



Local Anti-Fraud, Bribery and Corruption Policy

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0.1	10/09/13	Nikki Cooper	D	Fraud policy in line with new NHS Protect Standards
0.2	13/12/16	Nikki Cooper	D	Updated with new contacts and links
1.0		TMG Approved	A	With addition of publication of policy through staff update
1.1	February 2018	Martyn Tait	D	Policy review, and amended in line with guidelines & new YAS visual identity
2.0	April 2018	Risk Team	A	Policy approved at April TMG

A = Approved D = Draft

Document Author = Martyn Tait, Counter Fraud Specialist

Associated Documentation:

- Disciplinary Policy and Procedure
- Raising Concerns at Work (Whistleblowing) Policy
- Employee Code of Conduct
- Standing Orders, Reservation and Delegation of Powers and Standing Financial Instructions
- Business conduct for staff - interests, gifts, hospitality and sponsorship policy
- Secondary Employment policy
- Bribery Prevention policy
- Redress policy
- Losses and Special Payments
- E-Mail Policy
- Procurement Strategy
- Data Protection Policy and Associated Procedures
- Internet Policy and Procedure

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Staff Summary

In November 2017, NHS Counter Fraud Authority (NHS CFA), a new Special Health Authority charged with identifying, investigating and preventing fraud and other economic crime within the NHS and wider health group replaced NHS Protect. NHS CFA is independent from other NHS bodies and directly accountable to the Department of Health and Social Care. Any investigations will be handled in accordance with NHS Counter Fraud Authority guidance.

The organisation's work covers three main objectives:

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

1.0 Introduction

- 1.1 The Board is committed to maintaining an honest, open and well-intentioned atmosphere within Yorkshire Ambulance Service NHS Trust, so as best to fulfil the objectives of the organisation and of the NHS. It is therefore also committed to the elimination of fraud, bribery and corruption in the NHS and will seek the appropriate disciplinary, regulatory, civil and criminal sanctions against fraudsters and where possible will attempt to recover losses.

2.0 Purpose/Scope

- 2.1 The purpose of this document is to provide guidance to staff on what fraud is, what everyone's responsibility is to prevent fraud, bribery and corruption and how to report suspicions of fraud, bribery or corruption.
- 2.2 This policy and procedure applies to all staff, any staff who are seconded to or contracted to the Trust, agency staff and any other individual working on Trust premises. It also applies to Office Holders, e.g. Members of the Board and its Committees/Sub-Committees, consultants, vendors and other internal and external stakeholders.

3.0 Process

- 3.1 Reporting fraud, bribery or corruption

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

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

Fraud, bribery or Corruption concerns should be raised with the **auditone** Counter Fraud Team on 0191 441 5936 / counterfraud@audit-one.co.uk.

Contact can also be made (anonymously if preferred) to the national NHS Fraud & Corruption Reporting Line on: **0800 028 4060** or via online fraud reporting at www.cfa.nhs.uk/reportfraud.

This would also be the suggested contact if there is a concern that the CFS or the Executive Director of Finance themselves may be implicated in suspected fraud, bribery or corruption.

The CFS will inform the Executive Director of Finance if the suspicion seems well founded and will conduct a thorough investigation.

Concerns may also be discussed with the Executive Director of Finance on (01924) 584068 or the Audit Committee Chair who can be contacted via (01924) 584065.

Where it is the wish of the individual to report suspicions anonymously this will be respected. However, the Trust will always encourage individuals to give their name as this allows suspicions to be acted upon with greater effectiveness and efficiency. The Public Interest Disclosure Act 1998 protects all staff from reprisals provided the information is given in good faith and the employee making the disclosure believes it to be substantially true and is not seeking any personal gain from the allegation.

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

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

3.2 Disciplinary action

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

4.0 Training expectations for staff

4.1 The Trust is committed to ensuring that everyone has a safe, reliable and confidential way of reporting concerns and any suspicious activity.

4.2 Staff should report any suspicions or allegations of fraud, bribery or corruption to any one of the following:

- The Executive Director of Finance;
- Their Counter Fraud Specialist;
- Using the NHS Fraud and Corruption Reporting Line 0800 028 40 60;
- or
- Using the online fraud reporting form at www.reportnhsfraud.nhs.uk.

- 4.3 You are encouraged to raise concerns about any issue or suspicion of malpractice at the earliest possible stage. If you are unsure whether a particular act constitutes fraud, bribery or corruption, or if you have any other queries, these should be raised with the Counter Fraud Specialist.

5.0 Implementation Plan

- 5.1 The approved version of this Policy will be posted on the Trust Intranet site for all members of staff to view. New members of staff will be signposted to how to find and access this guidance during Trust Induction.
- 5.2 The policy will be publicised through Staff Update.

6.0 Monitoring compliance with this Policy

- 6.1 The Trust Board has overall responsibility for ensuring this policy complies with the Trust's legal and ethical obligations, and that all those under the Trust's control comply with it.
- 6.2 The Executive Director of Finance and the Trust's nominated Counter Fraud Specialist will ensure that the Trust has a proportionate, up to date and adequate programme of anti-fraud, corruption and bribery measures.
- 6.3 The Audit Committee is responsible for monitoring the effectiveness of this policy to provide assurance to the Board that the business of the Trust is being conducted in line with this policy, the associated policy documents, relevant legislation and other statutory requirements.
- 6.4 The finance and procurement departments will ensure that the Trust's financial and commercial controls minimise the risk of a fraudulent or corrupt act being committed by or against the Trust and its business partners.
- 6.5 Any alleged offences relating to the Fraud or Bribery Acts and their investigation will be reported to the Executive Director of Finance and the Audit Committee.
- 6.6 Training to support this policy will be monitored and reported by the Counter Fraud Specialist to the Executive Director of Finance and Audit Committee.
- 6.7 An annual report will be submitted to the Audit Committee by the ~~audit~~**one** Counter Fraud Team.

