

ANTI-FRAUD AND BRIBERY POLICY AND PROCEDURES

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Policy in-line with national guidelines:	



Signed on behalf of the Trust:
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7.0	July 2016	Derek McNally, Andy Reeve LCFS, RSM	Update to key contact details.
7.1	April 2017	Derek McNally, Andy Reeve LCFS, RSM	Updated Policy following NHS Protects revisions and recommendations dated June 2015.
8.0	January 2018	Julie McCarthy, LCFS, RSM	Updated Policy to reflect NHS Counter Fraud Authority best practice

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Anti-Fraud and Bribery Policy (including sanctions and financial redress)

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1. INTRODUCTION

This document sets out Cambridgeshire and Peterborough NHS Foundation Trust ('the Trust') policy and advice to employees in dealing with fraud, bribery and corruption or suspected fraud, bribery or corruption. This policy details the arrangements made in the organisation for such concerns to be raised by employees or members of the public.

The Trust is committed to reducing fraud, bribery and corruption in the NHS and will seek the appropriate disciplinary, regulatory, civil and criminal sanctions against fraudsters and where possible will attempt to recover losses. The aim of the policy and procedure is to protect the property and finances of the NHS and of patients in our care.

The Trust is committed to taking all necessary steps to counter fraud, bribery and corruption. To meet its objectives, the Trust complies with the four-stage approach developed by NHS Counter Fraud Agency:

- Strategic Governance
- Inform and Involve
- Prevent and Deter
- Hold to Account

The Trust will take all necessary steps to counter fraud in accordance with this policy, the NHS Anti-Fraud Manual, the policy statement 'Applying Appropriate Sanctions Consistently' published by the NHS Counter Fraud Agency and any other relevant guidance or advice issued by NHS Counter Fraud Agency.

The Bribery Act 2010 has replaced the disjointed and complex offences of criminal law. It provides a more effective legal framework to combat fraud and bribery in the public and private sectors.

The Trust will take all necessary steps to counter fraud and bribery in accordance with guidance or advice issued by the NHS Counter Fraud Agency. This document sets out the Trust's policy for dealing with detected or suspected fraud and bribery.

2. SCOPE

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, bribery and corruption. It provides a framework for responding to suspicions, advice and information on various aspects of fraud and bribery 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 everyone in the Trust, 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
- set out the Trust's responsibilities in terms of the deterrence, prevention, detection and investigation of fraud. Bribery and corruption

- ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
 - Criminal prosecution
 - Civil prosecution
 - Internal/external disciplinary action (including professional/regulatory bodies)

This policy applies to:

- all employees and prospective employees of the Trust, regardless of position held;
- agency staff;
- consultants;
- vendors;
- contractors and subcontractors;
- service users;
- committee, sub-committee and advisory group members (who may not be directly employed or engaged by the organisation)
- employees and principals of partner organisations; and/or
- any other parties who have a business relationship with the Trust.

It will be brought to the attention of all employees and form part of the induction process for new staff. It is incumbent upon all of the above to report any concerns they may have concerning fraud.

In implementing this policy, managers must ensure that all staff members are treated fairly and within the provisions and spirit of the 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.

3. POLICY

All employees have a personal responsibility to protect the assets of the organisation, including all buildings, equipment and monies from fraud, theft, bribery or corruption.

The Trust is absolutely committed to maintaining an honest, open and well-intentioned atmosphere within the organisation, so as to best fulfil the objectives of the organisation and of the NHS. It is, therefore, also committed to the elimination of fraud within the organisation, to the rigorous investigation of any such allegations and to taking appropriate action against wrong doers, including possible criminal prosecution, as well as undertaking steps to recover any assets lost as a result of fraud.

The Trust wishes to encourage anyone having reasonable suspicions of fraud to report them. The organisation's policy, which will be rigorously enforced, is that no individual will suffer any detrimental treatment as a result of reporting reasonably held suspicions. The Public Interest Disclosure Act 1998 came into force in July 1999 and gives statutory protection, within defined

parameters, to staff that make disclosures about a range of subjects, including fraud, which they believe to be happening within the organisation employing them. Within this context, 'reasonably held' means suspicions other than those which are raised maliciously and are subsequently found to be groundless.

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

The Trust expects anyone having reasonable suspicions of fraud to report them. It recognises that, while cases of theft are usually obvious, there may initially only be a suspicion regarding potential fraud and, thus, employees should report the matter to their Local Counter Fraud Specialist (LCFS) who will then ensure that procedures are followed.

Recovery of any losses will always be sought – see section 8.

4. DEFINITIONS

The Trust has a zero-tolerance approach to fraud and bribery. The Trust has a commitment to high ethical and moral standards and to ensure that the public's money is being used properly.

