

Anti-Fraud, Bribery and Corruption Policy and Procedure

Version 3.0

Purpose:	To advise and inform Trust staff of guidance for employees who have suspicions of fraud or who find themselves having to deal with cases of fraud or corruption.
For use by:	All Trust staff
This document is compliant with/ supports compliance with:	<ul style="list-style-type: none"> • The Bribery Act 2010 • Fraud Act 2006 • Theft Act 1968 • Proceeds of Crime Act 2002 • Criminal Procedure and Investigations Act 1996 Public Interest and Disclosure Act 1998 • Whistleblowing Policy • NHS CFA Organisational Strategy 2020-2023 is available at https://cfa.nhs.uk/resources/downloads/documents/corporate-publications/NHSCFA_Strategy • Disciplinary and Performance Management Policy and Procedure • Standards of Business Conduct Policy in Respect of Conflicts of Interests, Receipt or Provision of Gifts, Hospitality and/or Sponsorship
This document supersedes:	Anti-Fraud Bribery and Corruption Policy and Procedure v2.0 3365
Approved by:	Audit and Risk Committee
Approval date:	26 May 2022
Implementation date:	15 December 2022
Review date	26 May 2025
In case of queries contact Responsible Officer:	Director of Finance
Division and Department	Corporate, Finance
Archive Date i.e. date document no longer in force	<i>To be inserted by Information Governance Department when this document is superseded. This will be the same date as the implementation date of the new document.</i>
Date document to be destroyed:	<i>To be inserted Information Governance Department when this document superseded</i>

Version and document control:

Version	Date of issue	Change Description*	Author
1.0	November 2018	Amalgamation of Ipswich and Colchester policies to create ESNEFT Policy	Director of Finance
1.1	November 2019	Update following change of Local Counter Fraud Specialist and best practice from NHSCFA	LCFS
1.2	March 2022	Review to ensure policy in line with NHSCFA requirements.	LCFS

This is a Controlled Document

Printed copies of this document may not be up to date. Please check the Trust intranet for the latest version and destroy all previous versions.

Trust documents may be disclosed as required by the Freedom of Information Act 2000.

Sharing this document with third parties

As part of the Trust's networking arrangements and sharing best practice, the Trust supports the practice of sharing documents with other organisations. However, where the Trust holds copyright to a document, the document or part thereof so shared must not be used by any third party for its own commercial gain unless this Trust has given its express permission and is entitled to charge a fee.

Release of any strategy, policy, procedure, guideline or other such material must be agreed with the Lead Director or Deputy/Associate Director (for Trust -wide issues) or Business Unit/ Departmental Management Team (for Business Unit or Departmental specific issues). Any requests to share this document must be directed in the first instance to the Director of Finance.

For further advice see the Development and Management of Trust wide Procedural Documents Policy

Section 1 – Introduction

1.1 Introduction

This document is intended to provide guidance to those employees who have suspicions of fraud or who find themselves having to deal with cases of fraud or corruption. It gives advice on what fraud is in the NHS, what everyone's responsibility is to prevent fraud, bribery and corruption, how to report it and information on various aspects and implications of an investigation.

The Board already has procedures in place that reduce the likelihood of fraud occurring. These include Standing Orders, Standing Financial Instructions, documented procedures, a system of internal control and a system of risk management. Employers of staff engaged in research are responsible for having systems in place to detect and address fraud. In addition the Board tries to ensure that a risk (and anti-fraud and anti-bribery) awareness culture exists in the Trust.

One of the basic principles of public sector organisations is the proper use of public funds. It is important that all those who work in the public sector are aware of the risk and means of enforcing the rules against fraud, bribery and those illegal acts involving dishonesty. For simplicity, all such offences are thereafter referred to as "fraud, bribery and corruption", except where the context indicates otherwise.

This document sets out the East Suffolk and North Essex NHS Foundation Trust ("Trust") policy and response to instances where fraud and bribery is detected or suspected.

The Trust adopts a zero-tolerance attitude to fraud, bribery and corruption, money laundering or any similar illegal act within the NHS. The aim is to eliminate all NHS fraud and bribery as far as possible, freeing up public resources for better patient care. It is, therefore, committed to the elimination of fraud and bribery within the Trust, to the rigorous investigation of any such allegations and totaking appropriate action against wrong doers, including possible criminal prosecution, as well as undertaking steps to recover any assets lost as a result of fraud or bribery.

As such, the Trust aligns counter fraud, bribery and corruption work to the NHS Counter Fraud Authority's (NHSCFA) counter fraud, bribery and corruption strategy, as outlined throughout this policy, and the annual counter fraud work plan and resource allocation are aligned to the objectives of the strategy and locally identified risks

The overall aims of this policy are to:

- Improve the knowledge and understanding of everyone in the Trust, irrespective of their position, about the risk of fraud and bribery within the organisation and its unacceptability.
- Assist in promoting a climate of openness and a culture and environment where staff members feel able to raise concerns sensibly and responsibly.
- Set out the Trust's responsibilities in terms of the deterrence, prevention, detection and investigation of fraud and bribery.
- Ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
 - Criminal prosecution;

- Civil proceedings; and/or,
- Internal/external disciplinary action (including professional/regulatory bodies).

The Trust's expectation on propriety and accountability is that Board members and staff at all levels will lead by example in ensuring adherence to rules. Given that we are handling public resources, all procedures and practices should be above reproach. (See Appendix D, Approach to counter fraud, bribery and corruption).

