
Operational Policy

Counter Fraud & Bribery Policy

The purpose of this policy is to define the Trust's position in terms of the prevention, detection and investigation of fraud and bribery and its counter fraud arrangements. It also provides direction to staff who suspect fraud or bribery on how to report suspicions, and offers a framework for advice, guidance and information on various aspects and implications of fraud.

Document Detail	
Title	Countering fraud in the NHS
Sites covered	South East Sites only
Version	V4
Approving body	TEC
Stakeholder Group	Audit and Risk Committee
Owner	Chief Executive
Responsible Lead	Associate Chief Financial Officer (Internal Audit)
Effective from	1 February 2017
Date last reviewed	1 November 2019
Date of next review	30 November 2022
Superseded documents	N/A
Related documents	Counter Fraud Procedure, Raising a Matter of Concern Policy (Whistleblowing)
Keywords	Fraud, suspicion, whistle blowing, concern, bribery

1 SCOPE

- 1.1 This policy applies to all Trust employees, contractors and other third parties working on behalf of the Trust. All staff have a role to play in protecting public funds from fraud and abuse. Certain individuals within the Trust have particular responsibilities which are set out in this policy and supporting documents.
- 1.2 The purpose of this policy (and supporting documents) is to set out the Trust's arrangements in relation to the prevention, detection and investigation of fraud and bribery. It also provides information on how to report suspicions, and offers a framework for advice, guidance and information on various aspects and implications of fraud and bribery.
- 1.3 The Board of Directors is committed to promoting and maintaining the highest standards of honesty and integrity in dealing with the assets of the NHS and those which are in Trust care and ensuring that NHS money is used for proper purposes. The Trust will not tolerate fraud and bribery, this means that all allegations will be investigated and action will be taken against individuals found to be committing fraud or acts of bribery. Such action may take the form of disciplinary, civil and/or criminal proceedings. The Trust will also take appropriate steps to recover any assets lost as a result of fraud and other illegal acts.
- 1.4 The Trust will establish and maintain effective counter fraud & bribery arrangements in accordance with the provider licence requirements, statute and principles of good practice.

2 RATIONALE

- 2.1 Two of the Trust's primary values are to put patients first and act with integrity. Any funds lost to fraud mean less money for patient care. Hence, the Trust's goal in relation to fraud and bribery is to reduce losses to an absolute minimum and to take a zero tolerance approach to staff who fail to act with integrity.
- 2.2 The counter fraud & bribery policy sets out the commitment of the Board to minimise fraud losses and ensure that there is no bribery within the Trust within a framework of wider good governance.

3 POLICY OBJECTIVES

3.1 This policy and accompanying guidance documents is expected to achieve the following outcomes for the Trust:

- To establish and maintain an anti-fraud culture within the Trust;
- To minimise losses through fraud and bribery;
- To ensure the Trust has adequate systems in place to prevent bribery;
- To ensure allegations of financial irregularity are referred to the appropriate staff;
- To encourage the implementation of preventative controls;
- To ensure investigation staff are appropriately qualified and that investigations and recommendations for sanction action are fair;
- To maximise recovery of losses;
- Ensure the Trust complies with NHS Standard Contract and NHS Counter Fraud Authority Standards

4 DUTIES

4.1 The Trust Board is responsible maintaining appropriate arrangements to address counter fraud issues in accordance with Service Condition 24 of the NHS provider contract and NHS Counter Fraud Authority guidance.

4.2 The Audit and Risk Committee provides assurance to the board that this policy is effectively implemented.

4.3 The Chief Financial Officer and Chief Executive are jointly accountable to the Trust's Board for monitoring and implementing this policy.

4.4 All Staff are responsible for reporting any suspicions of fraudulent activity within the Trust.

4.5 Detailed roles and responsibilities can be found within the supporting document section.

5 MONITORING AND ASSURANCE OF THIS POLICY

5.1 The Trust's counter fraud arrangements are overseen by the Audit and Risk Committee.

5.2 The implementation of this policy is monitored by the Chief Financial Officer and Audit and Risk Committee.

5.3 The Trust's arrangements are annually self-assessed and independently evaluated by NHS Counter Fraud Authority the NHS national body responsible for fraud.

