

# Counter Fraud and Corruption Policy

Division: Trust-Wide

Document No: CO-06

Specific staff groups to whom this policy <u>directly</u> applies	Likely frequency of use	Other staff who may need to be familiar with policy
All Staff employed by the Trust	As required	All individuals contracted to provide services to, or on behalf of the Trust

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<b>Consultation:</b>	Executive Team Chair of Audit & Risk Committee Local Counter Fraud Specialist Divisional Operations Directors Associate Director of Quality Governance Deputy Chief Finance Officer Chief People Officer Director of Procurement		
<b>Ratifying Committee:</b>	Audit & Risk Committee		
<b>Executive Lead:</b>	Glyn Howells, Chief Finance Officer		
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<b>Version:</b>	Version 3.0		
<b>KEYWORDS:</b>	Bribery, Bribe, Fraudulent, Fraud		
<b>Summary of changes since the previous version</b>		2008	Version on intranet HR site
	V1	2010	Version on HR portal
	V2	10/2013	Review of behavioural governance
	V2.1	09/2016	New contact details

	V2.2		New contact details
	V2.3	04/2020	Updated to reflect regulator name change, updated references, revised standard wording and revised policy template.
	V2.4	04/2020	Removal of Regulatory section and Deterring and preventing wrongdoing section due to renewed guidelines Contact details updated and corrected
	V3.0	01/2023	Formatting changes

## COMMITTEE DECISION FORM

*To be completed as appropriate and returned to author after the Committee meeting*

Committee:	Audit & Risk Committee
Committee Chair and title:	Richard Gaunt, Non-Executive Director
Document name:	Counter Fraud and Corruption Policy
Lead Author/ Clinician:	Simon Stayner, Local Counter Fraud Specialist Xavier Bell, Director of Corporate Governance & Trust Secretary
Specialty/ Division/ Trust-wide:	Trust Wide
Committee meeting date at which the document was discussed:	20 March 2023

### **DECISION** (please tick appropriate box)

**Approved**

**Approved** subject to following minor amendments being made:

**Not approved**, Amendments required by the author – Chair to be sent amended document – approval will be given when changes are made

**Not approved**, Amendments or rewrite required by the author before resubmission to the next Committee meeting

The Committee made the following comments and required these amendments:

For further discussion please contact:

## 1. Key messages in this policy

- 1.1. The Trust Board is committed to deterring, preventing and detecting fraud and corruption, (including bribery) in the Trust.
- 1.2. All staff have a responsibility to be alert to the risk of fraud and corruption and to follow procedures correctly, so as to minimise the opportunity for fraud and corruption to occur.
- 1.3. Where fraud or corruption is suspected, it will be investigated rigorously. Where it is proven, the Trust will press for criminal prosecution of the individual(s) involved and seek the maximum reparation possible.

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## 2. Policy statement

- 2.1. The Trust Board is committed to maintaining an honest, open and well intentioned atmosphere within the Trust. The Board has set out its expectations of all employees and individuals working in the name of the Trust, regarding the standards of personal and professional behaviour in its policies: “Standards of business conduct, incorporating anti-bribery and corruption policy” and “Declarations of Interest policy”.
- 2.2. The Board has adopted a zero tolerance approach to wrongdoing and expects all staff to apply the same standard.
- 2.3. The Board will ensure that suitable arrangements are in place to provide it with sufficient assurance that there are reasonable deterrents in place prevent wrongdoing; and adequate arrangements in place to investigate instances of potential wrongdoing when they are identified.
- 2.4. If wrongdoing is proved, the Trust will normally seek criminal prosecution of the individual(s) involved and seek the maximum reparation possible.

