

Corporate	CCG CO06: Anti-Fraud, Bribery and Corruption Policy
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Consultation Process:	CCG Head of Corporate Affairs CCG Audit Committee

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Document History

Version	Date	Significant Changes
1	28/02/2013	Policy provided to Clinical Commissioning Group (CCG) as part of policy suite.
2	June 2015	Policy reviewed and amended (approved in March 2016)
3	June 2016	Release of NHS Protect revised guidance.
3 Extension	June 2017	Extension request.
4	September 2017	Updated in line with revised NHS Protect guidance. Updated by Audit One.

Equality Impact Assessment

Date	Issues
15/06/2016	Please see Section 8 of this document

POLICY VALIDITY STATEMENT

This policy is due for review on the latest date shown above. After this date, policy and process documents may become invalid.

Policy users should ensure that they are consulting the currently valid version of the documentation.

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1. Introduction

1.1 General

Newcastle Gateshead Clinical Commissioning Group (CCG) is committed to reducing the level of fraud, bribery and corruption (economic crime) to an absolute minimum, keeping it at that level and freeing up public resources for better patient care.

This policy has been produced by Paul Bevan, Local Counter Fraud Specialist (LCFS), Audit One, Kirkstone Villa, Lanchester Road Hospital, Durham, DH1 5RR, 0191 4415918. It is designed to encourage vigilance and provide practical counter fraud response guidance for all employees.

The vast majority of people who work in the CCG are honest and professional. Economic crime committed by a minority is wholly unacceptable as it ultimately leads to reduced or wasted resources. The CCG therefore does not tolerate any form of fraud or bribery (economic crime).

1.2 Aims and Objectives

The overall aims of this policy are to:

- outline the CCG's responsibilities in terms of delivering a comprehensive approach to managing related risks
- improve understanding of engaged work undertaken at the CCG to systematically counter economic crime
- support a broadly based, transparent and supportive anti-fraud culture where staff feel able to raise legitimate concerns sensibly and responsibly
- ensure that all suspected economic crime is referred appropriately in accordance with specified reporting lines & that enquiries are always conducted solely by professionally accredited NHS Counter Fraud Specialists or the Police
- enable all parallel criminal, disciplinary & civil (triple track) sanction disposal options to be properly & consistently considered in the course of investigations; as an essential requirement for fairness & optimising deterrence

1.3 Purpose & Scope

This policy applies to all CCG employees, 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, externally sourced service providers and non-executives and form part of the induction process for new staff. It should also be read in conjunction with the organisation's Code of Business Conduct and Whistleblowing Policy.

2. Economic Crime Definitions

2.1 Fraud

The Fraud Act 2006 provides some statutory definitions, which are based on dishonest action(s) being committed intentionally to gain financially or cause loss to other parties in the following ways:

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

2.2 Bribery

In July 2011, the Bribery Act 2010 came into force reforming the criminal law of bribery, enabling simpler prosecution of offences. The Act created a new offence whereby a criminal offence is committed if a commercial organisation fails to prevent bribery. The term commercial organisation encompasses all NHS bodies.

The relevant sections of the Act are;

- Section 1 – Offences of bribing another person
- Section 2 – Offences related to being bribed
- Section 6 – Bribing a foreign public official
- Section 7 – Failure of a commercial organisation to prevent bribery

Simply put it can be defined as accepting an incentive to do something which they would not normally do or not do something which they would normally do.

Both the person offering the bribe and person accepting it would be guilty of committing an offence under the Bribery Act 2010.

3 Duties and Responsibilities

3.1 Accountable Officer / Chief Officer (AO / CO)

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

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 and maintains detailed financial procedures and systems and applying the principles of separation of duties and internal checks to supplement procedures and systems.

The CFO will report annually to the Governing Body on the adequacy of internal financial controls and risk management as part of the Governing Body's overall responsibility to prepare a governance statement for inclusion in the CCG annual report.

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.

The CFO also maintains oversight of suspected economic crime referrals & the progress of subsequent enquiries. The Local Counter Fraud Specialist (LCFS) has delegated responsibility for assessing referrals & leading resultant criminal investigations which fall within the local operational remit. Full consultation is always undertaken with the CFO and Area Anti- Fraud Specialist (AAFS), via the NHS Protect Secure Intranet System, with respect to case notification, progress, outcomes & agreed actions.

Cases will be referred to the Police only by the CFO / LCFS / AAFS following joint evaluation of the circumstances. Liaison will be managed in these situations by the parties involved, on a case by case basis, with reference to NHS Protect / Association of Chief Police Officers (ACPO) Memorandum of Understanding and any relevant Police Divisional Policy conditions.

