

## FRAUD, BRIBERY AND CORRUPTION POLICY

		POLICY
Reference	HR/023	
Approving Body	JSPF	
Date Approved	28/06/22	
For publication to external SFH website	Positive confirmation received from the approving body that the content does not risk the safety of patients or the public:	
	<b>YES</b>	<b>NO</b>
	X	
Issue Date	August 2022	
Version	4	
Summary of Changes from Previous Version	Complete refresh of the previous Fraud, Bribery and Corruption Policy	
Supersedes	3	
Document Category	Human Resources	
Consultation Undertaken	Joint Staff Partnership Forum members	
Date of Completion of Equality Impact Assessment	21/06/2022	
Date of Environmental Impact Assessment (if applicable)	N/A	
Legal and/or Accreditation Implications	Fraud Act 2006 Bribery Act 2010	
Target Audience	All staff including bank, agency and contractors	
Review Date	June 2024	
Sponsor (Position)	Director of People	
Author (Position & Name)	Counter Fraud Specialist	
Lead Division/ Directorate	Corporate	
Lead Specialty/ Service/ Department	Human Resources	
Position of Person able to provide Further Guidance/Information	Counter Fraud Specialist	
Associated Documents/ Information		Date Associated Documents/ Information was reviewed
Not applicable		Not applicable
Template control		June 2020

## CONTENTS

Item	Title	Page
1.0	INTRODUCTION	3
2.0	POLICY STATEMENT	3
3.0	DEFINITIONS/ ABBREVIATIONS	5
4.0	ROLES AND RESPONSIBILITIES	7
5.0	APPROVAL	9
6.0	DOCUMENT REQUIREMENTS	9
7.0	RESPONSE PLAN	9
8.0	GOVERNMENT FUNCTIONAL STANDARD	10
9.0	PROACTIVE PREVENTION AND DETECTION	10
10.0	EFFECTIVE SANCTIONS	11
11.0	SEEKING REDRESS	11
12.0	REPORTING SUSPICIONS	11
13.0	COMMUNICATION, MONITORING AND REVIEW	11
14.0	MONITORING COMPLIANCE AND EFFECTIVENESS	12
15.0	TRAINING AND IMPLEMENTATION	13
16.0	IMPACT ASSESSMENTS	13
17.0	EVIDENCE BASE	14
18.0	APPENDICES	14

## APPENDICIES

<i>Appendix A</i>	<i>Fraud Response Plan</i>	16
<i>Appendix B</i>	<i>Fraud Referral Form</i>	21
<i>Appendix C</i>	<i>Prevalent Frauds in the NHS</i>	22
<i>Appendix D</i>	<i>Do's and Don'ts</i>	23
<i>Appendix E</i>	<i>Contacts</i>	24
<i>Appendix F</i>	<i>Equality Impact Assessment</i>	25

## 1.0 INTRODUCTION

- 1.1 The aim of this document is to set out Sherwood Forest Hospitals NHS Foundation Trust's (the Trust's) policy on suspected and detected fraud, bribery and corruption, and to help individuals who may identify suspected fraud. It provides a framework for responding to suspicions of fraud.
- 1.2 The Trust adheres strictly to one of the basic principles of public sector organisations is the proper use of public funds. It is, therefore, important that all those who work in the public sector are aware of the risk of, and means of enforcing the arrangements against fraud, bribery and corruption.
- 1.3 Our policies, procedures and staff training reflect our commitment to acting ethically in all our business relationships, and to implementing effective systems and controls to protect public funds and mitigate the risk of fraud.
- 1.4 The NHS Counter Fraud Authority (NHSCFA) are accountable to the Department for Health Anti-Fraud Unit and works collaboratively with key stakeholders, including NHS England, NHS Improvement and the Cabinet Office. They have responsibility for overseeing the NHS Counter Fraud arrangements within the NHS and within those organisations funded to provide NHS care.
- 1.5 The Trust has appointed an accredited person, nominated to the NHSCFA, to undertake the full range of counter fraud, bribery and corruption work, including proactive work to prevent and deter fraud, bribery and corruption, and reactive work to hold those who commit fraud, bribery or corruption to account.

## 2.0 POLICY STATEMENT

The Trust's strategic approach is that we have a zero tolerance to fraud, bribery and corruption within the organisation. The aim is to eliminate fraud, bribery and corruption as far as possible as they ultimately lead to a reduction in the resources available for patient care. The Trust is required to always act honestly and with integrity to safeguard public resources it is responsible for. The Trust will not tolerate any acts of fraud, bribery or corruption perpetrated against it or involving its employees and will actively pursue all available criminal and civil actions, including the recovery of loss suffered as a result. The Board of Directors is committed to the elimination of fraud, bribery and corruption by ensuring that there is a strong anti-fraud, bribery and corruption culture, proactive prevention, detection and deterrence through widespread awareness, and by rigorously investigating any such cases, and where proven, to ensure wrong doers are appropriately dealt with, including taking steps to recover assets lost as a result of fraud, bribery and corruption.

