NHS
Cornwall and
Isles of Scilly

Anti-bribery and counter fraud policy

Date approved: 9 June 2023

NHS Cornwall and Isles of Scilly Integrated Care Board

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1. Preface

NHS Cornwall and Isles of Scilly Integrated Care Board (ICB) is committed to reducing the level of fraud and corruption within the NHS to an absolute minimum and keeping it at that level, freeing up resources for better care.

This policy has been produced by the anti-crime service and is intended as a guide for all employees on anti-fraud, bribery and corruption work within the NHS. All genuine suspicions of fraud, bribery or corruption can be reported to the ICB's nominated anti-crime specialist (ACS):

Claire Friend – Telephone 07980 595 141 | Email claire.friend@tiaa.co.uk

You can also call the NHS fraud and corruption reporting hotline on free phone 0800 028 4060 or via the online reporting portal at www.cfa.nhs.uk/reportfraud

2. Introduction

One of the basic principles of public sector organisations is the proper use of public funds. The majority of people who work in the NHS are honest and professional and they find that fraud committed by a minority is wholly unacceptable as it ultimately leads to a reduction in the resources available for care.

The national perspective on NHS anti-crime arrangements is provided by the NHS Counter Fraud Authority (NHSCFA), a health authority charged with identifying, investigating and preventing fraud and other economic crime within the NHS and the wider health group. As a health authority focused entirely on counter fraud work, the NHSCFA is independent from other NHS bodies and directly accountable to the Department of Health and Social Care (DHSC).

NHSCFA leads on work to identify and tackle crime across the health service. The aim is to protect NHS staff and resources from activities that would otherwise undermine their effectiveness and their ability to meet the needs of people receiving NHS care and treatment. Ultimately, this helps to ensure the proper use of valuable NHS resources and a safer, more secure environment in which to deliver and receive care.

3. Purpose

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 fraud. It provides a framework for responding to suspicions of fraud as well as advice and information on various aspects of fraud and 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 all ICB employees, 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 a culture and environment where staff feel able to raise concerns sensibly and responsibly.
- Ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
  - criminal prosecution
  - civil prosecution
  - internal and/or external disciplinary action

This policy applies to all ICB employees, regardless of position held, as well as consultants, vendors, contractors, and/or any other parties who have a business relationship with the ICB. It will be brought to the attention of all employees and form part of the induction process for new staff.

4. Regulatory framework

The organisation aligns counter fraud, bribery and corruption work to the NHSCFA counter fraud, bribery and corruption strategy. This is documented in the organisational counter fraud, bribery and corruption policy, and is submitted upon request. The counter fraud work plan and resource allocation are aligned to the objectives of the strategy and locally identified risks.

The Functional Standard was launched as a pilot in October 2018, initially it solely applied to government departments and their arms-length bodies. The purpose of the Functional Standard is to set the expectations for the management of fraud, bribery and corruption risk in government organisations and wider public services, while reinforcing the government's commitment to fighting fraud against the public sector.

Government Functional Standard GovS 013: Counter Fraud – Management of Counter Fraud, Bribery and Corruption Activity. The Government Functional Standard has been developed to support organisations in implementing appropriate measures to counter fraud, bribery and corruption. Having appropriate measures in place helps protect NHS resources against fraud and ensures they are used for their intended purpose, the delivery of patient care.

4.1 NHS Counter Fraud Authority (NHSCFA)

Crime against the NHS can seriously undermine its effectiveness and ability to deliver healthcare services. NHSCFA has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS. It also has a responsibility to ensure that any investigations are conducted in accordance with the NHSCFA Strategy.

4.2 Fraud

Fraud is defined as a dishonest act (or a failure to act) made with the intention of making a financial gain or causing a financial loss (or risk of loss).

The dishonest act does not need to be successful for fraud to be committed, as long as the intention exists. Neither does the financial gain have to be personal but can be for the benefit of another. Where the intent is to cause a loss to the organisation, no gain by the perpetrator needs to be shown.

Petty theft, without the distortion of financial statements or other records, will normally be dealt with by the local security management specialist (LSMS) and reported to the police. However, where an employee abuses their position to misappropriate cash or other ICB income this may be considered to be fraud and be dealt with under this policy.

The Fraud Act 2006 is the relevant legislation. The Act includes 8 separate offences; those most applicable to the NHS and this policy are as follows.

Fraud by false representation

Defined by section 2 of the Act. A person may be guilty of an offence if they dishonestly make a false representation, and intend, by making the representation to make a gain for themselves or another, or to cause loss to another or to expose another to a risk of loss. For example, an employee claiming travel expenses for journeys they have not undertaken.