## 3. Definition of terms

- 3.1. **Bribery** - generally defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so. The Bribery Act, 2010 describes two offences specific to the individual:
  - 3.1.1. Active Bribery – the process of giving or offering a bribe
  - 3.1.2. This offence encompasses:
    - 3.1.2.1. bribes given or offered to benefit, ultimately, the individual giving the bribe
    - 3.1.2.2. bribes given or offered to benefit the individual's employer
    - 3.1.2.3. bribes given or offered by a service supplier to the employer, for the direct or indirect benefit of the employer
  - 3.1.3. Passive Bribery – the act of accepting a bribe, which includes actions encouraging a bribe to be given
- 3.2. **Corruption** – abuse of powers, associated with the position of the individual, for personal gain.
- 3.3. **Standing Orders** – comprises the Trust's standing orders, standing financial instructions and scheme of delegations.
- 3.4. **Fraud** – dishonest use of a lie to seek to achieve personal gain, or to damage another individual: seeking to make a benefit, or causing another to suffer a loss, from making a false representation, from failing to disclose relevant information, or from abusing their position.
- 3.5. **Local Counter Fraud Specialist (LCFS)** – qualified specialist, appointed by the Trust to undertake the full range of anti-fraud, bribery and corruption work, including proactive work to prevent and deter fraud, bribery and corruption and reactive work to hold those who commit fraud, bribery and corruption to account.
- 3.6. **NHS Counter Fraud Authority (NHSCFA)** – previously known as NHS Protect, NHSCFA has the responsibility for the detection, investigation and prevention of fraud and economic crime within the NHS. Its aim is to lead the fight against fraud affecting

the NHS and wider health service, by using intelligence to understand the nature of fraud risks, investigate serious and complex fraud, reduce its impact and drive forward improvements. Its organizational strategy “Leading the fight against NHS fraud: Organisational strategy 2017-2020” is available at: <https://cfa.nhs.uk/about-nhscfa/corporate-publications>

- 3.7. **Staff** – for the purposes of this policy, “staff” should be taken to include casual and temporary workers, volunteers and individuals employed by other organisations to deliver services in the Trust’s name.
- 3.8. **Wrongdoing** – for the purposes of this policy, should be taken to involve the criminal offences described in the Fraud Act, 2006 and Bribery Act, 2010.

## 4. Scope of the Policy

- 4.1. One of the most basic principles of public sector organisations is the proper use of public funds. It is therefore important that all those working within the public sector are aware of the risk of wrongdoing and means of enforcing the rules against wrongdoing.
- 4.2. This document sets out the Trust's policy for deterring, detecting and dealing with suspected wrongdoing. The Trust has established procedures to reduce the likelihood of illegal acts occurring. These include its Standing Orders, standards of business conduct and systems of internal control.
- 4.3. The Trust Board will seek assurance that it has established adequate arrangements to deter, prevent and detect wrongdoings carried out against the Trust, or in the Trust’s name. The Board will seek to ensure that a risk and fraud awareness culture is maintained across the Trust.
- 4.4. **The Bribery Act, 2010:**
- 4.4.1. The Bribery Act establishes a criminal offence for an organisation to fail to prevent bribery being carried out in its name, or in the interests of its business. This offence can be mitigated against; and defended successfully, if the organisation has established adequate procedures to prevent bribery from occurring.
- 4.4.2. The Act identifies six principles to be considered in seeking to prevent bribery:
- 4.4.2.1. Proportionality – the efforts to prevent should be reasonable, when considered against the extent of the risk faced
- 4.4.2.2. Top level commitment – showing that the risks are taken seriously and making sure that all staff managers understand that bribery will not be tolerated
- 4.4.2.3. Risk assessment – considering, as part of any planning appraisal, the specific risk of bribery, particularly in new ventures and new situations
- 4.4.2.4. Due diligence – making sure that you can trust the people you work with, or who provide work for you
- 4.4.2.5. Communication – ensuring that all staff, in the widest sense, are fully aware that bribery is not acceptable
- 4.4.2.6. Monitoring and review - of the effectiveness and continued relevance of the anti-bribery arrangements that have been put in place

