

Counter Fraud Policy

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Version Control

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1.0	Counter Fraud and Corruption Policy	16/09/2005
2.0	Counter Fraud and Corruption Policy	03/09/2014
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1. Policy Statement

- 1.1 University Hospitals Birmingham NHS Foundation Trust (the 'Trust') is fully committed to the public service values of accountability, probity and openness. In accordance with this, the Trust recognises the need to actively reduce the risk of fraud within or against the organisation by meeting both the statutory requirements and good practice guidance with regard to fraud prevention, detection and response.
- 1.2 The Bribery Act (2010) accompanying guidance sets down the duties of the organisation in question (the Trust) which includes ensuring top level commitment to combatting bribery. This policy forms part of those efforts.
- 1.3 The purpose of the Counter Fraud Policy is to set out the steps that must be taken where fraud or corruption is suspected or discovered and ensure that appropriate management action which may include sanctions are considered and implemented following an investigation, which may include any or all of the following:
 - Criminal prosecution
 - Civil prosecution
 - Internal/external disciplinary action (including referral to professional/regulatory bodies)
- 1.4 The Trust has a nominated Local Counter Fraud Specialist (LCFS) who must be contacted promptly where there is suspicion of fraud. Contact details can be found here: <http://uhbhome/counter-fraud-information.htm>.

2. Scope

- 2.1 This policy applies to all areas and activities of the Trust and to all individuals employed by the Trust, including contractors, volunteers, locum, bank and agency staff and staff employed on honorary contracts.
- 2.2 This policy does not cover instances of theft, which must be reported immediately to the Local Security Management Specialist (LSMS) team under the Trust's Security Policy, which, where appropriate, will arrange for the matter to be referred to the local police for investigation.

3. Framework

- 3.1 One of the fundamental principles for public sector organisations is to safeguard and ensure the proper use of public funds. It is therefore important that all Trust staff are aware of the potential for fraudulent activity and to be aware of how to escalate any concern in this area.
- 3.2 The Fraud Act 2006 provides three key offences of fraud (but is not limited to):
- Fraud by false representation - where a person makes any representation using any means, words or actions which can be express or implied which they know to be, or suspect might be, untrue or misleading. This can include e.g. over claiming of hours worked or travel expenses, gaining office by falsifying qualifications or right to work visa or falsely claiming entitlement to NHS treatment that is free at the point of delivery.
 - Fraud by failing to disclose information - where a person fails to disclose any information to a third party when they are under a legal or contractual duty to disclose such information. This can include a failure to disclose a criminal conviction.
 - Fraud by abuse of position - where a person occupies a position where they are expected to safeguard the financial interests of another person or organisation and abuses that position of trust. This can include cases where the abuse consisted of an omission rather than an overt act. An example is charging for goods or services not actually delivered.
- 3.3 In all three classes of fraud, it requires that for an offence to have occurred, the person must have acted dishonestly by making a misrepresentation and with the intent of making a gain for themselves or someone else; the misrepresentation must have been justifiably relied upon by the victim which caused a loss (or a risk of loss) to the victim or another person.
- 3.4 The Bribery Act 2010 provides the following definitions of bribery:
- 1.4.1. **Active Bribery** is defined as “offering or giving a bribe to another person to perform an illegal, unethical or other action which breaches trust, or to reward a person for performing such an action”.
- 1.4.2. **Passive Bribery** is defined as “requesting, agreeing to receive or accepting a bribe to perform a function or activity improperly,

irrespective of whether the recipient of the bribe requests or receives it directly or through a third party and irrespective of whether it is for the recipients benefit”.

3.5 Examples of a bribe may include (this list is not exhaustive):

- A payment made to influence an individual who is responsible for deciding whether the Trust may be selected as the preferred bidder for the provision of services in a procurement process.
- An offer made by a pharmaceutical company to a member of staff of payment (or other incentives such as employment of a family member) in an attempt to influence their decision-making in respect of the selection of a pharmaceutical product to appear on the Trust’s drug formulary.
- An offer made by a patient to a member of staff of payment or a gift or any other incentive to place them at the top of a waiting list for a particular aspect of their care.

