

South and South West Lincolnshire Clinical Commissioning Group

Countering Fraud, Bribery and Corruption Policy March 2017

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South West Lincolnshire Clinical Commissioning Group

Version Control Sheet

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1	Countering Fraud & Corruption Policy, Strategy and Guidance Notes	NHS Lincolnshire Policy Transferred	August 2011	Jim Gallagher
2		Extended to March 2013 to enable full review incorporating future working requirements	September 2012	S Barnes
3	Entire document replaced	Replacement of previous policy	January 2016	Paula Pilkington
4		Number of areas updated throughout to reflect recent governance arrangements within the CCG.	March 2017	Jo Wright
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1 Introduction

1.1 General

South West and South Lincolnshire CCGs have a zero tolerance stance to all forms of fraud, bribery and corruption. It is essential that NHS organisations ensure both that NHS resources are not diverted from patient care and that action is taken to maintain public confidence in our adherence to the highest ethical standards. This document sets out the CCGs policy for combating the threat posed by fraud, bribery and corruption - both from within the organisation and from external sources.

Fraud, Bribery and Corruption identified by NHS Counter Fraud Authority in England during 2015 was £11.9m, of which £2.9m was recovered. This is a loss of £9m which equates to circa 3,600 operations, or 250 nurses. Every employee within the NHS has a duty to contribute towards prevention of fraud within the NHS and to report suspected fraud.

It is therefore important to have a co-ordinated framework for tackling fraud, bribery and corruption. NHS Counter Fraud Authority is the national organisation which has responsibility for all policy and operational matters relating to the prevention, detection and investigation of the crimes of fraud, bribery and corruption in the NHS. The NHS strategy is outlined within *the NHS Counter Fraud Authority document "Tackling crime against the NHS: A strategic approach."* All NHS organisations have responsibility for working within the NHS Counter Fraud Authority Guidance.

South West and South Lincolnshire Clinical Commissioning Groups (CCGs) is committed to reducing fraud, bribery and corruption in the NHS. This CCGs policy has been based on the NHS Counter Fraud Authority template and takes into account the self-assessment framework and the current governance structures which the CCGs operate, to ensure as far as possible that the policy is effectively embedded.

The strong focus is on prevention and early detection by setting the right culture and embedding robust systems and processes. Should fraud, bribery or corruption be identified, the CCGs will seek the appropriate disciplinary, regulatory, civil and criminal sanctions against fraudsters and where possible will attempt to recover losses.

This policy includes a governance framework for identification and prevention and defines a process should fraud, bribery and corruption be identified.

1.2 Aim and Objectives

The primary aim of this policy is to:

- Review, manage and reduce potential crime risks which this organisation faces to ensure valuable resources can be directed to, not diverted from, patient care. The focus is on prevention.

We will achieve this aim via the following objectives:-

- When fraud, bribery and corruption is identified, provide a clear process for reporting and responding to such criminal activity including the pursuit of sanctions and recovery of resources.
- Encourage a culture of vigilant awareness as to the potential criminal activity so that system and processes can include validation checks from the outset as part of targeted prevention.
- Provide a governance framework for identifying, reporting and minimising potential fraud, bribery and corruption opportunities which clearly defines responsibility for individuals and groups within the organisation.

1.3 Inside of Scope

The policy applies to:-

- All employees of the CCGs
- Primary Care General Practices aligned to the CCGs
- Governing Body and relevant Committees defined within the governance section
- Commissioning Support Services

1.4 Outside of Scope

NHSE retains responsibility for oversight of Primary Care fraud.

2 Definitions

2.1 Fraud

The legal dictionary definition of fraud is *“the intentional use of deceit, a trick or some dishonest means to deprive another of his/her/its money, property or a legal right”*

The most common fraud offences under the Fraud Act 2006 involve:

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

2.2 Bribery

The legal dictionary definition of bribery is *“The offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties.”*

2.3 Corruption

The legal dictionary definition of corruption is *“An act done with an intent to give some advantage inconsistent with official duty and the rights of others. It includes bribery, but is more comprehensive; because an act may be corruptly done, though the advantage to be derived from it be not offered by another.”*

3 Roles and Responsibilities

3.1 CCG Governing Bodies

The CCG Governing Bodies have the overall responsibility for funds entrusted to it. This includes instances of fraud, bribery and corruption. The Governing Bodies delegates responsibility to the Audit and Risk Committee for assurance that adequate systems are in place for prevention, identification and reporting of fraud and also to ensure appropriate action taken to respond to any cases of fraud including the recovery of any losses.

