

## Anti-Fraud and Bribery Policy

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<b>Equality Analysis Record</b>		
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Section 17 lists the policies that should be read in conjunction with this policy.

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Commented [KS2R1]: I was told that they were not needed for a minor update. However, EIA is on the policy below but need to clarify who should sign. I will send Caroline a QIA.

Anti- Fraud and Bribery Policy

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**Commented [KS4R3]:** Yes this shows the major headings so the gap from 11 to 24 are all roles and responsibilities.

## 1. Introduction

- 1.1. This document sets out South East Coast Ambulance NHS Foundation Trust (the Trust) policy and advice to employees in dealing with fraud or suspected fraud. This policy details the arrangements made in the organisation for such concerns to be raised by employees or members of the public.
- 1.2. The Trust is committed to reducing fraud, bribery and corruption in the NHS and will seek the appropriate disciplinary, regulatory, civil, and criminal sanctions against fraudsters and, where possible, will attempt to recover losses. The aim of the policy and procedures is to protect the property and finances of the NHS and of patients in our care.
- 1.3. The Trust is committed to taking all necessary steps to counter fraud and bribery. To meet its objectives, the Trust complies with the four-stage approach developed by the Counter Fraud Authority (CFA).
- 1.3.1. Government Functional Standard 013 Counter Fraud; We have arranged these into four key areas:
  - 1) Planning and Governance
  - 2) Training, Awareness and Reporting
  - 3) Proactive Detection
  - 4) Investigation

Our fraud prevention work follows the NHSCFA strategy: Leading the fight against NHS fraud: Organisational strategy 2017-2020 is available at: [https://cfa.nhs.uk/resources/downloads/documents/corporate-publications/NHSCFA\\_Strategy\\_2020-23.pdf](https://cfa.nhs.uk/resources/downloads/documents/corporate-publications/NHSCFA_Strategy_2020-23.pdf)

- 1.4. The basic principles are the proper use of public money and the Trust's commitment to high level ethical and moral standards. Accordingly, The Trust will take all necessary steps to counter fraud and bribery in accordance with guidance or advice issued by the CFA. This document sets out the Trust's policy for dealing with detected or suspected fraud and bribery.

## 2. Scope

- 2.1. This policy relates to all forms of fraud and bribery and is intended to provide direction to employees who may identify suspected fraud. It provides a framework for responding to suspicions of fraud as well as advice and information on various aspects of fraud and the implications of an investigation. It is not intended to provide a comprehensive approach to preventing and detecting fraud and bribery. The overall aims of this policy are to:
  - 2.1.1. Improve the knowledge and understanding of everyone at the Trust, irrespective of their position, about the risk of fraud and bribery and the importance of reporting suspicions and concerns.

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- 2.1.2. Assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns in an appropriate way.
- 2.1.3. Set out the Trust's responsibilities in terms of the deterrence, prevention, detection and investigation of fraud and bribery; and
- 2.1.4. Define the appropriate sanctions that should be considered following an investigation, which may include any, or all of the following:
  - 2.1.4.1. criminal prosecution
  - 2.1.4.2. civil proceedings; and/or
  - 2.1.4.3. Internal/external disciplinary action (including by professional/regulatory bodies).
- 2.2. This policy applies to all employees of the Trust (see 14.1), regardless of position held, as well as consultants, vendors, contractors, and/or any other parties who have a business relationship with the Trust. It will be brought to the attention of all employees and form part of the induction process for new staff. It is incumbent on all of the above to report any concerns they may have concerning fraud and bribery.
- 2.3. In implementing this policy, managers must ensure that all staff members are treated fairly and within the provisions and spirit of the Trust's Equality, Diversity and Inclusion Policy. Special attention should be paid to ensuring the policy is understood should there be barriers to understanding caused by the individual's circumstances, where the individual's literacy or use of English is weak, or where the individual has little experience of working life.

### **3. Policy**

- 3.1. All employees have a personal responsibility to protect the assets of the Trust, including all buildings, equipment and monies from fraud, theft, and bribery.
- 3.2. The Trust has a zero-tolerance approach to fraud and bribery and is absolutely committed to the counter fraud initiative by maintaining an honest, open, and well-intentioned atmosphere within the organisation, in line with the Trust's Values. The Trust is committed to the elimination of fraud and bribery, the rigorous investigation of any such allegations and the instigation of appropriate action against wrongdoers. This may include criminal prosecution, as well as undertaking steps to recover any assets lost as a result of fraud or bribery.
- 3.3. The Trust wishes to encourage anyone having reasonably held suspicions of fraud or bribery to report them. The Trust's policy, which will be rigorously enforced, is that no individual will suffer any detrimental treatment as a result of reporting reasonably held suspicions. The Public Interest Disclosure Act 1998 came into force in July 1999 and gives statutory protection, within defined parameters, to staff members who make disclosures about a range of subjects, including fraud and bribery, which they believe to be happening within the organisation employing them. Within this context, 'reasonably held' means suspicions other than those which are raised maliciously or frivolously and are subsequently found to be groundless.

