

# **Anti-fraud and bribery policy**

<b>Policy Title:</b>	Anti-fraud and Bribery Policy
<b>Supersedes:</b>	All previous policies of the same name or similar name held by: Barking & Dagenham, Havering and Redbridge Clinical Commissioning Groups (BHR CCGs), Newham CCG, Tower Hamlets CCG, Waltham Forest CCG (WEL CCGs) and City & Hackney CCG.
<b>Description of Amendment(s):</b>	New policy
<b>This policy will impact on:</b>	This policy applies to all CCG employees, members of the Governing Body and its committees, sub-committees and working groups, any person working on behalf of CCG, employees and committee members of organisations funded by the CCG, employees and principals of partner organisations and agency staff. It also applies to consultants, vendors, contractors and any other parties who have a business relationship with the CCG and its service users.
<b>Financial Implications:</b>	This policy aims to mitigate financial risk to the CCG.
<b>Policy area:</b>	Governance. Other associated areas: Conflicts of Interest policy incorporating Gifts and Hospitality and Sponsorship, Freedom to Speak Up Policy, Disciplinary Policy, Commercial Sponsorship, Disclosure Policy and Procedure, Financial Redress policy, Prime Financial/Standing Financial Instructions/Standing Orders, Constitution, any policy covering losses and special payments, Procurement Strategy.
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#### APPROVAL RECORD

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	BHR CCGs' Audit & Governance Committee	7 July 2020

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## **1.0 Introduction**

- 1.1 This document sets out the CCG's policy and advice to employees in dealing with fraud or suspected fraud. This policy details the arrangements made by the CCG for such concerns to be raised by employees or members of the public.

This policy applies to all CCG employees, members of the Governing Body and its committees, sub-committees and working groups, any person working on behalf of the CCG, employees and committee members of organisations funded by the CCG, employees and principals of partner organisations and agency staff. It also applies to consultants, vendors, contractors and any other parties who have a business relationship with the CCG and its service users.

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 those above to report any concerns they may have concerning fraud and bribery.

The CCG does not tolerate fraud and bribery within the NHS. The intention is to eliminate all NHS fraud and bribery as far as possible. The aim of the policy and procedure is to protect the property and finances of the NHS and of patients in our care.

- 1.2 The CCG is committed to taking all necessary steps to counter fraud and bribery. To meet this objective, they have adopted the seven-stage approach developed by the NHS Counter Fraud Authority:
- 1) The creation of an anti-fraud culture
  - 2) Maximum deterrence of fraud
  - 3) Successful prevention of fraud which cannot be deterred
  - 4) Prompt detection of fraud which cannot be prevented
  - 5) Professional investigation of detected fraud
  - 6) Effective sanctions, including appropriate legal action against people committing fraud and bribery, and
  - 7) Effective methods of seeking redress in respect of money defrauded.
- 1.3 The CCG will take all necessary steps to counter fraud and bribery in accordance with this policy, the NHS Counter Fraud and Bribery Manual, the policy statement 'Applying Appropriate Sanctions Consistently' published by the former NHS Protect and any other relevant guidance or advice issued by the new NHS Counter Fraud Authority.
- 1.4 This document sets out the CCG's policy for dealing with detected or suspected fraud and bribery, incorporated in the NHS Counter Fraud Authority's Standards for Commissioners.

## **2.0 Scope**

- 2.1 This policy relates to all forms of fraud and bribery and is intended to provide direction and help to individuals who may identify suspected fraud. It provides a framework for responding to suspicions of fraud, advice and information on various aspects of fraud and 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:

- improve the knowledge and understanding of everyone in the CCG, irrespective of their position, about the risk of fraud and bribery 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's responsibilities in terms of the deterrence, prevention, detection and investigation of fraud and bribery
- ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
  - criminal prosecution
  - civil proceedings
  - internal/external disciplinary action (including professional/regulatory bodies)

2.2 In implementing this policy, managers must ensure that all staff are treated fairly and within the provisions and spirit of the CCG's equal opportunities arrangements. Special attention should be paid to ensuring the policy is understood where there may 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. The policy will be referenced within fraud awareness material, presentations and induction. The policy will be available to all staff via the internal shared drive.

