

Anti Fraud, Bribery and Corruption Policy

VERSION CONTROL

Version:	5
Ratified by:	Governing Body Meetings in Common
Date ratified:	8 th March 2018
Name of originator/author:	Anti Fraud Specialists
Name of responsible committees:	WNCCG Audit Committee CRCCG Audit Committee
Date issued:	March 2018
Review date:	March 2021

VERSION HISTORY

Date	Version	Comment / Update
11/03/13	V1	Draft
19/03/13	V2	Reviewed by Audit Committee and amendments requested
17/04/13	V3	Final Draft for Audit Committee Review and Approval
23/06/15	V4	Reviewed and updated by AFS – for Audit Committee review and approval
08/03/18	V5	Approved at Governing Body Meetings in Common

Contents

- 1. Introduction..... 4
- 2. Aims and scope 4
- 3. Definitions..... 5
- 4. Roles and responsibilities 5
- 5. AFS contact details..... 8

1. Introduction

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 within Warwickshire North and Coventry & Rugby Clinical Commissioning Groups (WN & C&R CCG) are aware of how fraud can occur, and how it can be addressed if it is identified. WN CCG is committed to reducing the level of fraud and corruption within the NHS to an absolute minimum and keeping it at that level, freeing up public resources for better patient care.

This policy has been produced by the CCG's Anti Fraud Specialist (AFS) and is intended as a guide for all CCG staff on what they should do if they become aware of fraud or bribery taking place, or suspect that fraud or bribery is taking place.

All genuine suspicions of fraud and corruption can be reported to the AFS or through the NHS Fraud and Corruption Reporting Line (FCRL) on 0800 028 40 60.

2. Aims and scope

This policy relates to all forms of fraud, bribery and corruption and is intended to provide direction and help to all CCG staff and other stakeholders (including patients, visitors, temporary employees, locums, agency staff, contractors, suppliers and visiting clinicians) who may identify suspected fraud. The overall aims of this policy are to:

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

This policy applies to all individuals working at all levels including Governing Body, Executive, (including co-opted members), Members, employees (whether permanent, fixed-term, or temporary), contractors, trainees, seconded, casual staff and agency staff, interns and students, agents, sponsors, volunteers or any other person associated with the CCG wherever located (collectively referred to as "staff" in this policy). It will be brought to the attention of all employees and form part of the induction process for new staff.

3. Definitions

Fraud

Fraud involves a deliberate act of deception, carried out in order to obtain money or property which the person or organisation involved is not properly entitled to. Consequently, fraud is always intentional and dishonest. Examples might include (but are not limited to) the submission of false qualification details or faked references in order to secure a post with the CCG; the submission of falsified pay or expense claims; or the submission of an invoice for goods or services not supplied to the CCG.

The Fraud Act 2006 creates a general offence of fraud, and sets out three ways it might be committed – by making a false representation; by failing to disclose information when legally obliged to; or by abusing a position of trust or responsibility.

Bribery

Bribery can be defined as offering, giving, seeking or receiving a financial or other inducement or reward which is intended to influence someone in a position of trust or responsibility to do something they would not otherwise have done. A 'bribe' can therefore take a variety of forms, including offering or receiving cash, goods or services, and could potentially extend to excessive 'corporate hospitality'.

The Bribery Act 2010 makes clear that it is not necessary to actually give or receive a bribe to commit an offence – the offering or seeking of a bribe is also an offence.

No member of staff should request, seek to receive or accept any such gift or other financial inducement from any other person or body. Similarly, no member of staff is permitted to offer, give or promise any form of financial or other inducement to anyone where such an offer is intended to secure some form of benefit for the CCG.

Further guidance in regard to accepting gifts or hospitality from third parties can also be found in the CCG's Gift and Hospitality Gift Policy.