The NHSCFA has released the Government Functional Standard 013 Counter Fraud ('the Functional Standard') as a suite of requirements to countering fraud across the NHS. The Functional Standard will replace the old standards used by the NHSCFA and became effective

from 1 April 2021. To meet the Trust's objectives and to demonstrate its commitment to taking all necessary steps to counter fraud, bribery and corruption, the Functional Standard has been adopted by the Trust.

The purpose of the Functional Standard is to set the expectations for the management of fraud, bribery and corruption risk in government organisations and means that the whole counter fraud community in the public sector is working to a common counter fraud standard.

NHS funded services will be required to provide NHSCFA with details of their performance against the Functional Standard annually.

The term 'NHS funded services' above refers to any organisation with partial or full NHS funding. Currently this includes NHS Trusts, Foundation Trusts, Ambulance Trusts, Special Health Authorities, Clinical Commissioning Groups, certain Independent Healthcare Providers, Health Boards, NHS Improvement and NHS England.

From April 2021, the Trust is expected to obtain organisational assurance against the Functional Standard. The Functional Standard provides guidance to organisations on the arrangements for undertaking assurance.

The Functional Standard removes the previous strategic areas of Strategic Governance, Inform and Involve, Prevent and Deter and Hold to Account and sets out a number of specific component requirements namely:

**Component 1: Accountable individual**

Have an accountable individual at board level who is responsible for counter fraud, bribery and corruption. For the Trust this will be the Chief Financial Officer.

**Component 2: Counter fraud bribery and corruption strategy**

Have a counter fraud, bribery and corruption strategy. This is set out in this policy under section 2 - Policy Principles.

**Component 3: Fraud bribery and corruption risk assessment**

Have a fraud, bribery and corruption risk assessment.

**Component 4: Policy and response plan**

Have a policy and response plan for dealing with potential instances of fraud, bribery and corruption. This is set out as at Appendix A of this policy.

**Component 5: Annual action plan**

The Trust maintains an annual work plan that is informed by national and local fraud, bribery and corruption risk assessments identifying activities to improve capability and resilience. This includes (but is not limited to) defined objectives, milestones for the delivery of each activity and measurable areas for improvement in line with strategic aims and objectives. The plan is agreed, and progress monitored by the Audit Committee.

### **Component 6: Outcome-based metrics**

The Trust has outcome-based metrics summarising what outcomes it is seeking to achieve that year.

### **Component 7: Reporting routes for staff, contractors and members of the public**

The Trust will have well-established and documented reporting routes for staff, contractors and members of the public to report suspicions of fraud, bribery and corruption and a mechanism for recording these referrals and allegations.

### **Component 8: Report identified loss**

The Trust will report identified loss from fraud, bribery, corruption and error and associated recoveries, in line with the agreed government definitions.

### **Component 9: Access to trained investigators**

The Trust will have agreed access to trained investigators that meet the agreed public sector skill standard.

### **Component 10: Undertake detection activity**

The Trust will undertake activity to try and detect fraud in high-risk areas where little or nothing is known of fraud, bribery and corruption levels, including loss measurement activity where suitable.

### **Component 11: Access to and completion of training**

The Trust will ensure that all staff have access to and undertake fraud awareness, bribery and corruption training as appropriate to their role.

### **Component 12: Policies and registers for gifts and hospitality and Conflicts of Interest**

The Trust will have policies and registers for gifts and hospitality and conflicts of interest.

All staff have a duty to protect the assets of the Trust and also to cooperate with any investigation. The Board recommends anyone having suspicions of fraud, bribery or corruption to report those suspicions. All reasonably held suspicions will be taken seriously.

For concerns which relate to fraud, bribery or corruption these should be reported through the provisions within this policy, rather than through the Whistle-Blowing policy.

## **3.0 DEFINITIONS/ ABBREVIATIONS**

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

### **1.6 Fraud:**

*The Fraud Act (2006)* came into force on 15 January 2007 and introduced the general offence of fraud. It is no longer necessary to provide that a person has been deceived. The focus is now on **dishonest behaviour** and any **intent** to make **gain or cause**

**loss** to another party. Put simply, fraud is a dishonest act intended for gain or to cause loss to another.

There are three main ways in which the offence of fraud can be committed:

- Fraud by False Representation (lying about something using any means, for instance words or actions);
- Fraud by Failure to Disclose (not saying something when you have a legal duty to do so ); and
- Fraud by Abuse of Position (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.

