

# LOCAL ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY

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<b>Equality Impact Assessment :</b>	N/A
<b>Sustainability Impact Assessment :</b>	N/A
<b>Target Audience :</b>	All employees, members, committee and sub-committee members of the group and members of the governing body and its committees.
<b>Policy Reference No :</b>	HaRD 021
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<b>Purpose :</b>	Policy outlines the roles and responsibilities for the prevention and detection of fraud, bribery and corruption within Harrogate and Rural District CCG.
<b>Cross reference against :</b>	Associated relevant policies (e.g. NHS Protect policies, Whistleblowing policy, Disciplinary policy, Prime Financial Policies as contained within the Constitution, SOs)

**The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as 'uncontrolled' and as such may not necessarily contain the latest updates and amendments**



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# 1 Introduction

## 1.1 General

The Governing Body is committed to maintaining an honest, open and well-intentioned atmosphere within Harrogate and Rural District CCG (CCG), so as best to fulfil the objectives of the organisation and of the NHS. It is therefore also committed to the elimination of 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.

## 1.2 Aims and objectives

The purpose of this document is to provide guidance to staff on what fraud is, what everyone's responsibility is to prevent fraud, bribery and corruption and how to report suspicions of fraud, bribery or corruption.

## 1.3 Scope

This policy applies to all CCG employees, Council of Members, Members of the Governing Body, members of its committees and sub-committees, Lay Members, any staff seconded to the CCG and contract and agency staff. Any reference to staff or individuals applies to all the aforementioned.

# 2 Definitions

## 2.1 NHS Protect

NHS Protect has national responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS and that any investigations will be handled in accordance with NHS Protect guidance.

The organisation's work covers three main objectives :

- To educate and inform those who work for or use the NHS about crime in the health service and how to tackle it.
- To prevent and deter crime in the NHS by removing opportunities for it to occur or to re-occur.
- To hold to account those who have committed crime against the NHS by detecting and prosecuting offenders and seeking redress where viable.

## 2.2 Fraud

Section 1 of The Fraud Act 2006 introduced the offence of fraud, which can be committed in three ways:

- **Fraud by false representation (Section 2)** – lying about something using any means, e.g., by words or actions, running a fake website.

- **Fraud by failing to disclose (Section 3)** – not saying something when you have a legal duty to do so, e.g. not declaring information on a job application.
- **Fraud by abuse of a position of trust (Section 4)** – abusing a position where there is an expectation to safeguard the financial interests of another person or organisation, e.g. insider employee fraud.

Other offences to consider are:

- **Possession of articles intended for the use in fraud (Section 6)** – includes any article found, e.g. cloned credit cards, software, electronic data.
- **Making or supplying articles for use in fraud (Section 7)** – must know or intend the article to be used to commit or facilitate fraud.
- **Fraudulent business carried out by sole trader (Section 9)**
- **Obtaining services dishonestly (Section 11)** – e.g. using a stolen credit card on the internet.

All offences occur where the act or omission is committed dishonestly and with intent to cause gain or loss. The gain or loss does not have to succeed, so long as the intent is there.

### 2.3 Bribery and corruption

Under the Bribery Act 2010, it is a criminal offence to:

- Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so, and
- Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so.

These offences can be committed directly or by and through a third person and, in many cases, it does not matter whether the person knows or believes that the performance of the function or activity is improper.

It is, therefore, extremely important that staff adhere to this and other related documentation when considering whether to offer or accept gifts and hospitality and/or other incentives.

## **3 Roles and responsibilities**

### **3.1 Chief Officer**

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

### **3.2 Chief Finance Officer**

This role of Chief Finance Officer has been summarised in the NHS Commissioning Board guidance *Clinical commissioning group governing body members: Role outlines, attributes and skills* (October 2012) as:

- a) Being the Governing Body's professional expert on finance and ensuring, through robust systems and processes, the regularity and propriety of Expenditure is fully discharged;
- b) Making appropriate arrangements to support and monitor the Group's finances;
- c) Overseeing robust audit and governance arrangements leading to propriety in the use of the Group's resources;
- d) being able to advise the Governing Body on the effective, efficient and economic use of the group's allocation to remain within that allocation and deliver required financial targets and duties; and
- e) Producing the financial statements for audit and publication in accordance with the statutory requirements to demonstrate effective stewardship of public money and accountability to the NHS Commissioning Board

The Chief Finance Officer prepares documents and maintains detailed financial procedures and systems and that they incorporate the principles of separation of duties and internal checks to supplement those procedures and systems.