3.3 Internal and External Audit

Any incident or suspicion that comes to internal or external audit's attention will be passed immediately to the nominated lead LCFS. The outcome of the investigation may necessitate further work by internal or external audit to review systems.

The LCFS liaises regularly with Internal Audit Management colleagues as part of a regular bi monthly Audit North forum. Regular updates are provided regarding system weaknesses and breaches identified in the course of investigations. Internal Audit provides feedback on systems analysis and any outliers identified during testing. The LCFS will continue to provide relevant intelligence that further shapes the design of this work and the level of assurance derived. Internal Audit will provide further updates on analytical tools which may be adapted by the LCFS for criminal detection purposes. Resultant synergy will also add value by identifying an increased number of potential proactive exercises.

3.4 Human Resources

The CCG seeks to apply the full range of criminal, disciplinary & civil sanctions in all cases where economic crime may be present. Triple Tracking allows a full range of action to be taken against perpetrators and send a strong message to discourage others intent on misappropriating local CCG resources.

This approach conforms to the high level NHS Protect policy statement; 'Applying Appropriate Sanctions Consistently.'

The LCFS will not conduct disciplinary investigations, which are subject to employment law provisions. Separate disciplinary investigations will be conducted in accordance with the CCG HR policies into matters of possible misconduct when potential economic crime is present.

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.

The CFO and LCFS will liaise regularly with HR throughout the course of a criminal investigation, in accordance with the LCFS / Human Resources (HR) Policies. Disposal decisions regarding the selection of sanctions and financial recovery methods to be applied at the end of a criminal investigation will be made in accordance with the Counter Fraud Redress Protocol.

As a general principle criminal enquiries will be given initial precedence for tactical & evidential reasons, conventionally associated with a higher burden of proof and the investigation of complex, or serious crime. Where there are any patient safety concerns these will be given immediate consideration, when warranted in more extreme situations. Dialogue will also take place to assess scope, on a case by case basis, to make lawful information disclosures to HR at more advanced investigation stages for prevention & detection of crime purposes.

The LCFS will ensure that criminal enquiries are handled efficiently and do not become subject to undue delay. HR will ensure that they do not undertake any activity, which either by its nature or timing could prejudice the outcome of criminal investigations. In cases where criminal enquiries are undertaken by NHS Protect or the AAFS, counter fraud will update HR on any risks that could impact on investigation management.

Any referral to the Police will not prohibit action being taken under the local disciplinary procedures of the CCG.

Discussion in the above contexts will also focus on the feasibility of applying civil or other redress measures, at the earliest possible juncture of a parallel sanction process. This method will also be adopted to facilitate the recovery of losses incurred by the CCG.

3.5 Local Counter Fraud Specialist (LCFS)

The LCFS has been specifically trained in counter fraud procedures, and has been accredited by the CCG to undertake work in this field. The LCFS will work with all staff and stakeholders to promote anti-fraud work and effectively respond to system weaknesses and investigate allegations of fraud and corruption. The LCFS has a number of duties to perform, including:

- Receive any fraud, bribery or corruption referral directly from staff, the public or a contractor.
- Investigate all cases of fraud within the CCG and to report upon these to the EFD.
- Publicise counter fraud work and the fraud awareness message within the Trust.
- Undertake local proactive counter fraud work with the aim of fraud prevention or detection.
- Report any system weaknesses
- Liaise with the Area Anti-Fraud Specialist at NHS Protect

3.6 NHS Protect

NHS Protect is a business unit of the NHS Business Services Authority. It has national responsibility for all policy and operational matters relating to the control of fraud and corruption and the management of security in the NHS.

NHS Protect have a National Investigation Service (NIS) to carry out investigations that meet the NHS Protect NIS acceptance criteria, particularly investigations must be considered of strategic or national significance, known to have or likely to have a high degree of complexity or factors requiring investigation outside the NHS body.

NHS Protect also has an Assurance Team, which measures the effectiveness of NHS counter fraud work. The LCFS completes an annual Self Review Tool (SRT) on behalf of the CCG, which enables the CCG to produce a summary of the anti-fraud, bribery and corruption work conducted over the previous financial year.

3.8 Governing Body Members & Senior Management Team

The CCG provides a secure environment in which to work, and one where staff or contractors are confident to raise concerns about incidents, behaviours or risks without worrying that it will reflect badly on them. This commitment extends to ensuring that people are not placed in a vulnerable position at work and promoting a corporate commitment to addressing all reasonable concerns.

The CCG wants all employees to feel confident that they can expose any wrongdoing without any risk to themselves. It also fully supports integrated local counter fraud work which supports embedded awareness and uses any recommendations to reduce fraud risks and enhance Trust processes.