All employees have a personal responsibility to protect the assets of the Trust, including all buildings, equipment and monies from fraud, theft, and bribery.

Fraud

Any person who dishonestly makes a false representation to make a gain for himself or another or dishonestly fails to disclose to another person, information which he is under a legal duty to disclose, or commits fraud by abuse of position, including any offence as defined in the Fraud Act 2006.

Bribery

Giving or receiving a financial or other advantage in connection with the "improper performance" of a position of trust, or a function that is expected to be performed impartially or in good faith, including any other offence under the Bribery Act 2010. 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.

NHS Counter Fraud Agency

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

The Trust has procedures in place that reduce the likelihood of fraud/bribery occurring. These include Standing Orders, Standing Financial Instructions, documented procedures, a system of internal control (including Internal and External Audit) and a system of risk assessment. In addition, the Trust seeks to ensure that a comprehensive anti-fraud and anti-bribery culture exists throughout the Trust via the appointment of a dedicated LCFS, in accordance with NHS Counter Fraud Agency standards. The Trust seeks to ensure that a comprehensive anti-bribery culture exists throughout the Trust through the Trust's Standards of Business Conduct which details the methods for reporting suspected bribery and the avoidance of bribery. This is reinforced through the appointment of a dedicated Senior Compliance Officer and LCFS.

It is expected that Non-Executive Directors and staff at all levels will lead by example in acting with the utmost integrity and ensuring adherence to all relevant regulations, policies and procedures.

5. FRAUD

The Fraud Act 2006

A summary of the Fraud Act 2006 can be found in Appendix B. This details the offences under the Fraud Act 2006, along with some case examples.

The Trust's approach to fraud

The Trust is absolutely committed to maintaining an honest, open and well-intentioned atmosphere within the Trust, so as to best fulfil the objectives of the Trust and of the NHS. It has a zero tolerance approach to fraud. It is, therefore, also committed to the elimination of fraud within the Trust, to the rigorous investigation of any such allegations and to taking appropriate action against wrong doers, including possible criminal prosecution, as well as undertaking steps to recover any assets lost as a result of fraud.

The Trust wishes to encourage anyone having reasonable suspicions of fraud to report them. The Trust's Policy, which will be rigorously enforced, is that no individual will suffer any detrimental treatment as a result of reporting reasonably held suspicions. The Public Interest Disclosure Act 1998 gives statutory protection, within defined parameters, to staff that make disclosures about a range of subjects including fraud and bribery, which they believe to be happening within the Trust employing them. Within this context, 'reasonably held' means suspicions other than those which are raised maliciously and are subsequently found to be groundless.

The Trust expects anyone having reasonable suspicions of fraud to report them to the LCFS, Director of Finance, or via NHS Counter Fraud and Corruption reporting line or via their online form (details of which can be found in Appendix A). It recognises that, while cases of theft are usually obvious, there may initially only be a suspicion regarding potential fraud and, thus, employees must report the matter to their LCFS who will then ensure that the Trust procedures are followed.

All employees should be aware that fraud (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 warranting summary dismissal without previous warnings. However, no such action will be taken before a proper investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.

Recovery of any losses will always be sought. Please see Section 10 for further information on sanctions and redress.

6. BRIBERY

The Bribery Act 2010

A summary of the Bribery Act 2010 can be found in Appendix C. This details the offences under the Bribery Act 2010, along with some case examples.

Recovery of any losses will always be sought. Please see Section 10 for further information on sanctions and redress.

Six Principles of the Bribery Act 2010

This section sets out the Trust's policy for implementing the Bribery Act 2010. It covers the six principles set out in the guidance

- Proportionate procedures
- Top level commitment
- Risk assessment
- Due diligence
- Communication
- Monitoring and review

Proportionate procedures

While the NHS is not a high risk area for bribes, there are risks, and these need to be managed by having the appropriate policy framework, which is set out in this policy, and includes dealing with all allegations of detected or suspected bribery and corruption offences, in all forms of bribery and is intended to provide direction and help to employees who may identify suspected bribery. The overall aims are to:

- improve the knowledge and understanding of everyone in the Trust, irrespective of their position, about the risk of bribery within the organisation and its unacceptability
- set out the Trust's responsibilities in terms of the deterrence, prevention, detection and investigation of bribery and corruption
- ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
 - criminal prosecution
 - civil prosecution
 - internal/external disciplinary action (including professional/regulatory bodies)

Top level commitment

The Trust will not engage in any form of bribery, neither in the UK nor abroad. The Trust and all employees, independent of their grade and position, shall at all times comply with the Bribery Act 2010 and with this policy. The Trust is absolutely committed to maintaining an honest, open and well-intentioned atmosphere within the Trust. It is, therefore, also committed to the elimination of any possibility of bribery within the Trust, to ensure the rigorous investigation of any such allegations and to taking appropriate action against wrong doers, including possible criminal prosecution. The Trust will ensure that it procures goods and services ethically and transparently with quality, price and value for money determining the successful supplier/contractor and not by receiving (or offering) improper benefits. Trust employees will not request or receive a bribe from anybody, nor imply that such an act might be considered. This means that staff should 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 their duty.