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- 3.4. Any frivolous or malicious allegations will be subject to a full investigation and appropriate disciplinary action under the Disciplinary Policy, up to and including dismissal.
- 3.5. The Trust expects anyone having reasonable suspicions of fraud or bribery to report them to their manager and/or the LCFS, who will ensure procedures are followed.
- 3.6. The Trust has procedures in place that reduce the likelihood of fraud occurring. These include Standing Orders, Standing Financial Instructions, documented procedures, a system of internal control (including Internal and External Audit) and a system of risk assessment. In addition, the Trust seeks to ensure that a comprehensive anti-fraud and bribery culture exists throughout The Trust, supported through the appointment of a dedicated LCFS, in accordance with the CFA's Anti-Fraud, Bribery and Corruption Standards for Providers.
- 3.7. It is expected that Directors, and staff at all levels, will lead by example in acting with the utmost integrity and ensuring adherence to all relevant regulations, policies and procedures.
- 3.8. Bribing anybody is absolutely prohibited. Trust employees will not pay a bribe to anybody. This means that they will not offer, promise, reward in any way or give a financial or other advantage to any person in order to induce that person to perform his/her function or activities improperly. Similarly, they are not permitted to receive or request a financial or other advantage from any person for any reason.
- 3.9. Off-the-book accounts and false or deceptive book keeping entries are strictly prohibited. All gifts, payments or any other contribution made under the Anti-Fraud and Bribery Policy and these guidelines, whether in cash or in kind, shall be documented, regularly reviewed, and properly accounted for on the books of the Trust. Record retention and archival policy must be consistent with The Trust's accounting standards, tax and other applicable laws and regulations.
- 3.10. The Trust procures goods and services ethically and transparently with the quality, price and value for money determining the successful supplier/contractor, not by receiving (or offering) improper benefits. The Trust will not engage in any form of bribery, neither in the UK nor abroad. The Trust and all employees, independent of their grade and position, shall always comply with the Bribery Act 2010 and with this policy.
- 3.11. The Trust may, in certain circumstances, be held responsible for acts of bribery committed by intermediaries acting on its behalf such as subsidiaries, clients, business partners, contractors, suppliers, agents, advisors, consultants or other third parties. The use of intermediaries for the purpose of committing acts of bribery is prohibited.
- 3.12. All intermediaries shall be selected with care, and all agreements with intermediaries shall be concluded under terms that are in line with this policy. The Trust will contractually require its agents and other intermediaries to comply with the Anti-Fraud and Bribery Policy and to keep proper books and records available for inspection by the Trust's auditors, LCFS or investigating authorities. Agreements with agents and other intermediaries shall, always, provide for the necessary contractual mechanisms to enforce compliance with the anti-bribery regime. The Trust will monitor performance

and, in case of non-compliance, require the correction of deficiencies, apply sanctions, or eventually terminate the agreement even if this may result in a loss of business.

- 3.13. Where the Trust is engaged in commercial activity it could be considered guilty of a corporate bribery offence if an employee, agent, subsidiary, or any other person acting on its behalf bribes another person intending to obtain or retain business or an advantage in the conduct of business for the Trust and it cannot demonstrate that it has adequate procedures in place to prevent such. The Trust does not tolerate any bribery on its behalf, even if this might result in a loss of business for it. Criminal liability must be always prevented.
- 3.14. Recovery of any losses due to fraud or bribery will always be sought – see section 11.

#### **4. Facilitation Payments**

- 4.1. A facilitation payment is a type of bribe and will be viewed as such. An example of a facilitation payment is where a government official is given money or goods to perform (or speed up) an existing duty. Facilitation payments are prohibited under the Bribery Act, like any other form of bribe. They shall not be given by the Trust or by The Trust's employees in the UK or any other country.

#### **5. Gifts and Hospitality**

- 5.1. Courtesy gifts and hospitality must not be given or received in return for services provided or to obtain or retain business, but rather as a gesture of esteem and goodwill only. Gifts and hospitality shall always be of symbolic value, appropriate and proportionate in the circumstances, and consistent with local customs and practices. They shall not be made in cash. All gifts and hospitality, including entertainment, shall be handled openly, transparently, and unconditionally where they are permitted to be given or received. Please refer to the Trust's Declaration of Interests Policy and Register for more guidance.

#### **6. Travel and Expenses**

- 6.1. The reclaiming of costs incurred in travel, mileage or expenses is covered by the Agenda for Change conditions. Intentional breaches of these conditions may amount to a fraud and so would be investigated as such.

#### **7. Political and Charitable Contributions**

- 7.1. The Trust does not make any contributions to politicians, political parties, or election campaigns.
- 7.2. As a responsible member of society, the Trust may make charitable donations. However, these payments shall not be provided to any organisation upon the suggestion of any person, whether in the public or private sector, in order to induce that person to perform improperly the function or activities which he or she is expected to perform in good faith or to reward that person for the improper performance of such function or activities

- 7.3. Any donations and contributions made must be ethical and transparent. The recipient's identity and planned use of the donation must be clear, and the reason and purpose for the donation must be justifiable and documented. All charitable donations will be publicly disclosed.
- 7.4. Donations to individuals and for-profit organisations, and donations paid to private accounts, are incompatible with the Trust's ethical standards and are prohibited.

## 8. Sponsoring

- 8.1. Sponsoring means any contribution in money or in kind by the Trust towards an event organised by a third party in return for the opportunity raise the Trust's profile. All sponsoring contributions must be transparent, pursuant to a written agreement, for legitimate business purposes, and proportionate to the consideration offered by the event host. They may not be made towards events organised by individuals or organisations that have goals incompatible with the Trust's ethical standards or that would damage The Trust's reputation. All sponsorships will be publicly disclosed.
- 8.2. Where commercial sponsorship is used to fund Trust training events, training materials and general meetings, the sponsorship must be transparent, pursuant to a written agreement, for legitimate business purposes, and proportionate to the occasion. Where meetings are sponsored by external sources, that fact must be disclosed in the papers relating to the meeting and in any published minutes/proceedings.
- 8.3. Where sponsorship links to the development of guidelines and advice, this should be carried out in consultation with the Senior Compliance Officer in conjunction with the appropriate Trust working group independent of the sponsors. While it is recognised that consultation with the industry may be necessary when developing a guideline, the overall decision on what is included should lie with The Trust's working group.