Fraud by failing to disclose information

Defined by section 3 of the Act. A person may be guilty of an offence if they dishonestly fail to disclose to another person information which they are under a legal duty to disclose, and intend, by failing to disclose the information to make a gain for themselves or another, or to cause loss to another or to expose another to a risk of loss. For example, failing to disclose criminal convictions when asked to do so as part of the recruitment process, in order to obtain employment.

Fraud by abuse of position

Defined by section 4 of the Act. A person may be guilty of an offence if they occupy a position in which they are expected to safeguard, or not to act against, the financial interests of another person, dishonestly abuse that position, and intend, by means of the abuse of that position to make a gain for themselves or another, or to cause loss to another or to expose another to a risk of loss. For example, a manager creating ‘ghost’ employee’s and paying the salaries into their own bank account

Possession of articles for use of fraud(s)

Defined by section 6 of the Act. A person may be guilty of an offence if they have in their possession or under their control any article for use in the course of or in connection with any fraud. For example, using a false passport or other documentation to secure employment.

4.3 Bribery and corruption

The Bribery Act 2010 is the relevant legislation. The Act creates a number of criminal offences and those most applicable to the NHS and this policy are as follows.

Offence of bribing another person

Defined by section 1 of the Act. It is also an offence for a person to offer, promise, or give a bribe to another person as an inducement for them improperly performing any duty. For example, providing excess hospitality to a potential purchaser or commissioner of the organisation's services.

Offence of being bribed

Defined section 2 of the Act. It is an offence for a person to request, or agree to receive, or accept a financial or other advantage as an inducement to, or as a reward for, the improper performance of any function or activity. For example, where an employee sells confidential information to a third party or provides preferential treatment to suppliers or other people for a fee.

Failure of a commercial organisation to prevent bribery

Defined within section 7 of the Act. If an individual bribes another person to obtain or retain business, or an advantage in the conduct of business for an organisation, then that organisation may also be guilty of an offence. For example, if an NHS Trust fails to put adequate controls in place to prevent bribery and an employee offers a bribe to a commissioning ICB.

A "financial or other advantage" has a wide meaning and could include holidays or entertainment, contracts, non-monetary gifts and offers of employment and so on.

A "relevant function or activity" covers "any function of a public nature; any activity connected with a business, trade or profession; any activity performed in the course of a person's employment; or any activity performed by or on behalf of a body of persons whether corporate or unincorporated".

The conditions attached are that the person performing the function should be expected to perform it in good faith or with impartiality, or that an element of trust attaches to that person's role.

Activity will be considered to be "improperly" performed when there is a breach of good faith, impartiality or a position of trust.

The standard in deciding what would be expected is what a reasonable person in the UK might expect of a person in such a position.

Any concerns about bribery should be referred to the Anti-Crime Specialist.

4.4 Corruption

Is defined as the “offering, giving, soliciting or acceptance of an inducement or reward, which may influence a person to act against the interest of the organisation”.

4.5 The Computer Misuse Act 1990

The Computer Misuse Act 1990 includes 3 offences as:

1. Unauthorised access to computer material
2. Unauthorised access with intent to commit or facilitate commission of further offences
3. Unauthorised acts with intent to impair, or with recklessness as to impairing operation of computer, and so on.

Unauthorised access to computer material could include using another person's identifier (ID) and password without proper authority in order to use data or a program, or to alter, delete copy or move a program or data.

Unauthorised access with intent to commit or facilitate commission of further offences could include gaining unauthorised access to financial or administrative records with intent.

Unauthorised acts with intent to impair, or with recklessness as to impairing the operation of computer, could include: destroying another user's files; modifying system files; creation of a virus; changing clinical records; and deliberately generating information to cause a complete system malfunction.

The fraudulent use of information technology will be reported by the head of information security (or equivalent) to the CFS.

4.6 Theft Act 1968

Theft is defined as dishonestly appropriating property belonging to another with the intention of permanently depriving them of it (stealing). Fraud is distinct from theft because it involves an element of deception – making a false representation. All instances of theft within the ICB should be referred to the local security management specialist (LSMS).

5. Codes of conduct

The 3 fundamental public service values underpinning the NHS and all public service sector work specified by the NHS Code of Conduct are as follows.

Accountability

Everything done by those who work in the organisation must be able to withstand public and parliamentary scrutiny.

Probity

Absolute honesty and integrity should be exercised in dealing with people using the services of the NHS, its assets, staff, supplies and customers.

Openness

The organisation's activities should be sufficiently public and transparent to promote confidence between the organisation, the people using the services it commissions, its staff and the public.

5.1 Duty of candour

Candour is defined by Robert Francis QC, in the 2013 Mid Staffordshire NHS Foundation Trust Public Inquiry report as "The volunteering of all relevant information to persons who have or may have been harmed by the provision of services, whether or not the information has been requested and whether or not a complaint or a report about that provision has been made."