The Chief Finance Officer 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 Chief Finance Officer will ensure the Local Counter Fraud Specialist (LCFS), or the specialist investigators, are given access to staff and records where required/necessary.

The Chief Finance Officer will present the views of the organisation on the conduct of the investigation and any possible sanctions against any employee, if required to do so by NHS Protect.

The Chief Finance Officer will, where considered necessary, pursue sanctions against any employee found to be guilty of fraud or corruption where the advice of NHS Protect is that a criminal prosecution will not be pursued by them.

### **3.3 Internal and external audit**

Internal and external audit work regularly includes reviewing controls and systems and ensuring compliance with financial instructions. Internal and external audit have the duty to pass on any suspicions of fraud, bribery or corruption to the LCFS.

### **3.4 Workforce**

When Workforce staff (part of the Commissioning Support Unit) are advised of suspected cases of fraud, bribery or corruption, they undertake to advise the LCFS as soon as possible. Workforce staff and the LCFS will liaise during the conduct of any investigation to ensure information is shared, duplication avoided and the actions of neither party compromises each others work in accordance with the Protocol for LCFS and Workforce co-operation which is in place.

### **3.5 Local Counter Fraud Specialist**

The LCFS is responsible for taking forward all anti-fraud work locally in accordance with national standards and reports directly to the Chief Finance Officer.

The LCFS will work with key colleagues and stakeholders to promote anti-fraud work and effectively respond to system weaknesses and investigate allegations of fraud and corruption.

The LCFS will investigate allegations of fraud and corruption in accordance with the instructions of NHS Protect.

The LCFS will provide regular updates on current investigations to the Chief Finance Officer and the Audit Committee and is responsible for all external reporting requirements.

The LCFS will play an active part in raising fraud awareness and enforcing the message that fraud within the CCG is not acceptable and will not be tolerated.

### **3.6 Area Anti Fraud Specialists**

Area Anti Fraud Specialists (AAFSs) are the frontline face of NHS Protect for all health bodies within their region.

The AAFS is responsible for the management and vetting of all local investigation case papers and evidence and witness statements submitted for the consideration of prosecutions.

AAFSs ensure that local investigations are conducted within operational and legislative guidelines to the highest standards for all allegations of fraud in the NHS. They provide help, support, advice and guidance to Chief Finance Officers, LCFSs, Audit Committees and other key stakeholders in their region.

The AAFS allocates, supervises and monitors fraud referrals and notifications to the LCFS. The AAFS provides support as to the direction of ensuing investigations as required and oversees the LCFS's performance.

The AAFS ensures that all information and intelligence gained from local investigative work is reported and escalated as appropriate at both local and national level in order to ensure that fraud trends are mapped and used to fraud-proof future policies and procedures.

### **3.7 Managers**

All managers are responsible for ensuring that policies, procedures and processes are adhered to and those within their local area kept under constant review.

Managers have a responsibility to ensure that staff are aware of fraud, bribery and corruption and understand the importance of protecting the organisation from it. Managers will also be responsible for the enforcement of disciplinary action for staff who do not comply with policies and procedures.

If any instances of actual or suspected fraud, bribery or corruption are brought to the attention of a manager, they must report the matter immediately to the LCFS taking note of anything they hear or see relating to the suspicion including dates, times, descriptions, etc. It is important that managers do not investigate any suspected financial crimes themselves as a case can be jeopardised if evidence is not collected in the proper manner. Evidence also includes witness statements. In view of the complexity and importance of complying with all the conditions of the Police and Criminal Evidence Act 1984 (PACE), Line Managers or other staff **must not** carry out any investigations or interviews.