- 4.4.3. The Trust Board will seek assurance that these principles are applied adequately, to prevent bribery and other wrongdoing from occurring.
  - 4.4.4. The criminal offences are as follows:
  - 4.4.5. Under the Bribery Act, 2010
    - 4.4.5.1. Section 1 – bribing another
    - 4.4.5.2. Section 2 – accepting or requesting a bribe
    - 4.4.5.3. Section 7 – (employer) failing to take reasonable steps to prevent a bribe
  - 4.4.6. Under the Fraud Act, 2006
    - 4.4.6.1. Section 2 – fraud by false representation
    - 4.4.6.2. Section 3 – failing to disclose information
    - 4.4.6.3. Section 4 – abuse of position
    - 4.4.6.4. Section 11 – obtaining services dishonestly
  - 4.4.7. Offences recorded in other Acts, such as the Theft Act, 1968 and the Computer Misuse Act, 1990 are also included here.
- 4.5. **NHSCFA strategic guidance:**
- 4.5.1. The NHSCFA standards for providers identifies the following key principles for combating fraud, bribery and corruption:
    - 4.5.1.1. Strategic governance – that supports a zero tolerance approach to wrongdoing; makes this clear to all staff; and monitors, at the very top of the organisation, the effectiveness of the arrangements in place;
    - 4.5.1.2. Inform and involve – through setting clear policies and a code of conduct for all staff; raising awareness of the risks; and liaising with other organisations to develop a shared resistance to wrongdoing
    - 4.5.1.3. Prevent and deter – through focused assessment of risks in existing systems and processes; audit and review of records; proactive checks of new employees and new service suppliers
    - 4.5.1.4. Hold to account – through audit of known higher risk areas; investigating allegations and indications of wrongdoing; and seeking maximum punishment and reparation if wrongdoing is shown.
  - 4.5.2. The Trust Board will seek assurance that these standards are applied adequately, to protect the Trust’s good name and interests.

## 5. Roles and responsibilities

- 5.1. The **Trust Board** is responsible for gaining assurance that:
  - 5.1.1. The Trust has adopted and is operating adequate procedures and controls to deter and prevent wrongdoing from occurring, in compliance with the Secretary of State’s directions to NHS bodies on counter fraud measures; and
  - 5.1.2. Adequate arrangements are in place to ensure that all staff are aware of the standards of personal and professional behaviour expected of them; and that all staff have access to this policy.

- 5.2. The **Audit & Risk Committee** is responsible for gaining assurance that:
- 5.2.1. The Trust has appointed a qualified LCFS to lead the drive to maintain and improve the standards and processes for deterring, detecting and investigating wrongdoings; and seek prosecution where wrongdoing is discovered;
  - 5.2.2. The annual counter fraud work-plan is adequate and provides a reasonable balance between raising fraud awareness across the Trust and evaluating the effectiveness of the Trust's counter-fraud systems and controls;
  - 5.2.3. It receives periodical reports from the LCFS on the progress against the work- plan and update of the progress of any investigations; and
  - 5.2.4. It receives a formal annual report of the Trust's compliance with the standards set by NHSCFA.
- 5.3. **Internal and External Auditors** have a key role in reviewing the Trust's controls and systems and ensuring compliance with the Trust's Standing Orders. Auditors have a duty to pass on any suspicions of fraud, bribery or corruption to the LCFS.
- 5.4. The **Chief Executive** is the organisation's accountable officer and has overall responsibility for all funds entrusted to it. The Chief Executive must ensure adequate policies, procedures, and processes are in place to protect the organisation and the public funds it receives from fraud, bribery and corruption.
- 5.5. The **Chief Finance Officer** (or equivalent) is the executive director lead for all anti-fraud, bribery and corruption work in the Trust and is responsible for:
- 5.5.1. Ensuring that an annual wrongdoing risk assessment is carried out by the Trust, using the tools provided by the NHS Counter Fraud Authority;
  - 5.5.2. Managing the continuity of appointment of a qualified LCFS to the Trust; and ensuring that the counter-fraud service continues to be delivered in the event of the departure, or long term absence of the appointed LCFS;
  - 5.5.3. Overseeing the delivery of services from the LCFS;
  - 5.5.4. Providing the relevant required support to the LCFS in any investigations that they carry out; and
  - 5.5.5. Ensuring the currency of this policy.
- 5.6. **Human Resources (HR)** are responsible for supporting the LCFS in the conduct of any investigation into suspected fraud, bribery or corruption, and will instigate the necessary disciplinary action against those who fail to comply with the Trust's policies, procedures and processes.
- 5.7. The **Chief Digital Information Officer** must report any fraudulent use of information technology to the LCFS, in line with the requirements of the Computer Misuse Action, 1990.
- 5.8. **Managers** are responsible for ensuring that:
- 5.8.1. their staff, including new staff, are aware of and understand the contents of this policy;
  - 5.8.2. all instances of suspected wrongdoing are reported to:
    - 5.8.2.1. the Chief Finance Officer; or
    - 5.8.2.2. the appointed LCFS ; or



