

Anti-fraud, Bribery and Corruption Policy

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1 Introduction

1.1 General

Calderdale Clinical Commissioning Group (CCCG) is committed to reducing the level of fraud, bribery and corruption within the NHS to an absolute minimum and keeping it at that level, freeing up public resources for better patient care. When fraud is proven, the CCG will seek the appropriate disciplinary, regulatory, civil and criminal sanctions, and will attempt to recover losses where possible. This policy is endorsed by the CCCG Governing Body.

1.2 Aims and objectives

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

- improve the knowledge and understanding of everyone in and associated with Calderdale CCG, irrespective of their position, about the risk of fraud, bribery and corruption within the organisation and its unacceptability
- assist in promoting a climate of openness and an environment where people feel able to raise concerns sensibly and responsibly
- set out CCCG's responsibilities in terms of the deterrence, prevention, detection and investigation of fraud, bribery and corruption

1.3 Scope

This policy applies to employees of Calderdale CCG, members of the governing body, member practices, contractors, suppliers and other internal and external stakeholders.

2 Definitions

2.1 NHS Counter Fraud Authority

NHS Counter Fraud Authority has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS and that any investigations will be handled in accordance with NHS Counter Fraud Authority guidance.

2.2 Fraud

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

The offence of fraud can be committed in three ways:

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

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

2.3 Bribery and corruption

The Bribery Act 2010, which came into effect on 1st July 2011, makes it a criminal offence to give, promise or offer a bribe. It is also an offence to request, agree to, receive or accept a bribe, either at home or abroad. It also includes

bribing a foreign official. It has increased the maximum penalty for bribery to 10 years imprisonment, with an unlimited fine.

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

Corruption can be broadly defined as the offering or acceptance of inducements, gifts, favours, payment or benefit-in-kind which may influence the action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.

3 Roles and responsibilities

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

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

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

3.1 Chief Officer

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

3.2 Chief Finance Officer/Deputy Chief Officer

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

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

The CFO will report annually to the Governing Body on the adequacy of internal financial control and risk management as part of the Board's overall responsibility to prepare an annual governance statement for inclusion in the CCGs annual report.

The CFO will, depending on the outcome of initial investigations, inform appropriate senior management of suspected cases of fraud, bribery and corruption, especially in cases where the loss may be significant or where the incident may lead to adverse publicity. If an investigation is deemed appropriate, the Chief Finance Officer/Deputy Chief Officer will delegate to Calderdale CCG's LCFS who has responsibility for leading the investigation, whilst retaining overall responsibility himself/herself.

3.3 Internal and external audit

The role of internal and external audit includes reviewing controls and systems and ensuring compliance with financial instructions. Any incident or suspicion

that comes to internal or external audit's attention must be passed immediately to the nominated LCFS. The outcome of the investigation may necessitate further work by internal or external audit to review systems.

3.4 Human resources (HR)

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

3.5 Local Counter Fraud Specialist (LCFS)

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

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

The LCFS will:

- ensure that the Chief Finance Officer/Deputy Chief Officer is informed about all referrals/cases
- be responsible for the day-to-day implementation of anti-fraud, bribery and corruption activity and, in particular, the investigation of all suspicions of fraud, bribery and corruption

- in consultation with the CFO, report any case to the police or NHS Counter Fraud Authority as agreed and in accordance with the NHS Counter Fraud and Corruption Manual
- report any case and the outcome of the investigation through NHS Counter Fraud Authority's Investigation Database
- ensure that other relevant parties are informed where necessary. Human Resources (HR) will be informed if an employee is the subject of a referral
- ensure that any system weaknesses identified as part of an investigation are followed up with management and reported to internal audit
- adhere to the Counter Fraud Professional Accreditation Board (CFPAB)'s Principles of Professional Conduct as set out in the NHS Counter Fraud and Corruption Manual

3.6 Freedom To Speak up Guardian (FTSU)

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

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

If any employee raises a genuine concern under this policy, they will not be at risk of losing their job or suffering any form of reprisal as a result. The CCG will not tolerate the harassment or victimisation of anyone raising a concern. Nor will the CCG tolerate any attempt to bully an employee into not raising such

concerns. Such behaviour is a breach of our values as an organisation and, if upheld following investigation, could result in disciplinary action.

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

The CCG's FTSU Guardian is the Deputy Chair/Chair of Audit Committee. Further information on the role of the FTSU Guardian can be found in the CCG's Whistleblowing Policy:

<https://www.calderdaleccg.nhs.uk/wp-content/uploads/2016/06/HR-005-Whistle-Blowing-Policy-v3.0.pdf>

3.7 Managers

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

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

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

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

As part of that responsibility, line managers need to:

- ensure that all employees for whom they are accountable are made aware of the requirements of this policy
- assess the types of risk involved in the operations for which they are responsible
- ensure that adequate control measures are put in place to minimise the risks. This must include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of a key function is not invested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively
- take responsibility (together with HR) for the enforcement of disciplinary action for staff who do not comply with policies and procedures.

3.8 All employees

The CCGs Standing Orders, Prime Financial Policies, policies and procedures place an obligation on all employees and Governing Body members to act in accordance with best practice.