### 1.7 Bribery:

*The Bribery Act 2010* came into force on 1 July 2011 and created three general offences of bribery:

- Offering, promising or giving a bribe to induce someone to behave improperly, or to reward someone for having already done so;
- Requesting, agreeing or accepting a bribe either in exchange for acting improperly, or where the request or acceptance is itself improper; and
- Bribery of a foreign public official.

A new corporate offence was also introduced:

Failure by a company to prevent:

- A bribe being paid; or
- A business advantage.

Bribing anyone is absolutely prohibited. Employees will not pay a bribe to anybody. This means you will not offer or promise reward in any way or give financial or other advantage to any person in order to induce that person to perform activities improperly. It does not matter whether the other person is a UK or foreign official, political candidate, party official, private individual or public sector employee or any other person.

Bribery does not have to involve cash or an actual payment exchanging. It can take many forms such as a gift, lavish treatment during a business trip or tickets to an event.

### 1.8 Corruption:

Bribery is a form of corruption but corruption also includes many other dishonest practices such as fraud, nepotism, collusion and abuse of power/position. Corruption does not always result in a loss and the corrupt person may not always benefit directly

from their deeds, however, they may be unreasonable using their position to give some advantage to another.

## 4.0 ROLES AND RESPONSIBILITIES

This policy applies to all the Trust employees and contractors who are working for the organisation.

- 4.1 **Chief Executive.** As the Trust's Accountable Officer, the Chief Executive has overall responsibility for funds entrusted to the Trust. The Chief Executive must ensure that adequate policies and procedures are in place to protect the organisation and the funds it receives from fraud, bribery and corruption.
- 4.2 **Chief Financial Officer (CFO).** The CFO accepts overall responsibility for all matters relating to fraud, bribery and corruption within the Trust.
- 4.3 **Audit and Assurance Committee.** The Audit and Assurance Committee should satisfy that the organisation has adequate arrangements in place for counter fraud, bribery and corruption to comply with the Functional Standard.
- 4.4 **Counter Fraud Specialist.** The CFS is responsible for conducting all anti-fraud work locally and ensuring that the Trust has appropriate anti-fraud, bribery and corruption arrangements in place.

The Local Counter Fraud Service will:

- Ensure that the CFO/Deputy CFO (DCFO) are informed about all referrals/cases;
- Be responsible for the day to day implementation of the Functional Standard and NHSCFA strategy;
- Investigate cases of fraud;
- In consultation with the CFO/DCFO report any case to the Police or NHSCFA in accordance with NHSCFA guidance; and
- Adhere to the fraud response plan.

### 4.5 Fraud Champion

The role of a Fraud Champion is to support and challenge the organisation in relation to its commitment to fraud work. The Champion will help promote a zero-tolerance approach to fraud within our own organisation. The role and duties of the Fraud Champion includes:

- Promoting awareness of fraud, bribery and corruption within the Trust;
- Understanding the threat posed by fraud, bribery and corruption; and
- Understanding best practice on counter fraud.

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

The following examples (this list is not exhaustive) provide some areas of responsibility that managers have in the prevention of fraud, bribery and corruption:

- Understanding financial decision making such as authorisation limits for purchases, ordering of stock or goods and the authorising of expenses and time sheets.
- Understanding responsibilities in relation to fraud awareness.
- Understanding the need to inform HR of any transactional changes to be made to electronic staff records. Managers are responsible for submitting these for any changes required; these include base changes, manager changes, incremental stage, change of working hours and many more. Incorrect or delayed submission of transactional changes could lead to financial implications for staff such as overpayments.
- Timesheet and expense claim checking to ensure that the details are accurate before submission to payroll.

**4.7 Human Resources Staff.** Human Resources staff provide advice, guidance and support to the Trust's managers and officers investigating disciplinary matters. All disciplinary matters which involve suspected fraud, bribery and corruption offences may also be subject to parallel criminal investigation by the Trust's CFS. A liaison protocol is in place which details arrangements for the conduct of parallel disciplinary and criminal investigations. Close liaison between the CFS and HR is essential to ensure that any parallel sanctions (for instance criminal, civil and disciplinary sanctions) are applied effectively and in a coordinated manner.

**4.8 Employees.** All employees are expected to ensure that they are familiar with and act in accordance with this policy and attend all fraud training as required.

All employees are required to comply with the Trust's policies and procedures and apply best practice in order to prevent fraud, bribery and corruption. All employees have a duty to ensure that public funds are safeguarded and where they have a suspicion that a fraud exists, they should report it to the Counter Fraud Specialist or the Chief Financial Officer (contact details in Appendix E). Alternatively, you can report to the NHS Fraud and Corruption Reporting Line (0800 028 40 60) or through the online NHS Fraud Reporting Tool found at <https://cfa.nhs.uk/reportfraud>.