Policy Objectives	Monitoring methods	Assurance
To establish and maintain an anti-fraud culture within the Trust;	Awareness Survey, take up of e-learning	Survey results reported and e-learning completion to Audit and Risk Committee
To minimise losses through fraud and bribery;	Reports to Audit and Risk Committee	Counter Fraud Report to Audit and Risk Committee
To ensure allegations of financial irregularity are referred to the appropriate staff;	First and other case management monitoring	Counter Fraud Report to Audit and Risk Committee
To encourage the implementation of preventative controls;	Internal Audit Reviews, Proactive Counter Fraud Plan	Audit and Risk Committee
To ensure investigation staff are appropriately qualified and that investigations and recommendations for sanction action are fair;	NHS Counter Fraud Authority Self Assessment and Periodic Inspections	Self Assessment Review and Inspection Report
To maximise recovery of losses;	Internal Monitoring of Recovery	Audit and Risk Committee Reports

6 DOCUMENT HISTORY

Document History		
Date	Comments	Approved by
Sep 2019	Minor Updates, clarification of roles and responsibilities	Chief Financial Officer
April 2017	Significant rewrite setting out clear responsibilities, anti-fraud culture. Section added on Bribery; updated to reflect government UK counter fraud strategy; sanction policy introduced	
April 2014	Reformatted to comply with revised Trust standard for policy layout and content	
Jun 2013	Update to V2	TME
Jan 2010	v1.1 Minor terminology change, paragraph 5.2; no further changes required, following review.	Chief Financial Officer

COUNTER FRAUD AND BRIBERY POLICY

1 ANTI-FRAUD CULTURE

- 1.1 Fraud and corruption within the NHS is unacceptable. The public funds entrusted to the Trust are to be used for the benefit of patients. The Trust Board and Trust Management Executive are committed to the highest standards of conduct in their financial dealings and will ensure that their own standards of conduct are beyond reproach and fully accountable. The Trust recognises its fiduciary duty to protect funds and will implement secure systems and instill high standards in all staff. The Trust will seek the strongest possible sanctions against those who seek to defraud the trust or are party to corrupt practices.
- 1.2 This policy applies to all of the organisation's activities, its personnel, including all levels and grades, those permanently employed, temporary staff, agency staff, contractors, non-executives directors, agents, volunteers and consultants.
- 1.3 The Board of Directors takes ultimate responsibility for the protection of Trust finances and those that are held on behalf of patients. In turn, the Trust Management Executive and Strategic Business Units have a duty to protect their directorates from losses due to fraud and irregularity and are responsible for assessing the risk of fraud and bribery and implementing adequate internal controls to mitigate that risk.
- 1.4 Managers are expected to be fully familiar with the services they provide and must be cognisant of the fraud risks in their area. Those with leadership roles within the Trust have a particular responsibility for upholding the values of public life as set out by the Committee on Standards of Public Life in 2013,

“High standards of behaviour need to be understood as a matter of personal responsibility, embedded in organisational processes and actively and consistently demonstrated, especially by those in leadership positions”

- 1.5 As individuals appointed to work within the health service, all staff are subject to the principles of public life as set out below:

<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

<i>Accountability</i>	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
<i>Openness</i>	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

2 FRAUD

2.1 Fraud is a dishonest act intended to cause a personal gain or gain for another person or to cause a loss to another party. Under the Fraud Act 2006, there are three main ways in which fraud offences can be committed

- Fraud by false representation (s.2) – lying about something to make a financial gain, i.e. submitting false time sheets.
- Fraud by failing to disclose (s.3) – not saying something when you have a legal duty to do so, e.g. a Staff member not declaring a conflict of interest such as a company directorship or a majority share in a commercial business trading with the Trust.
- 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.