### **3.0 Policy**

- 3.1 All employees have a personal responsibility to protect the assets of the CCG, including all buildings, equipment and monies from fraud, theft, or bribery.
- 3.2 The CCG is absolutely committed to maintaining an honest, open and well-intentioned atmosphere, so as to best fulfil the objectives of the CCG and of the NHS. It is, therefore, also committed to the elimination of fraud within the CCG, to the rigorous investigation of any such allegations and to taking appropriate action against wrong doers, including possible criminal prosecution, as well as undertaking steps to recover any assets lost as a result of fraud. The CCG wishes to encourage anyone having reasonable suspicions of fraud to report them.
- 3.3 The CCG'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 gives statutory protection, within defined parameters, to staff who make disclosures about a range of subjects, including fraud and bribery, which they believe to be happening within the CCG. Within this context, 'reasonably held' means suspicions other than those which are raised maliciously and are subsequently found to be groundless.
- 3.4 Any allegation found to be malicious will be subject to a full investigation and appropriate disciplinary action.
- 3.5 The CCG expects anyone having reasonable suspicions of fraud to report them. It recognises that, while cases of theft are usually obvious, there may initially only be a suspicion regarding potential fraud and, thus, individuals should report the matter to their Local Counter Fraud Specialist (LCFS) who will then ensure that procedures are followed.

- 3.6 Bribing anybody is absolutely prohibited. CCG employees will not pay a bribe to anybody. This means that you 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. It does not matter whether the other person is a UK or foreign public official, political candidate, party official, private individual, private or public sector employee or any other person (including creating the appearance of an effort to improperly influence another person).
- 3.7 Off-the-book accounts and false or deceptive booking 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 CCG. Record retention and archival policy must be consistent with the CCG's accounting standards, tax and other applicable laws and regulations.
- 3.8 The CCG 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 CCG will not engage in any form of bribery, neither in the UK nor abroad. CCG employees, independent of their grade and position, shall at all times comply with the Bribery Act 2010 and with this policy.
- 3.9 The CCG 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.
- 3.10 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 CCG 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 CCG's, auditors or investigating authorities. Agreements with agents and other intermediaries shall at all times provide for the necessary contractual mechanisms to enforce compliance with the anti-bribery regime. The Procurement Strategy is available to staff and published on the CCG's website. The CCG 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.
- 3.11 Where the CCG is engaged in commercial activity (irrespective as to what happens to the profit) 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 CCG and it cannot demonstrate that it has adequate procedures in place to prevent such. The CCG does not tolerate any bribery on its behalf, even if this might result in a loss of business for it. Criminal liability must be prevented at all times.
- 3.12 Recovery of any losses will always be sought – see section 14.

## **4.0 Facilitation Payments**

- 4.1 Facilitation payments are small payments made to secure or expedite the performance of a routine action, typically by a government official or agency (e.g. issuing licenses or permits, installation of a telephone line, processing goods through customs, etc.) to which the payer (or the company) has legal or other entitlement.

4.2 Facilitation payments are prohibited under the Bribery Act like any other form of bribe. They shall not be given by the CCG in the UK or any other country.

## 5.0 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 shall be handled openly and unconditionally 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. Please refer to the CCG's Conflicts of interest policy for further details which incorporates gifts & hospitality and sponsorship.

## 6.0 Political and Charitable Contributions

6.1 The CCG does not make any contributions to politicians, political parties or election campaigns.

6.2 As a responsible member of society, the CCG may make charitable donations. However, these payments shall not be provided to any organisation upon suggestion of any person of 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, impartially or in a position of trust or to reward that person for the improper performance of such function or activities.

6.3 Any donations and contributions 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.

6.4 Donations to individuals and for-profit organisations and donations paid to private accounts are incompatible with the CCG's ethical standards and are prohibited.

## 7.0 Sponsored events

7.1 Sponsoring means any contribution in money or in kind by the CCG towards an event organised by a third party in return for the opportunity raise the CCGs' profile.

7.2 There is potential for conflicts of interests between the organisation and the sponsor, particularly regarding the ability to market commercial products or services. Proper safeguards must be in place to prevent conflicts occurring. The CCG has decided that as a commissioning organisation, offers of sponsorship from any provider, or potential provider of health goods or services, will not be accepted and this will be referred to as commercial sponsorship.