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

- Notification of suspected fraud;
- The investigation process;
- Sanctions and redress;
- Recovery action;
- Roles and responsibilities; and
- Monitoring and review.



## 5.0 APPROVAL

This policy will be approved by the Joint Staff Partnership Forum and ratified by the Board of Directors

## 6.0 DOCUMENT REQUIREMENTS

The purpose of this document is to set out the Trust's policy on suspected and detected fraud, bribery and corruption, and to help individuals who may identify suspected fraud. It provides a framework for responding to suspicions of fraud. Further guidance if you suspect fraud may be obtained by contacting our Counter Fraud Specialist (CFS) or the Chief Financial Officer (contact details can be found in Appendix E).

## 7.0 RESPONSE PLAN

The organisation's Fraud Response Plan is attached at Appendix A.

Furthermore, in accordance with the Functional Standard guidance, the Trust has undertaken a risk assessment to determine the extent to which bribery and corruption may affect the organisation. Proportionate procedures in place to mitigate the identified risk include the following requirements (the list is not exhaustive):

- The Standard Financial Instructions (SFIs for short), which outline the decisions which the Trust's Board retains for itself and which it will delegate.
- The Scheme of Delegation (SoD for short) outlines the minimum level allowed to make certain decisions. These include High Value, Mid Value and Low Value.
- Management controls such as for the approval of overtime and expenses.
- Acting with propriety in the use of the Trust's resources, including making accurate and honest expense claims and claims for sickness absence.
- Conducting oneself with integrity, accountability, openness and honesty.
- All staff must disclose their business interests, prior to commencement of employment with the Trust.
- All staff must declare hospitality (other than modest hospitality) received by or offered to them as the Trust employees.
- All hospitality (other than extremely minor hospitality) provided by the Trust staff to third parties must be declared.
- Staff must not solicit personal gifts and must declare all gifts received (in excess of a minimum value set).

## 8.0 GOVERNMENT FUNCTIONAL STANDARD

- 8.1 NHSCFA requires the Trust to ensure appropriate anti-fraud, bribery and corruption arrangements are in place as set out in the NHS Standard Contract and as specified within the new Government Functional Standard 013 for Counter Fraud.
- 8.2 It is the responsibility of the organisation to ensure that it complies with the Functional Standard. In order to demonstrate compliance, NHSCFA quality inspectors require the organisation to submit an annual return detailing compliance and anti-fraud, bribery and corruption activity undertaken within the organisation. Upon completion, the return provides a **red**, **amber**, or **green** (RAG) rating for the organisation. The RAG system is a management method of rating for issues or status reports, based on levels of compliance with the standards. As such, the colours are used in a traffic light rating system with **red** being non-compliant, **amber** being partially compliant and **green** being fully compliant.
- 8.3 The NHSCFA Quality and Compliance Team (QCT) use the annual return as a basis for selecting organisations for detailed assessment and engagement.

## 9.0 PROACTIVE PREVENTION AND DETECTION

- 9.1 The Trust will ensure that its systems, policies and processes are sufficiently robust so that the risk of fraud, bribery and corruption is reduced to a minimum. Checks will be conducted in areas identified to be most at risk to fraud, corruption or bribery in order to proactively detect instances that might otherwise be unreported.
- 9.2 The CFS will review new and existing policies and procedures to ensure that appropriate counter fraud measures are included. This include (but is not limited to) policies and procedures in human resources, standing orders, standing financial instructions and other finance and operational policies.
- 9.3 The Trust will carry out comprehensive local risk assessments to identify fraud, bribery and corruption risks. Risk analysis is undertaken and is recorded and managed in line with the Trust's risk management policy and included on the appropriate risk registers. Measures to mitigate identified risks are included in the Trust's annual work plan to counter fraud, bribery and corruption, progress is monitored at a senior level within the organisation and results are fed back to the Audit committee.
- 9.4 Additional preventative activities may also be conducted. These activities will be targeted at those areas of the Trust considered to be at a higher risk of fraud, bribery or corruption. The purpose of these activities is to identify gaps in the Trust's governance framework which could allow fraud to be perpetrated. These activities will be conducted in line with guidance issued by the NHSCFA where appropriate.

## 10.0 EFFECTIVE SANCTIONS

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

## 11.0 SEEKING REDRESS

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

## 12.0 REPORTING SUSPICIONS

All concerns or suspicions relating to fraud, bribery or corruption must be reported to The Trust's Counter Fraud Specialist or Chief Financial Officer (contact details in Appendix E). You can also use the fraud referral form attached at Appendix B of this policy. Alternatively, fraud can be reported to NHSCFA via the NHS Fraud and Corruption Reporting Line (0800 028 40 60) or its online reporting tool found at <https://cfa.nhs.uk/reportfraud>.