These standards of openness will apply to non-clinical issues unless doing so would breach the ICB's obligations of confidentiality.

All those who work in the ICB should be aware of, and act in accordance with, these values.

6. Roles and responsibilities

The ICB will take all necessary steps to counter fraud, bribery and corruption in accordance with this policy, NHS counter fraud and corruption manual, the policy statement 'Applying appropriate sanctions consistently' published by NHSCFA and any other relevant guidance or advice issued by NHSCFA.

6.1 The ICB Board

The Board is responsible for gaining assurance that:

- The ICB 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.
- 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.

6.2 The audit committee

The committee is responsible for gaining assurance that:

- The ICB has appointed a qualified CFS 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.
- The annual counter fraud work plan is adequate and provides a reasonable balance between raising fraud awareness across the ICB and evaluating the effectiveness of its counter-fraud systems and controls.
- It receives periodical reports from the CFS on the progress against the work plan and update of the progress of any investigations.
- It receives a formal annual report of ICB compliance with the standards set by NHSCFA.

6.3 The 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. The chief officer is liable to be called to account for specific failures in the ICB's system of internal controls.

However, responsibility for the operation and maintenance of controls falls directly to line managers and requires the involvement of all of employees. The ICB therefore has a duty to ensure employees who are involved in or who are managing internal control systems receive adequate training and support in order to carry out their responsibilities.

6.4 The chief finance officer

The chief finance officer is the lead for all anti-fraud, bribery and corruption work in The ICB and monitors and ensures compliance with the NHS contract:

- Ensuring that an annual risk assessment is carried out by the ICB, using the tools provided by NHSCFA.
- Managing the continuity of appointment of a qualified CFS to the ICB; and ensuring that the counter-fraud service continues to be delivered in the event of the departure, or long term absence of the appointed CFS.
- Overseeing the delivery of services from the CFS.
- Providing the relevant required support to the CFS in any investigations that they carry out.
- Depending on the outcome of investigations (whether on an interim, ongoing or concluding basis) and/or the potential significance of suspicions that have been raised, inform appropriate senior management accordingly. The chief finance officer will inform and consult the chief officer in cases where the loss may be above the agreed limit or where the incident may lead to adverse publicity.

6.5 Senior compliance officer

The ICB has appointed the chief financial officer as senior compliance officer and they will be responsible for ensuring the ICB is compliant with the requirements of the Bribery Act 2010, implementing anti-bribery guidelines and monitoring

compliance. The senior compliance officer will review annually the suitability, adequacy and effectiveness of the ICB's anti-bribery arrangements and implement improvements as and when appropriate.
The senior compliance officer directly reports to the chief officer. Once a year, the senior compliance officer reports the results of the reviews to the Board.

Any incident or suspicion that comes to attention of the senior compliance officer will be passed immediately to the CFS.

6.6 The procurement team

The procurement team will ensure that special regard is paid to the requirements of the Bribery Act 2010. That all organisations from which services are procured have proportionate controls and checks on their staff to deter and prevent all forms of wrongdoing, including bribery in favour of the ICB and bribery that does not benefit the ICB.

6.7 Individual members of staff

Individual members of staff are required 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.
- Have a duty to protect ICB assets, including information, goodwill and property.
- 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.
- 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 ICB employees deal fairly and impartially with official matters.
- Be alert to the possibility that others might be attempting to deceive.
- 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 CFS.

6.8 Managers

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. The responsibility for the prevention and detection of fraud, bribery and corruption therefore primarily rests with managers but requires the co-operation of all employees. As part of their responsibility, managers need to:

- Ensure that procedures to guard against fraud and corruption are followed. They should be alert to the possibility that unusual events or transactions could be symptoms of fraud, bribery and corruption. If they have any doubts, they must

seek advice from the nominated CFS.

- Instil and encourage an anti-fraud, anti-bribery and anti-corruption culture within their team and ensure that information on procedures is made available to all employees. The CFS will proactively assist the encouragement of an anti-fraud culture by undertaking work that will raise fraud awareness.
- Ensure 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 CFS as soon as possible.
- Inform staff of the ICB code of conduct and anti-bribery and counter-fraud policy as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms.
- Ensure that all employees for whom they are accountable are made aware of the requirements of the 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.
- Ensure that any use of computers by employees is linked to the performance of their duties within the ICB.
- Be aware of the ICB's anti-bribery and counter-fraud policy and the rules and guidance covering the control of specific items of expenditure and receipts.
- Identify financially sensitive posts.
- Ensure that controls are being complied with.