## 9. Definitions

- 9.1. Definitions are provided for guidance on the most common offences investigated or prosecuted. These definitions are not provided in their entirety nor are all offences under the relevant legislation listed. Full copies of the relevant Acts can be accessed from [www.legislation.co.uk](http://www.legislation.co.uk) or from your LCFS.
- 9.2. **Fraud** – Contrary to the Fraud Act 2006
  - 9.2.1. Dishonestly making a false representation, and intends, by making the representation to make a gain for himself or another, to cause loss to another or to expose another to a risk of loss.
  - 9.2.2. Dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and intends, by failing to disclose the information to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss.
  - 9.2.3. Occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person, dishonestly abuses that position, and intends, by means of the abuse of that to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss

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9.3. **Bribery** – Contrary to the Bribery Act 2010

9.3.1. Offering, promising, or giving a financial or other advantage to induce or reward improper performance of a function or activity

9.3.2. Requesting, agreeing to receive, or accepting a financial or other reward for the improper performance (whether by self or another) of a relevant function or activity.

**10. Public Service Values**

10.1. 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. The three fundamental public service values are:

10.1.1. Accountability

Everything done by those who work in the Trust must be able to stand the tests of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.

10.1.2. Probity

Absolute honesty and integrity should be exercised in dealing with NHS patients, assets, employees, suppliers, and customers.

10.1.3. Openness

The Trust's actions should be sufficiently public and transparent to promote confidence between the Trust and its patients, our employees, and the public.

10.2. In addition, all those who work for or are in contract with The Trust should exercise the following when undertaking their duties:

**Selflessness** Holders of public office should act solely in terms of the public interest.

**Integrity** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**Objectivity** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.



- Accountability** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- Openness** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- Honesty** Holders of public office should be truthful.
- Leadership** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

10.3. These standards are national benchmarks that inform our local policies and procedures. The arrangements made in this policy have been designed to ensure compliance with the national standards.

## **11. Roles and Responsibilities**

### **11.1. Counter Fraud Authority**

11.2. The CFA has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS. Any investigations undertaken at the Trust will be handled in accordance with the CFA strategy.

11.3. The Trust 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 members have concerns about any procedures or processes that they are asked to be involved in, the Trust has a duty to ensure that those concerns are listened to and addressed.

### **12. Chief Executive Officer**

12.1. The Chief Executive Officer (CEO) has the overall responsibility for funds entrusted to the organisation as the accountable officer. This includes instances of fraud, bribery and corruption. The CEO must ensure adequate policies and procedures are in place to protect the organisation and the public funds entrusted to it.

12.2. The CEO is liable to be called to account for specific failures in the Trust's system of internal controls. However, responsibility for the operation and maintenance of controls falls directly to line managers and requires the involvement of all Trust employees. The Trust therefore has a duty to ensure employees who are involved in or who are

managing internal control systems receive adequate training and support in order to carry out their responsibilities.

### **13. Director of Finance**

- 13.1. The Director of Finance is provided with powers to approve financial transactions initiated by directorates across the Trust. As part of this role, the Director of Finance is responsible for the maintenance and implementation of detailed financial procedures and systems which incorporate the principles of separation of duties and internal checks.
- 13.2. The Director of Finance will report annually to the Board and the Council of Governors on the adequacy of internal financial control and risk management as part of the Board's overall responsibility to prepare a statement of internal control for inclusion in the Trust's annual report.
- 13.3. The Director of Finance, in consultation with the CFA and the LCFS, will decide whether there is sufficient cause to conduct an investigation, and whether the Police and External Audit need to be informed.
- 13.4. The Director of Finance or the LCFS will consult and take advice from the Director of Human Resources and Organisation Development if a member of staff is to be interviewed or disciplined. The Director of Finance or LCFS will not conduct a disciplinary investigation, but the employee may be the subject of a separate investigation by HR.
- 13.5. The Director of Finance will inform the Chair of the Trust and the Chair of the Audit Committee of allegations of fraud and bribery. The Director of Finance is also responsible for informing the Audit Committee of all categories of loss.

### **14. Employees**

- 14.1. For the purposes of this policy, 'Employees' includes Trust staff (including full time, part time, permanent, temporary, agency, bank, locum, volunteers or any other types of employees) Board, Executive and Non-Executive Members (including Co-Opted Members) and Honorary Members to the Board.
- 14.2. All employees should be aware that fraud and bribery (against the NHS or patients in our care) will normally be regarded as gross misconduct, thus potentially warranting summary dismissal without previous warnings. However, no such action will be taken before a proper investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.
- 14.3. Trust employees will not request or receive a bribe from anybody, nor imply that such an offer might be considered. This means that you will not agree to receive or accept a financial or other advantage from any person or organisation as an incentive or reward to improperly perform your function or activities.
- 14.4. Employees must act in accordance with the Trust's Declarations of Interests (including Gifts, Hospitality, Sponsorship and Secondary Employment) Policy and Procedure which includes guidance on the receipt of gifts or hospitality.