## 13.0 COMMUNICATION, MONITORING AND REVIEW

13.1 This policy will be made available to all staff via the staff intranet.

13.2 All of the Trust's policies which are produced, revised or reviewed should be provided to the CFS prior to implementation to allow for 'fraud proofing' of the policy. It is for the CFS to judge whether 'fraud proofing' is required in respect of any given policy and recommendations made by the CFS should be used to ensure all policies minimise the risk of fraud, corruption or bribery.

13.3 Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role should contact the Policy Author.

The policy will be reviewed annually and updated as necessary

## 14.0 MONITORING COMPLIANCE AND EFFECTIVENESS

The effectiveness and accuracy of this policy will be reviewed on an annual basis by the Trust's appointed CFS.

<b>Minimum Requirement to be Monitored</b>  (WHAT – element of compliance or effectiveness within the document will be monitored)	<b>Responsible Individual</b>  (WHO – is going to monitor this element)	<b>Process for Monitoring e.g. Audit</b>  (HOW – will this element be monitored (method used))	<b>Frequency of Monitoring</b>  (WHEN – will this element be monitored (frequency/ how often))	<b>Responsible Individual or Committee/ Group for Review of Results</b>  (WHERE – Which individual/ committee or group will this be reported to, in what format (eg verbal, formal report etc) and by who)
Delivery of Counter Fraud, Bribery and Corruption Plan	Counter Fraud Specialist	Counter Fraud Functional Standard Return (CFFSR)	Quarterly	Audit and Assurance Committee
Staff questionnaire on fraud, bribery and corruption awareness	Counter Fraud Specialist	Proactive Prevention and Detection activities including training and awareness	Annually	Audit and Assurance Committee

## 15.0 TRAINING AND IMPLEMENTATION

15.1 The CFS will promote fraud, bribery and corruption awareness through the delivery of face to face presentations, use of an animated counter fraud video, the provision of eLearning modules and/or the distribution of newsletter and other materials. Should staff require any assistance, or advice, they should contact the CFS ([craig.bevan-davies@nhs.net](mailto:craig.bevan-davies@nhs.net))

15.2 Examples of fraud which are prevalent in the NHS are provided at **Appendix C**. These examples are provided in order to give an insight into the breadth of risk of fraud to the organisation.

15.3 The policy will be implemented as follows:

- **Audit and Assurance Committee.** This policy will be put to the Audit and Assurance Committee for ratification prior to general circulation. The Audit and Assurance Committee will satisfy themselves that appropriate counter fraud arrangements are in place by receiving regular progress reports from the Counter Fraud Specialist.
- **Chief Financial Officer (CFO) / Deputy Chief Financial Officer (DCFO).** The CFO/DCFO also receives satisfaction that appropriate counter fraud arrangements are in place by meeting with the Counter Fraud Specialist regularly and receiving regular progress reports.
- **Counter Fraud Specialist (CFS).** The CFS is the key implementer of this policy and is responsible for conducting all counter fraud work on behalf of the Trust. This is done in line with a work plan and risk assessment which is agreed by both the Audit and Assurance Committee and the Deputy Chief Financial Officer.
- **Managers.** Managers should ensure that all staff are made aware of this policy and that referrals of fraud, bribery and corruption made to them are reported promptly to the CFS.
- **HR Staff.** HR Staff will cooperate with fraud investigations as appropriate.
- **All other staff.** All staff are to be aware of their responsibilities to prevent fraud, bribery and corruption as per this policy.

## 16.0 IMPACT ASSESSMENTS

We welcome feedback on this policy and the way it operates. We are interested to know of any possible or actual adverse impact that this policy may have on any groups in respect of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The person responsible for equality impact assessment of this policy is the Chief Financial Officer.

This policy has been screened to determine equality relevance for the following equality groups: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The policy is considered to be equality relevant for none of the groups. A full impact assessment has been conducted and the report is attached to this policy. Appendix F.

This document is not subject to an Environmental Impact Assessment

## 17.0 EVIDENCE BASE (Relevant Legislation/ National Guidance) AND RELATED SFHFT DOCUMENTS

### Evidence Base:

- [Criminal Procedure and Investigations Act 1996](#);
- [NHS Counter Fraud Authority Guidance](#);
- [NHS Counter Fraud Authority Fraud Strategy 2020-23](#)
- [Government Functional Standard 013 NHS requirements](#)
- [The Bribery Act 2010](#);
- [The Fraud Act 2006](#);
- [The Police and Criminal Evidence Act 1984](#);
- [The Proceeds of Crime Act 2002](#); and
- [The Public Interest Disclosure Act 1998](#)

### Related SFHFT Documents:

- [Conflicts of Interest Policy](#)
- [Disciplinary Policy](#)
- [Speaking Up Policy](#)
- [Standing Financial Instructions](#)

Staff should also be mindful of any other policies regarding procurement, disciplinary and freedom to speak up as the above list is not exhaustive.