6.9 The Anti-Crime Specialist

The Anti-Crime Specialist (ACS) is responsible for tackling fraud, corruption and bribery affecting the ICB, in accordance with national NHSCFA standards. Adherence to NHSCFA standards is important to ensure that the ICB has appropriate anti-fraud, bribery and corruption measures in place. The CFS will look to achieve the highest possible standards and will report directly to the chief finance officer and at least annually to the audit committee.

The CFS will work with key colleagues and stakeholders to promote anti-fraud work, conduct risk assessments, apply effective preventative measures and investigate allegations of fraud and corruption.

The CFS will ensure that the NHSCFA case management system is used to record all allegations of suspected fraud, bribery and corruption, and to provide information to inform national intelligence.

The CFS will use the NHSCFA case management system to support and progress the investigation of fraud, bribery and corruption allegations, in line with NHSCFA guidance.

The CFS will follow NHSCFA guidance, as set out in the NHS anti-fraud manual and current case acceptance criteria, in supporting the investigation of all allegations of fraud, bribery and corruption. The CFS will ensure that relevant legislation, such as the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigations Act 1996, is adhered to. The CFS will complete witness statements that satisfy the NHS CFA training model and best practice, and follow national guidelines approved by the Crown Prosecution Service.
The CFS will ensure that interviews under caution are conducted following the NHS CFA training model, and in line with the National Occupational Standards (CJ201.2) and the Police and Criminal Evidence Act 1984.

The CFS will develop and deliver a comprehensive risk based anti-fraud work plan in compliance with all relevant NHS CFA standards for fraud, bribery and corruption. The anti-fraud work plan will address the following 4 areas.

Strategic governance

Work relating to the organisation's strategic governance arrangements. The aim is to ensure that anti-crime measures are embedded at all levels across the organisation.

The ICB's counter fraud activity will reflect the strategic areas identified by the NHSCFA. The ICB wholly endorses the NHSCFA's strategy Leading the fight against NHS Fraud' which sets out the NHS approach to fighting fraud and other economic crime affecting the NHS and will seek to apply appropriate criminal, disciplinary, regulatory and civil sanctions against fraudsters and where possible will attempt to recover any identified losses.

The ACS will prepare an annual work plan to indicate how the ICB commissioned resources will be used to deliver each of these areas and then account to the Audit Committee for the delivery of that plan. The counter fraud work-plan is risk-based and is also aligned to meet the Government Functional Standard and the requirements set out by the NHS CFA. Where there is any revision to the Standard or new guidance issued that will impact on the planned work, then this will be brought to the attention of the CFO and Audit Committee.

Government Functional Standard GovS 013: Counter Fraud – Management of Counter Fraud, Bribery and Corruption Activity. The Government Functional Standard has been developed to support organisations in implementing appropriate measures to counter fraud, bribery and corruption. Having appropriate measures in place helps protect NHS resources against fraud and ensures they are used for their intended purpose, the delivery of patient care.

Annually, the ICB will submit a self-assessment against compliance with the Standard. The Anti-Crime Specialist (ACS) will assist the ICB in the completion of the Government Functional Standard return, which is due for upload by the end of April each year.

The agreed counter fraud work-plan demonstrates compliance with the requirements of the Government Functional Standard, Counter Fraud components briefly summarised as follows:

- Accountable Individual
- Counter fraud, bribery and corruption strategy
- Fraud, bribery and corruption risk assessment
- Policy and response plan
- Outcome based metrics
- Reporting routes
- Reporting identified loss
- Access to trained investigators
- Undertake detection activity
- Access to and completion of fraud awareness training
- Policies and registers for gifts, hospitality and conflicts of interest.

Inform and involve

Work in relation to raising awareness of fraud, bribery and corruption risks against the NHS and working with NHS staff, stakeholders and the public to highlight the risks and consequences of such crime against the NHS.

Prevent and deter

Work to discourage individuals who may be tempted to commit crimes against the NHS and ensuring opportunities for crime to occur are minimised.

Continuously review and hold to account

To ensure anti-crime measures are embedded at all levels across the ICB.

In addition, the CFS will:

- Ensure that the ICB's incident and losses reporting systems are followed.
- Ensure that any system weaknesses identified as part of an investigation are followed up with management and reported to internal audit.
- Report any case and the outcome of the investigation the chief finance officer.
- Liaise on a regular basis with the risk management department.
- Be responsible, in discussion with the chief finance officer, for informing third parties such as external audit or the police at the earliest opportunity, as circumstances dictate.
- Not conduct a disciplinary investigation; however the employee may be the subject of a separate investigation by the people and organisational development team.

6.10 Internal and external audit

Any incident or suspicion that comes to internal or external audit's attention will be passed immediately to the nominated CFS. The outcome of the investigation may necessitate further work by internal or external audit to review systems.