3.2 Chief Finance Officer

The Chief Finance Officer (CFO) is the senior responsible officer within the CCGs with responsibility for countering fraud, bribery and corruption. The CFO will discharge this responsibility by ensuring adequate policies and procedures are in place to protect the organisation and the public funds it receives.

The CFO must also ensure that:-

- The financial policies including Prime Financial Policies, Detailed Financial Limits, Scheme of Reservation and Delegation and Standing Orders give clear limits and financial framework within which groups and individuals within the organisation must operate.
- All financial procedures and systems must apply the principles of separation of duties and internal checks to supplement those procedures and systems.
- There is a formal process for declaration of interest.
- The Commissioning Support Service is aware of its responsibilities and this is more fully described in section 3.13.

The CFO will prepare the Annual Governance Statement which will be reported annually to the Governing Bodies and Audit and Risk Committee and published in the CCGs annual reports and accounts.

The CFO will also compile the annual Countering Fraud, Bribery and Corruption Report, and will refer to the outcome of initial investigations if applicable. The CFO will also promptly 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.

3.3 Audit and Risk Committee's

The Audit and Risk Committees are responsible for assuring and advising the Governing Bodies that the CCGs have adequate governance and systems in place for prevention, identification and reporting of fraud and also to ensure appropriate action taken to respond to any cases of fraud including the recuperation of any

losses. The Audit and Risk Committee will be supported by the Joint Risk Management Group, the CCGs Local Counter Fraud Specialists, internal and external auditors and the Chief Finance Officer in fulfilling its obligation.

3.4 Joint Risk Management Group

The Joint Risk Management Group (JRMG) is a Committee reporting to the Audit and Risk Committee's. The members of the committee are officers of the CCGs. It has responsibility for reviewing risks to the CCGs and co-ordinating responses to risk management. As fraud, bribery and corruption are a potential risk, the JRMG is ideally placed to include co-ordinated review and response within its remit and to support the Audit and Risk Committee's fulfil its duty in assuring the Governing Bodies that the CCGs have appropriate governance arrangements which are duly adhered to.

3.5 Primary Care Commissioning Committee

The Primary Care Commissioning Committee may support the JRMG and Local Counter Fraud Specialist for fraud, bribery and corruption allegations and investigation linked specifically to primary care.

3.6 Internal and external audit

Internal and external audit services have responsibility to review controls and systems to ensure compliance with financial instructions. They also have a duty to pass on any suspicions of fraud, bribery or corruption to the Local Counter Fraud Specialist (LCFS) and the Chief Finance Officer.

3.7 Human resources

The CCGs must include in its contract with a Commissioning Support Service a requirement that Human Resources will support where required suspected cases of fraud, bribery and corruption, including liaison with the LCFS and the conduct of any investigation. The CSS must ensure that HR services have appropriate protocols in place to cover this.

3.8 Local Counter Fraud Specialist

The Local Counter Fraud Specialist (LCFS) is responsible for taking forward all anti-fraud work within the CCGs in accordance with national standards and reports directly to the Chief Finance Officer.

Adhering to NHS Counter Fraud Authority standards is important in ensuring that the organisation has appropriate anti-fraud, bribery and corruption arrangements in place and that the LCFS will look to achieve the highest standards possible in their work.

The LCFS will work with key colleagues and stakeholders to promote anti-fraud work, apply effective preventative measures and investigate allegations of fraud and

corruption. The LCFS will conduct risk assessments in relation to their work to prevent fraud, bribery and corruption.

3.9 Area Anti-Fraud Specialists

Area Anti-Fraud Specialists (AAFS) are the frontline face of NHS Counter Fraud Authority 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.