## 18.0 APPENDICES

- **Appendix A** – Fraud Response Plan
- **Appendix B** – Fraud Referral Form
- **Appendix C** – Prevalent Frauds in the NHS
- **Appendix D** – Do's and Don'ts
- **Appendix E** – Contacts
- **Appendix F** – Equality Impact Assessment Form

## **APPENDIX A – FRAUD RESPONSE PLAN**

### **1.0 Introduction**

This fraud response plan provides a checklist of actions and a guide to follow in the event that fraud is suspected. Its purpose is to define authority levels, responsibilities for action and reporting lines in the event of suspected fraud, theft or other irregularity, it covers:

- Notification of suspected fraud
- The investigation process
- Sanctions and redress
- Recovery action
- Roles and responsibilities
- Monitoring and review.

### **2.0 Notifying Suspected Fraud**

2. It is important that all staff are able to report their concerns without fear of reprisal or victimisation and are aware of the means to do so. The *Public Interest Disclosure Act (1998)* commonly referred to as the “whistle-blowers act”, provides appropriate protection for those who voice genuine and legitimate concerns through the proper channels.

2.2 If an employee has any concerns or suspicions of fraud, they must inform the nominated Counter Fraud Specialist (CFS). Alternatively you can contact the organisation’s Chief Financial Officer.

2.3 If the Chief Financial Officer, CFS or Chief Executive Officer (CEO) are implicated, then concerns should be reported to the NHS Counter Fraud Authority through their online reporting form or through their 24-hour reporting line on 0800 028 40 60.

2.4 **Appendix D** of the Fraud, Bribery and Corruption Policy, provides a reminder and checklist of the key actions if fraud, corruption or bribery are suspected. Staff are encouraged to familiarise themselves with this document.

### **3.0 The Investigation Process**

3.1 The CFS will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised.

3.2 The Trust wants all employees to feel confident that they can expose any wrongdoing without any risk to themselves. In accordance with the provisions of the ‘whistle-blowers act’, the organisation have implemented a Whistle-Blowing Policy and Freedom to Speak Up Guardian who can provide an independent and impartial source of advice to staff at any stage of raising a concern.

3.3 A CFS investigation may identify conduct or performance that may be of concern to the organisation or to the employees Professional Body, whether related to fraud or otherwise. Where appropriate, relevant organisational policies and procedures, including disciplinary procedures, will be followed where such concerns arise. This may result in disciplinary action and/or notification to the relevant professional body where appropriate.

3.4 In accordance with the NHS Counter Fraud Authority requirements the Chief Financial Officer, in conjunction with the CFS, will decide whether or not a case should be referred to the police. Any referral to the police will not prohibit action being taken under any local disciplinary procedures of the Trust unless expressly stipulated by the police.

3.5 The CFS, in consultation with the Trust's Chief Financial Officer, will investigate allegations in accordance with procedures and documents referenced in the NHSCFA standards.

3.6 The Trust will follow their disciplinary procedure if there is evidence that an employee has committed any act of fraud, bribery or corruption. The CFS must be aware that staff under investigation which could lead to disciplinary action, have the right to procedural fairness and the CFS must seek advice from the organisation's HR department during the investigation process where appropriate.

3.7 The CFS will take control of any physical evidence and record this in accordance with the procedures outlined in the NHSCFA Anti-Fraud Manual. For reasons of confidentiality access to this manual is restricted.

3.8 Interviews under caution will only be carried out by the CFS or, if appropriate, the police in accordance with the Police and Criminal Evidence Act (1984). The CFS will also take written statements where necessary.

3.9 If fraud, bribery or corruption is found to have occurred, the CFS will prepare a report for the Chief Financial Officer, setting out the following:

- The circumstances;
- The investigation process;
- The estimated or actual loss;
- The steps taken to prevent recurrence;
- The steps taken to recover loss; and
- System control weaknesses that require correction.

3.10 Any recommendations as a result of an investigation will be reported in progress reports to the Audit Committee to consider any necessary improvements to controls.

## **4.0 Sanctions and Redress**

4.1 The seeking of financial redress or recovery of losses will always be considered in cases of fraud, bribery and corruption that are investigated by either the CFS or NHSCFA where a loss is identified.

4.2 Recovery of losses may involve action under the Proceeds of Crime Act (2002) but each decision will be taken in light of the particular circumstances of each case.

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

4.4 The NHSCFA Anti-Fraud Manual provides in depth detail of how sanctions can be applied and redress sought. Local action can also be taken to recover money using the administrative procedures of the organisation or civil law.