Managers must co-operate fully with the LCFS and provide any evidence required during the course of the enquiries, including statements.

Managers are also responsible for conducting risk assessments and mitigating identified risks.

### **3.8 All staff**

All staff are required to comply with the organisation's policies and procedures and apply best practice in order to prevent fraud, bribery and corruption (for example in the areas of procurement, personal expenses and ethical business behaviour).

All staff have a duty to protect the assets of the organisation and encourage anyone having suspicions of fraud and corruption to report them. All members of staff can, therefore, be confident that their reasonably held suspicions will be taken seriously and that no member of staff will suffer in any way as a result of reporting suspicion of fraud, bribery or corruption.

Front line staff are often in the best position to identify areas for concern and must, therefore, take responsibility to ensure that any real concerns are passed on to the LCFS and provide a statement if required.

It is NOT recommended that staff report any concerns to their line manager in the first instance – the LCFS/Chief Finance Officer should always be regarded as the first point of contact ideally (as per section 4).

The CCG also discourages anybody who has reasonably held suspicions from doing nothing, trying to investigate the matter themselves, talking to others about their suspicions or approaching or accusing any individual. Any of these actions could result in the continual perpetration of any fraud offences being committed against the CCG, or compromise or jeopardise a successful outcome of a counter fraud investigation.

Staff who are involved in or manage internal control systems should receive adequate training and support in order to carry out their responsibilities.

### **3.9 Information management and technology**

The Computer Misuse Act (1990) made three new offences:

- Accessing computer material without permission, e.g. looking at someone else's files.
- Accessing computer material without permission with intent to commit further criminal offences
- Altering computer data without permission, e.g. to hide misappropriation

The fraudulent use of information technology will be reported by the Head of Finance & Contracting to the LCFS.

## **4 The response plan**

### **4.1 Reporting fraud or corruption**

Suspected fraud can be discovered in a number of ways, but in all cases it is important that staff are able to report their concerns and are aware of the means by which they are able to do so.

All staff should report their suspicions to the LCFS who is authorised to treat concerns raised in the strictest confidence and anonymously if so requested. A referral form can be found below (form 2) and on the CCG's intranet site. The LCFS will undertake to acknowledge receipt of this referral within 5 working days unless otherwise requested.

To report any suspicions of fraud and/or corruption please contact Steven Moss, Counter Fraud Manager or Glyn Thomas, LCFS via the following:

**E-mail:** Steven.Moss@York.NHS.UK, Glyn.Thomas@York.NHS.UK

**Post:** Steven Moss / Glyn Thomas, Internal Audit, Park House, Bridge Lane, Wigginton Road, York, YO31 8ZZ.

**Phone:** 01904 725145 / 725166

The LCFS will inform the Chief Finance Officer if the suspicion seems well founded and will conduct a thorough investigation.

Concerns may also be discussed with The Chief Finance Officer or the Chair of the Audit Committee who can be contacted on (01423) 799300.

If staff prefer they may call the NHS Fraud and Corruption Reporting Line on **0800 028 40 60** between 8am and 6pm Monday to Friday or report online at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk). This would also be the suggested contact if there is a concern that the LCFS or the Chief Finance Officer themselves may be implicated in suspected fraud, bribery or corruption.

Where it is the wish of the individual to report suspicions anonymously this will be respected. The Governing Body will, however, always encourage individuals to give their name as this allows suspicions to be acted upon with greater effectiveness and efficiency.

Once fraud or corruption is reported, any allegation will be investigated by the LCFS in a professional manner aimed at ensuring that the current and future interests of the CCG and the suspected individual(s) are protected. The latter is equally important as a suspicion should not be seen as guilt to be proven.

The guide included in the appendix (form 1) provides a reminder of the key contacts and a checklist of the actions to follow if fraud, bribery and/or corruption, is discovered or suspected. Managers are encouraged to copy this to staff and to place it on staff notice boards.