4. Roles and responsibilities

Role of the CCG

The CCG has a duty to ensure that it provides a secure environment in which to work, and one where people are confident to raise concerns without worrying that it will reflect badly on them. This extends to ensuring that staff feel protected when carrying out their official duties and are not placed in a vulnerable position. If staff have concerns about any procedures or processes that they are asked to be involved in, the CCG has a duty to ensure that those concerns are listened to and addressed.

Employees

The CCGs Financial Procedures place an obligation on all employees and Lay Members to act in accordance with best practice.

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 behavior, procurement, personal expenses, conflicts of interest, confidentiality and the acceptance of gifts and hospitality. This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees should 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 CCGs employees deal fairly and impartially with official matters.
- be alert to the possibility that others might be attempting to deceive.

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.

All staff and members of the Governing Body have a duty to share any concerns they have, where they feel that fraud or bribery may have been committed.

These concerns should be passed to either the CCG's Anti Fraud Specialist (AFS), or the CCG's Chief Finance Officer (CFO). Alternatively, the matter can be reported directly to the NHS Fraud Reporting Line on 0800 028 40 60. Calls to this number can be made anonymously if the caller does not want to disclose their identity. Concerns can also be shared via <https://cfa.nhs.uk/reportfraud>

In addition, if staff or members of the governing body become aware of anything (e.g matters linked to the actions of peers or colleagues) that may suggest that fraud or bribery might be occurring, they can seek advice in confidence from either the CCG's Anti Fraud Specialist, or the CCG's Chief Finance Officer.

Staff also have a responsibility to co-operate with any on-going investigations as required.

Managers

Managers must be vigilant and ensure that procedures to guard against fraud, bribery 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 CCG's AFS or the Chief Finance Officer.

Managers must instill and encourage an anti-fraud and corruption culture within their team and ensure that information on procedures is made available to all employees. The AFS will proactively assist with 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 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 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
- assess the types of risk involved in the operations for which they are responsible
- ensure that adequate control measures are put in place to minimise the risks. This must include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of a key function is not invested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively
- ensure that any use of computers by employees is linked to the performance of their duties within the CCG
- be aware of the CCGs anti fraud, bribery and corruption policy and the rules and guidance covering the control of specific items of expenditure and receipts
- identify financially sensitive posts
- ensure that controls are complied with
- contribute to any assessment of the risks and controls within their business area, which feeds into the CCGs overall statements of accountability and internal control.

AFS

The AFS's role is to ensure that all cases of actual or suspected fraud 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 if/when a 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 anti fraud, bribery and corruption activity and, in particular, the investigation of all suspicions of fraud
- investigate all cases of fraud
- in consultation with the Chief Finance Officer, report any case to the police or NHS Counter Fraud Authority as agreed and in accordance with the NHS Anti Fraud Manual
- 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
- ensure that any system weaknesses identified as part of an investigation are followed up with management and reported to internal audit
- adhere to the Counter Fraud Professional Accreditation Board (CFPAB)'s Principles of Professional Conduct as set out in the NHS Counter Fraud Authority Anti Fraud Manual
- ensure that the Chief Finance Officer is informed of any NHS Counter Fraud Authority National Investigation Service-led investigations, including progress updates.

5. AFS contact details

Lisa Hines,
Anti Fraud Specialist, Wayside
House,
Wilsons Lane
COVENTRY CV6 6NY



024 76 53688
07342 081528

Lisa.hines@cwaudit.org.uk
lisahines@nhs.net [secure]

National fraud reporting line:
0800 028 40 60

Website:
<https://cfa.nhs.uk/reportfraud>

The Fraud and Corruption Response Plan

Reporting fraud 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 CCGs 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 Accountable Officer, who will decide on the action to be taken.

The AFS has developed a desk top guide (see Appendix 2) for staff and managers which provides a reminder of the key contacts and a checklist of the actions to follow if fraud, bribery, 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.

Employees can also call the NHS Fraud and Corruption Reporting Line on 0800 028 40 60. This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting the NHS. It allows NHS staff who are unsure of internal reporting procedures to report their concerns in the strictest confidence. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

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, or in writing, using the contact details on page 7 of this policy.

