

Local Anti-fraud, Bribery and Corruption Policy

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1 Introduction

1.1 General

One of the basic principles of public sector organisations is the proper use of public funds. The majority of people who work in the NHS are honest and professional and they find that fraud committed by a minority is wholly unacceptable as it ultimately leads to a reduction in the resources available for patient care.

NHS Counter Fraud Authority is a Special Health Authority It has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, corruption and bribery. All instances where fraud is suspected are properly investigated until their conclusion by staff trained by NHS Counter Fraud Authority. Any investigations will be handled in accordance with the *NHS Counter Fraud and Corruption Manual*.

NHS Manchester Clinical Commissioning Group (hereafter referred to as 'the CCG' or 'the organisation') is committed to reducing fraud, bribery and corruption in the NHS and will seek the appropriate disciplinary, regulatory, civil and criminal sanctions against fraudsters and where possible will attempt to recover losses.

This policy has been produced by the Local Anti-Fraud Specialist (AFS) and is intended as a guide for all employees on anti-fraud work within the NHS. All genuine suspicions of fraud and corruption can be reported to the AFS or through the NHS Fraud and Corruption Reporting Line (FCRL) on Freephone 0800 028 40 60 or www.reportnhsfraud.nhs.uk

This policy is supported and endorsed by senior management.

1.2 Aims and objectives

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, corruption and bribery. 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, corruption and bribery 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, corruption and bribery
- 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.

1.3 Scope

This policy applies to all employees of the CCG, regardless of position held, including Governing Body Members, Board Members and volunteers, as well as 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. The policy also relates to those GPs who are involved in decision making through their roles with the CCG.

Although GPs who are not directly involved with the business activities of the CCG, are not expressly covered by this policy they always need to ensure that they act in accordance with the requirements set out by their professional bodies. Both in respect of displaying appropriate behaviours and ethics in accordance with the core principles of this policy.

1.4 Other Relevant Procedural Documents

This policy should be read in conjunction with the following documents:

- Disciplinary Policy and Procedure
- Whistleblowing Policy
- Conflicts of Interest Policy
- Standing Financial Instructions
- Standing Orders

2 Definitions

2.1 NHS Counter Fraud Authority

NHS Counter Fraud Authority has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS and that any investigations will be handled in accordance with NHS Counter Fraud Authority guidance. NHS Counter Fraud Authority strategy “tackling crime against the NHS: A strategic approach.”

2.2 Fraud

The Fraud Act 2006 represents an entirely new way of investigating fraud. It is no longer necessary to prove that a person has been deceived. The focus is

now on the dishonest behaviour of the suspect and their intent to make a gain or cause a loss.

The new offence of fraud can be committed in three ways:

- 1) Fraud by false representation (s.2) – lying about something using any means, e.g. by words or actions
- 2) Fraud by failing to disclose (s.3) – not saying something when you have a legal duty to do so
- 3) Fraud by abuse of a position of CCG (s.4) – abusing a position where there is an expectation to safeguard the financial interests of another person or organisation.

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.

2.3 Bribery and corruption

The Bribery Act 2010 came into effect on 1st July 2011. Bribery and corruption involves offering, promising or giving a payment of benefit-in-kind in order to influence others to use their position in an improper way to gain an advantage

The maximum penalty for bribery is 10 years imprisonment, with an unlimited fine. In addition the Act introduces a corporate offence of failing to prevent bribery by an organisation not having adequate preventative procedures in place. The CCG may avoid conviction if it can show that it had procedures and protocols in place to prevent bribery. The corporate offence is not a stand-alone offence, but always follows from a bribery and/or corruption offence committed by an individual associated with the company or organisation in question.

2.4 Employees

For the purposes of this policy, 'employees' includes NHS Counter Fraud Authority and CCG staff, as well as board, executive and non-executive members (including co-opted members) and honorary members.

3 Roles and responsibilities

Through our day-to-day work, CCG staff are in the best position to recognise any specific risks within their own areas of responsibility. All staff also have a duty to ensure that those risks – however large or small – are identified and eliminated. Where there is a belief or suspicion that the opportunity for fraud exists, whether because of poor procedures or oversight, this should be reported to the AFS or the NHS Fraud and Corruption Reporting Line.

This section states the roles and responsibilities of employees and other relevant parties in reporting fraud or other irregularities.

The CCG will take all necessary steps to counter fraud, bribery and corruption in accordance with this policy, the *NHS Counter Fraud and Corruption Manual*, the policy statement 'Applying Appropriate Sanctions Consistently' published by NHS Counter Fraud Authority and any other relevant guidance or advice issued by the NHS Counter Fraud Authority.