- 14.5. Employees have a duty to protect the assets of the Trust including information, goodwill and reputation, as well as its property.
- 14.6. Employees are expected to act in accordance with the standards laid down by their Professional Institute(s), where applicable.
- 14.7. The Trust's Standing Orders and Standing Financial Instructions place an obligation on all staff and non-executive directors to act in accordance with best practice. In addition, all Trust staff and non-executive directors must declare and register any interests that might potentially conflict with those of the Trust or the wider NHS.
- 14.8. In addition, 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. This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees should always:
- act with honesty, integrity and in an ethical manner.
  - behave in a way that would not give cause for others to doubt that trust employees deal fairly and impartially with official matters; and
  - be alert to the possibility that others might be attempting to deceive them or their colleagues and take appropriate action if they are concerned that this may be the case.
- 14.9. 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.
- 14.10. When an employee suspects that there has been fraud or bribery, they must report the matter to the nominated LCFS and /or the CFA. Contact for the LCFS are provided at Appendix A.

## 15. **Managers**

- 15.1. 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 these controls operate effectively. The responsibility for the prevention and detection of fraud and bribery therefore primarily rests with managers in their areas of operational responsibility but requires the co-operation of all employees.
- 15.2. As part of that responsibility, line managers need to:
- 15.2.1. inform staff of the Trust's, Declarations of Interests (including Gifts, Hospitality, Sponsorship and Secondary Employment) Policy and Procedure, Counter Fraud and Bribery policies as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms;
  - 15.2.2. Ensure all employees for whom they are accountable are made aware of the requirements of the policies.

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- 15.2.3. Assess the types of risk involved in the operations for which they are responsible.
- 15.2.4. Ensure adequate control measures are put in place to minimise the risks. This must include establishing clear roles and responsibilities, conducting supervisory checks, arranging staff rotation (particularly in key posts), imposing separation of duties wherever possible so that control of key functions is not invested in one individual, and conducting regular reviews, reconciliations, and test checks to ensure that control measures continue to operate effectively.
- 15.2.5. Be aware of the Trust's Anti-Fraud and Bribery Policy and the rules and guidance covering the control of specific items of expenditure and receipts.
- 15.2.6. Identify financially sensitive posts and ensure that adequate controls are in place in respect of these.
- 15.2.7. Ensure controls are being complied with; and
- 15.2.8. Contribute to their director's assessment of the risks and controls within their business area, which feeds into the Trust's and the Department of Health Accounting Officer's overall statements of accountability and internal control.
- 15.3. All instances of actual or suspected fraud or bribery which come to the attention of a manager must be reported immediately to the LCFS (contact details can be found in appendix A). 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 and they have the clear responsibility to refer the concerns to the LCFS and/or the CFA as soon as possible. See Section 11 below.
- 15.4. Where staff members access the internet on Trust issued equipment, the usage must conform with the Trust's Internet and Email Policy which allows "reasonable personal use". Any instance of accidental or deliberate viewing of offensive material (e.g. pornography or hate material) must be reported immediately to the Head of IT, as per the Policy. Managers should ensure all staff are aware of, understand and adhere to the Trust's policies and procedures with respect to internet usage. See Section 10.28 below.
- 16. Local Counter Fraud Specialist (LCFS)**
- 16.1. The LCFS is responsible for taking forward all anti-fraud work locally in accordance with the CFA Government Functional standard 013 and reports directly to the Director of Finance.
- 16.2. The LCFS works with key colleagues and stakeholders to promote anti-fraud work and effectively respond to system weaknesses and investigates allegations of fraud and corruption. This will include the undertaking of risk assessments to identify fraud, bribery, and corruption risks at the Trust.
- 16.3. The LCFS's role is to ensure that all cases of actual or suspected fraud and bribery are notified to the Director of Finance and reported accordingly.
- 16.4. The LCFS will investigate all allegations of fraud made against the Trust. To facilitate investigations, the Trust will provide any information, documents, reports or evidence

as required. This may include, but is not limited to, personnel or training records, CCTV, swipe card data, radio or telephone recordings and computer data or reports.

- 16.5. The LCFS will regularly report to the Director of Finance on the progress of an investigation and when/if referral to the police or other agencies is required.

## **17. Counter Fraud Champion**

- 17.1. In addition to the LCFS the Trust has a nominated Fraud Champion (Head of Financial Accounting) who works with the LCFS in promoting a zero-tolerance approach to fraud and bribery within the organisation. This is mainly achieved by ensuring fraud awareness material is made available to the Trust, reviews specific potential fraud notices received from the LCFS from throughout the NHS for potential impact to the Trust and is a point of contact for LCFS to provide data for reviews as required.
- 17.2. The Fraud Champion supports and promotes the fight against fraud at a strategic level and with other colleagues within the organisation.

## **18. Counter Fraud Authority**

- 18.1. The CFA is the body that oversees all counter fraud work and investigations within the NHS on behalf of the Secretary of State for Health.
- 18.2. The CFA gather intelligence on all frauds committed, or alleged to have been committed, against the NHS.
- 18.3. The CFA may investigate serious or complicated offences, or those covering multiple NHS organisations. Their staff may use powers under the Proceeds of Crime Act, to seek intelligence or evidence from financial institutions, freeze assets or seek to confiscate assets after conviction.

## **19. Senior Compliance Officer**

- 19.1. The Trust has appointed the Director of Finance as the person responsible for ensuring the Trust is compliant with the requirements of the Bribery Act 2010, implementing anti-bribery guidelines and monitoring compliance. The Director of Finance will review annually the suitability, adequacy and effectiveness of the Trust's anti-bribery arrangements and implement improvements as and when appropriate.
- 19.2. The Director of Finance directly reports to the CEO. Once a year, the Director of Finance reports the results of the reviews to the Board.
- 19.3. Any incident or suspicion that comes to attention of the Senior Compliance Officer will be passed immediately to the LCFS.