5.8.2.3. NHSCFA (via <https://cfa.nhs.uk/reportfraud> or the fraud & corruption reporting line: 0800 028 40 60)

5.9. Individual **members of staff** are required to:

- 5.9.1. carry out their tasks in accordance with the relevant policies and procedures of the Trust, so that their actions do not prevent the systems and controls against wrongdoing from operating effectively;
- 5.9.2. be aware of the classification of wrongdoing and be alert to evidence that wrongdoing is occurring;
- 5.9.3. abide by the expected behaviours set out in the Trust's "Standards of business conduct, incorporating anti-bribery and corruption policy;
- 5.9.4. declare any interest, including receipt of any gifts or hospitality, in accordance with the Trust's Declarations of Interests policy;
- 5.9.5. understand the consequences of becoming involved in wrongdoing;
- 5.9.6. report any wrongdoings to the Chief Finance Officer, the appointed LCFS and NHSCFA (contact details above) who will, as far as is legally possible, respect the anonymity of the individual reporting the wrongdoing.

5.10. The **Local Counter Fraud Specialist (LCFS)** reports directly to the Chief Finance Officer and is responsible for:

- 5.10.1. taking forward all counter-fraud work locally in accordance with national standards, including investigating any allegations of fraud;
- 5.10.2. achieving the highest standards possible in their work;
- 5.10.3. working with key colleagues and stakeholders to promote counter fraud work; and
- 5.10.4. applying effective preventative measures and investigate allegations of fraud and corruption.

5.11. The role and duties of **Fraud Champion** is to understand the threat posed by fraud, bribery and corruption in the NHS, understand best practice on counter fraud, and promote awareness of fraud, bribery and corruption within the Trust.

## 6. Arrangements for deterring, preventing, detecting and responding to instances of wrongdoing

6.1. The Trust will maintain procedures and controls designed to be effective in combatting wrongdoing carried out against it and carried out in its name. These arrangements will be sufficient to deliver the expectations set out in the relevant legislation and regulations.

### 6.2. Governance framework

- 6.2.1. The Trust Board will ensure that the Trust maintains a strong framework of governance that sets out clearly the behavioural and professional standards expected of all staff. The Trust's key governance documents will be kept up to date, through regular review and will be made easily accessible to all staff via the intranet.
- 6.2.2. The Trust Board will support the work of the appointed LCFS who will develop programmes of work that raise the profile of the Trust's anti-fraud

culture and promote the Trust's principles to staff; review and test the adequacy of controls designed to deter and prevent wrongdoing from occurring; and investigate instances where wrongdoing is suspected. The Trust will allow the LCFS timely and unrestricted access to records and staff.

