



COUNTER FRAUD, BRIBERY AND CORRUPTION POLICY

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Applicable to:	<ul style="list-style-type: none">• CCG employees and individuals working for the CCG under a contract for services• Members of the Governing Bodies and their committees and sub-committees, members of the Clinical Boards / Executive and members of the CCG other committees and sub-committees• CCG members: GP partners / directors and any other practice staff involved with the CCG [in connection only with their role or involvement in with the CCG]
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Version Control

Please note that the CCG website and Intradoc versions are the only versions that are 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 Policy Statement

NHS Bradford District and Craven CCG is committed to reducing the level of fraud, bribery and corruption within the NHS to an absolute minimum and keeping it at that level, freeing up public resources for better patient care. When fraud is proven, the CCG will seek the appropriate disciplinary, regulatory, civil and criminal sanctions, and will attempt to recover losses where possible.

1.2 Aims and objectives

This policy relates to all forms of fraud, bribery and corruption and is intended to provide direction and help to employees who may identify suspected illegality. It provides a framework for responding to suspicions of fraud, bribery and corruption; advice and information, and the implications of an investigation. It is not intended to provide a comprehensive approach to preventing and detecting fraud, bribery and corruption. The overall aims of this policy are to:

- improve the knowledge and understanding of everyone in and associated with the CCG, irrespective of their position, about the risk of fraud, bribery and corruption within the organisation and its unacceptability
- assist in promoting a climate of openness and an environment where people 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, bribery and corruption

1.3 Scope

This policy applies to:

- CCG employees and individuals working for the CCG under a contract for services
- Members of the Governing Body and their committees and sub-committees, members of the Senior Leadership Team and members of the CCG other committees and sub-committees

2 Definitions

2.1 NHS Counter Fraud Authority

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 and that any investigations will be handled in accordance with NHS Counter Fraud Authority guidance.

2.2 Fraud

The Fraud Act 2006 came into force on 15th January 2007. The Act repeals and replaces the eight *deception* offences in the Theft Acts 1968-1996. It is no longer necessary to prove that the victim was deceived; the focus is now on the dishonest behaviour of the suspect and their intent to make a gain or cause a loss.

The offence of fraud can be committed in three ways:

- 1) Fraud by false representation (s.2) – lying about something using any means, e.g. by words or actions
- 2) Fraud by failing to disclose (s.3) – not saying something when you have a legal duty to do so
- 3) Fraud by abuse of a position of trust (s.4) – abusing a position where there is an expectation to safeguard the financial interests of another person or organisation.

It should be noted that all offences under the Fraud Act 2006 occur where the act or omission is committed dishonestly and with intent to cause a gain or loss. The gain or loss does not have to succeed, so long as the intent is there.

2.3 Bribery and corruption

The Bribery Act 2010, which came into effect on 1st July 2011, makes it a criminal offence to give, promise or offer a bribe, and to request, agree to receive or accept a bribe, either at home or abroad. It also includes bribing a foreign official. It has increased the maximum penalty for bribery to 10 years imprisonment, with an unlimited fine.

In addition the Act introduces a corporate offence of failing to prevent bribery by the organisation not having adequate preventative procedures in place (“the section 7 offence”). An organisation may avoid conviction if it can show that it had procedures and protocols in place to prevent bribery. The corporate offence is not a stand-alone offence, but always follows from a bribery and/or corruption offence committed by an individual associated with the company or organisation in question.

Corruption can be broadly defined as the offering or acceptance of inducements, gifts, favours, payment or benefit-in-kind which may influence the action of any person. Corruption 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.

3 Roles and responsibilities

Through our day-to-day work, we are in the best position to recognise any specific risks within our own areas of responsibility. We also have a duty to ensure that those risks – however large or small – are identified and eliminated. Where you believe the opportunity for fraud exists, whether because of poor procedures or oversight, you should report it to the Local Counter Fraud Specialist (LCFS) or the NHS Fraud and Corruption Reporting Line.

This section states the roles and responsibilities of employees and other relevant parties in reporting fraud or other irregularities.

The CCG will take all necessary steps to counter fraud and corruption in accordance with this policy, the *NHS Counter Fraud and Corruption Manual*, and any other relevant guidance or advice issued by NHS Counter Fraud Authority.