3.6 Any cases where bribery is suspected will be investigated in accordance with this policy and referred to the police as appropriate.

3.7 The provision of a Local Counter Fraud service is mandated by the regulator: ‘NHS Counter Fraud Authority’. This requires an assessment against the Government functional standards on counter fraud as applied to the NHS by the NHS Counter Fraud Authority. This is a set of 12 principle-based requirements. The NHS Counter Fraud Authority has set out a series of rules and requirements to demonstrate they are applied appropriately in the NHS. They are:

1. Accountable individual	CFO is responsible for counter fraud work. Audit Committee receives assurances on this work
2. Counter Fraud bribery and corruption strategy	This is the work plan of the local counter fraud service provider (LCFS), the strategy should align to that of the NHS CFA strategy
3. Fraud bribery and corruption assessment	A risk-based approach – proactive work is based upon previous referrals and identified risks
4. Policy and response plan	This is the Counter Fraud policy, supported by the LCFS’s work plan
5. Annual action plan	The LCFS’s annual plan of work as agreed with Audit Committee

6. Outcome based metrics	Metrics to support the delivery of counter fraud work – advised by the LCFS provider
7. Reporting routes	Clarity of reporting routes to report suspected fraud – reviewed by LCFS
8. Report identified loss	The 'CLUE' system – is the NHS CFA's reporting system for fraud work
9. Trained investigators	All LCFS personnel have the appropriate accreditation
10. Undertake detection activity	LCFS define which high risk areas to review
11. Access to training	A work programme to raise awareness and engage with staff about the risk of fraud
12. Policies and registers for gifts, hospitality and conflicts of interest	Mandated by the NHS CFA – LCFS must specifically test this area

a. The key principles are:

- **Inform and Involve** – Ensuring a strong anti-fraud and corruption culture by raising awareness to the possibility of such activities, and the correct reporting procedures and steps to take.
- **Prevent and Deter** – having suitable, clear robust policies in place where information is collected from a range of sources.
- **Hold to Account** – Sharing of information gathered, and ensuring it is investigated appropriately.

b. 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.

c. Potential fraud may be discovered in a number of other ways, for example:

- Staff may have suspicions drawn from documentation they have seen or the actions of another employee.
- Employees may overhear discussions amongst other staff members.
- Managers may receive an anonymous letter or telephone call.

- d. If a member of staff suspects a case of fraud they must:
- i. Make notes of anything seen or heard in as much detail as possible including names, dates, times and descriptions.
 - ii. Retain securely any documentation or other evidence.
 - iii. Refer the matter to one of the following:
 - The Trust's Local Counter Fraud Specialist;
 - The Trust's Chief Financial Officer; or
 - The National NHS Fraud and Corruption Authority, on 0800 028 40 60; or via the online reporting tool; <https://cfa.nhs.uk>
 - iv. Where a senior member of the finance team is suspected of fraud, bribery or corruption and the concerned staff member feels it not appropriate to be reported via the Chief Financial Officer, this concern must be reported to the Chief Executive or the Chair.
 - v. Further information, including contact details, are provided on the Trust intranet as follows:
 - For all sites in the separate "Counter Fraud Guidance for Staff" which is available on the intranet at <http://uhbhome/counter-fraud-information.htm>
 - vi. Staff must not, under any circumstances, make the suspect aware of their suspicions or carry out further investigations themselves.
- e. The LCFS and internal Trust staff will meet regularly to review ongoing issues.

4. Duties

4.1 Members of the Board of Directors

Members of the Board of Directors will ensure that no member of staff will suffer in any way as a result of reporting reasonably held suspicions. They are also responsible for ensuring that procedures are in place to reduce the likelihood of fraud, bribery or corruption occurring, such as Standing Orders, Standing Financial Instructions,

systems of internal control, and risk assessments are kept up to date and are being properly implemented.