Risk assessment

As part of the Trust's routine review of risk, the risk of potential bribery will need to be assessed by all managers, especially in those departments dealing with suppliers and contractors eg procurement, estates, pharmacy, IM&T and catering, but also those involved eg in care packages- see section below on managers' responsibilities

Due diligence

Off-the-book accounts and false or deceptive booking entries are strictly prohibited. All gifts, payments or any other contribution made or received whether in cash or in kind, are possibly subject to review under the Act, and must be documented, regularly reviewed, and properly accounted for. Record retention and archival policies must be consistent with the Department of Health's accounting standards, tax and other applicable laws and regulations.

The offering or paying of a bribe to any person by a Trust employee is absolutely prohibited. This means that staff must not offer, promise, reward in any way or give a financial or other advantage to any person in order to induce that person to perform his/her function or duty improperly. It does not matter whether the other person is a UK or foreign public official, political candidate, party official, private individual, private or public sector employee or any other person (The offence includes creating the appearance of an effort to improperly influence another person).

Section 7 of the Bribery Act 2010 introduced a separate, public liability offence if the Trust cannot prove that it has proportionate procedures in place to prevent bribery from occurring. In response to this, this policy, in conjunction with other Trust policies such as the Declarations of Interest and Gifts and Hospitality Policy, and the Standing Financial Instructions/ Standing Orders Policy (SFI's/SO's), are aimed at preventing bribery and corruption in the course of Trust business. In addition 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 Anti-Bribery Policy and to keep proper books and records available for inspection by the Trust's, 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

All employees will be made aware that bribery will normally, dependent upon the circumstances of the case, be regarded as gross misconduct warranting summary dismissal without previous warnings. However, no such action will be taken before a proper investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.

Facilitation payments are small payments made to secure or expedite the performance of a routine action by a government official or agency (e.g. issuing licenses or permits, installation of a telephone line, processing goods through customs, etc.) to which the payer (or the company) has legal or other entitlement. Facilitation payments are prohibited under the Bribery Act like any other form of bribe. They shall not be given by Trust employees in the UK or any other country.

Communication

The Trust will through its Counter Fraud provider, arrange for training in the Act's requirements to be provided to staff, including the Board, senior managers and those attending corporate induction.

The Trust wishes to encourage anyone having reasonable suspicions of bribery to report them to the Senior Compliance Officer and/or Local Counter Fraud Specialist who will then ensure that procedures are followed. Concerns can also be raised through the Trust's raising concerns policy. This policy, which will be rigorously enforced, states that no individual will suffer any detrimental treatment as a result of reporting reasonably held suspicions. (See Raising Concerns at Work policy) Any unfounded or malicious allegations will be subject to a full investigation and appropriate disciplinary action.

As part of the annual review of interests, the Trust Board Secretary will remind those on the interest register of the Act and their responsibility to report gifts and hospitality.

Monitoring and Review

The Trust will require its Counter Fraud provider to monitor and report annually to the Audit Committee on the work undertaken to raise awareness and any other proactive work undertaken, and on any reactive investigations

7. PUBLIC SERVICE VALUES

High standards of corporate and personal conduct, based on the recognition that patients come first, has been a requirement throughout the NHS since its inception. The three fundamental public service values are:

Accountability	Everything done by those who work in the organisation must be able to stand the tests of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.
Probity	Absolute honesty and integrity should be exercised in dealing with NHS patients, assets, employees, suppliers and customers.
Openness	The Trust's actions should be sufficiently public and transparent to promote confidence between the Trust and its patients, our employees and the public.

In addition, all those who work for, or are in contract with, the Trust should exercise the following when undertaking their duties:

<i>Selflessness</i>	...should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.
<i>Integrity</i>	...should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
<i>Objectivity</i>	... should, in carrying out public business, (including making public appointments, awarding contracts, or recommending individuals for rewards and benefits), make choices on merit.
<i>Accountability</i>	...are accountable for their decisions and actions to the public and must submit them to whatever scrutiny is appropriate to their office.
<i>Openness</i>	...should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest demands.
<i>Honesty</i>	...have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
<i>Leadership</i>	...should promote and support these principles by leadership and example.