## **20. Internal and External Audit**

- 20.1. Any incident or suspicion that comes to Internal or External Audit's attention will be passed immediately to the LCFS.

## **21. Human Resources**

21.1. Human Resources will liaise closely with managers and the LCFS from the outset where an employee is suspected of being involved in fraud in accordance with agreed liaison protocols. Human Resources is responsible for ensuring the appropriate use of the Trust's Disciplinary Policy and Procedure. The Human Resources Department shall advise those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures. Close liaison between the LCFS and HR will be essential to ensure that any parallel sanctions (i.e. criminal and disciplinary) are applied effectively and in a coordinated manner.

21.2. Human Resources will take steps at the recruitment stage to establish, as far as possible, the previous record of potential employees as well as the veracity of required qualifications and memberships of professional bodies. In this regard, temporary and fixed term contract employees are treated in the same manner as permanent employees.

## **22. Information Management and Technology**

22.1. The Head of IM&T will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. This includes inappropriate internet/intranet, e-mail, telephone, and computer hardware or software use and any potential offence under the Computer Misuse Act 1990. Human Resources will be informed if there is a suspicion that an employee is involved.

## **23. External Communications**

23.1. Individuals (be they employees, agency staff, locums, contractors or suppliers) must not communicate with any member of the press, media or another third party about a suspected fraud as this may seriously damage the investigation and any subsequent actions to be taken. Anyone who wishes to raise such issues should discuss the matter with either the Director of Finance or the Chief Executive. Any communication with the media or third parties with respect to issues of potential fraud or bribery must be conducted by authorised persons in line with the Trust's policies.

## **24. Training**

24.1. The Trust will provide anti-fraud and bribery training to all relevant employees on a regular basis to make them aware of our Anti-Fraud and Bribery Policy and guidelines, including possible types of fraud and bribery, the risks of engaging in such activity, and how employees may report suspicion of fraud and bribery.

## **25. The Response Plan**

25.1. This section outlines the action to be taken where fraud, bribery or other illegal acts involving dishonesty, inappropriate Internet use, or damage to property are discovered or suspected. For completeness, it also deals with the action to be taken where theft is discovered or suspected.

## **25.2. Risk Assessments**

25.3. The Trust undertakes risk assessments in respect of fraud and bribery to assess the risk areas and how these may affect the organisation. Proportionate procedures are put in place to mitigate the identified risks, and these are subject to regular and on-going review.

**25.4. Reporting fraud, bribery, or corruption**

25.5. If any of the concerns mentioned in this document come to the attention of an employee, they must inform the LCFS or the Director of Finance immediately. Employees can also inform the CFA by calling the NHS Fraud and Corruption Reporting Line on Freephone 0800 028 40 60 or by filling in an online form at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk), as an alternative to internal reporting procedures and if staff wish to remain anonymous. In addition to these options, you can also report any concerns relating to fraud and bribery via the Trust's Freedom to Speak Up Guardian or contact Public Concern at Work on 0207 404 6609. If the allegations are found to be malicious, they will be considered for further investigation as to their source.

25.6. 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 Public Interest Disclosure Act 1998, the Trust has produced a Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy. The procedures set out in the Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy are intended to complement the Trust's Anti-Fraud and Bribery 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.

**26. Sanction and Redress**

26.1. In cases of serious fraud and bribery, parallel sanctions may be applied. This means that several types of action may be pursued against the perpetrator for the same offence. 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). Additionally, information and evidence relating to the matter may be referred to external organisations such as professional and regulatory bodies.

26.2. 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' and Crown courts). Outcomes can range from criminal convictions to fines and imprisonment.

26.3. The civil recovery route is also available to the Trust 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 for recovery of losses through debt collection agencies. The LCFS will discuss each case with the Director of Finance to determine the most appropriate course of action.

- 26.4. Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act. 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 Trust. In all cases, current legislation must be complied with.
- 26.5. The seeking of financial redress or recovery of losses will always be considered in cases of fraud or bribery that are investigated by the LCFS or the CFA where a loss is identified. Redress can take the form of confiscation and compensation orders, a civil order for repayment, or a local agreement between the organisation and the offender to repay monies lost. The decisions for redress will be taken in the light of the particular circumstances of each case.
- 26.6. Redress allows resources that are lost to fraud and bribery to be returned to the NHS for use as intended, for the provision of high-quality patient care and services. 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 the Proceeds of Crime Act 2002 (POCA). This means that a person's money is taken away from them if it is established that the person benefited from the crime. It could also include restraining assets during the course of the investigation. Recovery may also be sought from on-going salary payments or pensions accrued by NHS staff who have defrauded the NHS.
- 26.7. In some cases (taking into consideration all the facts), it may be that the Trust, under guidance from the LCFS and with the approval of the Director of Finance, decides that no further recovery action is taken.
- 26.8. Action to recover losses should be commenced as soon as practicable after the loss has been identified. Given the various options open to the Trust, it may be necessary for various departments to liaise about the most appropriate option.
- 26.9. In order to provide assurance that policies were adhered to, the Director of Finance will maintain a record highlighting when recovery action was required and when the action taken. This will be reviewed and updated on a regular basis.