## 8.0 Definitions

8.1 **Fraud** - any person who dishonestly, and in order to make a gain for himself or another, or by so acting inflicts loss or the risk of loss on another:

- makes a false representation;
- fails to disclose to another person, information which he is under a legal duty to disclose; or

- abuses their position,
- commits an offence as defined in the Fraud Act 2006.  
<https://www.legislation.gov.uk/ukpga/2006/35/contents>

**NHS Counter Fraud Authority (NHSCFA)** - The NHSCFA has the responsibility for the detection, investigation and prevention of fraud and economic crime within the NHS. Its aim is to lead the fight against fraud affecting the NHS and wider health service, by using intelligence to understand the nature of fraud risks, investigate serious and complex fraud, reduce its impact and drive forward improvements.

A copy of the NHSCFA strategy: Leading the fight against NHS fraud: Organisational strategy 2017-2020 is available at: <https://cfa.nhs.uk/about-nhscfa/corporate-publications>.

### Counter fraud standards

A requirement in the NHS standard contract is that providers of NHS services (that hold an NHS Provider Licence or is an NHS Trust) must take the necessary action to comply with the NHSCFA's counter fraud standards. Others should have due regard to the standards. The contract places a requirement on providers to have policies, procedures and processes in place to combat fraud, corruption and bribery to ensure compliance with the standards. Service Condition 24 also enables the commissioner to review the counter fraud provisions put in place by the provider. Commissioners also need to ensure there are appropriate arrangements within their own organisations. The NHSCFA carries out regular assessments of health organisations in line with the counter fraud standards: <https://cfa.nhs.uk/counter-fraud-standards>

- 8.2 **Bribery and corruption** - "giving or receiving a financial or other advantage in connections with the improper performance of a position of trust, or a function that is expected to be performed impartially or in good faith". Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event. Bribery does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.

It is a common law offence of bribery to bribe the holder of a public office and it is similarly an offence for the office holder to accept a bribe.

An organisation is guilty of a corporate bribery offence if an employee, agent of 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 organisation. It is a statutory defence for the CCG to demonstrate that, despite a particular case of bribery, the CCG had adequate procedures in place to prevent persons associated with it from bribery.

Procedures to be put in place by the CCG to prevent bribery should be informed by six principles proportionate procedures, top-level commitment, risk assessment, due diligence, communication (including training) monitoring and review. For more information please refer to <http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf>.

Bribery prosecutions tend to be most commonly brought using specific pieces of legislation dealing with bribery, i.e. under the following:

- The Bribery Act 2010 <https://www.legislation.gov.uk/ukpga/2010/23/contents>



- the Anti-Terrorism, Crime and Security Act 2001.

8.3 The CCG has procedures in place that reduce the likelihood of fraud occurring. These include prime financial policies, documented procedures, a system of internal control (including Internal and External Audit) and a system of risk assessment. In addition, the CCG seeks to ensure that a comprehensive anti-fraud and bribery culture exists throughout the CCG via the appointment of a dedicated LCFS, in accordance with the NHS Counter Fraud Authority's Standards for Commissioners.

8.4 It is expected that Governing Body members 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.

## 9.0 Public Service Values

9.1 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:

Accountability	Everything done by those who work in the CCG must be able to stand the tests of parliamentary scrutiny, public judgements on property and professional codes of conduct.
Probity	Absolute honesty and integrity should be exercised in dealing with NHS patients, assets, employees, suppliers and customers.
Openness	The CCGs' actions should be sufficiently public and transparent to promote confidence between the CCG and its patients, employees and the public.

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

<i>Selflessness</i>	...should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends
<i>Integrity</i>	...should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties
<i>Objectivity</i>	... should, in carrying out public business, (including making public appointments , awarding contracts, or recommending individuals for rewards and benefits), make choices on merit
<i>Accountability</i>	...are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office
<i>Openness</i>	...should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest demands
<i>Honesty</i>	...have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest
<i>Leadership</i>	...should promote and support these principles by leadership and example

- 9.2 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.