These standards are national benchmarks that inform our local policies and procedures. The arrangements made in this policy have been designed to ensure compliance with the national standards.

8. ROLES & RESPONSIBILITIES

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

Cambridgeshire and Peterborough NHS Foundation Trust

The Trust has a duty to ensure that it provides a secure environment in which to work, and one where people are confident to raise concerns without worrying that it will reflect badly on them. This extends to ensuring that staff feel protected when carrying out their official duties and are not placed in a vulnerable position. If staff members have concerns about any procedures or processes that they are asked to be involved in, the Trust has a duty to ensure that those concerns are listened to and addressed.

Chief Executive

The Chief Executive has the overall responsibility for funds entrusted to the organisation 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.

Director of Finance

The Director of Finance is provided with powers to approve financial transactions initiated by directorates across the Trust. As part of this role the Director of Finance is responsible for the maintenance and implementation of detailed financial procedures and systems which incorporate the principles of separation of duties and internal checks.

The Director of Finance will report annually to the Board 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 Trust's annual report.

The Director of Finance, in consultation with and the LCFS, will decide whether there is sufficient cause to conduct an investigation, and whether the Police and External Audit need to be informed.

The Director of Finance or the LCFS will consult and take advice from the Head of HR if a member of staff is to be interviewed or disciplined in accordance with the disciplinary policy. The Director of Finance or LCFS will not conduct a disciplinary investigation, but the employee may be the subject of a separate investigation by HR.

The Director of Finance will, depending on the outcome of investigations (whether on an interim/on-going or a concluding basis) and/or the potential significance of suspicions that have been raised, inform the Chair of the Audit Committee of cases, as may be deemed appropriate or necessary.

The Director of Finance is also responsible for informing the Audit Committee of all categories of loss.

All Employees

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

Employees must act in accordance with The Trust's Standards of Business Conduct, which includes guidance on the receipt of gifts and hospitality and how to inform the Trust of any declarations of interest

Employees also have a duty to protect the assets of the organisation including information, goodwill and reputation, as well as property.

Employees are expected to act in accordance with the standards laid down by their Professional Institute(s), where applicable.

All employees should be aware that fraud (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 a proper investigation and a disciplinary hearing having taken place. Such actions may be in addition to the possibility of criminal prosecution.

The Trust's 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.

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:

- act with honesty, integrity and in an ethical manner
- behave in a way that would not give cause for others to doubt that the Trust's employees deal fairly and impartially with official matters
- be alert to the possibility that others might be attempting to deceive.

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

When an employee suspects that there has been fraud, they must report the matter to the nominated LCFS and/or the NHS Counter Fraud Agency.

Managers

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 therefore primarily rests with managers but requires the co-operation of all employees.

As part of that responsibility, line managers need to:

- Inform staff of the Trust's Standards of Business Conduct Policy (which includes bribery, gifts and hospitality, declarations of interest, and whistleblowing) and of the Trust's Anti-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.
- Be aware of the Trust's anti-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.
- Contribute to their director's assessment of the risks and controls within their business area, which feeds into the Trust's and the Department of Health Accounting Officer's overall statements of accountability and internal control.

All instances of actual or suspected fraud, 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/and or NHS Counter Fraud Agency as soon as possible.

Where staff members have access to the Internet, managers need to ensure that any use is linked to the performance of their duties and any private use is specifically agreed beforehand. Any instance of deliberate viewing of offensive material (e.g. pornography or hate material) must be reported immediately.

Local Counter Fraud Specialist (LCFS)

The LCFS is responsible for taking forward all anti-fraud work locally in accordance with national NHS Counter Fraud Agency standards and reports directly to the Director of Finance.

The LCFS works with key colleagues and stakeholders to promote anti-fraud work and effectively respond to system weaknesses and investigate allegations of fraud and corruption. This will include the undertaking of risk assessments to identify fraud, bribery and corruption risks at the Trust.

The LCFS's role 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 cases of alleged fraud within the Trust will be the responsibility of the LCFS. NHS Counter Fraud Agency will only investigate cases which should not be dealt with by the Trust. Following receipt of all referrals, NHS Counter Fraud Agency will add any known information or intelligence and based on this case acceptance criteria determine if a case should be investigated by the NHS Counter Fraud Agency.

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.

The LCFS and the Director of Finance will decide who will conduct the investigation and when/if referral to the police is required. Cases, for instance, where more than £100,000 or where possible bribery is involved may be investigated by the NHS Counter Fraud Agency (though

the LCFS may assist); otherwise the investigation will normally be undertaken by the Trust's own LCFS directly.