1.2 Scope

This policy applies to all employees of the Trust, regardless of position held, as well as consultants, vendors, contractors, and/or any other parties who have a business relationship with the Trust, including employees, agency and bank staff and committee members of partner organisations and organisations funded by the Trust. This policy also applies to service users. It will be brought to the attention of all employees and form part of the induction process for new staff. It is incumbent on all the above to report any concerns they may have concerning fraud and bribery.

In implementing this policy, managers must ensure that all staff members are treated fairly and within the provisions and spirit of the Trust's Equal Opportunities Policy. Special attention should be paid to ensuring the policy is understood where there may be barriers to understanding caused by the individual's circumstances, where the individual's literacy or use of English is weak, or where the individual has little experience of working life.

This policy should be read in conjunction with the organisation's Whistleblowing and Disciplinary policies, and applies to all Trust staff, Board members, including non-executives; contractors, temporary employees, agency employees, students, volunteers and any third parties working on behalf of the Trust.

All employees should familiarise themselves and comply with the organisation's financial regulations, with particular attention to the following policies:

- Standards of Business Conduct;
- NHS Code of Conduct; and
- Corporate Governance Framework.

All employees at the Trust should also, at all times abide by their professional codes of conduct e.g. GMC and NMC codes of conduct.

Additional training and guidance will be provided to relevant individuals in these areas, although it is an individual's responsibility to seek clarification on any of the content where necessary.

In addition to the details set out in this Policy, Trust has an agreed yearly Counter Fraud workplan, setting out the further agreed steps in place for countering fraud, bribery and corruption. This is presented to and agreed by the Trust's Audit and Risk Committee every year

1.3 Key Related Documents

The below list is not exhaustive, many of the Trust's policies and procedures make reference to or are bound by the Trust's overall commitment to preventing fraud, bribery and corruption.

- Whistleblowing Policy
- Disciplinary and Performance Management Policy and Procedure
- Standards of Business Conduct Policy in Respect of Conflicts of Interests
- Provision of Gifts, Hospitality and/or Sponsorship
- Declarations of Interest Policy
- Social Media Policy
- Professional Codes of Conduct e.g. GMC and NMC codes of conduct

1.4 Definitions

NHS Counter Fraud Authority (NHSCFA)

The 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.

A copy of the NHS CFA Organisational Strategy 2020-2023 is available at https://cfa.nhs.uk/resources/downloads/documents/corporate-publications/NHSCFA_Strategy

Counter fraud

A requirement in the NHS standard contract is that providers of NHS services (NHS Trusts, or organisations that hold an NHS Provider Licence) must take the necessary action to comply with the NHSCFA's counter fraud requirements to meet the Government Functional Standard 013 for counter fraud. The contract places a requirement on providers to have policies, procedures and processes in place to combat fraud, corruption and bribery to ensure compliance with the requirements. The NHSCFA carries out regular assessments of health organisations in line with the counter fraud requirements

Fraud

The Fraud Act 2006 came into effect on 15 January 2007 and gave a statutory definition of the criminal offence of fraud, as classified under the following headings:

Fraud by false representation (Section 2);
 Fraud by (wrongfully) failing to disclose information (Section 3);
 Fraud by abuse of position (Section 4);
 Possession of articles for use in frauds (Section 6); and
 Making or supplying articles for use in frauds (Section 7)

Fraud by false representation
A person is in breach of this section if he/she:
<ul style="list-style-type: none"> • Dishonestly makes a false representation, and • Intends, 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. • A representation is false if: <ul style="list-style-type: none"> • It is untrue or misleading, and • The person making it knows that it is, or might be, untrue or misleading.

Fraud by (wrongfully) failing to disclose information**A person is in breach of this section if he/she:**

- Dishonestly fails to disclose to another person information which they are under a legal duty to disclose, and
- Intends, 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.

Fraud by abuse of position**A person is in breach of this section if he/she:**

- Occupies a position in which he/she is expected to safeguard, or not to act against, the financial interests of another person;
- Dishonestly abuses that position, and
- Intends, 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.

A person may be regarded as having abused their position even though their conduct consisted of an omission rather than an act.

Possession of articles for use in frauds

A person is guilty of an offence if he has in his possession or under his control any article for use in the course of or in connection with any fraud.

Making or supplying articles for use in frauds

A person is guilty of an offence if he makes, adapts, supplies or offers to supply any article—

- knowing that it is designed or adapted for use in the course of or in connection with fraud, or
- intending it to be used to commit, or assist in the commission of, fraud.

The Act states that the terms “Gain” and “Loss” should be read in accordance with the following:

- As extending only to a gain or loss in money or other property; and
- As including any such gain or loss whether temporary or permanent.

“Property” means any property whether real or personal (including things in action and other intangible property).

“Gain” includes a gain by keeping what one has, as well as a gain by getting what one does not have.

“Loss” includes a loss by not getting what one might get, as well as a loss by parting with what one has.

Those found guilty under the Act are liable for a fine and or imprisonment, with a maximum sentence of up to 10 years.

Bribery and Corruption

Bribery and corruption involves offering, promising or giving a payment of benefit-in-kind to influence others to use their position in an improper way to gain an advantage. Bribery does not have to involve cash, or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event. Bribery and corruption does not always result in a loss; indeed the corrupt person may not benefit directly from their deeds however, they may be unreasonably using their position to give some advantage to another. Corruption may also include offences under the Proceeds of Crime Act 2002 and the Theft Act 1968.