## **27. Disciplinary Action**

- 27.1. The disciplinary procedures of the Trust must be followed where an employee is suspected of being involved in a fraudulent or other illegal act.
- 27.2. It should be noted, however, that the duty to follow disciplinary procedures will not override the need for legal action to be taken (e.g. consideration of criminal action). Any case where both Counter Fraud and HR are involved, the counter fraud investigation will take priority. A separate meeting will be set up, chaired by the CFO, involving counter fraud and HR to steer both investigations to ensure no legal process is compromised.

## **28. Police Involvement**

- 28.1. The Director of Finance, in conjunction with the LCFS and the CFA, will decide whether a case should be referred to the police. Human Resources and line managers may be involved as necessary. Any referral to the police will not prohibit action being taken under the Trust disciplinary procedures.



## **29. Monitoring and Auditing of Policy Effectiveness**

- 29.1. Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. Arrangements might include reviewing system controls on an on-going basis and identifying weaknesses in processes. Where deficiencies are identified as a result of monitoring, the Trust will ensure that appropriate recommendations and action plans are developed and progress of the implementation of recommendations is tracked.
- 29.2. As a result of reactive and proactive work completed throughout the financial year, reports are prepared and issued by the LCFS. System and procedural weaknesses are identified in each report and highlight suggested recommendations for improvement. The Trust, together with the LCFS, will track the recommendations to ensure that they have been implemented.

## **30. Dissemination of the Policy**

- 30.1. The policy will be shared with all staff via the Trust's intranet. LCFS will hold a rolling series of workshops to engage with staff on all counter fraud issues. Additional ad hoc marketing of Local Counter Fraud services will be placed in the Trust Bulletin and other in-house publications.

## **31. Review of the Policy**

- 31.1. All policies have their effectiveness audited by the responsible Management Group at regular intervals, and initially six months after a new policy is approved and disseminated.
- 31.2. Effectiveness will be reviewed using the tools set out in the Trust's Policy and Procedure for the Development and Management of Trust Policies and Procedures (also known as the Policy on Policies).
- 31.3. This document will be reviewed in its entirety every three years or sooner if new legislation, codes of practice or national standards are introduced, or if feedback from employees indicates that the policy is not working effectively.
- 31.4. All changes made to this policy will go through the governance route for development and approval as set out in the Policy on Policies.

## **32. Equality Analysis**

- 32.1. The Trust believes in fairness and equality, and values diversity in its role as both a provider of services and as an employer. The Trust aims to provide accessible services that respect the needs of each individual and exclude no-one. It is committed to comply with the Human Rights Act and to meeting the Equality Act 2010, which identifies the following nine protected characteristics: Age, Disability, Race, Religion and Belief, Gender Reassignment, Sexual Orientation, Sex, Marriage and Civil Partnership and Pregnancy and Maternity.

- 32.2. Compliance with the Public Sector Equality Duty: If a contractor carries out functions of a public nature, then for the duration of the contract, the contractor or supplier would itself be considered a public authority and have the duty to comply with the equalities duties when carrying out those functions.

### **33. Additional Information**

- 33.1. Any abuse or non-compliance with this policy or procedures will be subject to a full investigation and appropriate disciplinary action.

### **34. Related Policies and further reading**

- 34.1. Government Functional Standard 013:  
*<https://cfa.nhs.uk/government-functional-standard>*
- 34.2. Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy
- 34.3. Disciplinary Policy and Procedure
- 34.4. Declaration of Interests (including Gifts, Hospitality, Sponsorship and Secondary Employment) Policy and Procedure
- 34.5. Standing Financial Instructions/Standing Orders
- 34.6. Constitution
- 34.7. Internet and Email Policy

## Appendix A: Local Counter Fraud Advice

**FRAUD** involves dishonestly making a false representation, failing to disclose information, or abusing a position held, with the intention of making a financial gain or causing a financial loss.

**BRIBERY** or **CORRUPTION** involves offering, promising, or giving a payment or benefit-in-kind in order to influence others to use their position in an improper way to gain an advantage.

If you suspect fraud, bribery or corruption may be occurring in the NHS:

### DO

#### Note your concerns

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

#### Retain evidence

Retain any evidence that could be destroyed or make a note and advise your Local Counter Fraud Specialist (LCFS).

#### Report your suspicions

Confidentiality will be respected – delays may lead to further financial loss.

### DON'T

#### 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 lead to an innocent person being unjustly accused.

#### Try to investigate, or contact the police directly

Never attempt to gather evidence yourself unless it is about to be destroyed; gathering evidence must be done in line with legal requirements in order for it to be useful. Your LCFS will 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.

### What to do:

If any of these concerns come to light, you must immediately report your suspicions and what you have discovered to one of the following:

The Local Counter Fraud Specialists:

Tina Jones and Matt Wilson

Tel: 07972 004119 / 07484 040691

Email: [tina.jones@rsmuk.com](mailto:tina.jones@rsmuk.com) /

[matt.wilson@rsmuk.com](mailto:matt.wilson@rsmuk.com) E-mail

[tina.jones2@nhs.net](mailto:tina.jones2@nhs.net) / [matt.wilson2@nhs.net](mailto:matt.wilson2@nhs.net)

The NHS Fraud Reporting Line

0800 028 40 60

Or online

[www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk)

## Appendix B Quick Reference & Example Guide

Fraud within the NHS is estimated to cost upwards of £7 Billion per year. The Trust is committed to protecting its assets and resources to ensure we can provide the best possible service to staff and patients. The Trust is committed to a zero tolerance approach to all instances of fraud and bribery.