4.2 Chief Financial Officer

The Chief Financial Officer is responsible for ensuring that the Trust has an appropriate Counter Fraud Policy in compliance with the NHS Standard Contract's Counter Fraud provisions set out in the Service Conditions - section 24.

This document can be found on the NHS Counter Fraud website at:

[NHS Standard Contract | Government Functional Standards | NHS Counter Fraud Authority \(cfa.nhs.uk\)](#)

The Provider must put in place and maintain appropriate measures to prevent, detect and investigate fraud, bribery and corruption, having regard to NHSCFA Requirements. Specific duties include:

- 4.2.1 Keeping the Board of Directors informed of the progress of any investigations as necessary;
- 4.2.2 Promoting fraud awareness within the organisation;
- 4.2.3 Liaising with the LCFS to agree what actions will be taken when a fraud is suspected;
- 4.2.4 Agreeing with the LCFS what actions will be taken when a fraud is proven; and
- 4.2.5 Notifying external audit and any other relevant third parties of any significant instances of fraud.

4.3 Local Counter Fraud Specialist

The LCFS is required to investigate allegations of fraud in accordance with the NHS Fraud and Corruption Manual and to recommend to the Chief Financial Officer whether there is a case to answer and how this will be pursued. The LCFS will, amongst other duties:

- 4.3.1 Make use of the 'CLUE System' in line with NHS Counter Fraud Authority guidance to record and progress all reported cases;
- 4.3.2 Report relevant cases to the police following agreement with the Chief Financial Officer;
- 4.3.3 Ensure that the Chief People Officer is informed where an employee is the subject of an investigation;

- 4.3.4 Ensure that any system weaknesses identified as part of the investigation are followed through with Trust management;
- 4.3.5 Report the outcome of the investigation to the Audit Committee;
- 4.3.6 Implementing proactive counter fraud measures such as staff training and awareness campaigns.

4.4 Audit Committee

Members of the Audit Committee are responsible for the oversight and monitoring of effectiveness of the arrangements for the prevention and detection of fraud, bribery and corruption at the Trust. They will:

- 4.4.1 Consider the register of reported suspicions on a regular basis;
- 4.4.2 Review reports by the LCFS to consider any required improvements in controls;
- 4.4.3 Agree an annual plan of work to ensure all aspects of fraud are covered; and
- 4.4.4 Review the year end NHS Counter Fraud Authority Self-Assessment Tool rating to determine where future efforts will be focused.

4.5 Internal Audit

- 4.5.1 The Internal Audit Team will provide assurance on the Trust's control systems including the assurance that the risk of loss from fraud or corruption is prevented or minimised.
- 4.5.2 The LCFS will liaise with Internal Audit on any cases whilst ensuring that confidentiality is not compromised. Any incident or suspicion that is reported to any member of Internal Audit will be passed immediately to the Trust's LCFS.

4.6 Chief Strategy and Digital Officer

- 4.6.1 The Chief Strategy and Digital Officer (CSDO) has overall responsibility for the security of the Trust's Information and IT infrastructure.
- 4.6.2 The CSDO and/or appropriate member of the IT senior management team (who reports to the CSDO) will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. This includes, but is not limited to, inappropriate use of internet/intranet, e-mail,

telephones and mobile devices (iPad/PDAs).

- 4.6.3 The Head of Supplier Performance, Contracts and Assets has a specific responsibility regards the misappropriation of IT equipment. This role reports to the Head of Information Technology and any report of IT asset misappropriation will also be reported to the LCFS with a view to ascertaining if it may have arisen from an act of fraudulent misrepresentation and / or wider pattern of offending behaviour.

4.7 Chief People Officer

- 4.7.1 The Chief People Officer will be responsible for ensuring that employment law and the Trust's policies and procedures such as the Disciplinary Procedure and Employee Relations Policy are adhered to throughout the investigation.