7.0 References

- 7.1 NHS Counter Fraud Authority guidance on Standards for Providers
Fraud Act 2006
Bribery Act 2010
Theft Act 1968

Appendix 1

Definitions

Fraud

The Fraud Act 2006 represents an entirely new way of investigating fraud. It is no longer necessary to prove a person has been deceived. The focus is now on the dishonest behaviour of the suspect and their intent to make a gain or cause a loss.

Section 1 of The Fraud Act 2006 introduces a new offence of fraud, which can be committed in three ways:

- **Fraud by false representation (Section 2)** – lying about something using any means, e.g. by words or actions, running a fake website.
- **Fraud by failing to disclose (Section 3)** – not saying something when you have a legal duty to do so, e.g. not declaring information on a tax return.
- **Fraud by abuse of a position of trust (Section 4)** – abusing a position where there is an expectation to safeguard the financial interests of another person or organisation, e.g. insider employee fraud.

Other offences to consider are:

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

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

Bribery and corruption

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

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

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

It is, therefore, extremely important that staff adhere to this and other related documentation (as detailed at section 14) when considering whether to offer or accept gifts and hospitality and/or other incentives.

Information management and technology

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

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

The fraudulent use of information technology will be reported by the Chief Information Officer to the CFS.

Appendix 2

Roles & Responsibilities

Chief Executive

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

Executive Director of Finance

The Executive Director of Finance is provided with powers to approve financial transactions initiated by directorates across the organisation.

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

The Executive Director of Finance will report annually to the Board on the adequacy of internal financial control and risk management as part of the Board's overall responsibility to prepare a statement of internal control for inclusion in the NHS body's annual report.

The Executive Director of Finance will, depending on the outcome of initial investigations, inform appropriate senior management of suspected cases of fraud, bribery and corruption, especially in cases where the loss may be above an agreed limit or where the incident may lead to adverse publicity.

The Executive Director of Finance will ensure the Counter Fraud Specialist (CFS), or the specialist investigators, are given access to staff and records where required/necessary.

The Executive Director of Finance will present the views of the Trust on the conduct of the investigation and any possible sanctions against any employee, if required to do so by NHS Counter Fraud Authority.

The Executive Director of Finance will, where considered necessary, pursue sanctions against any employee found to be guilty of fraud or corruption where advice is received that a criminal prosecution will not be pursued.

Internal and external audit

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

Human Resources

When Human Resources (HR) staff are advised of suspected cases of fraud, bribery or corruption, they undertake to advise the CFS as soon as possible. HR staff and the CFS will liaise during the conduct of any investigation to ensure information is shared, duplication avoided and the actions of neither party compromises each

others work in accordance with the Joint Working Protocol for CFS and HR which is in place.

Counter Fraud Specialist

The CFS is responsible for taking forward all anti-fraud work locally in accordance with national standards and reports directly to the Executive Director of Finance.

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

The CFS will investigate allegations of fraud, bribery and corruption in accordance with the instructions of NHS Counter Fraud Authority.

The CFS will provide regular updates on current investigations to the Executive Director of Finance and the Audit Committee and is responsible for all external reporting requirements.

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

Managers

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

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

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

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

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

All staff

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

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

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

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

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

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

Appendix 3

NHS fraud, bribery and corruption: dos and don'ts. A guide for Yorkshire Ambulance Service NHS Trust

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 Counter Fraud Specialist (CFS).

- **Report your suspicions**

Confidentiality will be respected – delays may lead to further financial loss.

- **Refer to the Local anti fraud, bribery and corruption policy on the Trust intranet**

DO NOT

- **Confront the suspect or convey concerns to anyone other than those authorised, as listed below**

Never attempt to question a suspect yourself; this could alert a fraudster or lead to an innocent person being unjustly accused.

- **Try to investigate, or contact the police directly**

Never attempt to gather evidence yourself unless it is about to be destroyed; gathering evidence must be done in line with legal requirements in order for it to be useful. Your CFS 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 **Counter Fraud Specialist (CFS), Counter Fraud Manager** or
- telephoning the **freephone NHS Fraud and Corruption Reporting Line**, online or by telephone or
- contacting the **Director of Finance**.

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 Counter Fraud Specialist is provided by auditone which can be contacted on 0191 441 5936 and counterfraud@auditone.co.uk

Tackling fraud

Appendix 4

REFERRAL FROM :

NAME

ORGANISATION/PROFESSION

ADDRESS

TEL.NO

THIS ALLEGED FRAUD RELATES TO:

NAME

ADDRESS

DATE OF BIRTH

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

Suspicion

Please provide details

Possible useful contacts

Please attach any available additional information.

Signed.....

Date.....

Please return to: **auditone**, Kirkstone Villa, Lanchester Road Hospital, Durham, DL1 5RD.

Telephone: 0191 441 5936

Email: counterfraud@audit-one.co.uk

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