6.11 The people and organisational development team (POD)

The POD team will liaise closely with managers and the CFS from the outset if an employee is suspected of being involved in fraud, bribery or corruption, in accordance with agreed liaison protocols. POD staff are responsible for ensuring the appropriate use of the ICB's disciplinary policy and procedure.

The POD department will advise those involved in the investigation on matters of employment law and other procedural matters, such as disciplinary and complaints procedures, as requested. Close liaison between the CFS and POD will be essential to ensure that any parallel sanctions (for example criminal, civil and disciplinary sanctions) are applied effectively and in a coordinated manner.

POD will take steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, as well as the veracity of required qualifications and memberships of professional bodies, in terms of their propriety and integrity. In this regard, temporary and fixed-term contract employees are treated in the same manner as permanent employees.

6.12 The information management and technology team

The information management and technology team will contact the CFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. POD will also be informed if there is a suspicion that an employee is involved.

7. The response plan

If an employee has any of the concerns mentioned in this document, they must inform the nominated CFS or the chief finance officer immediately, unless the chief finance officer or CFS is implicated. If that is the case, they should report it to the NHSCFA.

8. Bribery and corruption

The ICB has implemented key policies and procedures covering declarations of interest, gifts and hospitality, which all staff are required to adhere to.

8.1 Reporting fraud, bribery and 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 CFS or the chief finance officer immediately. Anti-Crime Specialist, Claire Friend – Telephone 07980 595 141 | Email claire.friend@tiaa.co.uk.

Employees can also call the NHS fraud and corruption reporting line on free phone 0800 028 4060 or complete the online fraud reporting form at www.cfa.nhs.uk/reportfraud.This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting the NHS.

The desktop guide (appendix 2) provides a reminder of the key contacts and a checklist of the actions to follow if fraud 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.
Anonymous letters and telephone calls for example, are occasionally received from individuals who wish to raise matters of concern, but not through official channels. While the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously.

The CFS will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised. If the allegations are found to be malicious, they will also be considered for further investigation to establish their source.

Staff should always be encouraged to report reasonably held suspicions directly to the CFS. You can do this by filling in the NHS fraud and corruption referral form (appendix 3) or by contacting the CFS by telephone or email using the contact details supplied in appendix 1.

The ICB wants all employees to feel confident that they can expose any wrongdoing without any risk to themselves. In accordance with the provisions of The Public Interest Disclosure Act . The ICB has a Freedom to speak up policy : raising concerns in the NHS (whistle blowing) policy. This policy is intended to complement this anti-bribery and counter-fraud policy and the code of conduct and ensures there is full provision for staff to raise any concerns with others if they do not feel able to raise them with their line manager and/or management chain. It can be found on the ICB's document library.

9. Sanctions and redress

9.1 Seeking sanctions

Where an objective investigation has found that fraud, bribery and corruption is present the organisation will seek to apply appropriate sanctions. This may include the following.

No further action

In some cases (taking into consideration all the facts of a case), it may be that the ICB, under guidance from the CFS and with the approval of the chief finance officer, decides that no further recovery action is taken.

Criminal prosecution

The CFS will work in partnership with NHSCFA, the police and/or the Crown Prosecution Service to bring a case to court against the alleged offender.

Disciplinary

Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent and/or illegal act. Fraud is defined by the ICB as gross misconduct. The ICB's disciplinary policy can be found on the document library.

Civil proceedings

Civil sanction will be applied against those who commit fraud, bribery and corruption to recover money and/or assets which have been fraudulently obtained, including interest and costs.

Professional body disciplinary

If the organisation is aware during the course of an investigation that a healthcare professional is involved in fraud, bribery or corruption, there is a risk to the safety of people using NHS services, or there is a significant risk to public funds, a referral to the appropriate regulatory body will be made to consider whether fitness to practice procedures should be evoked.

It is important that sanctions are applied in a consistent manner according to the seriousness of the crime involved. A policy statement on applying appropriate sanctions consistently has been produced by NHSCFA.

10. Recovery of losses due to fraud and corruption

The seeking of financial redress or recovery of losses should always be considered in cases of fraud or corruption that are investigated by either the CFS or NHSCFA where a loss is identified. As a general rule, recovery of the loss caused by the perpetrator should always be sought. The decisions must be taken in light of the particular circumstances of each case.

Redress allows resources that are lost to fraud and corruption to be returned to the NHS for use as intended, for provision of high-quality care and services.

Action to recover losses should be commenced as soon as practicable after the loss has been identified, the ICB shall seek recovery of any monies that have been lost due to fraud and corruption. It is also important that sanctions are applied in a

consistent manner. At all times the ICB's procedures for debt recovery shall be applied and modified where necessary.

Recovery can take place in a number of ways, the following procedure will be adopted to recover monies that have been lost due to fraud and corruption.