The policy sets out the rules and expectations that all Trust officers, staff, contractors, and sub-contractors must adhere to with respect to actual or potential issues of fraud or bribery. Employees of the Trust are expected have read this introduction to the Trust's commitment to countering fraud and bribery. This abstract provides an outline of the role and responsibility of employees of the Trust. Further detail regarding fraud prevention and detection can be found within the context of the full policy.

The overall aim of this policy is to improve knowledge and understanding and to seek everyone's assistance in promoting a culture of honesty and openness within the Trust and to tackle fraud and corruption.

This policy outlines the factors which are taken into consideration when determining whether a fraud has been committed. Fraud is a dishonest act which results in an individual making a gain or causing a loss to another.

All allegations of fraud will be referred to the Trust's Local Counter Fraud Specialist (LCFS) for investigation. Where evidence of fraud, misconduct or criminality exists, the appropriate action will be taken. This could include dismissal for gross misconduct, criminal prosecution and, where appropriate, redress through professional organisations such as the Professionals Care Council, Nursing and Midwifery Council etc.

Should any Trust staff suspect fraud or bribery, attention is drawn to Appendix A of the Policy. This details what actions to take and who to contact.

Examples of fraud include, but are not limited to, the following:

- Working whilst off work sick.
- False overtime claims or false mileage expense claims.
- Working elsewhere during NHS time.
- Failure to declare convictions.
- False qualifications.
- Misuse of Trust property for personal use (fuel cards / telephones)

Employees of the Trust should also familiarise themselves with the Trust Freedom to Speak Up: Raising concerns (Whistleblowing) Policy. This provides guidance for staff wanting to raise concerns about workplace issues, including potential unlawful conduct, financial malpractice or dangers to patients, the public or environment.

Through your day-to-day work, you are in the best position to recognise any specific risks within your own area of responsibility. You have a duty to ensure any risks, however large or small, are identified and dealt with in the proper way.

Within the policy, reference is made to other related policies and procedures, such the Declaration of Interests (including Gifts, Hospitality, Sponsorship and Secondary Employment) Policy and Procedure, the Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy. All managers are expected to familiarise themselves with these policies and staff are encouraged to gain an understanding of the anti-fraud and bribery policy and the associated policies.

## What is the Bribery Act 2010?

The Bribery Act 2010 reforms the criminal law of bribery, making it easier to tackle these offences proactively in the public and private sectors. On top of offences relating to the offering and receipt of bribes, it also introduces a corporate offence which means that relevant commercial organisations will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery.

### What is bribery?

Bribery is offering an incentive to someone to do something which they wouldn't normally do in the normal course of their duties, or in an attempt to influence their actions in their position. This includes when the bribe is actually given, but the offer does not have to be accepted or a bribe given for an offence to take place – the offer itself is a criminal offence. For example, someone recruiting for a job might be offered tickets to an event by one of the candidates or someone linked to them. In the context of the Bribery Act 2010, the offence of bribery refers to accepting or asking for, as well as offering, a bribe.

### Why is this relevant to NHS organisations, professionals and staff?

NHS organisations are included in the Bribery Act's definition of a 'relevant commercial organisation'. Any senior management or board member who consents to, or connives in, any active or passive bribery offence may, together with the organisation, be liable for the corporate offence under the act. Furthermore, there are many situations within the NHS in which members of staff, volunteers or other people who act for or on behalf of NHS bodies may be exposed to potential bribery.

### Examples of behaviour that *may be* considered as bribery under the Bribery Act 2010:

#### Example A:

A manager at the Trust who has overall responsibility for the procurement of a service which is currently subject to re-tender is approached by the current supplier and offered (at the expense of the company) a day trip to London, including lunch in Harrods and a trip on the London Eye. The company says the offer is "to cement and say thank you for our longstanding business relationship". This could be interpreted as an attempt to influence the Trust's actions in the current tendering and should be refused.

#### Example B

While on an overseas field trip with staff from the Trust, the member of staff organising the trip makes a payment in cash to immigration officials at the airport to enable the group to move through immigration and begin their trip more quickly. This is a facilitation payment which is likely to be unlawful under the Act. The member of staff, and the Trust, could be liable for prosecution and the Trust may take disciplinary action against the employee.

#### **Example C**

An overseas candidate seeking employment with the Trust tells members of the interviewing panel that his family owns a large hotel abroad and offers to accommodate members of the interview panel for free, or at a reduced rate, to ensure the candidate is successful at interview. This is an example of offering a bribe and such offers must be refused. Should the members of the interviewing panel accept the offer this would clearly be an example of accepting a bribe and the Trust, as well as the individuals involved, could be liable for prosecution and Trust may take disciplinary action against the interviewing panel members.

#### **Example D**

Following a formal training session which involved a final examination, a student who has just attended the exam approaches the trainer and invites him for a drink, which the trainer accepts. After some small talk, the student raises the subject of the exam, explains how hard they have worked on the assignments and how important a good mark is to them. The student states that they hope the trainer will take this into consideration. It is suggested to the trainer that "it would be worth your while" to ensure that they pass the exam. This could be construed as an attempt to bribe the Trainer and the Trainer should advise the student that it is not appropriate for him to discuss this with them and politely excuse himself. He should advise a senior manager in the Trust of the conversation at the earliest opportunity.

#### **Example E**

Following attendance at a major incident, a group of paramedics are offered a gift of £500 and tickets to a concert. The money and tickets are offered by well-meaning members of the public who wish to show their appreciation and support for the excellent work done by the paramedics. In this instance the money cannot be accepted as cash gifts should not be accepted. The concert tickets may be accepted but should be declared in the Gifts and Hospitality Register. This is not considered an offence under the Bribery Act as there was no incentive for someone to do something which they would not normally do, however the receiving of cash payments may be seen to adversely affect any future treatment or relationship with that patient.