In accordance with the provisions of the Public Interest Disclosure Act 1998, the CCG has produced a Whistleblowing Policy. Raising Concerns at Work policies are intended to complement reporting lines specified elsewhere within this Anti-Fraud, Bribery and Corruption Policy. This enables staff to raise any concerns if they do not feel able to raise them with their line manager/management chain.

Responsibility for the day to day operation and maintenance of systems often falls directly to line managers. The CCG will ensure that those who coordinate or operate internal procedures continue to be fully resourced and trained to carry out responsibilities properly within a sound environment. Controls review and improvement should be standardised to incorporate the identification and reduction of fraud risks; including capacity to capture relevant gaps and data or behavioural outliers. The LCFS will provide relevant intelligence to assist with these aims.

Directors will ensure that assessment of fraud, bribery & corruption risks and effective prevention, within their business areas, feed into the CCG overall statements of accountability and internal control.

When fraud or corruption is found to have occurred, the LCFS will prepare a report for the CFO and the next CCG Audit Committee meeting, setting out the following details:

- the circumstances
- the investigation process
- the estimated loss
- the steps being taken to prevent a recurrence and implementation timescales
- the steps taken to recover the loss and implementation timescales

Consideration will also be given as to whether the extent of fraud or loss uncovered and any system weaknesses identified are significant enough to justify inclusion on the CCG risk register. The Audit Committee will also assess if any areas identified by the CCG organisational fraud risk assessment should be further evaluated for this purpose.

3.9 All Employees & Contractors

All employees and contractors are expected to act in accordance with probity standards laid down by their professional institutes or any other codes of conduct specified in the course of employment by the CCG.

Employees and contractors also have a duty to protect the assets of the CCG, including information, goodwill and property. This requirement includes compliance with applicable laws and regulations relating to ethical business behaviour, procurement, personal expenses, conflicts of interest, confidentiality and the acceptance of gifts and hospitality. It means all parties should always:

- avoid behaving in any way where they act dishonestly
- remain alert to the possibility that others might attempt to deceive
- ensure that any computer use at work is only applied to the performance of their duties within the CCG.

All CCG employees and contractors 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 suppliers.

If any employee suspects fraud, bribery or corruption has taken place, they should ensure it is reported to the LCFS and/or NHS Protect as outlined in Section 4.2 of this policy

3.10 Local Security Management Specialist (LSMS)

The LCFS liaises regularly with the LSMS and legal distinctions between fraud, bribery, corruption and theft are understood. Referrals information and other intelligence are lawfully exchanged at meetings to ensure that investigations are conducted under the correct respective operational remits. Knowledge is routinely shared of potential risk indicators and system weaknesses appertaining to both agendas.

Following any investigations into security-related incidents or breaches, the LSMS should consider what action or sanction is appropriate if the offender can be identified. The decision on pursuing a sanction must be made in conjunction with the Security Management Director and ASMS. If necessary, advice should be sought from the Legal Protection Unit and LCFS. Further details of LSMS actions are contained in the Security Policy.

3.11 Information Management and Technology

The CSU Head of Information Security (or equivalent) will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. HR will also be informed if there is a suspicion that an employee is involved. Misappropriation of equipment will also be reported to the LCFS with a view to ascertaining if it may have arisen from an act of fraudulent misrepresentation and / or wider pattern of offending.

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 of this assessment, the CCG has instigated a number of proportionate measures to mitigate the risks faced.

The CCG Standards of Business Conduct & Declaration of Interest Policy provides detailed guidance of what is expected of CCG employees in relation to declaring hospitality, gifts and sponsorship. Staff are reminded to consult their contracts of employment for further guidance. The CCG intranet site also contains advice on how to declare any offers of hospitality, gifts and sponsorship.

4.2 Reporting Suspected Fraud

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

If an employee suspects that there has been fraud or bribery, or has seen any suspicious acts or events, they must inform the lead nominated LCFS or the CCG CFO immediately, unless either the CFO or LCFS are implicated. If that is the case, however unlikely, they should report it to the CCG chair or Chief Officer, who will decide on the action to be taken.

An employee can contact any executive or non-executive director to discuss their concerns if they feel unable, for any reason, to report the matter to the LCFS or CFO.

LCFS Contact Details:

- Paul Bevan, Audit One, Kirkstone Villa, Lanchester Road Hospital, Durham, DH1 5RR, Telephone: 0191 4415918; Email: counterfraud@audit-one.co.uk

Employees can also call the NHS Fraud and Corruption Reporting Line on freephone 0800 028 40 60 or online reporting, www.reportnhsfraud.nhs.uk This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting the CCG. It allows CCG 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.

If employees are uncomfortable with any of the above reporting lines they should consider recourse to Whistleblowing policy to make the referral.