Voluntary repayment

An attempt will be made to obtain a voluntary repayment from those responsible for the loss.

Civil recovery

If those responsible for the loss decline voluntary repayment then appropriate legal action will be considered, normally through the civil courts. The civil recovery route is also available to the ICB if this is cost-effective and desirable for deterrence purposes. This could involve a number of options such as applying through the small claims court and/or recovery through debt collection agencies. Each case will be discussed with the chief finance officer to determine the most appropriate action.

Deductions from salary

Arrangements may be made to recover losses via payroll if the subject is still employed by the ICB. In all cases, current legislation must be complied with. It is important that sanctions are applied in a consistent manner according to the seriousness of the crime involved.

Proceeds of Crime Act

The NHSCFS can also apply to the courts to make a restraining order or confiscation order under the Proceeds of Crime Act 2002 (POCA). This means that a person's money is taken away from them if it is believed that the person benefited from the crime. It could also include restraining assets such as property owned by those responsible for the loss during the course of the investigation.

For employees in the NHS Pension scheme, any benefits or other amounts payable can be reduced. The Pensions Act 1995 specifically states if a loss of public funds occurs because of a member's criminal, negligent or fraudulent act or omission, the Secretary of State, may reduce any benefits or other amounts payable to, or in respect of, the member by any amount equal to the loss.

Action to recover losses will be commenced as soon as practicable after the loss has been identified. Given the various options open to the ICB, it may be necessary for various departments to liaise about the most appropriate option.

10.1 Disciplinary action

ICB disciplinary procedures must be followed if an employee is suspected of being involved in a fraudulent or otherwise illegal act.

It should be noted, however, that the duty to follow disciplinary procedures will not override the need for legal action to be taken (for example consideration of criminal action). In the event of doubt, legal statute will prevail.

10.2 Police involvement

In accordance with the NHSCFA counter fraud and corruption manual, the chief finance officer, in conjunction with the CFS, will decide whether or not a case should be referred to the police. Any referral to the police will not prohibit action being taken under the local disciplinary procedures of the ICB.

10.3 Managing the investigation

The CFS, in consultation with the chief finance officer, will investigate an allegation in accordance with procedures documented in the NHSCFA counter fraud and corruption manual.

The CFS must be aware that staff under an investigation that could lead to disciplinary action have the right to be represented at all stages. In certain circumstances, evidence may best be protected by the CFS recommending to the ICB that the staff member is suspended from duty. The ICB will make a decision based on POD advice on the disciplinary options, which include suspension.

The ICB will follow its disciplinary procedure if there is evidence that an employee has committed an act of fraud, bribery or corruption.

10.4 Gathering evidence

The CFS will take control of any physical evidence, and record this in accordance with the procedures outlined in the NHS counter fraud and corruption manual. If evidence consists of several items, such as many documents, CFS's should record each one with a separate reference number corresponding to the written record. Note that in criminal actions, evidence on or obtained from electronic media needs a document confirming its accuracy.

Interviews under caution or to gather evidence will only be carried out by the CFS, if appropriate, or the investigating police officer in accordance with the Police and Criminal Evidence Act 1984 (PACE). The CFS will take written statements where necessary.

All employees have a right to be represented at internal disciplinary interviews by a trade union representative or accompanied by a friend, colleague or any other person of their choice, not acting in a legal capacity in connection with the case.

The application of the anti-bribery and counter-fraud policy will at all times be in tandem with all other appropriate ICB policies, for example the financial scheme of delegation and standing orders.

11. Reporting the results of the investigation

The investigation process requires the CFS to review the systems in operation to determine whether there are any inherent weaknesses. Any such weaknesses identified should be corrected immediately.

If fraud, bribery or corruption is found to have occurred, the CFS should prepare a report for the chief finance officer and the next ICB audit committee meeting, setting out the following details:

- The circumstances.
- The investigation process.
- The estimated loss.
- The steps taken to prevent a recurrence.
- The steps taken to recover the loss.

This report should also be available to the ICB Board.

12. Monitoring compliance and effectiveness

The chief finance officer and the CFS will agree annual and specific measures of the effectiveness of this policy.

As a minimum, the CFS will report annually on the number and nature of instances of suspected wrongdoing reported. This report will include details of outcomes and consequences to the individuals involved.

The chief finance officer will commission the CFS to carry out a review, annually at least, of the levels of awareness of this policy and its contents amongst staff.

The CFS will, through the annual program of work, determine the effectiveness of the ICB's controls and other efforts to prevent and deter wrong doing.

The results of these audits will be reported in the CFS annual report to the audit committee. Delivery of actions agreed to address weaknesses and lapses identified in the implementation of the policy will be monitored by the audit committee.