## **10.0 Roles and Responsibilities**

### **10.1 Roles**

- 10.1.1 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.
- 10.1.2 The CFO has the overall responsibility for funds entrusted to the organisation. This includes instances of fraud, bribery and corruption. The CFO must ensure adequate policies and procedures are in place to protect the organisations and the public funds entrusted to it.
- 10.1.3 The CCG's CFO is liable to be called to account for specific failures in the CCG'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 of CCG employees. The CCG 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. Therefore, the CFO will monitor and ensure compliance with this policy.
- 10.1.4 The NHS Counter Fraud Authority has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS. All investigations will be handled in accordance with NHS Counter Fraud Authority guidance.

### **10.2 Employees**

For the purposes of this policy, 'Employees' includes all CCG staff and Governing Body members (including Co-Opted Members).

- 10.2.1 All employees should be aware that committing fraud and bribery (against the NHS or patients in our care) will normally, dependent upon the circumstances of the case, be regarded as gross misconduct thus 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.
- 10.2.2 CCG employees will not request or receive a bribe from anybody, nor imply that such an act might be considered. This means that you will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person as an incentive or reward to perform improperly your function or activities.
- 10.2.3 Employees must act in accordance with the CCG's Standards of Business Conduct, Gifts and Hospitality and Declaration of interest arrangements.
- 10.2.4 Employees also have a duty to protect the assets of the CCG including information, goodwill and reputation, as well as property.

- 10.2.5 Employees are expected to act in accordance with the standards laid down by their Professional Institute(s), where applicable.
- 10.2.6 The CCGs' Constitution and Prime Financial Policies place an obligation on all staff and Governing Body members to act in accordance with best practice. In addition, all CCG staff and Governing Body members must declare and register any interests that might potentially conflict with those of the CCG or the wider NHS.
- 10.2.7 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 the CCG 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.

- 10.2.8 When an employee suspects that there has been fraud or bribery, they must report the matter to the nominated Local Counter Fraud Specialist and/or the NHS Counter Fraud Authority. See section 10.4.

### **10.3 Managers**

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 and bribery therefore primarily rests with managers but requires the co-operation of all employees.

- 10.3.1 As part of that responsibility, line managers need to:

- inform staff of the CCG's Conflicts of Interest policy which incorporates gifts & hospitality and sponsorship, declarations of interest and counter fraud and bribery arrangements 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
- be aware of the CCGs' Anti-Fraud and Bribery Policy and the rules and guidance covering the control of specific items of expenditure and receipts
- identify financially sensitive posts
- ensure that controls are being complied with

- contribute to their director's assessment of the risks and controls within their business area, which feeds into the CCGs' and the Department of Health Accounting Officer's overall statements of accountability and internal control (as it applies to CCGs under the new legislation).

10.3.2 All instances of actual or suspected fraud or bribery, 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, and they have the clear responsibility to refer the concerns to the LCFS as soon as possible. See section 10.4.

#### **10.4 Local Counter Fraud Specialist (LCFS)**

10.4.1 The NHS Counter Fraud Authority's Standards for Commissioners require the CCG to appoint and nominate an LCFS. The LCFS's role is to ensure that all cases of actual or suspected fraud and bribery are notified to the CFO and reported accordingly.

10.4.2 The LCFS is responsible for taking forward all anti-fraud work locally in accordance with national NHS Counter Fraud Authority standards and reports directly to the CFO (or equivalent).

10.4.3 The LCFS works with key colleagues and stakeholders to promote anti-fraud work and effectively respond to system weaknesses and investigate allegations of fraud and corruption. This will include the undertaking of risk assessments to identify fraud, bribery and corruption risks within the CCG.

10.4.4 Investigation of the majority cases of alleged fraud within the CCG will be the responsibility of the LCFS. The NHS Counter Fraud Authority will only investigate cases which should not be dealt with by the CCG. Following receipt of all referrals, the NHS Counter Fraud Authority will add any known information or intelligence and based on this case acceptance criteria determine if a case should be investigated by the NHS Counter Fraud Authority.

10.4.5 The LCFS and the CFO (or equivalent), in conjunction with the NHS Counter Fraud Authority, will decide who will conduct the investigation and when/if referral to the police is required. Cases, for instance, where more than £100,000 possible loss is identified or where possible bribery is involved, may be investigated by the NHS Counter Fraud Authority (though the LCFS may assist); otherwise the investigation will normally be undertaken by the CCGs' own LCFS directly.

10.4.6 The LCFS will regularly report to the Chief Finance Officer on the progress of the investigation and when/if referral to the police is required.