Bribery Act 2010

The Bribery Act came into force in April 2011. The offences are as follows:

	Section	Offence	Detail	Sanction
Individuals	Section 1	Bribing another Person	Offering, promising or giving a bribe in the UK or abroad, in the public or private sector.	Individuals could face a 10 year prison sentence and unlimited fines.
	Section 2	Receiving a bribe	Requesting, agreeing to receive or accepting of a bribe in the UK or abroad, in the public or private sector.	
	Section 6	Bribery of foreign public officials	Bribery of a foreign public official in order to obtain or retain business.	
Organisations	Section 7	Failure to prevent Bribery	Failure by an organisation to prevent a bribe being paid by those who perform services for, or on behalf of the Organisation (“associated persons”).	Organisations could face unlimited fines and reputational damage could be significant.

Public Service Values

The Code of Conduct for NHS Boards published by the NHS Executive in April 1994 and revised in 2004 sets out the following public service values. It says high standards of corporate and personal conduct, based on the recognition that patients come first, have been a requirement throughout the NHS since its inception;

Accountability: Everything done by those who work in the NHS must be able to stand the tests of Parliamentary scrutiny, public judgements on propriety and professional codes of conduct.

Probity: There should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients,

staff and suppliers and in the use of information acquired in the course of NHS duties.

Openness: There should be sufficient transparency about NHS activities to promote confidence between the NHS organisation and its staff, patients, and the public.

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

1.4 The Board's Policy

The Board is committed to maintaining an honest, open and well-intentioned atmosphere within the Trust. It is committed to the elimination of any fraud within the Trust and to the rigorous investigation of any such cases.

To meet its objectives, the Trust has adopted the seven-stage approach developed by implemented a work plan to comply with the NHSCFA's counter fraud requirements to meet the Government Functional Standard 013 for counter fraud

To deliver these objectives, the Trust will:

- Investigate all suspected cases of fraud, bribery and corruption in a professional, effective and efficient manner.
- Integrate into systems, policies and procedures measures to prevent and detect fraud, bribery and corruption.
- Proactively review identified high risk areas.
- Work across the Trust to integrate an anti-fraud culture and maximise deterrence, detection, investigation, sanction and redress for all cases of fraud, bribery and corruption.
- Work with other organisations to identify those who commit fraud, bribery and corruption including full participation in all cross-organisation fraud initiatives.
- Pursue and seek full redress from those who perpetrate fraud, bribery and corruption against the Trust.
- Learn the lessons from how the fraud, bribery and corruption was perpetrated.
- Publicise action taken against fraud, bribery and corruption including successful actions and prosecutions.

The Trust has conducted risk assessments in line with Ministry of Justice guidance to assess how bribery and corruption may affect the Trust. This will be undertaken every three years, however this is not definitive, and circumstances may call for a risk assessment to be undertaken outside of this pattern, for example due to changes in legislation or a reported incident of bribery within the Trust. The risk assessment will be undertaken by a nominated officer such as the LCFS, who will report directly to the Director of Finance.

Proportionate procedures in place to mitigate the identified risk include the following:

- all staff must disclose their business interests, prior to commencement of employment with the Trust;
- all staff must disclose any new business interests immediately;
- all staff must declare hospitality (other than modest hospitality) received by or offered to them as Trust employees;
- all hospitality (other than extremely minor hospitality) provided by Trust staff to third parties must be declared; and
- staff must not solicit personal gifts and must declare all gifts received (more than £25

in value).

Guidance regarding the above requirements can be found in the Declarations of Interest Policy. Staff must also comply with the Trust General Code of Conduct.

The Trust may, in certain circumstances, be held responsible for acts of bribery committed by intermediaries acting on its behalf such as subsidiaries, clients, business partners, contractors, suppliers, agents, advisors, consultants or other third parties. The use of intermediaries for the purpose of committing acts of bribery is prohibited.

All intermediaries shall be selected with care, and all agreements with intermediaries shall be concluded under terms that are in line with this policy. The Trust will contractually require its agents and other intermediaries to comply with the policy and to keep proper books and records available for inspection by the Trust, auditors or investigating authorities.

Agreements with agents and other intermediaries shall at all times provide for the necessary contractual mechanisms to enforce compliance with the anti-bribery regime. The Trust will monitor performance and, in case of non-compliance, require the correction of deficiencies, apply sanctions, or eventually terminate the agreement even if this may result in a loss of business

Where the Trust is engaged in commercial activity it could be considered guilty of a corporate bribery offence if an employee, agent, subsidiary or any other person acting on its behalf bribes another person intending to obtain or retain business or an advantage in the conduct of business for the Trust and it cannot demonstrate that it has adequate procedures in place to prevent such. The Trust does not tolerate any bribery on its behalf, even if this might result in a loss of business for it. Criminal liability must be prevented at all times.

It is also the Board's policy, which will be rigorously enforced, that no employee will suffer in any way as a result of reporting reasonably held suspicions. All members of staff can therefore be confident that they will not suffer in any way as a result of reporting reasonably held suspicions of fraud. For these purposes "reasonably held suspicions" shall mean any suspicions other than those, which are groundless and/or raised maliciously.

Section 2 - Roles and Responsibilities

Chief Executive

The Chief Executive has the overall responsibility for funds entrusted to the organisations as the accountable officer. This includes instances of fraud, bribery and corruption.