Examples of fraud committed within NHS organisations are:

- Providing false information when applying for a job with the Trust
- Failing to disclose changes which affect your right to work in the Trust
- Making false expense claims
- Submitting false overtime / additional hours claims
- Conducting work for other employers or private work when expected to be working for the Trust or whilst on sick leave
- Providing false information or failing to disclose the correct information to make a personal gain
- Fraudulently claiming any free or reduced cost NHS service, including prescriptions, when not entitled

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- Buying goods or services on behalf of the Trust from companies with whom you have an interest

3 BRIBERY

- 3.1 A bribe is a financial or other advantage paid to an individual with the intention of inducing the individual to take a specific course of action. The giver or receiver can face up to 10 years in prison.
- 3.2 It is a criminal offence to offer, pay or receive a bribe. This applies to staff directly employed by the Trust and those acting on its behalf, for example, within subsidiary companies. The Trust and all those employed or working on the Trust's behalf will not pay bribes or offer improper inducements to anyone for any purpose, nor will we, accept bribes or improper inducements.
- 3.3 For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.
- 3.4 The Bribery Act 2010 introduced the criminal offence of failing to prevent bribery. This means, the Trust as a corporate entity, can face criminal prosecution. In addition to an unlimited fine, if found guilty, the reputation damage would be significant, if one of its staff or agents pays a bribe to obtain a commercial advantage or win business.
- 3.5 As a corporate entity, the Trust can defend itself against the actions of staff/agents provided it has adequate procedures designed to prevent persons associated with it from undertaking such conduct. The Act has introduced guidance which organisations must follow in order to demonstrate that adequate procedures are in place. This sets out 6 principles to underpin the organisation's approach to bribery. These are set out below, together with a summary of how the Trust implements those principles.
- Proportionate Procedures – In general, the trust performs a public service and most of its income generating activity is within the UK with other public bodies. However, within the Commercial Directorate of the Trust and the commercial company portfolio owned by the Trust, the Trust may engage with overseas clients. In addition, the area of research represents a risk. Hence, anti-bribery processes will be more relevant in these areas.
 - Top Level Commitment – The senior leaders within the organisation are best placed to set a culture where bribery is seen to be unacceptable. The Trust will set out its commitment to integrity on the website and communicate this to staff and stakeholders and potential clients and have appropriate standards of business conduct.
 - Risk Assessment – The Trust will periodically assess the risk of bribery and when entering new non-domestic markets. The risk will be documented as part of the trust wide risk management process.

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- Due Diligence – The Trust will perform due diligence procedures on any agent / supplier acting on its behalf, particularly where third parties are used to assist in establishing business in foreign markets.
 - Communication and Training – The Trust will ensure that its anti bribery measures are communicated internally, through senior management and via awareness publications through the internal IT system. The anti fraud and bribery policy will be published on the Trust's website.
 - Monitoring and Review – The Trust will periodically review this policy and monitor compliance with the various underlying systems via internal audit reviews.

4 MONEY LAUNDERING

- 4.1 The Trust is not a relevant business for the purposes of the Money Laundering Regulations 2007. However, the Trust and its staff are covered by the Proceeds of Crime Act 2002 and the Terrorism Act 2000 (and subsequent amendments). These acts make it illegal to conceal, transfer or convert criminal property i.e. converting the cash proceeds of crime into the banking system or into an asset. In practice, the only circumstance where this is likely to occur within the Trust's activities is in relation to payments for private treatment where cash may be accepted. In order to minimise the likelihood of this occurring the Trust has various processes in place within cashiers. Cashiers staff have been made aware to be alert to the possibility of money laundering. Should staff have any concerns they should contact the Head of Internal Audit.