### 6.3. Informing and involving staff

- 6.3.1. The Chief Finance Officer will, through its appointed LCFS, deliver a programme of awareness training to staff. This will be delivered through a range of media, including direct training and presentations and promotional materials, such as leaflets, posters, emails, website links and so on.
- 6.3.2. The Trust Board will provide the LCFS with access to staff groups and to publication and distribution facilities for delivering messages to all staff.
- 6.3.3. The Trust will promote key policies to all staff - all stored in the Corporate Governance section of the 'Policies & Guidelines' tab on the staff intranet - including:
  - 6.3.4. Standards of business conduct, incorporating anti-bribery and corruption policy – which sets out the standards of personal and professional behaviour expected of all staff
  - 6.3.5. Declarations of interest policy – which sets out the requirements for staff to declare interests, including the receipt of any gifts or hospitality
  - 6.3.6. Counter fraud and corruption policy – (this policy) which describes the Trust's stance on wrongdoing and the arrangements it puts in place to deter, prevent and investigate wrongdoing
  - 6.3.7. Freedom to speak up: raising concerns (whistleblowing) policy – which sets out how all staff can raise concerns about unsafe or improper behaviour.
  - 6.3.8. Through the LCFS, the Trust will assess the effectiveness of its efforts to promote the counter fraud culture to all staff and will report the results of this assessment in the annual counter fraud report to the Audit Committee.

### 6.4. Investigating and holding to account

- 6.4.1. The Chief Finance Officer will seek assurance from the LCFS that any relevant incidents uncovered at the Trust are reported to NHSCFA for inclusion on the national database of incidents.
- 6.4.2. The Trust Board will seek assurance that appropriately qualified LCFS staff investigate all reported potential wrongdoings.
- 6.4.3. If wrongdoing is proven, the Trust Board will support, or on the advice of NHSCFA and the LCFS, pursue the full range of available sanctions, including internal disciplinary procedures, civil recovery proceedings and submission of evidence for criminal investigation. Successful cases will be publicised as an additional deterrent.
- 6.4.4. Relevant policies and procedures will be reviewed in the light of incidences of wrongdoing uncovered at the Trust and in response to system and control threats identified within the local NHS community by the LCFS and nationally, by NHSCFA.

## 6.5. Reporting suspected wrongdoing

- 6.5.1. All members of staff have a responsibility to report suspicions of wrongdoing. These suspicions must be reported immediately to one of the following (see appendix A for contact details):
- 6.5.1.1. the Chief Finance Officer; or
  - 6.5.1.2. the appointed LCFS (Simon.Stanyer@KPMG.co.uk); or
  - 6.5.1.3. NHSCFA (via <https://cfa.nhs.uk/reportfraud> or the fraud & corruption reporting line: 0800 028 40 60)
- 6.5.2. Responses to any reported incidents or suspicions of wrongdoing must be carried out in accordance with the NHS Counter Fraud and Corruption Manual. All investigations will normally be carried out by the Trust's qualified LCFS, or their nominated qualified cover LCFS.
- 6.5.3. The types of incidents and suspicions to be raised include the following (but this is not an exclusive list):
- 6.5.3.1. Suspicious looking transactions and activities with potential for direct pecuniary loss to the NHS (e.g. submission of invalid travel claims, illicit use of NHS or other official stationery);
  - 6.5.3.2. Working whilst off sick and in receipt of Statutory Sick Pay (SSP);
  - 6.5.3.3. Undertaking Private work in NHS Time;
  - 6.5.3.4. False Overtime / Expense / Travel Claims;
  - 6.5.3.5. Evidence of receipt of inappropriate gifts or hospitality from a contractor, potential contractor, employee or any other person;
  - 6.5.3.6. Evidence of staff failing to declare a direct pecuniary or otherwise conflicting interest in a contractor or potential or potential contractor, or relationship with a potential employee;
  - 6.5.3.7. Evidence of staff providing inappropriate gifts or hospitality in order to influence the actions of any third party in their relationship with the organization;
  - 6.5.3.8. Instances of theft which appear to be indicate links with wider fraud or corruption
  - 6.5.3.9. all referrals to the LCFS will be dealt with in the strictest of confidence and anonymous referrals are accepted