Information Management Officers (IMO)/ Senior Information Management Officers (SIMO)

The IMO/SIMO allocates, supervises and monitors fraud referrals and notifications to the LCFS. The IMO/SIMO ensures that all information and intelligence gained from local investigative work is reported and escalated as appropriate at both local and national level in order to ensure that fraud trends are mapped and used to fraud-proof future policies and procedures.

The IMO/SIMO is responsible for the management and vetting of all local investigation case papers and evidence and witness statements submitted for the consideration of prosecutions. The AAFS will ensure that local investigations are conducted within operational and legislative guidelines to the highest standards for all allegations of fraud in the NHS.

Internal and External Audit

Any incident or suspicion that comes to Internal or External Audit's attention will be passed immediately to the LCFS.

Human Resources

Human Resources will liaise closely with Managers and the LCFS, from the outset, where an employee is suspected of being involved in fraud in accordance with agreed liaison protocols. Human Resources are responsible for ensuring the appropriate use of the Disciplinary Procedure. The Human Resources Department shall advise those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures. Close liaison between the LCFS and HR will be essential to ensure that any parallel sanctions (i.e. criminal and disciplinary) are applied effectively and in a coordinated manner.

Human Resources 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.

Information Management & Technology

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, e-mail, telephone, PDA use and any offence under the Computer Misuse Act 1990. Human Resources will be informed if there is a suspicion that an employee is involved.

Audit Committee

The LCFS will provide updates to the Audit Committee of fraud investigations that are undertaken. The details of the case will be anonymised. The Audit Committee will raise concerns about specific areas of risk.

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.

Third parties (including members of the public, contractors and suppliers)

This policy is also applicable to patients, other members of the public, as well as contractors, sub-contractors, suppliers, and any other external organisation.

Should any third party have any suspicions that fraud has been committed against the Trust, they should also inform the LCFS, Director of Finance, or call the NHS Counter Fraud and Corruption reporting line or fill in their online form (details can be found in Appendix A

9. THE RESPONSE PLAN

This section outlines the action to be taken where fraud, bribery or other illegal acts involving dishonesty, inappropriate Internet use, or damage to property are discovered or suspected. For completeness, it also deals with the action to be taken where theft is discovered or suspected.

Bribery and Corruption

The Trust will undertake risk assessments in line with the Ministry of Justice guidance to assess how bribery and corruption may affect the organisation. In addition proportionate procedures have been put in place to mitigate the identified risks.

Reporting fraud, bribery or corruption

If any of the concerns mentioned in this document come to the attention of an employee, they must **inform the LCFS or the Director of Finance immediately**. Employees can also call the NHS Fraud Reporting Line on Freephone 0800 028 40 60 or by filling in an online form at www.reportnhsfraud.nhs.uk, as an alternative to internal reporting procedures and if staff wish to remain anonymous. This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting the NHS. It allows NHS staff members who are unsure of internal reporting procedures to report their concerns in the strictest confidence. All calls are dealt with by experienced call handlers. Suspicions of fraud should only be reported to the LCFS, Director of Finance or via the NHS Fraud Reporting Line and not to another colleague or line manager.

Contact information for the above is listed in Appendix A.

The attached Appendix A is designed to be a reminder of the key “what to do” steps - as well as contact details - to be taken where fraud 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, telephone calls etc. are received from time to time from individuals who wish to raise matters of concern, but not through official channels. While the allegations may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and should always be taken seriously.

Sufficient enquiries will be made by the LCFS to establish whether or not there is any foundation to the allegations. If the allegations are found to be malicious, they will also be considered for further investigation as to their source.

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 whistleblowing policy. This procedure is intended to complement the Trust's anti-fraud policy and code of business 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/management chain. It can be found on the intranet.

10. SANCTIONS AND REDRESS

In cases of serious fraud and/or bribery, parallel sanctions may be 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.

Criminal investigations are primarily used for dealing with any criminal activity. The main purpose is to determine if activity was undertaken with criminal intent. Following such an investigation, it may be necessary to bring this activity to the attention of the criminal courts (magistrates' court and Crown court). Outcomes can range from a criminal conviction to fines and imprisonment.

The civil recovery route is also available to the Trust 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 needs to be discussed with the Director of Finance to determine the most appropriate action.

Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act. The appropriate senior manager, in conjunction with the HR department, will be responsible for initiating any necessary disciplinary action. Arrangements may be made to recover losses via payroll if the subject is still employed by the Trust. In all cases, current legislation must be complied with.

The seeking of financial redress or recovery of losses will always be considered in cases of fraud or bribery that are investigated by the LCFS or NHS Counter Fraud Agency where a loss is identified. Redress can take the form of confiscation and compensation orders, a civil order for repayment, or a local agreement between the organisation and the offender to repay monies lost. The decisions for redress will 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 can be 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. When considering seeking redress recovery may also be sought from on-going salary payments or pensions.