4.8 Managers

- 4.8.1 Managers must be vigilant and ensure that procedures and controls to guard against fraud are followed. They must be alert to the possibility that unusual events or transactions could be indications of fraud and must seek advice from the LCFS, Finance, or Internal Audit. They are responsible for establishing an anti-fraud culture amongst their staff and ensuring that information on counter fraud measures is made available to all their staff.
- 4.8.2 In addition, all Managers are required to comply with all aspects of this policy. As part of that responsibility, Line Managers must:
- Inform staff of all the relevant policies as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms;
 - Assess the types and extent of bribery risks involved in the operations for which they are responsible;
 - Ensure that adequate control measures are put in place to minimise the risks. Typical controls include defining clear roles and responsibilities, identifying and assessing sensitive/at-risk roles, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of key functions are not invested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively;

- Ensure that controls are complied with;
- Ensure that all related policies and procedures are complied with;
- Take action in accordance with this policy in all instances of actual or suspected bribery.

4.9 All Staff

- 4.9.1 All Staff have a duty to protect the assets of the Trust, including information as well as property. Specifically, staff are required to report any suspicion of fraud that comes to their attention. Failure to report suspected fraud in line with this policy may result in appropriate management action including potential disciplinary proceedings. Staff must be vigilant when using Trust IT equipment and use care in examining or downloading electronic documents. Details of how to report fraud can be found here: <http://uhbhome/counter-fraud-information.htm>
- 4.9.2 If a member of staff witnesses a theft occurring, they must call Trust security or the police immediately. Staff must also log any incident in line with the associated Policy for the Reporting and Management of Incidents including Serious Incidents.

5. Implementation and Monitoring

Implementation

- 5.1 This policy will be available on the Trust's intranet and disseminated through the management structure within the Trust.
- 5.2 In accordance with the LCFS plan approved by Audit Committee the LCFS will run regular training sessions for staff to promote awareness of the policy.
- 5.3 The LCFS will provide opportunities for staff to attend presentations which will cover staff responsibilities, examples of fraud and steps to be taken when fraud is suspected.
- 5.4 The policy will be promoted to staff via "In the Loop" updates.

Monitoring

5.5 Appendix A provides details on how the policy will be monitored by the Trust.

6. References

Bribery Act 2010, available on:

www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf

Fraud Act 2006, available on

http://www.legislation.gov.uk/ukpga/2006/35/pdfs/ukpga_20060035_en.pdf

NHS Counter Fraud Standards for Providers – Fraud, Bribery and Corruption, available on: <https://cfa.nhs.uk/counter-fraud-standards>

7. Associated Policy and Procedural Documentation

Employee Relations Policy

Disciplinary Procedure

Conflicts of Interest Policy (including Sponsorship, Gifts and Hospitality)

Procurement Policy

Policy for the Reporting and Management of Incidents including Serious Incidents

Staff Code of Conduct

Standing Financial Instructions

Standing Orders

Security Policy

Appendix A

Monitoring Matrix

Monitoring	Lead	Reported to	Process	Frequency
Number of instances of suspected fraud	Local Counter Fraud Specialist	Chief Financial Officer / Audit Committee	LCFS referrals included in regular LCFS update.	Quarterly
			Year on year trend included in LCFS annual report.	Annual
Number of proven cases of fraud	Local Counter Fraud Specialist	Chief Financial Officer / Audit Committee	Actual fraud cases included in regular LCFS update.	Quarterly
			Year on year trend included in LCFS annual report.	Annual
Attendance at counter fraud training sessions	Local Counter Fraud Specialist	Chief Financial Officer / Audit Committee	Number of training sessions run and total number of staff attending is included in the LCFS annual report.	Annual
Meet criteria set by NHS Counter Fraud Authority	Local Counter Fraud Specialist	Chief Financial Officer / Audit Committee	Agree annual work plan for counter fraud to meet the criteria set out by NHS Counter Fraud Authority. This will include a progress report on implementation of the plan.	Annual