AAFS have a role to 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. It also ensures that all information and intelligence gained from local investigative work is reported and escalated as appropriate at both local and national level so that fraud trends can be mapped and used to fraud-proof future policies and procedures.

3.10 CCG Managers

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

Managers must ensure that members of their team have received adequate training for systems and processes and to call on internal / external support for training as appropriate. Counter Fraud training should be included in induction due to the nature of the NHS.

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.

Managers should report any instances of actual or suspected fraud, bribery or corruption in line with the process under section 4.3. It is important that managers do not investigate any suspected financial crimes themselves.

Managers should support the organisation by ensuring they conduct risk assessments for the areas they are responsible and mitigate where risks are identified.

3.11 All CCG Employees

All CCG employees are required to comply with the CCGs 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). Staff have a responsibility to protect the NHS and the CCGs from these crimes.

Employees involved in or who manage internal control systems should receive adequate training and support in order to carry out their responsibilities and should raise with their line manager if they have not received training or do not feel competent in a particular area.

An employee, who suspects that fraud, bribery or corruption has taken place, should ensure it is reported to the CFO, LCFS and/or to NHS Counter Fraud Authority as explained in section 4.3.

3.12 Information Management and Technology

The Computer Misuse Act 1990 states that the fraudulent use of information technology will be reported by the SIRO (Senior Information Responsible Officer) to the LCFS. Within South West and South Lincolnshire CCGs, the SIRO is the Chief Finance Officer.

3.13 Commissioning Support Services (CSS)

Organisation(s) providing commissioning support services to the CCGs must be fully compliant with their legal obligations in responding to fraud bribery and corruption and work within the NHS Counter Fraud Authority framework. The CCGs senior officer who has responsibility for fraud bribery and corruption is required to make clear to the CSS the expectations regarding working with the CCGs to support identification and reporting of fraud bribery and corruption and to ensure that the CSS fully supports the CCGs in responding to any concerns at all stages in the process.

CSS staff are employed by the CSS and may be working on site with the CCGs or remotely. Whilst CSS staff will be required to adopt the policies of their employing organisation, the CCGs senior officers with responsibility for fraud, bribery and corruption must liaise with senior officers in the CSS to ensure that there is clarity for the CSS staff on the identification, reporting and that support arrangements to the CCG are adequately protected.

3.14 Other Service Providers with whom the CCGs has a contract.

The CCGs expect all contractors to comply with their own internal countering fraud, bribery and corruption policies which are predominately governed by NHS Counter Fraud Authority, and to work within the terms of the national model contract to assist the CCG in all matters relating to misuse of CCGs resources including actively recovering the resources. The monitoring of providers shall be in accordance with the terms of the national model contract and the protocols in place within the CCGs.

4 The Fraud and Corruption Response Plan

4.1 Risk Assessment

The organisation should conduct an annual risk assessment in line with that developed across Lincolnshire CCGs supported by LCFS which is based on national guidelines. This assesses how bribery and corruption may affect the organisation. As part of the annual assessment the organisation should ensure that proportionate procedures have been put in place to mitigate identified risks.

4.2 Conflicts of Interest

The CCGs Corporate Secretary/Manager is required to ensure that a formal register of declaration of interest is compiled and updated on a regular basis.

At the commencement of every CCGs Committee meetings, the Chair of the meeting is required to invite declarations of interest from all those present.

In the conduct of their work all employees must declare any gifts received, to the CCGs Corporate Secretary/Manager, who will retain a register of all such gifts and advise the employee on action following receipt.

Items of low monetary/ interest value such as pens which are handed out at conferences are excluded from the need to declare.

Full details of declarations of interest, gifts, sponsorship and hospitality can be found in the corporate office.

4.3 Reporting

Developing and embedding a culture of honesty, transparency and openness provides an environment for staff to openly share any concerns which they may have in identifying and reporting potential fraud and to effectively engage staff to enhance robust governance processes.