3.1 Chief Officer

The Chief Officer has the 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 and the public funds entrusted to it. The Chief Officer will report annually on the adequacy of the internal control and risk management framework via the Annual Governance Statement.

3.2 Chief Finance Officer

The Chief Finance Officer (CFO) is provided with powers to approve financial transactions across the organisation.

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

The CFO 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 significant or where the incident may lead to adverse publicity. If an investigation is deemed appropriate, the Chief Finance Officer will delegate to the CCG's LCFS who has responsibility for leading the investigation, whilst retaining overall responsibility himself/herself.

3.3 Internal and external audit

The role of internal and external audit includes reviewing controls and systems and ensuring compliance with financial instructions. Any incident or suspicion that comes to internal or external audit's attention must be passed immediately to the nominated LCFS. The outcome of the investigation may necessitate further work by internal or external audit to review systems.

3.4 Human resources (HR)

The LCFS will agree the arrangements with the Chief Finance Officer for procedures for liaising with and involving HR in suspected employee/contractor fraud. HR will support the CCG as appropriate in ensuring that disciplinary procedures are appropriately applied. The HR department will advise those subject to an investigation on matters of employment law and other procedural matters, such as disciplinary and complaints procedures. The LCFS and the CCG provider of HR services will liaise closely on fraud investigations to ensure that any parallel sanctions (i.e. criminal, civil and disciplinary sanctions) are applied effectively and in a coordinated manner.

3.5 Local Counter Fraud Specialist

The LCFS is responsible for taking forward all counter-fraud work locally in accordance with national standards and reports directly to the CFO.

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

The LCFS will:

- ensure that the Chief Finance Officer is informed about all referrals/cases
- be responsible for the day-to-day implementation of counter-fraud, bribery and corruption activity and, in particular, the investigation of all suspicions of fraud, bribery and corruption
- in consultation with the CFO, report any case to the police or NHS Counter Fraud Authority as agreed and in accordance with the *NHS Counter Fraud and Corruption Manual*
- report any case and the outcome of the investigation through NHS Counter Fraud Authority's Case Management System
- ensure that other relevant parties are informed where necessary. Human Resources (HR) will be informed if an employee is the subject of a referral
- ensure that any system weaknesses identified as part of an investigation are followed up with management and reported to internal audit and the NHS Counter Fraud Authority
- adhere to the Counter Fraud Professional Accreditation Board (CFPAB)'s Principles of Professional Conduct as set out in the *NHS Counter Fraud and Corruption Manual*

3.6 Freedom To Speak Up Guardian (FTSU)

FTSU guardians have a key role in helping to raise the profile of raising concerns in their organisation and provide confidential advice and support to staff in relation to concerns they have about **risk, malpractice or wrongdoing** if staff think it is harming the service we deliver.

Guardians don't get involved in investigations or complaints, but help to facilitate the raising concerns process where needed, ensuring organisational policies are followed correctly. The Guardian will liaise directly with the CCG's nominated Counter Fraud Specialist where required to ensure the correct reporting procedure is followed.

If any employee raises a genuine concern under this policy, they will not be at risk of losing their job or suffering any form of reprisal as a result. The CCGs will not tolerate the harassment or victimisation of anyone raising a concern. Nor will the CCG tolerate any attempt to bully an employee into not raising such concerns. Such behaviour is a breach of our values as an organisation and, if upheld following investigation, could result in disciplinary action.

Provided the employee is acting honestly, it does not matter if they are mistaken or if there is an innocent explanation for their concerns.

The CCG's FTSU Guardians are: **To be confirmed when the Whistleblowing & Raising Concerns Policy is updated**

3.7 Managers

Managers must be vigilant and ensure that procedures to guard against fraud, bribery and corruption are followed. They should be alert to the possibility that unusual events or transactions could be symptoms of fraud, bribery or corruption, and any such instances must be reported immediately to the nominated LCFS.

Managers must instil and encourage a counter-fraud, bribery and corruption culture within their team and ensure that information on procedures is made available to all employees. The LCFS will proactively assist the encouragement of a counter-fraud culture by undertaking work that will raise fraud awareness.