The Chief Executive must ensure adequate policies and procedures are in place to protect the organisation and the public funds entrusted to it.

Audit and Risk Committee

The Audit and Risk Committee are responsible for seeking assurance that the Trust has adequate arrangements in place for countering fraud and bribery and compliance with Counter Fraud Functional Standard . This will include but is not limited to reports from the LCFS, the annual Counter Fraud Functional Standard Return (CFFSR) to the NHSCFA and from NHSCFA inspection reports. Actions resulting from counter fraud activity including NHSCFA quality assessment reports will be monitored. The committee is also responsible for approving the annual counter fraud work plan and the outcomes of all anti-fraud and bribery work within the Trust. Further information on the responsibilities of the Audit and Risk Committee can be found in the NHS Audit and Risk Committee Handbook 2018 which can be accessed online via <https://www.hfma.org.uk/publications?Type=Guide>

Director of Finance (DoF)

- The Director of Finance (DoF) is provided with powers to approve financial transactions initiated by directorates across the organisation.
- The DoF prepares, documents and maintains detailed financial procedures and systems and they incorporate the principles of separation of duties and internal checks to supplement those procedures and systems.
- The DoF will report annually to the Board and the Council of Governors on the adequacy of internal financial control and risk management as part of the Board's overall responsibility to prepare a statement of internal control for inclusion in the NHS body's annual report.
- The DoF will inform appropriate senior management of suspected cases of fraud, bribery and corruption, especially in cases where the loss may be above an agreed limit or where the incident may lead to adverse publicity, depending on the outcome of initial investigations.
- Under Secretary of State Directions responsibility for investigating fraud has been delegated to the DoF. They will also be responsible for informing third parties such as the NHS Executive, external audit or NHSCFA, where appropriate.
- The DoF will be supported in this role by the Local Counter Fraud Specialist (LCFS) and the NHSCFA.
- The DoF, in conjunction with the Chief Executive, shall monitor and ensure compliance with Section 37 relating to the counter fraud in the Standard NHS Contract for Acute Services.
- The DoF will, 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 LCFS shall be responsible, in discussion with the DoF, for informing third parties such as external audit or the police (whilst informing the NHSCFA) at the earliest opportunity, as circumstances dictate of instances of fraud, bribery and corruption.
- The DoF shall inform the Head of Internal Audit at the first opportunity; where a fraud, bribery and corruption investigation is deemed to be appropriate, the DoF will delegate to the Trust's LCFS, who has responsibility for leading the investigation, whilst retaining overall responsibility him/herself.

The DoF or the LCFS shall consult and take advice from the Head of Human Resources (HR) where a member of staff is to be interviewed or disciplined. The DoF or LCFS will not conduct a disciplinary investigation, but the employee may be the subject of a separate investigation by HR.

Local Counter Fraud Specialist (LCFS)

- The LCFS will be professionally trained and accredited to carry out all counter fraud activity, which includes investigations into suspicions of fraud, bribery and corruption to the highest standards. They are responsible for taking forward all anti-fraud work locally in accordance with national standards and reports directly to the Director of Finance.
- Adhering to NHSCFA counter fraud requirements is important in ensuring that the organisation has appropriate anti-fraud, bribery and corruption arrangements in place and that the LCFS will look to achieve the highest standards possible in their work.
- 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, bribery and corruption.

- It is the LCFS's role to investigate any allegations of fraud, bribery and corruption. When investigating, the LCFS will need to liaise with employees within the Trust such as Human Resources to obtain relevant documentations, which may support allegations of fraud.
- The LCFS will conduct risk assessments in relation to their work to prevent fraud, bribery and corruption
- The role of the LCFS is to ensure that all cases of actual or suspected fraud and bribery are notified to the Director of Finance and reported accordingly. Investigation of the majority of cases of alleged fraud within the Trust will be the responsibility of the LCFS. NHSCFA will only investigate cases which should not be dealt with by the LCFS. Following receipt of all referrals, NHSCFA will add any known information or intelligence and based on this case acceptance criteria determine if a case should be investigated by NHSCFA.
- The LCFS will regularly report to the Director of Finance on the progress of the investigation and when/if referral to the police is required.

Human Resources (HR) Department

- HR will liaise closely with managers and the LCFS from the outset, where an employee is suspected of being involved in fraud and/or corruption in accordance with agreed liaison protocols.
- HR is responsible for ensuring the appropriate use of the Trust's Disciplinary Policy and Procedure.
- The HR Department shall advise those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures, as requested.
- Close liaison between the LCFS and HR will be essential to ensure that any parallel sanctions (i.e. criminal, civil and disciplinary) are applied effectively and in a coordinated manner. Appropriate protocols are in place between HR and the LCFS to cover this.
- HR 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.
- HR will be responsible, in conjunction, with the LCFS, for arranging training of fraud awareness within the Trust.