4.5 In cases of serious fraud, bribery and corruption, parallel sanctions can be applied, for example:



- Disciplinary action;
- Use of civil law to recover lost funds; and
- Use of criminal law to apply an appropriate criminal penalty, possible referral of information and evidence to a professional body if appropriate.

4.6 The NHSCFA can also apply to the courts to make a restraining order or confiscation order under the Proceeds of Crime Act (2002). This means that a person's money can be taken away from them if it is believed that the person benefited from the crime. This can also include restraining assets during an investigation.

4.7 The range of available sanctions which may be pursued by the relevant decision makers includes:

- **No further action.** In some cases it may be that the organisation, under guidance from the CFS and with the approval of the Chief Financial Officer, decides that no further action is taken.
- **Criminal Investigation.** Following an investigation it may be necessary to bring the matter to the attention of the criminal courts such as Magistrates or Crown Court.
- **Civil Recovery.** The civil recovery route is available to the organisation if this is cost effective and desirable. This could involve a number of options such as applying through the small claims court. Each case will be discussed with the Chief Financial Officer to determine the most appropriate action.
- **Disciplinary Action.** The appropriate person, in conjunction with the HR department, will be responsible for initiating any disciplinary action.
- **Confiscation under the Proceeds of Crime Act.** Depending upon the extent of the loss and the proceedings in the case, it may be suitable for the recovery of losses to be considered under the Proceeds of Crime Act.
- **Recovery from On-Going Salary Payment.** Arrangements can be made to recover losses via payroll if the subject is still employed by the organisation.
- **Professional Body Disciplinary.** During an investigation, if clear evidence exists of a healthcare professional's involvement in fraud, bribery or corruption, the appropriate regulatory body will be informed so they can consider whether fitness to practice procedures should be invoked. Regulatory bodies have statutory powers to place conditions on, suspend or remove the registration of professionals whose fitness to practice has been impaired.

## 5.0 Roles and Responsibilities

5.1 The codes of conduct for NHS Boards and NHS Managers set out the key public service values which the Trust adhere to. They state that high standards of corporate and personal conduct, based on the recognition that patients come first, have been a requirement throughout the NHS since its inception. All staff should be aware of and act in accordance with, these values. The values can be summarised as:

- Accountability;
- Probity; and
- Openness.

5.2 The Trust will take all necessary steps to counter fraud, bribery and corruption in accordance with its Fraud, Bribery and Corruption Policy and the Government Functional Standard 013: Counter Fraud (the Functional Standard).

5.3 The Trust will appoint a CFS to undertake work as set out by the NHSCFA under the Functional Standard. The Trust is committed to taking all steps necessary to counter fraud, bribery and corruption. To meet its objectives, the Trust has adopted the specific component principles of the Functional Standard.

5.4 All employees are required to comply with the Trust policies and procedures in order to prevent fraud, bribery and corruption.

5.5 All those who work within the Trust or are otherwise engaged with the Trust should be aware of and act in accordance with the public service values and the Nolan Principles for Standards in Public Life.

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

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

**5.8 The CFS will:**

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

**5.9 NHSCFA will:**

- Provide leadership and expertise in counter fraud as a valued NHS partner.
- Collaborate nationally and locally with the NHS to understand threats, vulnerabilities and enablers.
- Deliver intelligence-led counter fraud services to find, respond to and to prevent fraud
- Reduce the impact of fraud.

- Work in partnership to deliver financial savings that can be reinvested in patient care.

## 6.0 Monitoring and Review

6.1 The CFS will report regularly to the Chief Financial Officer. The CFS will provide regular reports to the Audit Committee and provide an annual report containing details of reported and investigated cases of fraud. The NHSCFA monitors the work of the CFS.

6.2 The organisation is required to complete the Government Counter Fraud Functional Standard Return and submit these annually to the NHSCFA. The organisation must mark themselves against each standard as either Compliant (Green), Partially Compliant (Amber) or Non-Compliant (Red). A work plan is required to address all non-compliant standards which will be monitored by the Audit Committee.

6.3 An assessment process may be conducted by the NHSCFA. This is a means of evaluating the effectiveness of the organisation in dealing with the fraud, bribery and corruption risks it faces through one of four types of assessment: full, focussed, thematic or triggered.

6.4 The CFS raises fraud awareness by a number of means such as arranging road shows, giving presentations to staff teams and new starters on induction.



## Appendix B – Fraud Referral Form

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

**NAME:**

**ORGANISATION/PROFESSION:**

**ADDRESS:**

**TEL. NO:**

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

**NAME:**

**ADDRESS:**

**DATE OF BIRTH:**

**SUSPICION**

**DETAILS**

**POSSIBLE USEFUL CONTACTS**

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

**Signed:**

**Date:**

.....  
.....