## **4.2 Disciplinary action**

Disciplinary or capability procedures may also be initiated where an employee is suspected of being involved in a fraudulent or illegal act. The CCG's disciplinary policy is available on the intranet. The disciplinary procedure will also be followed if it is found that a malicious allegation of fraud has been made.

# **5 Review**

## **5.1 Monitoring and auditing of policy effectiveness**

The Audit Committee is responsible for monitoring the effectiveness of this policy to provide assurance to the Governing Body that the business of the CCG is being conducted in line with this policy, the associated policy documents, relevant legislation and other statutory requirements.

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

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

## **5.2 Dissemination of the policy**

Following approval by the Audit Committee this policy will be sent to:

- The Senior Leadership Team of the CCG who will disseminate to all staff via the team briefing process.
- The Chairs of the Governing Body, the Council of Members and all other committees and sub committees for dissemination to members and attendees.
- The Practice Managers of all member practices for information.

## **5.3 Review of the policy**

This Policy will be reviewed two years from the date of implementation, or sooner where changes in legislation require it.

Minor amendments (such as changes in title) may be made prior to the formal review, details of which will be monitored/approved by the Chief Finance Officer or the Audit Committee.

# **6 Policy appendices**

## **CCG policies relevant to this policy**

- Disciplinary
- Whistleblowing
- Capability
- Prime Financial Policies as contained within the Constitution
- Standing Orders
- Standards of Business Conduct and Conflicts of Interest
- Scheme of Delegation
- Commercial Sponsorship
- Provision of Gifts and Hospitality
- Offers / Acceptance of Gifts and Hospitality
- Provision and Use of Free Gifts, Prizes and Incentives

NHS fraud, bribery and corruption: dos and don'ts. A guide for Harrogate and Rural District CCG

**FRAUD** is the 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 & CORRUPTION** is the deliberate use of payment or 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 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 may 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.
- **Refer to the Local anti fraud, bribery and corruption policy on the CCG intranet**

### 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 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 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.
- **Do nothing!**

If you suspect that fraud against the NHS has taken place, you must report it immediately, by:

- directly contacting the **Local Counter Fraud Specialist (LCFS), Counter Fraud Manager** or
- telephoning the **freephone NHS Fraud and Corruption Reporting Line**, online or by telephone or
- contacting the **Chief Finance Officer**.

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

NHS Fraud, Bribery and Corruption Reporting Line: **0800 028 40 60**  
calls will be treated in confidence and investigated by professionally trained staff.  
**Online:** [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk)

Your Local Counter Fraud Specialists are Steven Moss and Glyn Thomas who can be contacted by telephoning (01904) 725145 or 725166 or emailing [steven.moss@nhs.net](mailto:steven.moss@nhs.net) or [glyn.thomas1@nhs.net](mailto:glyn.thomas1@nhs.net)  
If you would like further information about NHS Protect, please visit [www.nhsbsa.nhs.uk/Protect.aspx](http://www.nhsbsa.nhs.uk/Protect.aspx)

*Tackling fraud*



**REFERRAL FROM :**

**NAME**

**ORGANISATION/PROFESSION**

**ADDRESS**

**TEL.NO**

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**THIS ALLEGED FRAUD RELATES TO:**

**NAME**

**ADDRESS**

**DATE OF BIRTH**

Referrals should only be made when you can substantiate your suspicions with one reliable piece of information

**Suspicion**

Please provide details

Possible useful contacts

*Please attach any available additional information.*

**Signed**.....

**Date**.....

Please return to Steven Moss or Glyn Thomas via:

Email: Steven.moss@nhs.net or Glyn.Thomas1@nhs.net

Post: Steven Moss / Glyn Thomas, Park House, Bridge Lane, Wigginton Road, York, YO31 8ZZ

Any queries please contact Steve or Glyn on 01904 725145 / 01904 725166

*The Local Counter Fraud Specialist will undertake to acknowledge receipt of this referral direct to you within 5 working days unless otherwise requested.*