Responsibilities of Managers

- Managers are responsible for ensuring that policies, procedures and processes within their local area are adhered to and kept under review. They have a responsibility to ensure that staff are aware of fraud, bribery and corruption and understand the importance of protecting the Trust from it. They are also responsible for the enforcement of disciplinary action against staff who do not comply with policies and procedures.
- Managers must be vigilant and ensure that procedures to guard against fraud and bribery are followed. They should be alert to the possibility that unusual events or transactions could be symptoms of fraud, bribery and corruption. Where they have any doubt they must seek advice from the nominated LCFS.
- Managers must in still 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, and 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. 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 that responsibility line managers are required to:
 - Inform staff of the Trust code of business conduct and counter fraud, bribery and corruption 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;
 - Attend the mandatory training updates for this area;
 - 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 Trust;
 - Be aware of the Trust's Anti-Fraud Bribery and Corruption Policy and procedure 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; and
 - Contribute to their Director's assessment of the risks and controls within their business area, which feeds into the Trust and Department of Health Accounting Officer's overall statements of accountability and internal control.

Head of Information Security

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. This includes inappropriate internet/intranet, email, telephone, PDA use and any offence under the Computer Misuse Act 1990. HR will also be informed if there is a suspicion that an employee is involved. This will be investigated in line with the Computer Misuse Act 1990. Likewise, the LCFS will contact the Head of the Trust's IT function should any investigation or any information received refer to data security. Internal and External Audit

Internal and external audit work includes reviewing controls and systems and ensuring compliance with financial instructions.

Whilst this role does not include uncovering instances of fraud, bribery or corruption, any incident or suspicion that comes to Internal or External Audit's attention will be passed immediately to the LCFS.

Responsibilities of Staff Day to Day

For the purposes of this policy, 'Employees' includes the Trust staff, Board, Executive and Non-Executive Members (including Co-Opted Members) and Honorary Members to the Board.

- The Trust's Standing Orders, Standing Financial Instructions, Policies and Procedures place an obligation on all employees and Non-Executive Directors to act in accordance with best practice in order to prevent fraud, bribery and corruption.
- 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 Trust, 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 which might cause others to allege or suspect them of dishonesty.
 - behave in a way which would not give cause for others to doubt that Trust employees deal fairly and impartially with official matters.
 - be alert to the possibility that others might be attempting to deceive.
 - Any employees who are involved in or manage internal control systems should receive adequate training and support in order to carry out their responsibilities.
 - 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 LCFS.

All employees should be aware that fraud and bribery (of finances of the NHS or of patients in our care) will normally, dependent upon the circumstances of the case, be regarded as gross misconduct thus warranting summary dismissal without previous warnings. However, no such action will be taken before an investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.

Employees will not request or receive a bribe from anybody, nor imply that such an act might be considered. This means that you will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person as an incentive or reward to perform improperly your function or activities. The Standing Orders and Standing Financial Instructions place an obligation on all staff and Non-Executive Directors to act in accordance with best practice. In addition, all Trust staff and Non-Executive Directors must declare and register any interests that might potentially conflict with those of the Trust or the wider NHS.

External Parties

Those organisation's undertaking work on behalf of the Trust are expected to maintain strong anti-fraud principles and have adequate controls in place to prevent fraud when handling public funds and dealing with customers on behalf of the Trust. Contractors and sub-contractors acting on the Trust's behalf are responsible through contractual arrangements put in in place during the tender process and through contracts, for

compliance with the Bribery Act 2010.

External Communications

Individuals (be they employees, agency staff, locums, contractors or suppliers) must not communicate with any member of the press, media or another third party about a suspected fraud as this may seriously damage the investigation and any subsequent actions to be taken. Anyone who wishes to raise such issues should discuss the matter with either the Director of Finance or the Chief Executive.

Section 3 - Process

Guidance to Staff Introduction

If an employee discovers or suspects fraud, bribery or corruption, they must inform the nominated LCFS or the Trust's DoF immediately, unless the DoF or LCFS is implicated. If that is the case, they should report it to the NHSCFA

Suspected Fraud, bribery and corruption can also be reported using the NHS Fraud, bribery and corruption Reporting Line on Freephone 0800 028 40 60 or by filling in an online form at www.cfa.nhs.uk/reportfraud, as an alternative to internal reporting procedures or if staff wish to remain anonymous.

Anonymous letters, telephone calls etc. are received from time to time from individuals who wish to raise matters of concern, but not through official channels. Whilst the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously.

Sufficient enquiries will be made by the LCFS 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 as to their source.

Staff should always be encouraged to report reasonably held suspicions directly to the LCFS. You can do this by contacting the LCFS by telephone or email using the contact details supplied on Appendix A: ***“Reporting Fraud or Suspected Fraud Notice”***. Appendix A is a notice to be displayed in all staff common areas.

This notice gives the nominated points of contact for reporting a fraud and the telephone numbers of other organisations, which provide support or information about reporting fraud.

Whistleblowing

The Trust wants all employees to feel confident that they can expose any wrongdoing without any risk to themselves. The Trust's whistleblowing policy 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/management chain.

To support the reporting of fraud using the NHSCFA fraud reporting process (as outlined above) all employees should be aware of NHS Improvement and NHS England's: Freedom to speak up: raising concern's (whistleblowing) policy for the NHS, April 2016 and NHS England's Freedom to speak up in Primary Care: Guidance to primary care providers on supporting whistleblowing in the NHS, November 2017. These all form the minimum standards for raising of concerns in the NHS for the benefit of all patients in England.

Disclosure Under the Public Interest Disclosure Act 1998

An Act of Parliament, the Public Interest Disclosure Act 1998, will protect you from any reprisals as long as they meet the rules set out in the Act. The Act commenced on 2 July 1999 and gives statutory protection, within defined parameters, to staff who make disclosures about a range of subjects, including fraud, bribery and corruption, which they believe to be happening within the Trust employing them. NHSCFA has established a Fraud, bribery and corruption Reporting Line if staff are unwilling to make the disclosure internally.