In some cases (taking into consideration all the facts of a case), it may be that the Trust, under guidance from the LCFS and with the approval of the Director of Finance, decides that no further recovery action is taken.

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

In order to provide assurance that policies were adhered to, the Director of Finance will maintain a record highlighting when recovery action was required, and issued and when the action taken. This will be reviewed and updated on a regular basis.

11. DISCIPLINARY ACTION

The disciplinary procedures of the Trust must be followed where an employee is suspected of being involved in a fraudulent or other 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 (e.g. consideration of criminal action). In the event of doubt, legal statute shall prevail.

12. POLICE INVOLVEMENT

Staff should always report any concerns they may have to the LCFS, Director of Finance, or via the NHS Counter Fraud and Corruption Reporting Line or via their online form (see Appendix A for further details).

In accordance with the NHS Anti-Fraud Manual, the Director of Finance, in conjunction with the LCFS and NHS Counter Fraud Agency, will decide whether or not a case should be referred to the police. Human Resources and line managers will be involved as necessary. Any referral to the police will not prohibit action being taken under the Trust disciplinary procedures.

13. MONITORING AND AUDITING OF POLICY EFFECTIVENESS

Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. Arrangements might include reviewing system controls on an on-going basis and identifying weaknesses in processes. Where deficiencies are identified as a result of monitoring, the Trust will ensure that appropriate recommendations and action plans are developed and progress of the implementation of recommendations is tracked.

When measuring the effectiveness of this policy, the LCFS will also consider the number of referrals received, and where the referrals came from. Consideration will also be given to any initiatives undertaken to increase readership i.e. key points put into a leaflet form.

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 suggested recommendations for improvement are highlighted. The Trust, together with the LCFS will track the recommendations to ensure that they have been implemented, and amend this policy as necessary

14. DISSEMINATION OF THE POLICY

This policy will be published on the Trust intranet and internet, so that all staff, volunteers, and external companies working with the Trust may access, understand and implement the policy.

The LCFS provides awareness training to staff as part of the proactive work undertake across the Trust. They are available to provide briefing to individual groups of staff as required. Further information on fraud, bribery, available training and case studies is available on the internet. Please contact the LCFS to request and arrange.

15. REVIEW OF THE POLICY

This policy will be reviewed by the LCFS every two years or sooner depending on legislative changes.

16. ADDITIONAL INFORMATION

Any abuse or non-compliance with this policy or procedures will be subject to a full investigation and appropriate action, whether this be in the form of disciplinary, civil, or criminal action..

17. RELATED POLICIES

- Whistleblowing Policy
- Standards of Business Conduct for NHS Staff
- IM&T Security and Data Protection
- Disciplinary Policy
- Standing Financial Instructions/Standing Orders

Appendix A: Action to be taken if you discover or suspect fraudulent activity

CAMBRIDGESHIRE AND PETERBOROUGH NHS FOUNDATION TRUST

FRAUD involves dishonestly making a false representation, failing to disclose information or abusing a position held, with the intention of making a financial gain or causing a financial loss.

BRIBERY or CORRUPTION involves offering, promising or giving a payment or benefit-in-kind in order to influence others to use their position in an improper way to gain an advantage.

If you suspect fraud, bribery or corruption may be occurring in the NHS:

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 could 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.

DON'T

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 will 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.

What to do:

If any of these concerns come to light you must immediately report your suspicions and what you have discovered to one of the following:

The Local Counter Fraud Specialist:

Gary Douglas

Tel: 07917 462 009

Email: gary.douglas1@nhs.net

Director of Finance:

Scott Haldane

Tel – 01223 219466

Scott.haldane@cpft.nhs.uk

The NHS Fraud Reporting Line

0800 028 40 60

Or online

www.reportnhsfraud.nhs.uk

Appendix B: The Fraud Act 2006

THE FRAUD ACT 2006

Section 1: Summary

Section 1 of The Fraud Act sets out provisions for a general offence of fraud. There are several offences created the main three being sections 2, 3 and 4. The act also creates offences of obtaining services dishonestly and of possessing, making and supplying articles for use in fraud, as well as containing a new offence of fraudulent trading applicable to non-corporate traders.

Section 2: Fraud by False Representation

It is an offence to commit fraud by false representation. The representation must be made dishonestly. This test applies also to sections 3 and 4 below. The current definition of dishonesty was established in *R v Ghosh* [1982] Q.B.1053. That judgment sets a two-stage test. The first question is whether a defendant's behaviour would be regarded as dishonest by the ordinary standards of reasonable and honest people. If answered positively, the second question is whether the defendant was aware that his conduct was dishonest and would be regarded as dishonest by reasonable and honest people.