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

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

In addition, all employees have a responsibility to comply with all applicable laws and regulations relating to ethical business behaviour, procurement, personal expenses, conflicts of interest, confidentiality and the acceptance of gifts and hospitality. This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees should always:

- avoid acting in any way that might cause others to allege or suspect them of dishonesty
- behave in a way that would not give cause for others to doubt that the CCGs employees deal fairly and impartially with official matters
- be alert to the possibility that others might be attempting to deceive.

All employees have a duty to ensure that public funds are safeguarded, whether or not they are involved with cash or payment systems, receipts or dealing with contractors or suppliers.

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

3.9 Information management and technology

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

The Computer Misuse Act (1990) recognises the following offences:

1. Accessing computer material without permission, e.g. looking at someone else's files.
2. Accessing computer material without permission with intent to commit further criminal offences, e.g. *hacking* into the bank's computer and wanting to increase the amount in your account.

3. Altering computer data without permission, e.g. writing a virus to destroy someone else's data, or actually changing the money in an account.

The head of information security (or equivalent) will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. HR will also be informed if there is a suspicion that an employee is involved.

4 The Response Plan

4.1 Reporting fraud or corruption

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

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

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

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

Suspected fraud, bribery and corruption can also be reported using the NHS Fraud and Corruption Reporting Line on Freephone 0800 028 40 60 or by filling

in an online form at [NHS Counter Fraud Authority](#) as an alternative to internal reporting procedures and if staff wish to remain anonymous.

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

4.2 Disciplinary action

Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act. The CCG disciplinary policy is available on the staff intranet.

4.3 Recovery of losses

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

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

Criminal Proceedings

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

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

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

Claims for compensation / damages

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

Civil proceedings

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

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

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

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

5 Review

5.1 Monitoring and auditing of policy effectiveness

Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. Arrangements might include reviewing system controls on an ongoing basis and identifying weaknesses in processes. Any weaknesses in policies or procedures may be identified by a number of sources including employees, Internal Audit or the LCFS.

Where deficiencies are identified as a result of monitoring, the CCG should explain how appropriate recommendations and action plans are developed and how any recommendations made should be implemented.

5.2 Dissemination of the policy

This policy will be available on the staff intranet and communicated to all employees where possible and when changes arise.

5.3 Review of the policy

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

6 Related Policy

Organisational policies that are relevant to this policy include: Disciplinary Policy and Whistleblowing Policy.

Form 1 is a guide for Calderdale CCG staff on how to tackle fraud with details of what to do, what not to do and who to contact.

Form 1: NHS fraud, bribery and corruption: dos and don'ts. A guide for CALDERDALE CCG

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 AND CORRUPTION is the deliberate use of payment or benefit-in-kind to influence an individual to use their position in an

<p>DO</p> <ul style="list-style-type: none"> • Note your concerns Record details such as the nature of your concerns, names, dates, times, details of conversations and possible witnesses. Time, date and sign your notes. • Retain evidence Retain any evidence that may be destroyed, or make a note and advise your Local Counter Fraud Specialist (LCFS). • Report your suspicions Confidentiality will be respected – delays may lead to further financial loss. 	<p>DO NOT</p> <ul style="list-style-type: none"> • 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 <u>in order for</u> it to be useful. Your LCFS can <u>conduct an investigation</u> 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.
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If you suspect that fraud against the NHS has taken place, you must report it immediately, by:

- directly contacting the Local Counter Fraud Specialist (LCFS), or
- telephoning the freephone NHS Fraud and Corruption Reporting Line (see details on the right), or
- contacting the Chief Finance Officer/Deputy Chief Officer.

Do you have concerns about a fraud taking place in the NHS?

NHS Fraud, Bribery and Corruption Reporting Line: 0800 028 40 60
calls will be treated in confidence and investigated by professionally trained staff.

Online: www.reportnhsfraud.nhs.uk

Your Local Counter Fraud Specialist is Rosie Dickinson
who can be contacted by telephoning 07825 228175 or emailing rosie.dickinson1@nhs.net.
If you would like further information about NHS Counter Fraud Authority,
please visit the NHS Counter Fraud website [cfa.nhs.uk/report fraud](http://cfa.nhs.uk/report-fraud)

Tackling fraud

Version History

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1.0	08/08/13	Local Counter Fraud Specialist	Final	Audit Committee	Staff
1.1	12/11/15	Local Counter Fraud Specialist	Draft	Proposed revisions in line with latest guidance and incorporate reference to recovery of losses (section 4.3).	Audit Committee
2.0	20/11/15	Local Counter Fraud Specialist	Final	Approved by Audit Chair.	Staff
2.1	11/09/17	Local Counter Fraud Specialist	Draft	Proposed amendments following review.	Audit Committee
3.0	21/09/17	Local Counter Fraud Specialist	Final	Approved by Audit Committee.	Staff
3.1	19/09/19	Local Counter Fraud Specialist	Draft	Scheduled review undertaken. Policy in line with current legislation and NHS CFA guidance.	Audit Committee

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				Non-material amendment to correct website address for CFA.	
4.0	26/09/19	Local Counter Fraud Specialist	Final	Approved by Audit Committee	Staff Website
5.0	03/02/2021	Local Counter Fraud Specialist	Final	Update of LCFS contact details Above non-material administrative change reported to Audit Committee 25.02.21.	Audit Committee Microsoft Teams Staff Group