All instances of actual or suspected fraud or corruption which come to the attention of a manager must be reported immediately. It is appreciated that some employees will initially raise concerns with their manager. However, in such cases, managers must not attempt to investigate the allegation themselves; they have the clear responsibility to refer the concerns to the LCFS as soon as possible.

Line managers at all levels have a responsibility to ensure that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively.

As part of that responsibility, line managers need to:

- ensure that all employees for whom they are accountable are made aware of the requirements of this 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
- take responsibility (together with HR) for the enforcement of disciplinary action for staff who do not comply with policies and procedures.

3.8 All employees

The CCG's Standing Orders and Standing Financial Instructions place an obligation on all employees and governing body members to act in accordance with best practice.

Employees are expected to act in accordance with the standards laid down by their professional institutes, where applicable, and have a personal responsibility to ensure that they are familiar with them.

Employees also have a duty to protect the assets of the CCG, including information, goodwill and property.

In addition, all employees have a responsibility to comply with all applicable laws and regulations relating to ethical business 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:

- avoid acting in any way that might cause others to allege or suspect them of dishonesty
- behave in a way that would not give cause for others to doubt that the CCG's 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.

If an employee suspects that there has been fraud or corruption, or has seen any suspicious acts or events, they must report the matter to the nominated LCFS

3.9 Associate Director: Digital

The Computer Misuse Act became law in August 1990. Under the Act, hacking and the introduction of viruses are criminal offences.

The Computer Misuse Act (1990) recognises the following 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, e.g. hacking into the bank's computer and wanting to increase the amount in your account.
- Altering computer data without permission, e.g. writing a virus to destroy someone else's data, or actually changing the money in an account.

The Associate Director: Digital will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. HR will also be informed if there is a suspicion that an employee is involved.

4 The Response Plan

4.1 Reporting fraud or corruption

This section outlines the action to be taken if fraud, bribery or corruption is discovered or suspected.

If an employee has any of the concerns mentioned in this document, they must inform the nominated LCFS or the CCG's Chief Finance Officer immediately, unless the Chief Finance Officer or LCFS is implicated. If that is the case, they should report it to the Chair or Chief Officer, who will decide on the action to be taken.

Form 1 provides a reminder of the key contacts and a checklist of the actions to follow if fraud, bribery and corruption, or other illegal acts, are discovered or suspected. Managers are encouraged to copy this to staff and to place it on staff notice boards in their department.

An employee can contact any governing body member of the CCG to discuss their concerns if they feel unable, for any reason, to report the matter to the LCFS or Chief Finance Officer.

Suspected fraud, bribery and corruption can also be reported using the NHS Fraud and Corruption Reporting Line on freephone 0800 028 40 60 or by filling in an online form at www.reportnhsfraud.nhs.uk, as an alternative to internal reporting procedures and if staff wish to remain anonymous.

All reports of fraud, bribery and corruption will be taken seriously and thoroughly

investigated.

4.2 Disciplinary action

Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act. Reference should be made to the CCG's disciplinary policy.

4.3 Recovery of losses

The CCG will take all necessary steps to recover financial losses in cases of Fraud, Bribery or Corruption that are investigated by the LCFS or NHS Counter Fraud Authority where a loss is identified. Each instance will be assessed on a case by case basis and appropriate sanctions and redress will be sought.

There is a range of sanctions that can be applied to those who commit crimes against the CCG, whether they are patients, members of the public or staff. In terms of patients and the public, this primarily consists of the criminal and civil law. When fraud, bribery or corruption takes place in a healthcare setting, administrative action can also be considered; for example, withdrawal of treatment and removal from a practitioner's list. For staff and professionals, disciplinary and professional regulatory processes may be appropriate in addition to criminal and civil sanctions.

4.4 Criminal Proceedings

In cases of fraud, bribery and corruption it is recommended that parallel sanctions are applied. For example: disciplinary action relating to the role of the colleague within the organisation; use of civil law to recover lost funds; and use of criminal law to apply an appropriate criminal penalty upon the individual(s), and / or a possible referral of information and evidence to external bodies (for example professional bodies,) where appropriate.