The person must make the representation with the intention of making a gain or causing loss or risk of loss to another. The gain or loss does not actually have to take place.

A representation is defined as false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading. A representation means any representation as to fact or law, including a representation as to a person's state of mind.

A representation may be express or implied. It can be stated in words or communicated by conduct. There is no limitation on the way in which the representation must be expressed. It could be written or spoken or posted on a website.

A representation may also be implied by conduct. An example of a representation by conduct is where a person dishonestly misuses a credit card to pay for items. By tendering the card, he is falsely representing that he has the authority to use it for that transaction. It is immaterial whether the merchant accepting the card for payment is deceived by the representation.

This offence would also be committed by someone who engages in "phishing": i.e. where a person disseminates an email to large groups of people falsely representing that the email has been sent by a legitimate financial institution. The email prompts the reader to provide information such as credit card and bank account numbers so that the "phisher" can gain access to others' personal financial information.

A representation may be regarded as being made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention). The main purpose of this provision is to ensure that fraud can be committed where a person makes a representation to a machine and a response can be produced without any need for human involvement. (An example is where a person enters a number into a "CHIP and PIN" machine.)

Section 3: Fraud by Failing to Disclose Information

Section 3 makes it an offence to commit fraud by failing to disclose information to another person where there is a legal duty to disclose the information. A legal duty to disclose information may include duties under oral contracts as well as written contracts.

For example, the failure of a solicitor to share vital information with a client within the context of their work relationship, in order to perpetrate a fraud upon that client, would be covered by this section. Similarly, an offence could be committed under this section if for example an NHS employee failed to disclose to the Trust that certain patients referred by him for private treatment are private patients, thereby avoiding a charge for the services provided by that NHS employee during NHS time.

Section 4: Fraud by Abuse of Position

Section 4 makes it an offence to commit a fraud by dishonestly abusing one's position. It applies in situations where the defendant has been put in a privileged position, and by virtue of this position is expected to safeguard another's financial interests or not act against those interests.

The necessary relationship will be present between trustee and beneficiary, director and company, professional person and client, agent and principal, employee and employer, or between partners. It may arise otherwise, for example within a family, or in the context of voluntary work, or in any context where the parties are not at arm's length.

The term "abuse" is not limited by a definition, because it is intended to cover a wide range of conduct. The offence can be committed by omission as well as by positive action. For example, an employee who fails to take up the chance of a crucial contract in order that an associate or rival company can take it up instead at the expense of the employer commits an offence under this section.

An employee of a software company who uses his position to clone software products with the intention of selling the products on would commit an offence under this section.

Another example covered by this section is where a person who is employed to care for an elderly or disabled person has access to that person's bank account and abuses his position by removing funds for his own personal use.

Note: It is now no longer necessary to prove a person has been deceived in the above offences. The focus is now on the dishonest behaviour of the suspect and their intent to make a gain or cause a loss.

Section 5: (not relevant for the purposes of this document)

Section 6: Possession etc. of Articles for Use in Frauds

Section 6 makes it an offence for a person to possess or have under his control any article for use in the course of or in connection with any fraud. This wording draws on that of the existing law in section 25 of the Theft Act 1968 (These provisions make it an offence for a person to "go equipped" to commit a burglary, theft or cheat, although they apply only when the offender is not at his place of abode.

Proof is required that the defendant had the article for the purpose or with the intention that it be used in the course of or in connection with the offence, and that a general intention to commit fraud will suffice.

Section 7: Making or Supplying Articles for Use in Frauds

Section 7 makes it an offence to make, adapt, supply or offer 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 facilitate fraud. For example, a person makes devices which when attached to electricity meters cause the meter to malfunction.

Section 8: "Article"

Section 8 extends the meaning of "article" for the purposes of sections 6 and 7 and certain other connected provisions so as to include any program or data held in electronic form. Examples of cases where electronic programs or data could be used in fraud are: a computer program can generate credit card numbers; computer templates can be used for producing blank utility bills; computer files can contain lists of other peoples' credit card details or draft letters in connection with 'advance fee' frauds.

Section 9: Participating in fraudulent business carried on by sole trader etc.

Section 9 makes it an offence for a person knowingly to be a party to the carrying on of fraudulent business where the business is not carried on by a company or (broadly speaking) a corporate body.

- A person commits the offence of fraudulent trading
- dishonesty is an essential ingredient of the offence;
- the mischief aimed at is fraudulent trading generally, and not just in so far as it affects creditors;
- the offence is aimed at carrying on a business but that can be constituted by a single transaction; and
- It can only be committed by persons who exercise some kind of controlling or managerial function within the company.

Section 10: (not relevant for the purposes of this document)

Section 11: Obtaining Services Dishonestly

Section 11 makes it an offence for any person, by any dishonest act, to obtain services for which payment is required, with intent to avoid payment. The person must know that the services are made available on the basis that they are chargeable, or that they might be. It is not possible to commit the offence by omission alone and it can be committed only where the dishonest act was done with the intent not to pay for the services as expected.

It requires the actual obtaining of the service. For example, data or software may be made available on the Internet to a certain category of person who has paid for access rights to that service. A person dishonestly using false credit card details or other false personal information to obtain the service would be committing an offence under this section. The section would also cover a situation where a person climbs over a wall and watches a football match without paying the entrance fee - such a person is not deceiving the provider of the service directly, but is obtaining a service which is provided on the basis that people will pay for it.

Section 11 also covers the situation where a person attaches a decoder to her television to enable viewing access to cable / satellite television channels for which they has no intention of paying for.

Section 12: Liability of Company Officers for Offences by Company

This section repeats the effect of section 18 of the Theft Act 1968. It provides that company officers who are party to the commission of an offence under the Bill by their body corporate will be liable to be charged for the offence as well as the company. It applies to directors, managers, secretaries and other similar officers of a company. If the body corporate charged with an offence is managed by its members the members involved in management can be prosecuted too.

The Fraud Act 2006 repeals the following Theft Act offences:

Theft Act 1968

- Section 15 (obtaining property by deception).
- Section 15A (obtaining a money transfer by deception).
- Section 15B (Section 15A: supplementary).
- Section 16 (obtaining a pecuniary advantage by deception).
- Section 20(2) (procuring the execution of a valuable security by deception).

Theft Act 1978

- Section 1 (Obtaining services by deception).
- Section 2 (evasion of liability).

The Act came into force on 15th January 2007 and carries a maximum sentence of 10yrs imprisonment with the exception of the 'going equipped offence' which is 5years.

Appendix C: The Bribery Act 2010

The following business practices constitute criminal offences under the Bribery Act 2010 and are therefore prohibited:

Offences of bribing another person

Case 1 is where the Trust employee offers, promises or gives a financial or other advantage to another person and intends the advantage (i) to induce that or another person to perform improperly a relevant function or activity, or (ii) to reward that or another person for the improper performance of such a function or activity.

Case 2 is where the Trust employee offers, promises or gives a financial or other advantage to another person and knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity by that person.

The bribery must relate to (i) a function of a public nature, (ii) an activity connected with a business, (iii) an activity performed in the course of a person's employment, or (iv) an activity performed by or on behalf of a body of persons (whether corporate or unincorporate). The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust. It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector and whether the advantage is offered, promised or given directly by a the Trust employee or through a third party, e.g. an agent or other intermediary.

Offences relating to being bribed

Case 3 is where the Trust employee requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by him-/herself or another person).

Case 4 is where the Trust employee requests, agrees to receive or accepts a financial or other advantage, and the request, agreement or acceptance itself constitutes the improper performance by him-/herself of a relevant function or activity.

Case 5 is where the Trust employee requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by him-/herself or another person) of a relevant function or activity.

Case 6 is where, in anticipation of or in consequence of the Trust employee requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly (i) by that, or (ii) by another person at his/her request or with his/her assent or acquiescence.

Again, the bribery must relate to (i) a function of a public nature, (ii) an activity connected with a business, (iii) an activity performed in the course of a person's employment, or (iv) an activity performed by or on behalf of a body of persons (whether corporate or unincorporate). The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust.

It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector, whether a the Trust employee requests, agrees to receive or accepts the advantage directly or through a third party, e.g. an agent or other intermediary, and whether the advantage is for the benefit of a the Trust employee or another person.

In Cases 4 to 6, it does not matter whether a the Trust employee knows or believes that the performance of the function or activity is improper.

Bribery of foreign public officials

Case 7 is where the Trust employee bribes a foreign public official and intends (i) to influence that official in his/her capacity as a foreign public official and (ii) to obtain or retain a business or an advantage in the conduct of business. A foreign public official is someone who holds a legislative, administrative or judicial position of any kind or exercises a public function of a country outside the UK, or is an official or agent of a public international organisation.

The following paragraph will apply if any part of the organisation is considered as a 'commercial' one.

Failure of commercial organisations to prevent bribery

A corporate or partnership is 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 corporate or partnership. For a definition of bribery, please refer to Cases 1, 2 and 7 above.

It should be the policy of a corporate or partnership not to 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.