5 REPORTING SUSPICIONS

- 5.1 The Trust places upon all staff a responsibility for maintaining an anti fraud culture and for ensuring that all fraudulent or potentially fraudulent activity is reported. The Trust recognises the importance of staff feeling safe in raising their concerns and is determined that no employee will suffer in any way for raising genuine concerns, even if these concerns prove unfounded. Staff should consult the Trust's Speaking Up / Whistleblowing Policy for further information in this regard.
- 5.2 If you have a suspicion, discuss it directly with the Trust's Local Counter Fraud Specialist (LCFS) or Head of Internal Audit. If you notify your manager or a member of the Workforce Directorate, or if you have been told of a suspected fraud by someone else, please ensure that the LCFS is notified as soon as possible. If initial enquiries support the suspicions, the matter will be reported to the Chief Financial Officer. It will then be investigated and dealt with in accordance with NHS Counter Fraud Authority guidance for countering fraud in the NHS.
- 5.3 The LCFS for the Trust is based in the Internal Audit Office, which is in New City Court, Guy's Hospital, Great Maze Pond, London SE1 9RT; telephone 020 7188 7181 (internal extension 87181) or email (see Trust Directory). You may also contact the Head of Internal Audit who has overall responsibility for counter fraud investigations.

5.4 Alternatively, if for any reason you do not wish to report your concern within the Trust, you can use the NHS Fraud and Corruption Reporting Line: 0800 028 4060 (available between 8 a.m. and 6 p.m., Monday to Friday) or email via www.reportnhsfraud.nhs.uk

5.5 If you feel it is necessary to report your concerns elsewhere, rather than use any of the above processes, the Public Interest Disclosure Act 1998 gives protection to employees who disclose information to a third party, provided the disclosures meet certain criteria. You should refer to the Trust’s ‘Raising a Matter of Concern Policy’, which is based on the Act, before you take such action.

6 STRATEGY

6.1 The Trust Strategy to drive down the risk of fraud has three strands, informing and involving the organisation in acknowledging the risks, implementing preventative controls and pursuing offenders if fraud occurs. All within the overarching anti-fraud culture. This is aligned with the Fraud Bribery and Corruption Standards set out by NHS Counter Fraud Authority and their strategy to reduce NHS Fraud, “*Leading the Fight Against NHS Fraud Organisational Strategy 2017-2020*”.

Counter Fraud & Bribery Culture		
Leadership; organisation values and behaviours; induction; fraud awareness training; standards of business conduct; clear disciplinary code		
Inform and Involve Identify fraud risks by department Commit resources to investigate fraud Raise Awareness	Prevent and Deter Recruitment checks Appropriate fraud prevention controls within financial systems Standards of Business Conduct policy and related guidance	Hold to Account Professional investigation independent from line management Collaboration with other organisations Disciplinary Prosecution Recovery

6.2 Through the implementation of this policy the Trust undertakes to promote counter fraud activity by:

- Informing and involving staff and other stakeholders by raising their awareness of fraud and creating and promoting an anti-fraud culture
- Deterring fraudulent actions and preventing fraudulent activity through both proactive and reactive means
- Holding fraudsters to account through detection and investigation of fraudulent activity, seeking appropriate sanctions and obtaining redress where appropriate

6.3 The Trust has already established a framework which will help to reduce the risk of fraud losses and bribery. This has a number of elements:

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- The Standing Financial Instructions and the Schemes of Delegation.
 - Standards of Business Conduct Policy
 - An Audit and Risk Committee
 - Effective employee vetting procedures (recruitment checks and DBS where appropriate and a set of values and behaviours which staff are expected to observe
 - An induction programme for all staff
 - Effective disciplinary procedures
 - Internal controls
 - Periodic checks by Internal Audit
 - A confidential reporting code (Speaking Up /Whistleblowing procedure)
 - A counter fraud and bribery policy
 - An external audit
 - Dedicated Local Counter Fraud Specialists whose work programme includes proactive work, determined by a formal risk assessment and any requirements as set out by NHS Counter Fraud Authority..
 - Participation in national anti-fraud initiatives.
 - The promotion of awareness of anti-fraud and bribery issues, reinforced by training and publicity.

6.4 In relation to bribery the Trust will: Maintain adequate and proportionate procedures to prevent bribery; undertake anti-bribery risk assessments; make all employees aware of their responsibilities to adhere strictly to this policy; maintain appropriate gifts and hospitality procedures; encourage employees to report any suspicions of bribery; investigate instances of alleged bribery and assist the police and other authorities in their investigations; take a robust line against individuals found to have breached this policy or to have committed or facilitated bribery.