The Act has rules for making a protected disclosure:

- Staff must disclose the information in good faith;
- Staff must believe it to be substantially true;
- Staff must not act maliciously or make false allegations; and Staff must not seek any personal gain.

The Trust 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 1998, the Trust has produced a Policy and Procedure for Raising Concerns in the Public Interest

Any member of staff who raises an allegation maliciously or one they know not to be true, may be disciplined in line with the Trusts Disciplinary Policy.

Whistleblowing. This Policy and Procedure is intended to complement the Trust Counter Fraud Policy and Procedure and Code of Business Conduct and ensures there is full provision for raising your concerns with others if you do not feel able to raise them with your line manager/management chain. It can be found on the Trust's intranet site.

Acting Upon your Suspicions – the Do's and Don'ts

If you suspect fraud or corruption within the workplace, there are a few simple guidelines that should be followed:

Do:

- Make an immediate note of your concerns.
- *Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.*
- Convey your suspicions to someone with the appropriate authority and experience.
- *Using this form will help you to provide the relevant information so that your suspicions can be researched.* This is usually the Trust's LCFS or alternatively the Director of Finance. The Director of Finance can be contacted on mobile number 01206 745300. The LCFS for the Trust can be contacted on mobile number 07528 970251 (Mark Kidd) . or by filling in an online form at www.cfa.nhs.uk/reportfraud / If you feel unable to talk to anyone within the Trust then alternatively you can contact the NHS fraud, bribery and corruption Reporting Line on 0800 028 40 60.
- Deal with the matter promptly, if you feel your concerns are warranted. Any delay may cause your organisation to suffer further financial loss.
- If you wish to report your suspicions but don't want to give your name, that is fine, but you will not get any feedback on the outcome and without your name we cannot contact you for further information that you may have.
- If you do give your name, you are assured that **your name will not be given to anyone without your permission.**

Don't:

- Do nothing;
- Be afraid of raising your concerns;
You will not suffer any recrimination from the Trust as a result of voicing a reasonably held suspicion. The Trust will treat any matter you raise sensitively and confidentially.
- Approach or accuse any individuals directly;
- Try to investigate the matter yourself.

There are special rules surrounding the gathering of evidence for use in criminal cases.

Any attempt to gather evidence by people who are unfamiliar with these rules may destroy the case. The LCFS is trained in handling investigations in accordance with the NHS Fraud, Bribery and Corruption Manual.

- Convey your suspicions to anyone other than those with the proper authority;
- Withhold information because you do not want to give your name. Any information can be invaluable, even without knowing where it came from.

Taking Information from Someone who Wants to Report a Fraud

There may be occasions when someone asks you how they can report a fraud or tells you something that you think should be reported.

There are a number of ways someone can report a suspected fraud:

- Ask the person to contact the Director of Finance by telephone Trust Headquarters or the; LCFS by telephone on 07528 970251 (Mark Kidd); or
 - If they feel unable to talk to someone locally ask them to contact the NHS Fraud and
 - Corruption Reporting Line on 0800 028 40 60.
 - or by filling in an online form at www.cfa.nhs.uk/reportfraud
- If you are asked to report something on someone's behalf contact the LCFS
- If you are unsure about any of the above and would like some advice, ring the Director of Finance on mobile number 07786391455 or the LCFS on mobile number 07528 970251 (Mark Kidd).

Managing the Investigation

The Trust will follow its Disciplinary policy and procedure if there is evidence that an employee has committed fraud or acts of corruption.

Reporting the Results of the Investigation

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

If fraud or corruption is found to have happened, the LCFS should prepare a report for the DoF and the next Trust Audit and Risk Committee, setting out the following details:

- Circumstances;
- Investigation process;
- Estimated loss;

- Steps taken to prevent a recurrence;
- Steps taken to recover the loss; and
- Action to be taken.

This report should also be available to the Trust Board.

Sanctions and Redress of losses incurred by Fraud and Bribery

Where an objective investigation has found evidence of fraud, bribery or corruption, the next step is to pursue appropriate sanctions. The Trust will in every instance consider seeking appropriate sanctions, including appropriate legal action and financial redress, against people who are found to be committing fraud and corruption. Investigations will be conducted from the offset, with a view to any possible use of sanctions should sufficient evidence be gathered to show fraud and corruption has occurred. With consultation from the LCFS and consultation / guidance from other appropriate parties (NHSCFA / NHS Professionals / HR Director / Trust Board), it is the decision of the Director of Finance to apply sanctions. The Trust will maintain a full record of every investigation as well as the outcome and action taken. The range of available sanctions that may be pursued includes:

- No further action to be taken;
- Disciplinary action by the Trust where an employee is suspected of being involved in a fraudulent or illegal act;
- Criminal prosecution. The LCFS will work in partnership with NHSCFA, the police and/or the Crown Prosecution Service to bring a case to court;
- Civil action can be taken against those who commit fraud, bribery and corruption to recover money and/or assets which have been fraudulently obtained, including interest and costs. including action to freeze assets and recover losses
- Referral to relevant professional regulatory body, if warranted, staff may be reported to their professional body as a result of a successful investigation/prosecution;
- Confiscation Order under POCA; and
- Recovery may also be sought from on-going salary payments.