Whistleblowing

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 CCGs anti fraud 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.

Disciplinary action

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.

Disclosure of information

Warning a fellow employee that they are/were under investigation for fraud could constitute misconduct. Where this disclosure is unauthorised and outside the terms of the investigation, and where it risks prejudicing the investigation (or the recovery of sums lost through frauds) it may constitute a breach of the term of mutual trust and confidence which is implied into every employment contract.

Depending on the position held by the employee who gave the warning, it may also be a breach of their duty of confidentiality. Essentially an employee who is/was closely involved with the investigation will have a higher duty of confidentiality than an employee who is/was merely passing on general gossip.

Failure to adhere to the policies of the CCG could result in disciplinary processes being invoked against the employee

Police involvement

In accordance with the NHS Anti Fraud 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.

Managing the investigation

The AFS, in consultation with the CCGs Chief Finance Officer, will investigate an allegation in accordance with procedures documented in the NHS Anti Fraud Manual issued by NHS Counter Fraud Authority.

The AFS 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 AFS 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 CCG will follow its disciplinary procedure if there is evidence that an employee has committed an act of fraud, bribery or corruption.

Gathering evidence

The AFS will take control of any physical evidence, and record this in accordance with the procedures outlined in the NHS Anti Fraud Manual. If evidence consists of several items, such as many documents, AFSs should record each one with a separate reference number corresponding to the written record. Note that in criminal actions, evidence on or obtained from electronic media needs a document confirming its accuracy.

Interviews under caution or to gather evidence will only be carried out by the AFS, if appropriate, or the investigating police officer in accordance with the Police and Criminal Evidence Act 1984 (PACE). The AFS will take written statements where necessary.

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

The application of the anti fraud, bribery and corruption policy will at all times be in tandem with all other appropriate CCG policies, e.g. Financial Procedures.

Recovery of losses incurred to fraud and corruption

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

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

Reporting the results of the investigation

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

If fraud, bribery or corruption is found to have occurred, the AFS should prepare a report for the Chief Finance Officer and the next CCG audit committee meeting, setting out the following details:

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

This report should also be available to the CCG Board.

Action to be taken

Chapter 6 of the NHS Anti Fraud Manual provides in-depth details of how sanctions can be applied where fraud, bribery and corruption is proven and how redress can be sought. To summarise, local action can be taken to recover money by using the administrative procedures of the CCG or the civil law.

In cases of serious fraud, bribery or 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 Counter Fraud Authority 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.

Actions which may be taken when considering seeking redress include:

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

In some cases (taking into consideration all the facts of a case), it may be that the CCG, under guidance from the AFS and with the approval of the Chief Finance Officer, 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 Chief Finance Officer to determine the most appropriate action.

The appropriate senior manager, in conjunction with the CCG's HR support, 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.

Timescales

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.

Recording

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

WN & C&R Clinical Commissioning Group

NHS FRAUD, BRIBERY AND CORRUPTION: THE DOS AND DON'TS

A desktop guide for Warwickshire North & Coventry & Rugby Clinical Commissioning Group staff

FRAUD is the deliberate or reckless intent to permanently deprive an individual or organization of money or goods through false representation, failing to disclose information or abuse of position.

BRIBERY and CORRUPTION is the deliberate use of bribery or payment of a benefit-in-kind to influence an individual to use their position in an unreasonable way to help gain advantage for another.

DO

- **note your concerns**

Record details such as your concerns, names, dates, times, details of conversations and possible witnesses. Time, date and sign your notes.

- **retain evidence**

Retain any evidence that may be destroyed, or make a note and advise your 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 **Anti Fraud Specialist**, or
- telephoning the **freephone NHS Fraud and Corruption Reporting Line**, or
- contacting the CCG's **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 can be contacted by telephoning 024 76 536880, _____
 or emailing lisahines@nhs.net