7 RESPONSIBILITIES

7.1 Responsibilities in relation to fraud and bribery are summarised in the table below:

Chief Executive	<ul style="list-style-type: none"> • Is the Accounting Officer for the Trust and, as such, has responsibility to ensure the proper stewardship of public funds and that the resources and assets of the Trust are safeguarded taking reasonable steps for the prevention and detection of fraud.
Chief Financial Officer	<ul style="list-style-type: none"> • Is accountable for provision of strategic management of all counter fraud, bribery and corruption work within the organisation • Will determine whether or not a file shall be submitted to the CPS for prosecution

Trust Management Executive	<ul style="list-style-type: none"> • There is a particular onus upon the senior leadership to maintain high standards of integrity when dealing with financial matters, conflicts of interest and offers of gifts and hospitality. • Where new policies and systems are being implemented, senior managers are required to consider the fraud risk and seek guidance from Internal Audit where they have concerns. Where Internal Audit or Counter Fraud Officers have identified system weaknesses, management are required to implement the agreed control improvements within agreed timescales
Line Managers	<ul style="list-style-type: none"> • Are responsible for ensuring that their staff are aware of, and adhere to, this policy and others relating to standards of business conduct; • Report all instances of actual or suspected fraud or bribery as soon as practicable to the LCFS. • Ensure adequate controls are in place within their systems to minimise the risk of fraud and bribery. • Assess the risk of fraud in the operations for which they are responsible and put measures in place to mitigate those risk.
Chair of the Audit and Risk Committee (Non-Executive Director)	<ul style="list-style-type: none"> • Is to be made aware of suspicions of fraud and bribery involving Non-Executive Directors/Executive Directors; • Liaises with the LCFS on the investigation of suspicions of fraud and bribery.
Audit and Risk Committee	<ul style="list-style-type: none"> • Receives progress reports from the LCFS on the counter fraud work undertaken in the Trust and details of specific investigations; • Periodically assesses the effectiveness of the Trust's counter fraud arrangements and ensures any actions arising from NHS CFA recommendations are implemented; • Ratifies the annual Counter Fraud work plan.
Associate Chief Financial Officer (Internal Audit and Counter Fraud)	<ul style="list-style-type: none"> • Manages the Counter Fraud Function • Attends Audit and Risk Committee as the designated LCFS
Local Counter Fraud Specialists (LCFS)	<ul style="list-style-type: none"> • Are responsible for delivery of all counter fraud work within the Trust in accordance with an agreed annual work plan and investigating allegations of fraud and bribery at the Trust in accordance with NHS CFA requirements and legislation. • Provides regular update reports for the Trust Audit and Risk Committee.
NHS Counter Fraud Authority	<ul style="list-style-type: none"> • Develop and issue national policy and guidance to NHS Trusts in relation to counter fraud matters including the setting and monitoring of standards. The NHSCFA strategy: Leading the fight against NHS fraud: Organisational strategy 2017-2020 is available at: https://cfa.nhs.uk/about-nhscfa/corporate-publications • The Trust must take the necessary action to comply with the NHSCFA's counter fraud standards. The NHSCFA carries out regular assessments of health organisations in line with the counter fraud standards

All Staff	<ul style="list-style-type: none"> • All staff must ensure that they have read, understand and comply with this policy. The prevention, detection and reporting of fraud and bribery are the responsibility of all those working for or under the control of the Trust; • Report any concerns as soon as possible; • Understand the rules concerning the acceptance of gifts and hospitality and declaring conflicts of interest.
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7.2 Staff must comply with this policy, the Trust’s values and behaviours framework and their own professional body requirements. Staff must act at all times with integrity and honesty and must not commit fraud against the Trust or any of its partners or patients or be party to corrupt act/practices. This includes but is not limited to:

- Providing false information when applying for a job with the Trust
- Failing to disclose changes which affect your right to work in the Trust
- Making false expense claims
- Submitting false overtime / additional hours claims
- Conducting work for other employers or private work when expected to be working for the Trust or whilst on sick leave
- Providing false information or failing to disclose the correct information to make a personal gain
- Failing to declare a conflict of interest
- Accepting hospitality, a gift or inducement from a third party that you know or suspect is offered with or provided the expectation that it will obtain a business advantage for them
- Giving, promising or offering an inducement to secure an advantage, including to individuals outside the UK
- Offering gifts or hospitality outside those permitted within the Standards of Business Conduct Policy
- Fraudulently claiming any free or reduced cost NHS service, including prescriptions, when not entitled
- Stealing from patients, staff or the public