While multiple sanctions may be pursued at the same time in relation to the same incident, the processes involved should be run separately, to maintain their integrity and ensure that all decision making is impartial and independent. This is because the purposes, rules of evidence, standards of proof and outcomes for different types of sanction differ significantly. Medical councils and other regulators or professional bodies (including NHS England) have statutory powers to place conditions on, suspend or remove the registration of professionals whose fitness to practice has been impaired by virtue of a criminal conviction or serious professional misconduct. Trust employees that have memberships with relevant professional bodies may be reported to those bodies as a result of an investigation relating to fraud or corruption.

Each case will be considered individually on its own facts and merits; based on applying a consistent and thorough approach in all cases to ensure:

- The most effective investigations are undertaken, including the gathering and assessment of all relevant material which may form evidence of fraud, bribery, corruption, misconduct and/or unfitness to practise;
- The most appropriate sanction or combination of sanctions is sought where fraud, bribery, corruption or related misconduct is/are identified.

The seeking of financial redress or recovery of losses should always be considered in cases of fraud or bribery that are investigated by the LCFS 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 the light of the particular circumstances of each case.

Redress allows resources that are lost to fraud and bribery to be returned to the NHS for use as intended, for provision of high-quality patient care and services. Depending on the extent of the loss and the proceedings in the case, it may be suitable for the recovery of losses to be considered under Proceeds of Crime Act 2002 (POCA). This means that a person's money or assets are taken away from them if it is believed that the person benefited from the crime. It could also include restraining assets during the investigation. When considering seeking redress recovery may also be sought from on-going salary payments or pensions.

In cases of serious fraud and bribery (multiple victims of the suspected fraud, high value loss to the Trust or the alleged criminal transactions have significant legal or financial complexity beyond the resources of most other law enforcement agencies). Complex or serious fraud is distinct from other dishonesty offences that will ordinarily be a Police matter to investigate, it is recommended that parallel sanctions are applied. For example: disciplinary action relating to the status of the employee in the NHS; 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 – if appropriate.

NHS CFA 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 during the course of the investigation.

Actions which may be taken when considering seeking redress include:

- No further action;
- Disciplinary action;
- Civil recovery; and
- Criminal investigation.

Police Involvement

In accordance with the NHS Counter Authority Standards for Providers the DoF, in conjunction with the LCFS, 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 policy and procedures of the Trust.

Redress

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 LCFS 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 the light of the particular circumstances of each case.

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

Section 4 – Training and Education

It is a mandatory requirement that everyone who works at the Trust receives counter fraud training. Training is offered to all Trust staff via the induction process and e-learning module

to raise awareness of fraud, how to recognise it and what to do if there is a possible concern or real suspicions. All newly appointed employees should complete the e-learning package within 3 months of commencement

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

Section 5 – Development and Implementation including Dissemination

Monitoring is essential to ensure controls are appropriate and robust enough to prevent or reduce fraud. System controls should be reviewed on an on-going basis and identify any weaknesses in the process. Compliance is monitored through LCFS and reported as a standing item at the Audit and Risk Committee.

As a result of reactive and proactive work completed throughout the financial year, closure reports are prepared and issued by the LCFS. System and procedural weaknesses are identified in each report and highlight suggested recommendations for improvement. The Trust, together with the LCFS will track the recommendations to ensure that they have been implemented.

Progress reports cover the status of current investigations, allegations / referrals received, and the nature and extent of proactive activity performed by the LCFS against the annual counter fraud plan.

In addition, the Trust is required to complete the NHSCFA CFFSR and submit this annually to NHSCFA. The Trust must mark themselves against each NHSCFA requirement as either Compliant (green), Partially Compliant (Amber) or Non-Compliant (Red). A work-plan is required to address all non-compliant standards which will be monitored by the Audit Committee.

An assessment process may be conducted by NHSCFA Quality and Compliance which will evaluate the Trust's effectiveness in dealing with the fraud, bribery and corruption risks it faces through one of four types of assessment: Full, Focused, Thematic or Triggered.

Any deficiencies identified during monitoring will be recorded and reported to the Audit Committee. The nominated persons and, ultimately, the Audit Committee, will be responsible for ensuring that an action plan has been developed, is followed through, all required actions taken to remedy the deficiency/s identified and, where appropriate, information disseminated within the Trust to enable learning from the experience.

Section 6 – Monitoring Compliance and Effectiveness

This policy and procedure is available on the Trust intranet. All staff are notified via email of the procedure and any amendments.

Section 7 – Control of Document including Archiving Arrangements

- 7.1 Once ratified by Audit and Risk Committee, the Responsible Officer will forward this document to the Information Governance Department for a document index registration number to be assigned and for the document to be recorded onto the central hospital master index and central document library of current documentation.
- 7.2 In order that this document adheres to the Hospital's Records Management Policy, the Information Governance Department will:

- Ensure that the most up-to-date version of this document is stored on the documentation library.
- Archive previous versions of this document.
- Retain previous versions of this guideline for a period of time in accordance with the NHS Records Retention and Disposal Schedule.

Section 8 – Supporting Compliance and References

The Bribery Act 2010

Fraud Act 2006

Theft Act 1968

Proceeds of Crime Act 2002

Criminal Procedure and Investigations Act 1996

Public Interest and Disclosure Act 1998

Whistleblowing Policy

NHS CFA Organisational Strategy 2020-2023 is available at

https://cfa.nhs.uk/resources/downloads/documents/corporate-publications/NHSCFA_Strategy

Disciplinary and Performance Management Policy and Procedure

Standards of Business Conduct Policy in Respect of Conflicts of Interests, Receipt or Provision of Gifts, Hospitality and/or Sponsorship

Appendix A - NHS fraud, bribery and corruption: dos and don'ts.