10.4.7 The LCFS in consultation with the Chief Finance Officer will review the strategic objectives contained within the assurance framework to determine any potential fraud or bribery risks. Where risks are identified these will be included on the CCG's risk register so the risk can be proactively addressed.

#### **10.5. Chief Finance Officer (CFO)**

10.5.1 The CFO is provided with powers to approve financial transactions initiated by directorates across the CCGs. As part of this role the CFO is responsible for the maintenance and implementation of detailed financial procedures and systems which incorporate the principles of separation of duties and internal checks.

- 10.5.2 The CFO will report annually to the Governing Body on the adequacy of internal financial control and risk management as part of the Governing Body's overall responsibility to prepare a statement of internal control for inclusion in the CCG's annual report.
- 10.5.3 The CFO, in conjunction with the Accountable Officer, monitors and ensures compliance with the NHS Counter Fraud Authority's Standards for Commissioners regarding fraud and bribery.
- 10.5.4 The CFO, in consultation with the NHS Counter Fraud Authority 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.
- 10.5.5 The CFO or the LCFS will consult and take advice from the Head of HR if a member of staff is to be interviewed or disciplined. The CFO or LCFS will not conduct a disciplinary investigation, but the employee may be the subject of a separate investigation by HR.
- 10.5.6 The CFO will, depending on the outcome of investigations (whether on an interim/on-going or a concluding basis) and/or the potential significance of suspicions that have been raised, inform the Chair of the CCG and the Chair of the Audit and Governance Committee of cases, as may be deemed appropriate or necessary.
- 10.5.7 The CFO is also responsible for informing the Audit and Governance Committee of all categories of loss.

## **10.6 Senior Compliance Officer (SCO)**

- 10.6.1 The CCG has appointed the CFO who will be responsible for ensuring compliance with the requirements of the Bribery Act 2010, implementing anti-bribery guidelines and monitoring compliance. There is an anti-bribery programme at senior level supported by periodical reviews. The CFO will review annually the suitability, adequacy and effectiveness of the CCG's anti-bribery arrangements and implement improvements as and when appropriate.
- 10.6.2 The CFO directly reports to the Accountable Officer and once a year, the CFO reports the results of the reviews to the Governing Body.
- 10.6.3 Any incident or suspicion that comes to attention of the SCO will be passed immediately to the LCFS.

## **10.7 Internal and External Audit**

- 10.7.1 The main function of internal and external audit is to review controls and systems, ensuring compliance with financial instructions. It is their duty to bring any incident or suspicion to the attention of the LCFS immediately.

## **10.8 Human Resources (HR)**

- 10.8.1 HR (service provided through the Commissioning Support Unit – CSU) 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. HR is responsible for ensuring the appropriate use of the CCG's Disciplinary Procedure. The HR advisors 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.

10.8.2 HR 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 terms of their propriety and integrity. In this regard, temporary and fixed term contract employees are treated in the same manner as permanent employees.

## **10.9 Information Management & Technology**

10.9.1 The Director lead for Innovation 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 PDA use. HR will be informed if there is a suspicion that an employee is involved.

## **10.10 External Communications**

10.10.1 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 CFO or the Accountable Officer.

### **10.10.2 External Parties**

External organisations, contractors and sub-contractors working on behalf of the CCG are expected to maintain strong anti-fraud principles and have adequate controls in place to prevent fraud and bribery when handling public funds and dealing with customers/patients.

## **10.11 Training**

10.11.1 The CCGs will provide anti-fraud and anti-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 fraud and bribery related activity, and how employees may report suspicions of fraud and bribery.

## **11.0 Reporting Fraud, Bribery or other Illegal Acts**

11.1 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.

11.2 If any of the concerns mentioned in this document come to the attention of an individual, they must inform the Local Counter Fraud Specialist or the Chief Finance Officer immediately. Employees can also call the NHS Counter Fraud Authority Fraud Reporting Line on Freephone 0800 028 40 60 or using their online reporting tool at <https://cfa.nhs.uk/reportfraud> as an alternative to internal reporting procedures should staff wish to remain anonymous. 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 caller handlers.

Contact information for the above is listed in Appendix A.