13. Associated documents

- Standing orders (appendix 1)
- Corporate business standards policy
- Scheme of reservation and delegation
- Code of conduct
- Conflicts of interest (including gifts, hospitality and sponsorship policy
- Information governance policy
- Disciplinary policy and procedure
- Freedom to speak up policy
- Freedom to speak up policy (accessible version)

Appendix 1: Contact details

All genuine suspicions of fraud, bribery or corruption can be reported to:

The ICB's nominated anti-crime specialist
Claire Friend
Telephone: 07980 595 141
Email: claire.friend@tiaa.co.uk

NHS fraud and corruption reporting hotline:
Freephone 0800 028 4060
Or via the online reporting portal at www.cfa.nhs.uk/reportfraud

Chief finance officer
Simon Gittoes-Davies
Email: s.gittoes-davies1@nhs.net

Appendix 2: A desktop guide to reporting NHS fraud, bribery and corruption

Fraud is the dishonest 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.

Corruption is the deliberate use of bribery or payment of benefit-in-kind to influence an individual to use their position in an unreasonable way to help gain advantage for another.

Do	Don't
Note your concerns: Record details such as your concerns, names, dates, times, details of conversations and possible witnesses. Time, date and sign your notes. **Retain or secure evidence:** Retain any evidence that may be destroyed, but do not alter or write on it in any way. You can also make a note and advise your CFS. **Report your suspicion:** Confidentiality will be respected – delays may lead to further financial loss. Please be discreet and don't discuss your concerns with anyone who doesn't need to know.	**Confront the suspect or convey concerns to anyone other than those authorised:** Never attempt to question a suspect yourself; this could alert a fraudster and place you at risk of harm. **Try to investigate the concern yourself:** Never attempt to gather evidence yourself unless it is about to be destroyed; gathering evidence must take into account legal procedures in order for it to be useful. Your CFS will conduct an investigation in accordance with legislation. **Be afraid of raising your concerns:** You will not suffer discrimination or victimisation by following the correct procedures.

Complete an NHS fraud and corruption form with any supporting evidence and send to the secure email account of your Anti-Crime Specialist.

The Public Interest Disclosure Act 1998 protects employees who have reasonable concerns.

If you suspect fraud against the NHS has taken place, you must report it by: • Directly contacting the Anti-Crime Specialist. • Telephoning the free phone reporting line on 0800 028 4060. • Contacting the chief finance officer.	Do you have concerns about a fraud taking place in the NHS? • If so, any information can be passed to the NHS fraud and corruption reporting line on 0800 028 4060. All calls will be treated in confidence and investigated by professionally trained staff

Appendix 3: NHS fraud and corruption referral form

All referrals will be treated in confidence and investigated by professionally trained staff

Note: Anonymous applications are accepted but may delay any investigation.

Date: Click or tap to enter a date.

Anonymous application: ☐Yes ☐No
(If yes, go to the suspicion section, if no provide your name, organisation and contact details in the sections below)

Your name: Click or tap here to enter text.

Your organisation/profession: Click or tap here to enter text.

Your contact details: Click or tap here to enter text.

Suspicion:
Click or tap here to enter text.

Please provide details including name, address and date of birth (of known) of the person to whom the allegation relates:
Click or tap here to enter text.

Possible useful contacts:
Click or tap here to enter text.

Please attach any available additional information and send to the secure email account of your nominated anti-crime specialist, claire.friend@tiaa.co.uk
who will contact you within 5 days to confirm safe receipt.

Appendix 4: Equality impact assessment

Name of policy or service to be assessed: Anti-bribery impact assessment
Department or section: Corporate governance
Date of assessment: November 2022
Person(s) responsible for the assessment: Head of corporate governance
Is this a new or existing policy? Existing

Aims, objectives and purpose of the policy

Describe the aims, objectives, and purpose of the policy.
Improve the knowledge and understanding of all ICB employees, 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 a culture and environment where staff feel able to raise concerns sensibly and responsibly. Ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following: criminal prosecution, civil prosecution, internal and/or external disciplinary action.

Who is intended to benefit from this policy, and in what way?
The ICB as an organisation, the wider NHS, those who use NHS services and tax-payers – by preventing loss of NHS money though fraud and/or bribery

What outcomes are wanted from this policy?
Prevention and deterrence of fraud and bribery and that ICB employees understand their roles and responsibilities in this regard.

What factors or forces could contribute or detract from the outcomes?
Staff awareness - the policy will be publicised through staff bulletin and also features in induction.

Who are the main stakeholders in relation to the policy?
ICB employees at all levels. NHS Counter Fraud Authority. Local Security Management Specialist (LSMS). Consultants, vendors, contractors, and/or any other parties who have a business relationship with the ICB.