## 7. Monitoring effectiveness

- 7.1. The Chief Finance Officer and the LCFS will agree annual and specific measures of the effectiveness of this policy.
- 7.2. The below table details the monitoring procedures in order that NBT can be assured that compliance with a policy is being met. It identifies both the processes for monitoring compliance and the actions to be taken where deficiencies and non-compliance are identified.

What will be monitored	Monitoring/ Audit method	Monitoring responsibility (individual/group/ committee)	Frequency of monitoring	Reporting arrangements (committee/group the monitoring results are presented to)	How will actions be taken to ensure improvements and learning where the monitoring has identified deficiencies
Number and nature of instances of suspected wrongdoing	LCFS – proactive and reactive work	Audit & Risk Committee (ARC)	Quarterly	Quarterly LCSF report to ARC	Cascade communication to staff as appropriate
Awareness of this policy and its contents amongst staff.	Fraud Awareness month	LCSF and Chief Finance Officer	Annually	Awareness raising covered in annual counter fraud report to ARC	Improvement opportunities communicated into LCSF approach.

## 8. Consultation and approval

- 8.1. The review period for this document is three years from the date it was last ratified, or earlier if developments within or external to the Trust indicate the need for a significant revision to the policy.
- 8.2. The review and revision of this document will be monitored through the Audit Committee.
- 8.3. Non-significant amendments to this policy may be made, under delegated authority from the Chief Finance Officer, by the nominated author. These must be agreed in advance with the LCFS and ratified by the Chief Finance Officer and should be reported, retrospectively, to the Audit & Risk Committee.
- 8.4. Significant reviews and revisions to this policy will involve consultation with relevant managers and staff across the Trust, internal and external audit and trades union representatives. Where possible, the consultation process will include discussion with the Policy Review sub-group of the Joint Consultative and Negotiating Committee (JCNC).

## 9. Dissemination and implementation

- 9.1. Following approval and ratification, this policy will be published on the Trust's intranet library of policies. All staff will be notified through one of the Trust's current communications vehicles.
- 9.2. Implementation is immediate on ratification.
- 9.3. Other than the LCFS programme of promotions to staff, no formal training is proposed. All staff will be encouraged to read and understand the whole policy. The Chief Finance Officer, or the LCFS may also, from time to time, issue reminders about the main messages in the policy, or about specific elements of the policy.

## 10. Associated policies/documents

- 10.1. This document should be read alongside the following governance policies:
  - 10.1.1. *Declarations of Interests Policy*
  - 10.1.2. *Sickness Policy – Supporting Positive Attendance*
  - 10.1.3. *Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy*
- 10.2. Other policies that may become relevant include the Trust's:
  - 10.2.1. *Standing Orders and Standing Financial Instructions, incorporating the Trust Board's Scheme of Delegation*
  - 10.2.2. *Disciplinary policy*
  - 10.2.3. *Recruitment and Selection Policy*
- 10.3. The significant Acts of Parliament comprise:
  - 10.3.1. Fraud Act, 2006
  - 10.3.2. Bribery Act, 2010
  - 10.3.3. **Freedom of Information Act, 2000**

## Appendix A – contact details

### Chief Finance Officer

Glyn Howells

[Glyn.Howells@nbt.nhs.uk](mailto:Glyn.Howells@nbt.nhs.uk)

01174143729

### Local Counter Fraud Specialists

Simon Stanyer

[Simon.stanyer1@nhs.net](mailto:Simon.stanyer1@nhs.net)

07747565380

### NHS Counter Fraud Authority

<https://cfa.nhs.uk/reportfraud>

Reporting line: 0800 028 40 60