8 INVESTIGATION PROCESS

8.1 The Trust encourages anyone having reasonable suspicions of fraud, bribery or corruption to report them to the Local Counter Fraud Specialist. The Trust is committed to ensuring that concerns are investigated in confidence and that firm, but appropriate action is taken where acts of dishonesty are substantiated.

8.2 Concerns about fraud, bribery and corruption can also be raised through the Trust’s Speaking Up/Whistleblowing Policy. The Public Interest Disclosure Act 1998 gives statutory protection, within defined parameters, to Staff who make disclosures about a range of subjects, including fraud, bribery and corruption, which they believe to be happening within the Trust. Within this context, ‘reasonably held’ means suspicions other than those which are raised maliciously and are subsequently found to be groundless.

Any unfounded or malicious allegations will be subject to a full investigation and appropriate disciplinary action.

- 8.3 Details of suspected fraud, bribery and corruption can also be reported via the NHS Fraud and Corruption Reporting Line on Freephone 0800 028 4060, or online at <https://cfa.nhs.uk/reportfraud>. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.
- 8.4 The LCFS, in consultation will investigate all allegations in accordance with procedures documented in the NHS Anti-Fraud Manual issued by the NHS Counter Fraud Authority and within the primary legislation and associated guidance, principally the Criminal Procedure and Investigations Act 1996 and the Police and Criminal Evidence Act 1984.
- 8.5 In certain circumstances, evidence may best be protected by the LCFS recommending to the Trust that the staff member is suspended from duty. The Trust will make a decision based on HR advice on the disciplinary options, which include suspension.
- 8.6 At the conclusion of each investigation a recommendation will be made as to further action to be taken. The range of sanctions available to the Trust are:
- **Criminal proceedings** - Formal prosecution aimed at securing a criminal conviction which may result in a judicial sentence. All investigations will be conducted to the highest possible standard to ensure the option of a criminal prosecution is available.
 - **Civil proceedings** - These are usually undertaken in the civil court system and often used to freeze assets in order to recover money, interest and costs lost by the Trust.
 - **Internal Disciplinary proceedings** - Clear evidence of fraud mean, following a disciplinary hearing, an employee can be summarily dismissed on the ground of gross misconduct.
 - **Professional Conduct Referral** – In appropriate cases the Trust will refer staff to their professional body.
- 8.7 At the conclusion of each investigation, the investigator will produce a report. Responsibility for disciplinary investigation rests with management with support from the workforce directorate. The LCFS or Head of Internal Audit will be available to offer advice and assistance to the lead manager with any disciplinary investigation as necessary.
- 8.8 A disciplinary process may run in parallel with a criminal investigation and a hearing carried out prior to the conclusion of the criminal investigation. The decision of whether or not to prosecute will be based on the facts established during the investigation, regardless of co-operation or otherwise from the employee during the disciplinary process, although co-operation is expected and a contractual obligation on all employees. Authorisation to proceed with prosecution is the responsibility of the Chief Financial

Officer.

- 8.9 The manager whose responsibility encompasses the area of that investigation will consider the report and take the appropriate action (disciplinary or other). If the Head of Internal Audit is not satisfied that the appropriate action has been undertaken they will refer the matter to relevant Executive Director.
- 8.10 As with all disciplinary matters, the level of proof required is that of the balance of probability. Disciplinary cases involving allegations of fraud, bribery and financial malpractice will be handled on this basis.
- 8.11 The investigation report will highlight any system weaknesses that are identified as a result of an investigation. These will be addressed through an agreed action plan. Failure to implement adequate system controls following a loss to fraud will be the subject of a report to the relevant Executive Director and/or Audit and Risk Committee.
- 8.12 The Trust will use the Proceeds of Crime Act 2002 and the Criminal Justice Act 1988 to obtain Confiscation Orders to include Compensation Orders as well as recovery of the full benefit figure where possible. Where appropriate, the Trust will utilise accredited financial investigators attached to NHS CFA or other law enforcement agencies to conduct investigations, obtain orders and present evidence.