Who implements the policy, and who is responsible for the policy?
Anti-Crime Specialist and the Chief Finance Officer

Differential impacts

Does this have a positive or negative impact on people from an ethnic minority background? How will any negative impact be mitigated?
No differential impact is anticipated on people from ethnic minority groups. It is the case that people from ethnic minority groups are more likely to be referred for disciplinary proceedings. However, this policy will be applied to all employees and consultants, vendors, contractors, and/or any other parties who have a business relationship with the ICB equally and investigations will be evidence based.

Does this have a positive or negative impact on people who identify as male, female or intersex? How will any negative impact be mitigated?
No differential impact is anticipated on these groups.

What is the positive or negative differential impact on people from the perspective of disability? How will any negative impact be mitigated?
No differential impact is anticipated on these groups. This policy will be available to all employees via the staff bulletin, published on the document library, and introduced at induction. It will also be available to all Consultants, vendors, contractors, and/or any other parties who have a business relationship with the ICB. Anyone needing this policy in a different format will be able to access it by contacting the corporate governance team

Does this have a positive or negative impact on people who identify as heterosexual, lesbian, gay, bisexual, pansexual or asexual? How will any negative impact be mitigated?
No differential impact is anticipated on these groups.

What is the positive or negative differential impact on people from the perspective of age? How will any negative impact be mitigated?
No differential impact is anticipated on these groups.

What is the positive or negative differential impact on people from the perspective of religion or belief? How will any negative impact be mitigated?
No differential impact is anticipated on these groups.

What is the positive or negative differential impact on people from the perspective of marriage and civil partnership? This is particularly relevant for employment policies. How will any negative impact be mitigated?
No differential impact is anticipated on these groups.

Does this have a positive or negative impact on people who identify as trans or transgender, non-binary, or gender fluid? How will any negative impact be mitigated?
No differential impact is anticipated on these groups.

Does this have a positive or negative impact on people who are pregnant, breast feeding mothers, or those on maternity leave? How will any negative impact be mitigated?
No differential impact is anticipated on these groups.

Are they any other identified groups? How will any negative impact be mitigated?
No differential impact is anticipated on these groups.

Human rights values

How have the core human rights values of fairness, respect, equality, dignity, and autonomy been considered in the formulation of this policy, service, or strategy?

The policy helps to ensure fairness, in clarifying expectations on all employees and also by seeking to prevent loss of public finances and/or assets to ensure these remain available to all. It also makes clear that any employee being investigated on suspicion of misconduct has rights under the disciplinary policy, to be treated fairly for example.

Which of the human rights articles does this document impact?

☐ To life
☐ Not to be tortured or treated in an inhuman or degrading way
☐ To liberty and security
☒ To a fair trial
☐ To respect for home and family life, and correspondence
☐ To freedom of thought, conscience, and religion
☐ To freedom of expression
☐ To freedom of assembly and association
☐ To marry and found a family
☐ Not to be discriminated against in relation to the enjoyment of any of the rights contained in the European Convention
☐ To peaceful enjoyment of possessions

What existing evidence (either presumed or otherwise) do you have for this?
The policy is about preventing loss of NHS assets rather than the direct safety, security or wellbeing of people. However, it references legal frameworks for investigation and sanctions and redress, linking to the right to a fair trial.

How will you ensure that those responsible for implementing the policy are aware of the human rights implications and equipped to deal with them?
Not required.

Public Sector Value Act 2012

NHS Cornwall and Isles of Scilly is committed and obliged to fulfil the requirements of the Public Sector Social Value Act 2012. This Act requires the organisations to consider how services commissioned or procured might improve the economic, social, and environmental wellbeing of an area.

Please describe how this will support and contribute to the local system, wider system, and community.
Not applicable.

Describe how the policy contributes towards eliminating discrimination, harassment, and victimisation.
Not applicable.

Describe how the policy contributes towards advancing equality of opportunity.
Not applicable.

Describe how the policy contributes towards promoting good relations between people with protected characteristics.
Not applicable.

If the differential impacts identified are positive, explain how this policy is legitimate positive action and will improve outcomes, services and or the working environment for that group of people.
Not applicable.

Explain what amendments have been made to the policy or mitigating actions have been taken, and when they were made.
None.

If the negative impacts identified have been unable to be mitigated through amendment to the policy or other mitigating actions, explain what your next steps are using the following equality impact assessment action plan.
None required

Equality impact assessment action plan

Issue to be addressed	Action required	Responsible person	Timescale for completion	Action taken
N/A	N/A	N/A	N/A	N/A

Comments on action plan:
N/A

Signed (completing officer): Jessica James

Date: November 2022

Signed (head of department or section): Trudy Corsellis

Date: November 2022

Please ensure that a signed copy of this form with the policy is sent to both the corporate governance team and equality and diversity lead.