A guide for East Suffolk and North Essex NHS Foundation Trust

FRAUD is the intent to obtain a financial gain from, or cause a financial loss to, a person or party through false representation, failing to disclose information or abuse of position.

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

DO

- **Note your concerns**

Record details such as the nature of your concerns, names, dates, times, details of conversations and possible witnesses. Time, date and sign your notes.

- **Retain evidence**

Retain any evidence that may be destroyed, or make a note and advise your Local Counter Fraud Specialist (LCFS).

- **Report your suspicions**

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

DO NOT

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

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

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

Never attempt to gather evidence yourself unless it is about to be destroyed; gathering evidence must be done in line with legal requirements in order for it to be useful. Your LCFS can conduct an investigation in accordance with legislation.

- **Be afraid of raising your concerns**

The Public Interest Disclosure Act 1998 protects employees who have reasonable concerns. You will not suffer discrimination or victimisation by following the correct procedures.

Do nothing

If you suspect that fraud against the NHS has taken place, you must report it immediately, by:

- directly contacting the Local Counter Fraud Specialist (LCFS), or
- telephoning the freephone NHS Fraud, bribery and corruption Reporting Line (see details on the right), or
- contacting the Director of Finance.

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

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

Online: www.reportnhsfraud.nhs.uk

Your Local Counter Fraud Specialist is Mark Kidd
who can be contacted by telephoning, 07528 970251 or emailing mark.kidd@nhs.net If you
would like further information about NHSCFA, please visit <https://cfa.nhs.uk/>

Appendix A - Equality Impact Assessment Form

The purpose of this Equality Impact Assessment form is to determine the extent to which policies, procedures and practices impact upon individuals and groups in relation to one or more of the equality categories.

If the policy, procedure or practice is found to have an adverse impact, the author/s must consider all other alternatives, which may more effectively achieve the promotion of equality of opportunity. This may include the development of specific measures to mitigate the adverse impact.

This Equality Impact Assessment form must be completed and forwarded to Human Resources Administration Office, Post Point N020 attached to the draft document prior to it being considered for approval. The Responsible Officer must retain the original. In the event that the document appears to be discriminatory, please refer to your Human Resources Manager/Adviser who will be able to advise you in accordance with employment legislation.

DOCUMENT TITLE:	Anti Fraud, Bribery and Corruption Policy v3.0					
GROUP/DIVISION/DEPARTMENT:	Finance					
NAME AND JOB TITLE OF RESPONSIBLE OFFICER	Director of Finance					
1. SERVICE USERS – Check for <u>DIRECT</u> discrimination against any minority group						
Does your document contain any statements which may exclude people from using services who otherwise meet the criteria under the grounds of:	Response		Action Required		Resource Implication	
	Yes	No	Yes	No	Yes	No
Age		X		X		
Gender		X		X		
Disability		X		X		
Race		X		X		
Religion or Belief		X		X		
Sexual Orientation		X		X		
If yes is answered to any of the above, the document may be considered discriminatory and requires review and further work to ensure compliance with legislation						
2. EMPLOYEES – Check for <u>DIRECT</u> discrimination against any minority group						
Does your document contain any statements which may exclude employees from operating under the grounds of:	Response		Action Required		Resource Implication	
	Yes	No	Yes	No	Yes	No
Age		X		X		
Gender		X		X		
Disability		X		X		
Race		X		X		
Religion or Belief		X		X		
Sexual Orientation		X		X		
If yes is answered to any of the above, the document may be considered discriminatory and requires review and further work to ensure compliance with legislation						

3. SERVICE USERS – Check for <u>INDIRECT</u> discrimination against any minority group						
Does your document contain any conditions or requirements which are applied equally to everyone, but may disadvantage certain individuals or groups because they cannot comply due to:	Response		Action Required		Resource Implication	
	Yes	No	Yes	No	Yes	No
Age		X		X		
Gender		X		X		
Disability		X		X		
Race		X		X		
Religion or Belief		X		X		
Sexual Orientation		X		X		
If yes is answered to any of the above, the document may be considered discriminatory and requires review and further work to ensure compliance with legislation						
4. EMPLOYEES – Check for <u>INDIRECT</u> discrimination against any minority group						
Does your document contain any statements which may exclude employees from operating under the grounds of:	Response		Action Required		Resource Implication	
	Yes	No	Yes	No	Yes	No
Age		X		X		
Gender		X		X		
Disability		X		X		
Race		X		X		
Religion or Belief		X		X		
Sexual Orientation		X		X		
If yes is answered to any of the above, the document may be considered discriminatory and requires review and further work to ensure compliance with legislation						
5. Check for ACCESS Discrimination						
Is your document accessible:	Response		Action Required		Resource Implication	
	Yes	No	Yes	No	Yes	No
In a variety of languages		X		X		
To specific disabled service users/employees		X		X		
If no is answered to any of the above, the document may be considered discriminatory and requires review and further work to ensure compliance with legislation						

Name of group/s consulted with on document:	Audit and Risk Committee
Signature of Responsible Officer:	Director of Finance
Date:	26 May 2022