9 SANCTION POLICY

- 9.1 This part of the Counter Fraud and Bribery Policy sets out the Trust's approach to sanctions and is designed to ensure that sanctions are applied in a consistent manner and that decision making is transparent and fair.
- 9.2 The Trust will use the full range of sanctions available to it, including criminal prosecution, civil recovery, internal discipline and referral to professional bodies in order to deter fraud, bribery and associated offences.
- 9.3 Where cases are considered suitable for prosecution, the Trust will refer these to the Crown Prosecution Service (CPS) via NHS Counter Fraud Authority. The CPS will be responsible for determining charges and progressing the case. In deciding whether or not to pass a case for prosecution the Trust will have regard to the tests used by the CPS known as the evidential and public interest tests.
- 9.4 The Trust will refer matters to other law enforcement agencies, such as the Police, UKBA, local authorities, NHS Counter Fraud Authority should matters arise which fall under the remit of those organisations. Decisions to refer matters to these agencies will be taken by the Head of Internal Audit in consultation with the LCFS.
- 9.5 The sanction decision will have regard at all times to the Trust's counter fraud and bribery policy objectives, the individual circumstances of each case and the overall impact of the punishment.

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- 9.6 The Trust recognises that prosecution is a serious step to take. Hence, there are a number of different individuals involved in the decision to prosecute. Recommendations for prosecution will be made by the Investigator. These are reviewed by the Head of Internal Audit and, if the decision is made to proceed, the Chief Financial Officer has to authorise onward referral to NHS Counter Fraud Authority. The ultimate decision on prosecution will be taken by the prosecuting body, normally the Crown Prosecution Service.
- 9.7 In some circumstances, such as complex high value fraud or where multiple NHS organisations are impacted, the case will be investigated by NHS Counter Fraud Authority. In addition cases may be referred directly to local police where police powers are necessary for effective investigation.

Staff/Agency/Interims/ Volunteers/ Work experience

- 9.8 In all cases of fraud, bribery, theft, financial misconduct, serious and intentional breach of Standing Financial Instructions or Standards of Business Conduct committed by employees the Trust will seek disciplinary action. The normal recommendation for staff would be gross misconduct. Where a financial loss has been identified we will always seek to recover this loss either through the civil or criminal process. In addition, where staff are members of professional bodies or are subject to professional codes of conduct and ethics we will refer cases to the relevant professional body. Where appropriate under this policy we will refer cases to the relevant prosecuting authority for criminal prosecution. For agency/interim/contractor staff the engagement will be terminated immediately and prosecution considered as for permanent staff. In addition to recovery of losses from the individual, the Trust may also seek recovery from the supplying agency/company.

Public / Patients

- 9.9 Fraud threats from the public primarily arise from scams which apply to all large organisations, such as mandate fraud, theft of data etc. The Trust will seek prosecution in all cases of proven fraud and will refer attempts to the national Action Fraud Reporting Line.
- 9.10 In relation to patients, threats exist within the area of obtaining free treatment when not entitled or obtaining treatment for which a charge is due and having no intention to pay. This may involve providing false identity or false address details. In addition patients may claim travel expenses where they are not entitled. The Trust will liaise with other agencies such as UKBA, DWP and local authorities to verify entitlement to free treatment and / or identity and address details.
- 9.11 Where there is sufficient evidence of fraud, the Trust will seek civil recovery and prosecution applying the evidential and public interest tests and taking account of mitigating and aggravating factors. The circumstances of each individual case will ultimately determine the eventual sanction route.

Contractors/ suppliers

- 9.12 Contractors who defraud the Trust through deliberate overcharging, duplicate charging etc will have any contracts terminated and relevant information will be shared with other NHS bodies. The Trust will seek prosecution and civil recovery in all cases.