If an individual suspects fraud, bribery or corruption the reporting process is as follows:

<i>STEP 1</i>	Promptly inform the CFO or LCFS of the concerns. If you would prefer to remain anonymous, you could use the NHS Counter Fraud Authority Freephone fraud reporting line. CONFIDENTIALITY WILL BE MAINTAINED AT ALL TIMES
<i>STEP 2</i>	The LCFS will promptly advise the Chief Finance Officer of the allegations, unless the CFO might in some way be implicated in which the Audit and Risk Committee Chair will be informed. OR The CFO will promptly advise the LCFS of the allegations.

STEP 3	<p>The CFO / Audit and Risk Committee Chair will be responsible for assessing if any immediate action is required to mitigate the risk and acting appropriately.</p> <p>The CFO/Audit and Risk Committee Chair will contact the LCFS and agree on an appropriate course of action, potentially including an investigation.</p>
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Employees should also be aware that suspected fraud, bribery and corruption can be reported to NHS Counter Fraud Authority using the NHS Fraud and Corruption Reporting Line on free-phone 0800 028 40 60 or by filling in an online form at www.reportnhsfraud.nhs.uk, as an alternative to internal reporting procedures and if staff wish to remain anonymous.

Annex 1 provides a reminder of the key contacts and a checklist of the actions to take if fraud, bribery or corruption is discovered or suspected.

All reports of fraud and corruption will be taken seriously and thoroughly investigated and whistle-blowers (those reporting potential fraud, bribery and corruption) will be supported and given all reasonable protection of the organisation throughout the process.

4.4 Disciplinary Action

Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act. This will be taken in line with the CCGs policy and procedure on disciplinary action.

5 Review

5.1 Monitoring and Auditing of Policy Effectiveness

Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. System controls and processes should be reviewed on an on-going basis to identify weaknesses in processes and strive to make continuous improvements.

The CCGs must also ensure that there is a robust process to monitor and act on the finding of LCFS, and respond to internal and external audit advice.

5.2 Dissemination of the Policy

This policy will be disseminated by an e-mail from the CFO to all members of staff within 20 working days of being approved by the Governing Bodies / Audit and Risk Committee. This will include CSS personnel whom work on site of the CCGs and CSS senior management. The policy will also be available on the CCGs website and accessible to all stakeholders.

5.3 Review of the Policy

The Chief Finance Officer is responsible for ensuring this policy is reviewed on an annual basis and link with any organisational level guidelines.

6 Related Policies

The following internal policies are relevant to this policy:-

- Gifts and Hospitality
- Standard of Business Conduct and Conflicts of Interest Policy
- Corporate business Continuity Plan
- Risk Strategy and Management Framework
- Standing Orders
- Prime Financial Policies
- Detailed Financial Limits
- Scheme of Reservation and Delegation
- Whistleblowing

Appendix 1

Checklist.

What should you do if you suspect a fraud?

Every NHS Organisation has one or more dedicated professionals who will prevent, detect and investigate fraud. You can contact the fraud team in absolute confidence.

DO:

- Report any concerns to your Chief Finance Officer or Local Counter Fraud Specialist named below.
- Report your concerns as soon as possible.

DON'T:

- Ignore your concerns.
- Investigate anything yourself.
- Put yourself in any danger.
- Tell anyone – even your line manager until we (LCFS) have been able to prove they are not involved in the fraud.

REMEMBER:

We all have a responsibility to report any concerns about fraud, bribery and corruption in the NHS.

Useful Contacts

To report any concerns or suspicions about fraud, please contact either the Chief Finance Officer, the LCFS team or NHS Counter Fraud Authority.

Chief Finance Officer	Jo Wright T: 01476 406578 M: 07500 106 892 E: jo.wright@southwestlincolnshireccg.nhs.uk
Local Counter Fraud Specialist team	Neil Mohan T: 01509 604 029 E: neil.mohan@nhs.net Juliette Meek T: 01603 883099 M: 07802 658845 E: juliette.meek@nhs.net
NHS Counter Fraud Authority	NHS Fraud and Corruption Reporting Line on Freephone 0800 028 40 60 OR online at www.reportnhsfraud.nhs.uk