.....  
.....

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

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

## Appendix C – Prevalent Frauds in the NHS

### Common examples of fraud, bribery and corruption offences occurring within the provision of healthcare services to the NHS

**(This is not an exhaustive list; for other types of fraud, bribery or corruption offences please contact the CFS for advice).**

**Employment:** Presenting forged certificates of qualification to obtain employment; claiming for overtime or shifts not worked; taking sick leave and undertaking unauthorised work for another organisation whilst in receipt of sick pay; claiming expenses (such as travel) when it has not been incurred; falsification of references for a job application; claiming time for college/training but not actually attending; knowingly failing to report and retaining salary or other payments not entitled to; non declaration of criminal convictions.

**Patients' Monies:** Falsifying patients' monies records to obtain cash and property.

**Pharmaceuticals:** Presentation of forged prescriptions; falsely presenting oneself as another to receive prescription items; receiving free prescriptions through fraudulently claiming entitlement to exemptions from a charge; Pharmacists substituting an expensive drug with a cheaper alternative and making claims for the more expensive one; writing prescriptions for own use.

**Procurement:** Price fixing or price hiking by suppliers; invoicing for products not supplied; over invoicing; supplying unsolicited goods or products.

**Equipment:** Obtaining or misuse of equipment or goods for private purposes, including theft or misuse of data, whether held electrically or in paper based form.

**Bribery:** Financial or other reward to staff responsible for procurement if they purchase from a particular supplier. Patients making informal payments to healthcare practitioners in order to receive treatment more quickly.

**Health Tourism:** A foreign national travelling to the UK with the intention of receiving free healthcare treatment to which they know they are not entitled.

## Appendix D – Do's and Don'ts

### ✓ Do...

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

### ✗ Don't...

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

## Appendix E - Contacts

Counter Fraud Specialist - craig.bevan-davies@nhs.net

Chief Financial Officer – richard.mills1@nhs.net

Deputy Chief Financial Officer - jennifer.leah@nhs.net

Counter Fraud Champion - d.kearsley@nhs.net

**APPENDIX F - EQUALITY IMPACT ASSESSMENT FORM (EQIA)**

<b>Name of service/policy/procedure being reviewed: Fraud, Bribery and Corruption Policy</b>			
<b>New or existing service/policy/procedure: Fraud, Bribery and Corruption Policy</b>			
<b>Date of Assessment: 21/06/2022</b>			
<b>For the service/policy/procedure and its implementation answer the questions a – c below against each characteristic (if relevant consider breaking the policy or implementation down into areas)</b>			
<b>Protected Characteristic</b>	<b>a) Using data and supporting information, what issues, needs or barriers could the protected characteristic groups' experience? For example, are there any known health inequality or access issues to consider?</b>	<b>b) What is already in place in the policy or its implementation to address any inequalities or barriers to access including under representation at clinics, screening?</b>	<b>c) Please state any barriers that still need to be addressed and any proposed actions to eliminate inequality</b>
<b>The area of policy or its implementation being assessed:</b>			
<b>Race and Ethnicity</b>	N/A	N/A	N/A
<b>Gender</b>	N/A	N/A	N/A
<b>Age</b>	N/A	N/A	N/A
<b>Religion</b>	N/A	N/A	N/A
<b>Disability</b>	N/A	N/A	N/A
<b>Sexuality</b>	N/A	N/A	N/A
<b>Pregnancy and Maternity</b>	N/A	N/A	N/A
<b>Gender Reassignment</b>	N/A	N/A	N/A
<b>Marriage and Civil Partnership</b>	N/A	N/A	N/A
<b>Socio-Economic Factors</b>	N/A	N/A	N/A



(i.e. living in a poorer neighbourhood / social deprivation)			
<p><b>What consultation with protected characteristic groups including patient groups have you carried out?</b> N/A</p>			
<p><b>What data or information did you use in support of this EqIA?</b> N/A</p>			
<p><b>As far as you are aware are there any Human Rights issues be taken into account such as arising from surveys, questionnaires, comments, concerns, complaints or compliments?</b> N/A</p>			
<p><b>Level of impact</b></p> <p>From the information provided above and following EQIA guidance document Guidance on how to complete an EIA (<a href="#">click here</a>), please indicate the perceived level of impact:</p> <p>Low Level of Impact</p> <p>For high or medium levels of impact, please forward a copy of this form to the HR Secretaries for inclusion at the next Diversity and Inclusivity meeting.</p>			
<p><b>Name of Responsible Person undertaking this assessment: D. Kearsley</b></p>			
<p><b>Signature: D Kearsley</b></p>			
<p><b>Date: 21.06.2022</b></p>			