3.1 Chief Accountable Officer

The Chief Accountable Officer has the overall responsibility for funds entrusted to it. This includes investigating instances of fraud, bribery and corruption. The Chief Accountable Officer must ensure adequate policies and procedures are in place to protect the organisation and the public funds it receives.

The Chief Accountable Officer will report annually to the Governing Body on the adequacy of internal financial controls and risk management as part of the

Board's overall responsibility to prepare an Annual Governance Statement for inclusion in the CCG's annual report.

3.2 Chief Finance Officer

The Chief Finance Officer (CFO) has powers to approve financial transactions initiated by directorates across the organisation.

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

The CFO will, depending on the outcome of initial investigations, inform appropriate senior management of suspected cases of fraud, bribery and corruption, especially in cases where the loss may be above an agreed limit or where the incident may lead to adverse publicity.

3.3 Internal and external audit

The role of internal and external audit includes reviewing controls and systems and ensuring compliance with financial instructions. Internal and External Audit have a duty to pass on any suspicions of fraud, bribery or corruption to the Anti-Fraud Specialist (AFS).

3.4 Human resources

HR services will liaise closely with managers and the AFS from the outset, if an employee is suspected of being involved in fraud, bribery or corruption, in accordance with agreed liaison protocols. HR staff are responsible for ensuring the appropriate use of the CCG's disciplinary procedure. HR will advise those involved in the investigation on matters of employment law and other procedural matters, such as disciplinary and complaints procedures, as requested. Close liaison between the AFS and HR will be essential to ensure

that any parallel sanctions (i.e. criminal, civil and disciplinary sanctions) are applied effectively and in a co-ordinated manner.

HR will take steps at the recruitment stage 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.

3.5 Anti-Fraud Specialist

The AFS's role is to ensure that all cases of actual or suspected fraud, bribery and corruption are notified to the Chief Finance Officer and reported accordingly.

The AFS will regularly report to the Chief Finance Officer on the progress of the investigation and when/if referral to the police is required.

The AFS will:

- ensure that the Chief Finance Officer is informed about all referrals/cases
- be responsible for the day-to-day implementation of counter fraud, bribery and corruption activity and, in particular, the investigation of all suspicions of fraud
- investigate all cases of fraud
- report any case and the outcome of the investigation through the NHS Counter Fraud Authority national case management system (FIRST)
- ensure that other relevant parties are informed where necessary, e.g. Human Resources (HR) will be informed if an employee is the subject of a referral
- conduct risk assessments in relation to their work to prevent fraud, bribery and corruption

- ensure that any system weaknesses identified as part of an investigation are followed up with management and reported to internal audit
- adhere to NHS Counter Fraud Authority standards to ensure that the organisation has appropriate anti-fraud, bribery and corruption arrangements in place and that the AFS will look to achieve the highest standards possible, as per Counter Fraud Professional Accreditation Board (CFPAB)'s Principles of Professional Conduct.

3.6 Managers

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 and corruption. If they have any doubts, they must seek advice from the nominated AFS.

Managers must instil and encourage an anti-fraud, bribery and corruption culture within their team and ensure that information on procedures is made available to all employees. The AFS will proactively assist the encouragement of an anti-fraud culture by undertaking work that will raise fraud awareness.

All instances of actual or suspected fraud, bribery 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, managers must not attempt to investigate the allegation themselves; they have the clear responsibility to refer the concerns to the AFS as soon as possible.

Line 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, bribery and corruption therefore primarily rests with managers but requires the co-operation of all employees.

As part of that responsibility, line managers need to:

- inform staff of the CCG's code of business conduct and Anti-Fraud, Bribery and Corruption 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 policy
- be responsible for the enforcement of disciplinary action for staff who do not comply with policies and procedures
- report any instances of actual or suspected fraud, bribery or corruption brought to their attention to the AFS immediately.
It is important that managers do not investigate any suspected financial crimes themselves.
- conduct risk assessments and to mitigate identified risks, within 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 use of computers by employees is linked to the performance of their duties within the CCG
- be aware of the CCG's Anti-Fraud and Corruption Policy and the rules and guidance covering the control of specific items of expenditure and receipts
- identify financially sensitive posts
- contribute to their director's assessment of the risks and controls within their business area, which feeds into the CCG's and the Department of Health Accounting Officer's overall statements of accountability and internal control.

3.7 All employees

The CCG's Standing Orders, Standing Financial Instructions, policies and procedures place an obligation on all employees and Governing Body members to act in accordance with best practice.

Employees are expected to act in accordance with the standards laid down by their professional institutes, where applicable, and have a personal responsibility to ensure that they are familiar with them.

Employees also have a duty to protect the assets of the CCG, including information, goodwill and property.