- 11.3 Appendix A is designed to be a reminder of the key “what to do” steps - as well as contact details - to be taken where fraud or other illegal acts are discovered or suspected.
- 11.4 Managers are encouraged to copy this to staff and to place it on staff notice boards in their department.
- 11.5 Anonymous letters, telephone calls etc. are received from time to time from individuals who wish to raise matters of concern, but not through official channels. While the allegations may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and should always be taken seriously.
- 11.6 Sufficient enquiries will be made by the LCFS to establish whether or not there is any foundation to the allegations. If the allegations are found to be malicious, they will also be considered for further investigation as to their source.
- 11.7 To support the reporting of fraud using the NHSCFA fraud reporting process (as outlined above) all employees should be aware of NHS Improvement and NHS England’s: Freedom to speak up: raising concern’s (whistleblowing) policy for the NHS and NHS England’s Freedom to speak up in Primary Care: Guidance to primary care providers on supporting whistleblowing in the NHS. These all form the minimum standards for raising of concerns in the NHS for the benefit of all patients in England.

(NHS England’s Guidance Freedom to speak up in primary care: Guidance to primary care providers on supporting whistleblowing in the NHS, November 2017

<https://www.england.nhs.uk/wp-content/uploads/2016/11/whistleblowing-guidance.pdf>

## **12.0 Disciplinary Action**

- 12.1 The disciplinary procedures of the CCGs must be followed where an employee is suspected of being involved in a fraudulent or other illegal act. Disciplinary action will be initiated where negligent action has led to fraud being perpetrated.
- 12.2 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). In the event of doubt, legal statute shall prevail. <S:\BHRCCGs - All Staff Policies, procedures and processes\HR\HR07 BHRCCGs Disciplinary Policy.pdf>

## **13.0 Police Involvement**

- 13.1 In accordance with the NHS Counter Fraud Manual, the CFO in conjunction with the LCFS and the NHS Counter Fraud Authority, will decide whether a case should be referred to the police. HR and line managers will be involved as necessary. Any referral to the police will not prohibit action being taken under the CCG’s disciplinary procedures.

## **14.0 Sanctions and Recovery of Losses Incurred by Fraud or Bribery**

- 14.1 In cases of serious fraud and bribery, parallel sanctions may be 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/regulatory bodies – if appropriate. While multiple sanctions may be pursued at the same time in relation to the same incident, the processes involved should be run separately, to maintain their integrity and ensure that all decision making is

impartial and independent. This is because the purposes, rules of evidence, standards of proof and outcomes for different types of sanction differ significantly.

- 14.2 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' court and Crown court). Outcomes can range from a criminal conviction to fines and imprisonment.
- 14.3 The civil recovery route is also available to the CCG's if this is cost-effective and desirable for deterrence purposes. This could involve a number of options such as applying through the Small Claims Court and/or recovery through debt collection agencies. Each case needs to be discussed with the CFO to determine the most appropriate action.
- 14.4 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 CCG. In all cases, current legislation must be complied with.
- 14.5 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 NHS Counter Fraud Authority 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.
- 14.6 Redress allows resources that are lost to fraud and bribery to be returned to the NHS for use as intended, for 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 Proceeds of Crime Act 2002 (POCA). This means that a person's money or assets are 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. When considering seeking redress recovery may also be sought from on-going salary payments or pensions.
- 14.7 In some cases (taking into consideration all the facts of a case), it may be that the CCG, under guidance from the LCFS and with the approval of CFO, decides that no further recovery action is taken.
- 14.8 Action to recover losses should be commenced as soon as practicable after the loss has been identified. Given the various options open to the CCG, it may be necessary for various departments to liaise about the most appropriate option.
- 14.9 In order to provide assurance that policies were adhered to, the CFO will maintain a record highlighting when recovery action was required and issued and when action taken. This will be reviewed and updated on a regular basis.



## **15.0 Monitoring Effectiveness**

- 15.1 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 CCG will ensure that appropriate recommendations and action plans are developed and progress of the implementation of recommendations is tracked.
- 15.2 As a result of reactive and proactive work completed throughout the financial year, closure reports are prepared and issued by the LCFS. System and procedural weaknesses are identified in each report and suggested recommendations for improvement are highlighted. The CCG, together with the LCFS will track the recommendations to ensure that they have been implemented.
- 15.3 The CCG is required to complete the NHSCFA Self Review Tool and Annual Report and submit these annually to NHSCFA and the lead commissioner. The CCG must mark itself against each standard in the Standards for Commissioners as either Compliant (green), Partially Compliant (Amber) or Non-Compliant (Red). A work-plan is required to address all non-compliant standards which will be monitored by the Audit Committee. An assessment process may be conducted by NHSCFA Quality and Compliance which will evaluate the CCGs' effectiveness in dealing with the fraud, bribery and corruption risks it faces through one of four types of assessment: full, focused, thematic or triggered.