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. This information should also be forwarded immediately to the lead nominated LCFS.

The LCFS 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 LCFS. You can do this by filling in the NHS Fraud and Bribery Referral Form (Appendix 1) or by contacting the LCFS by telephone or email using the contact details supplied (Appendix 2)

Appendix 2 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

4.3 Sanctions and Redress

The NHS Anti-Fraud Manual provides details of how sanctions can be applied where fraud, bribery and corruption are proven and how redress can be sought. To summarise, local action can be taken to recover money by using the CCG's administrative procedures or the civil law.

In cases of serious fraud, bribery 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.

NHS Protect 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.

4.3.1 Sanctions

The following sanctions should be considered and applied where appropriate;

- Criminal
- Civil
- Disciplinary
- Referral to Professional Body

4.3.2 Redress

Actions which may be taken when considering seeking redress include:

- Through the Criminal Court by means of a compensation order
- Through the Civil Court
- Confiscation order under POCA
- Recovery sought from ongoing salary payments
- Recovery from NHS Pension
- Local agreement to repay

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 CFO, decides that no further recovery action is taken.

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.

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 CFO to determine the most appropriate action.

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.

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

5. Training Implications

It is recommended that staff members complete the Counter Fraud E-Learning Training modules. The LCFS will provide on-site training to CCG staff on request.

6. Related Documents

6.1 Other related policy documents

- Whistleblowing Policy
- Standards of Business Conduct & Declaration of Interest Policy

6.2 Legislation and statutory requirements

- Fraud Act 2006
- Bribery Act 2010
- NHS Protect Standards for commissioners: fraud, bribery and corruption.

6.3 Best practice recommendations

- NHS Protect: Template local anti-fraud, bribery and corruption policy

7. Monitoring, Review and Archiving

7.1 Monitoring and Auditing of Policy Effectiveness

The LCFS will monitor and analyse information on fraud referrals and use the data to monitor the implementation of the policy and management of cases.

In addition, the data collated and analysed for information regarding the reasons for raising concerns and any patterns/similarities, and will be used to inform and improve policies, as well as provide recommendations for Audit Committee.

The LCFS will provide an annual report on work to counter fraud, bribery and corruption to Audit Committee.

7.2 The Governing Body will agree a method for monitoring the dissemination and implementation of this policy. Monitoring information will be recorded in the policy database.

7.3 Review

The Governing Body will ensure that this policy document is reviewed in accordance with the timescale specified at the time of approval. No policy or procedure will remain operational for a period exceeding three years without a review taking place.

Staff who become aware of any change which may affect a policy should advise their line manager as soon as possible. The Governing Body will then consider the need to review the policy or procedure outside of the agreed timescale for revision.

For ease of reference for reviewers or approval bodies, changes should be noted in the 'document history' table on the front page of this document.

NB: If the review consists of a change to an appendix or procedure document, approval may be given by the sponsor director and a revised document may be issued. Review to the main body of the policy must always follow the original approval process.

7.4 Archiving

The Governing Body will ensure that archived copies of superseded policy documents are retained in accordance with Records Management: NHS Code of Practice 2009.

8. Equality Impact Assessment

A full Equality Impact Assessment has been completed;



Equality Impact
Assessment - ABC Po

NHS Fraud and Bribery Referral Form

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

1. Date

2. Anonymous application

Yes (If 'Yes' go to section 6) or No (If 'No' complete sections 3–5)

3. Your name

4. Your organisation/profession

5. Your contact details

6. Suspicion

7. Please provide details including the name, address and date of birth (if known) of the person to whom the allegation relates.

8. Possible useful contacts

9. Please attach any available additional information.

Submit the completed form (in a sealed envelope marked 'Restricted – Management' and 'Confidential') for the personal attention of Paul Bevan, Audit One, Kirkstone Villa, Lanchester Road Hospital, Durham, DH1 5RR, 0191 4415918, Email: counterfraud@audit-one.co.uk. Under no circumstances should this report, which contains personal details, be transmitted electronically.

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.

BRIBERY is the deliberate use of inducement or payment of benefit-in-kind to influence an individual to use their position in an unreasonable way

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.

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 policy 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.

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
- telephone the **freephone** NHS Fraud and Corruption Reporting Line
- Online at www.reportnhsfraud.nhs.uk or
- nhsfraud@nhsprotect.gsi.gov.uk

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

If so, any information can be passed to the

NHS Fraud and Bribery Reporting Line: 0800 028 40 60

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

Your lead nominated Local Counter Fraud Specialist is Paul Beven, who can be contacted by telephoning 0191 4415918 or emailing counterfraud@audit-one.co.uk

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

Protecting your NHS