### **Examples of behaviour that *would not be* considered as bribery under the Bribery Act 2010:**

#### **Example F**

Paramedics attend the home address of a young mother whose child is critically ill. The mother is extremely agitated and pleads with the paramedics to rush the child to hospital. In doing so, the mother offers the paramedics a sum of money. The paramedics refuse the offer and, after assessing the child, convey both mother and child to hospital. The following week the mother writes the Trust and includes a cheque made out to the Trust for £100 by way of thanks for the excellent work the Trust commits too. This is not considered an offence under the Bribery Act as there is no incentive for someone to do something they would not normally do. However, best practice dictates that the £100 cheque should be made out to the Trust's charitable fund and registered in the Gifts and Hospitality register.

**Example G**

A procurement manager awards a lucrative contract to a supplier of IT equipment following a successful, open, and transparent tendering process. Following the award of the contract, senior managers from the IT Company invite the procurement manager to an open evening and networking event. The managers from the IT company state it is an all-expenses paid evening and the procurement manager can bring up to four other guests. The procurement manager accepts but declares the invitation on the gifts and hospitality register and also alerts senior managers about the offer. This **is not** considered an offence under the Bribery Act as there is no incentive for someone to do something they would not normally do. However, care should be taken not to build too close a relationship with the IT Company which can cast criticism and doubt as to future possible contracts / business and best practice dictates that all business transactions remain open and transparent.

**Where can I get more information?**

For more information, contact your Local Counter Fraud Specialist, who will have access to training and reference materials produced by the CFA for this purpose (details in Appendix A).

## Appendix C Equality Analysis

<b>Name of author and role</b>	Kevin Steer		
<b>Directorate</b>	Finance	<b>Date of analysis:</b>	
<b>Name of policy being analysed</b>	Anti-Fraud and Bribery Policy		
<b>Names of those involved in this EA</b>	Martin Sheldon and Philip Astell		

<b>1. Trust policies and procedures should support the requirements of the Equality Duty within the Equality Act:</b>	<ul style="list-style-type: none"> <li>Eliminate discrimination, harassment and victimisation;</li> <li>Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it</li> <li>Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.</li> </ul>	<p>In submitting this form, you are confirming that you have taken all reasonable steps to ensure that the requirements of the Equality Duty are properly considered.</p> <p><b>All employees need to be aware of the potential fraud and bribery.</b></p>
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<b>2. When considering whether the processes outlined in your document may adversely impact on anyone, is there any existing research or information that you have taken into account?</b>	<p>For example:</p> <ul style="list-style-type: none"> <li>Local or national research</li> <li>National health data</li> <li>Local demographics</li> <li>The Trust race equality data</li> <li>Work undertaken for previous EAs</li> </ul>	<p>If so, please give details: <b>None</b></p>
--	--	--

<b>3. Do the processes described have an impact on anyone's human rights?</b>	<p>If so, please describe how (positive/negative etc): <b>No</b></p>
---	--

<b>4. What are the outcomes of the EA in relation to people with protected characteristics?</b>			
<b>Protected characteristic</b>	<b>Impact Positive/Neutral/Negative</b>	<b>Protected characteristic</b>	<b>Impact Positive/Neutral/Negative</b>
Age	Neutral	Race	Neutral
Disability	Neutral	Religion or belief	Neutral
Gender reassignment	Neutral	Sex	Neutral
Marriage and civil partnership	Neutral	Sexual orientation	Neutral
Pregnancy and maternity	Neutral		

<b>EA Sign off</b>			
<b>EA checkpoint</b> (Inclusion Working Group member, preferably from your Directorate)	Julie Harris, Assistant Company Secretary		
By signing this, I confirm that I am satisfied the EA process detailed on this form and the work it refers to are non-discriminatory and support the aims of the Equality Act 2010 as outlined in section 1 above.			
Signed: Julie HARRIS		Date: 28 October 2022	

Commented [KS7]: Who should sign the EIA was Izzy?



## Document Control

### Manager Responsible

Name:	Martin Sheldon
Job Title:	Director of Finance
Directorate:	Finance

Committee to approve	Executive Management Board	
Version No. 4.00	Final	Date: 23 <sup>rd</sup> November 2022

### Review

Person/ Committee	Comments	Version	Date
Julie Harris	Updated template to include new standard text re EA and audit and review, and various tiny tweaks	V4	28 Oct 2022
Martin Sheldon	Final review/approval	V3	8 Nov 2022
Martin Sheldon – Director of Finance	Comments and Review	V2	31 Oct 2022
Philip Astell ADoF	Review	V2	20 Oct 2022
Audit Committee	Review	V2	22 Sep 2022
Local Counter Fraud Specialist	Draft of initial document	V1.1	14 Dec 2021

### Circulation

Records Management Database	Date: 6 <sup>th</sup> December 2022
Internal Stakeholders	
External Stakeholders	

**Review Due**

Manager	Martin Sheldon	
Period	Every three years or sooner if new legislation, codes of practice or national standards are introduced	Date: 23rd November 2025

**Record Information**

Security Access/ Sensitivity	None – Public Document
Publication Scheme	Yes - intranet
Where held	Records Management database
Disposal Method and Date	In accordance with Records Management: Retention & Disposal Guidance

**Supports Standard(s)/KLOE**

	Care Quality Commission (CQC)	IG Toolkit	Other
Criteria/KLOE:	Name core service area and CREWS elements		