In addition, all employees have a responsibility to comply with all applicable laws and regulations relating to ethical business behaviour, secondary working, procurement, personal expenses, conflicts of interest (see the CCG's Conflicts of Interest Policy (**also available on this website**), confidentiality and the acceptance of gifts and hospitality. This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees must always:

- avoid acting in any way that might cause others to allege or suspect them of dishonesty
- behave in a way that would not give cause for others to doubt that the CCG's employees deal fairly and impartially with official matters
- be alert to the possibility that others might be attempting to deceive.
- declare any existing outside employment on appointment and any new outside employment when it arises. Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from MHCC to engage in outside employment.
- Obtain written consent of their manager before they undertake any other employment whilst employed by the CCG.

- declare any potential conflicts of interest arising from other employment and/or financial or business interest they are engaged in whilst employed by the CCG.

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.

If an employee suspects that there has been fraud or corruption, or has seen any suspicious acts or events, they must report the matter to the nominated AFS.

3.8 Information management and technology

The head of information security (or equivalent) will contact the AFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes (Computer Misuse Act 1990).

4 The response plan

4.1 Bribery and corruption

The CCG has conducted risk assessments in line with Ministry of Justice guidance to assess how bribery and corruption may affect the organisation. As a result, proportionate procedures have been put in place to mitigate identified risks.

The CCG's procedures in relation to declarations of interest and the hospitality/gifts register may be found on the CCG's website.

4.2. Reporting fraud, bribery or corruption

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

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

An employee can contact any executive or non-executive director of the CCG to discuss their concerns if they feel unable, for any reason, to report the matter to the AFS or Chief Finance Officer.

Suspected fraud, bribery and corruption can also be reported to NHS Counter Fraud Authority using the NHS Fraud and Corruption Reporting Line on Freephone 0800 028 40 60 or by filling in an online form at www.reportnhsfraud.nhs.uk, as an alternative to internal reporting procedures and if staff wish to remain anonymous.

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.

The AFS will make sufficient enquiries 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 to establish their source.

Staff should always be encouraged to report reasonably held suspicions directly to the AFS. You can do this by contacting the AFS by telephone or email using the contact details supplied in **Appendix 1**.

The CCG wants all employees to feel confident that they can expose any wrongdoing without any risk to themselves. In accordance with the provisions

of the Public Interest Disclosure Act 1998, the CCG has produced a whistleblowing policy. This procedure is intended to complement the CCG's Anti-Fraud, Bribery and Corruption policy and code of business conduct and ensures there is full provision for staff to raise any concerns with others if they do not feel able to raise them with their line manager/management chain.

4.3 Sanctions and Redress

This section outlines the sanctions that can be applied and the redress that can be sought against individuals who commit fraud, bribery and corruption against the CCG.

The CCG will ensure that all appropriate sanctions are considered following an investigation, which may include any or all of the following:

- **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 AFS will work in partnership with NHS Counter Fraud Authority, 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. The disciplinary procedures of the CCG must be followed if an employee is suspected of being involved in a fraudulent or otherwise 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 will prevail.

- **Professional body disciplinary** – Staff may be reported to their professional body as a result of a successful investigation/prosecution.

The CCG will seek financial redress whenever possible to recover losses to fraud, bribery and corruption. This may take the form of confiscation and compensation orders, a civil order for repayment, or a local agreement between the organisation and the offender to repay monies lost.

4.4 Police involvement

In accordance with the *NHS Counter Fraud and Corruption Manual*, the Chief Finance Officer, in conjunction with the AFS, 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.

5 Review

5.1 Monitoring and auditing of policy effectiveness

Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. Arrangements might include reviewing system controls on an ongoing basis and identifying weaknesses in processes.

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

5.2 Dissemination of the policy

The Local Anti-Fraud, Bribery and Corruption Policy will be made available to all staff, via a variety of forms of communications, including the CCG's intranet.

It is highly important that **all** staff understand and are aware of the policy.

5.3 Review of the policy

The CCG's Anti-Fraud, Bribery and Corruption Policy will be reviewed as per the CCG's Policy for the development of procedural documents. The AFS will review the policy on behalf of the CCG and will present the revised policy for consideration by the Audit Committee before ratification by the Governance Committee.

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. **BRIBERY** is to give promise to offer a bribe, and to request, agree to receive or accept a bribe.

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 AFS.

- **report your suspicion**

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, 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 AFS 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:

- directly contacting the **Local Counter Fraud Specialist**, or
- telephoning the **Freephone NHS Fraud and Corruption Reporting Line**, or
- online www.reportnhsfraud.nhs.uk or,
- contacting the **Chief Finance Officer**.

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

Your nominated Anti-Fraud Specialist is **Lynne Doherty**, who can be contacted by telephoning **0161 743 2008** or **07551 137267**, or emailing lynne.doherty@miaa.nhs.uk

If you would like further information about the NHS Counter Fraud Service, please visit www.nhsbsa.nhs.uk/fraud