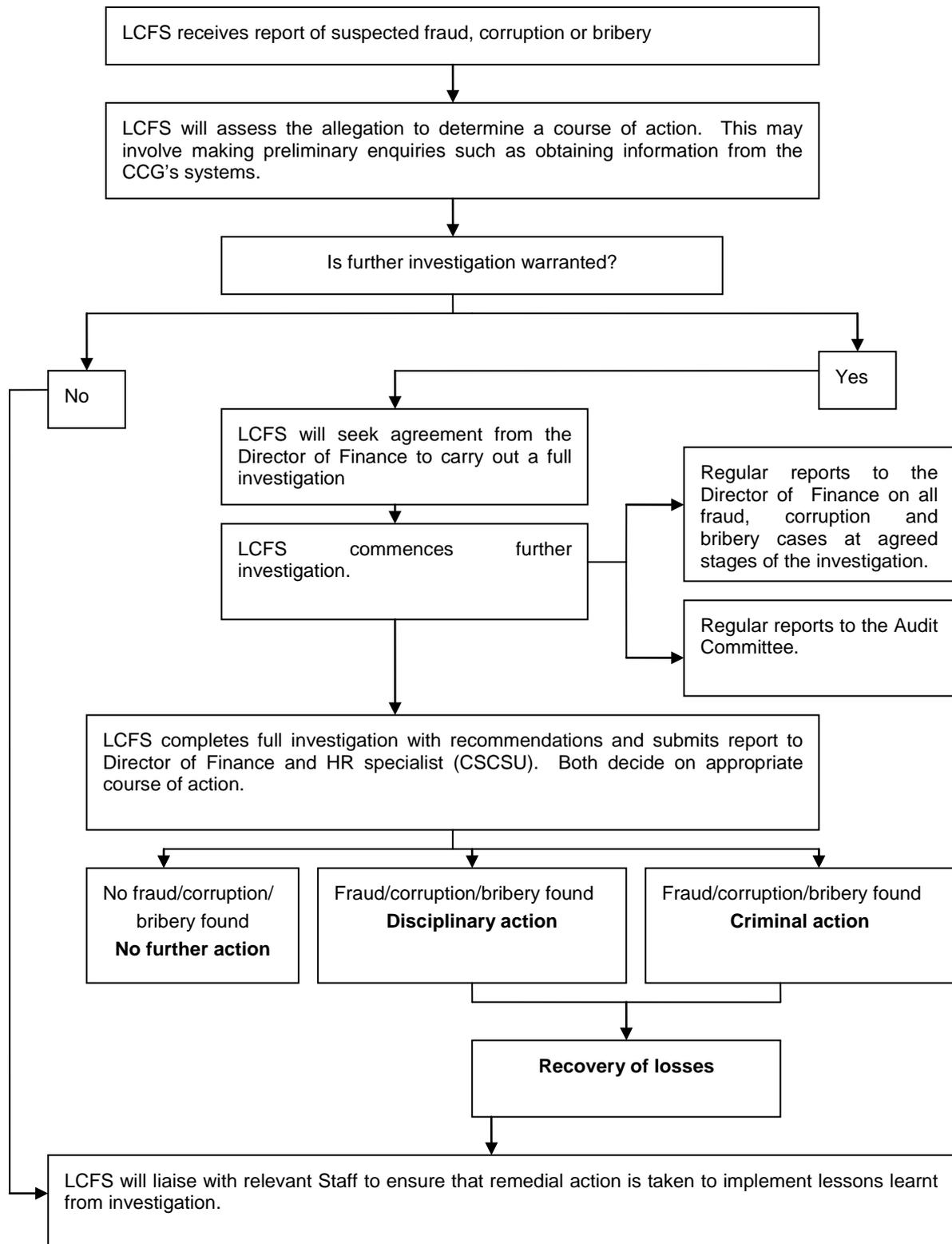
All calls will be treated in confidence and investigated by professionally trained staff

Your nominated Local Counter Fraud Specialist **can be contacted by telephoning 01865 986 779 or [www.tiaa.co.uk](http://www.tiaa.co.uk)**

If you would like further information about the NHS Counter Fraud Service, please visit [www.nhsbsa.nhs.uk/fraud](http://www.nhsbsa.nhs.uk/fraud)

## Appendix A Investigation of Fraud or Corruption

The investigation of fraud, corruption and/or bribery at the CCG can be summarised in the following diagram.



## Checklist for the Review and Approval of Procedural Document

**Appendix B** - To be completed and attached to any policy document when submitted to the CCG Management Board for consideration and approval.

	<b>Title of document being reviewed:</b>	<b>Yes/No</b>	<b>Comments</b>
<b>1.</b>	<b>Title</b>		
	Is the title clear and unambiguous?	Yes	
	Is it clear whether the document is a guideline, policy, protocol or standard?	Yes	
<b>2.</b>	<b>Rationale</b>		
	Are reasons for development of the document stated?	Yes	
<b>3.</b>	<b>Development Process</b>		
	Is it clear that the relevant people/groups have been involved in the development of the document?	Yes	
	Are people involved in the development?	Yes	
	Is there evidence of consultation with stakeholders and users?	Yes	
<b>4.</b>	<b>Content</b>		
	Is the objective of the document clear?	Yes	
	Is the target population clear and unambiguous?	Yes	
	Are the intended outcomes described?	Yes	
<b>5.</b>	<b>Evidence Base</b>		
	Are key references cited in full?	Yes	
	Are supporting documents referenced?	Yes	
<b>6.</b>	<b>Approval</b>		
	Does the document identify which committee/ group will approve it prior to ratification by CCG Board?	Yes	
<b>7.</b>	<b>Dissemination and Implementation</b>		
	Is there an outline/plan to identify how this will be done?		
<b>8.</b>	<b>Document Control</b>		
	Does the document identify where it will be held?	No	To be arranged
<b>9.</b>	<b>Process to Monitor Compliance and Effectiveness</b>		
	Are there measurable standards or KPIs to support the monitoring of compliance with and	Yes	

### Checklist for the Review and Approval of Procedural Document

	Title of document being reviewed:	Yes/No	Comments
	effectiveness of the document?		
	Is there a plan to review or audit compliance with the document?		
<b>10.</b>	<b>Review Date</b>		
	Is the review date identified?	Yes	
	Is the frequency of review identified? If so is it acceptable?	Yes	
<b>11.</b>	<b>Overall Responsibility for the Document</b>		
	Is it clear who will be responsible for co-ordinating the dissemination, implementation and review of the document?	Yes	

#### Executive Sponsor Approval

If you approve the document, please sign and date it and forward to the author. Policies will not be forwarded for ratification without Executive Sponsor Approval

Name		Date	
Signature			

#### CCG Governing Body Approval

The CCG Governing Body member's signature below confirms that this policy was ratified by CCG Board.

Name		Date	
Signature			

#### Responsible Committee Approval – only applies to reviewed policies with minor changes

The Committee Chair's signature below confirms that this policy was ratified by the responsible Committee

Name		Date	
Name of Committee		Name & role of Committee Chair	
Signature			

## Checklist for the Review and Approval of Procedural Document

### Appendix C      Equality Impact Assessment Tool

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

		Yes/No	Comments
1.	<b>Does the policy/guidance affect one group less or more favourably than another on the basis of:</b>		
	• Race		
	• Ethnic origins (including gypsies and travellers)		
	• Nationality		
	• Gender		
	• Culture		
	• Religion or belief		
	• Sexual orientation including lesbian, gay and bisexual people		
	• Age		
	• Disability - learning disabilities, physical disability, sensory impairment and mental health problems		
2.	<b>Is there any evidence that some groups are affected differently?</b>		
3.	<b>If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?</b>		
4.	<b>Is the impact of the policy/guidance likely to be negative?</b>		
5.	<b>If so can the impact be avoided?</b>		
6.	<b>What alternatives are there to achieving the policy/guidance without the impact?</b>		
7.	<b>Can we reduce the impact by taking different action?</b>		

If you have identified a potential discriminatory impact of this procedural document, please refer it to the Head of Corporate Affairs, together with any suggestions as to the action required to avoid/reduce this impact.

For advice in respect of answering the above questions, please contact the Head of Corporate Affairs.