Any action taken to seek recovery of losses will be approved and agreed with the Chief Finance Officer.

Where the LCFS has sufficient evidence that financial loss has occurred due to a result of fraudulent activity the case will be reviewed by the Crown Prosecution Service (CPS) (the decision to progress a case lies with the CPS). When the CPS decides not to pursue a criminal prosecution and the LCFS consider this is not the right course of action the LCFS will liaise with the CCG's Senior Management Team who will determine whether independent (civil action) should be taken by the Organisation.

4.5 Claims for compensation / damages

The CCG will, where appropriate seek financial recovery following a conviction via a compensation order with regard to the loss caused to the victim by the offence(s) charged and/or any other offences taken into consideration by the Court in determining sentence. A compensation order can be made in addition to, or instead of any other penalty.

4.6 Civil proceedings

The CCG will consider a civil claim with the objective of financial recovery where financial redress via the criminal route is not thought appropriate, or where the CCG/victim was not (fully) compensated following a criminal conviction.

Before embarking on such a claim, the CCG will consider whether the cost of the court action will outweigh the monies recovered and possible deterrent effect, and whether the individual concerned has the ability to pay.

The CCG/LCFS will where appropriate look to recover losses under the Proceeds of Crime Act 2002 (POCA).

The CCGs will also consider recovery outside of a criminal case by mediation and/or voluntary repayment as appropriate

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. Arrangements might include reviewing system controls on an ongoing basis and identifying weaknesses in processes. Any weaknesses in policies or procedures may be identified by a number of sources including employees, Internal Audit or the LCFS.

<i>Monitoring Criteria</i>	<i>Methodology</i>	<i>Frequency of Monitoring</i>	<i>Responsible Officer (s)</i>	<i>Reporting Committee</i>
There is an effective process for the treatment of suspicions of fraud, bribery or corruption within the CCG.	Reporting to CFO and NHS Counter Fraud Authority	As an when referrals received and investigated	LCFS	Audit & Governance Committees
Proactive counter-fraud work is completed in line with the agreed work-plan.	Reporting on the delivery of the work plan	Three times per annum	LCFS	Audit & Governance Committees

Where deficiencies are identified as a result of monitoring, an improvement plan will be developed and implemented.

5.2 **Dissemination of the policy**

Once approved, this policy will be circulated via the CCG's briefing process and a copy saved on the CCG intranet and website.

5.3 **Review of the policy**

This policy will be reviewed by the LCFS every two years, or sooner if legislative or procedural changes arise

6 **Public Sector Equality Duty**

The CCG aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others.

The Equality Act 2010 includes a general legal duty to:

- **eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act;
- **advance equality of opportunity** between people who share a protected characteristic and people who do not share it;
- **foster good relations** between people who share a protected characteristic and people who do not share it.

The protected characteristics are:

- Age
- Disability
- Gender reassignment
- Marriage or civil partnership (only in respect of eliminating discrimination)
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Public bodies have to demonstrate due regard to the general duty. This means active consideration of equality must influence the decisions reached that will impact on patients, carers, communities and staff.

It is no longer a specific legal requirement to carry out an Equality Impact Assessment on all policies, procedures, practices and plan but, as described above, the CCG does need to be able to demonstrate it has paid due regard to the general duty.

This policy establishes how the CCG will reduce fraud, bribery and corruption to an absolute minimum. It is not believed that this policy will impact on or affect differently or adversely any of the groups with protected characteristics.

7 **Associated Documentation**

Organisational policies that are relevant to this policy include:

- Disciplinary Policy
- Whistleblowing and Raising Concerns Policy
- Policy on Offer and Receipt of Gifts, Hospitality and Sponsorship
- Conflicts of Interest and Business Conduct Policy.

NHS fraud, bribery and corruption: dos and don'ts

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.

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)**, or
- telephoning the **freephone** NHS Fraud and Corruption Reporting Line (see details on the right), 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

Your Local Counter Fraud Specialist is **Lee Swift**,
who can be contacted by telephoning **01274 228193**, 07825110432 or emailing lee.swift1@nhs.net
If you would like further information about NHS Counter Fraud Authority, please visit <https://cfa.nhs.uk/>