## **16.0 Additional Information**

- 16.1 Any abuse or non-compliance with this policy or procedures will be subject to a full investigation and appropriate disciplinary action, and where abuse or non-compliance constitutes a criminal offence, appropriate criminal sanctions may be applied.
- 16.2 This policy will be subject to a bi-annual review.

## **17.0 Related Policies**

- Freedom to speak up: raising concerns (whistleblowing) Policy
- Conflicts of Interests Policy incorporating gifts, hospitality and sponsorship
- Disciplinary Policy
- Complaints Policy
- Constitution
- Prime Financial Policies

## APPENDIX A-What to do

### This includes:

### What to do:

### DO

#### **Fraud**

Any deliberate intention to **make a gain for themselves or anyone else, or inflicting a loss (or a risk of loss) on another i.e. the NHS.** This could be through the falsification of any records or documents or obtaining any service(s) and/or failing to disclose information.

#### **Bribery**

Anything that **induces or intends to induce improper performance.** This covers offering, promising or giving a bribe, requesting, agreeing to receive or accepting a bribe, and failing to prevent bribery. Where someone is influenced by bribery, payment of benefit-in-kind to **unreasonably use their position** to give some advantage to another.

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:**

Erin Sims 07800 617 456  
[erin.sims@nhs.net](mailto:erin.sims@nhs.net)

Gemma Higginson 07800 718 680  
[gemma.higginson1@nhs.net](mailto:gemma.higginson1@nhs.net)

- **Chief Finance Officer**

Henry Black  
 Tel: 020 3816 3158

- **The NHS Fraud Reporting Line**

**0800 0284060**

**Or online** <https://cfa.nhs.uk/reportfraud>  
 0207 404 6609

Confidentiality will be maintained and all matters will be dealt with in accordance with the NHS Counter Fraud standards.

You will not suffer any recriminations as a result of raising concerns – You have protection under The Public Interest Disclosure Act 1998.

✓ Tell someone!

*Confidentiality will be respected.*

*Any delay might cause the organisation to suffer further financial loss.*

✓ Make a note of your concerns!

*Note all relevant details, what was said, the date time and names of all parties involved.*

✓ Keep a record or copy any documentation that arouses your suspicion.

### DO NOT

✗ Confront the individual(s) with your suspicions.

✗ Try to investigate the matter yourself.

✗ Contact the police directly.

✗ Convey your suspicions to anyone other than those with the proper authority as listed.

✗ **Do nothing!**

## Appendix B - Equality Impact Assessment

### Title of the change proposal or policy:

Anti -fraud & Bribery Policy

### Brief description of the proposal:

This document sets out the CCGs' policy and advice to employees in dealing with fraud or suspected fraud. The policy details the arrangements made by the CCGs for such concerns to be raised by employees or members of the public.

### Name and role of staff completing this assessment:

#### Date of Assessment:

Anna McDonald, Business Manager

### Please answer the following questions in relation to the proposed change:

#### Will it affect employees, customers, and/or the public? Please state which.

This policy applies to all BHR CCGs' employees, members of the Governing Body and its committees, sub-committees, working groups and any person working on behalf of BHR CCGs, employees and committee members of organisations funded by the CCGs, employees and principals of partner organisations and agency staff. It also applies to consultants, vendors, contractors and any other parties who have a business relationship with the BHR CCGs and service users.

#### Is it a major change affecting how a service or policy is delivered or accessed?

No.

#### Will it have an effect on how other organisations operate in terms of equality?

No.

### If you conclude that there will not be a detrimental impact on any equality group, caused by the proposed change, please state how you have reached that conclusion:

There is no anticipated detrimental impact on any equality group. The policy adheres to the NHSE current policy and organisational arrangements. It makes all reasonable provision to ensure equity to all individuals. There are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic.