

# Counter Fraud and Anti-Bribery Policy

## Ratification Process

Lead Authors	Local Counter Fraud Specialist Chief Finance Officer
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Review date	Two years from approval date: January 2022 (or earlier if required by local or national changes).

## Document Control Sheet

<b>Development and Consultation:</b>	CCG Secretary Internal Audit Local Counter Fraud Specialist
<b>Dissemination</b>	The policy will be communicated to all staff and managers via the CCG extranet and public website
<b>Implementation</b>	Local Counter Fraud Specialist
<b>Training</b>	Fraud and bribery awareness training is provided to all new starter, as well as all existing staff, as part of the CCG's rolling mandatory training programme.
<b>Monitoring</b>	A report monitoring arrangements for effectiveness and compliance will be provided to the approving Committee (Audit Committee)
<b>Review</b>	Local Counter Fraud Specialist
<b>Links with other documents</b>	The policy should be read in conjunction with:  CCG Constitution Freedom to Speak Up at Work (Whistleblowing) Policy and Procedure Conflicts of Interest Policy Standards of Business Conduct and Commercial Sponsorship Policy
<b>Equality and Diversity</b>	The CCG Secretary has carried out an Equality Impact Assessment and concluded the document is compliant with the CCG Equality and Diversity Strategy.

## Revisions

Version	Page/Para No	Description of Change	Date Approved
2	Throughout	Change to Policy name and various updates proposed following review by LCFS	22.01.19 (AC) 05.03.19 (GB)
3	Throughout	Reviewed and updated by LCFS to bring policy in to line with the latest NHSCFA Guidance  New Sanctions and Redress Guidance included as an appendix (appendix E)	To AC – 21.01.20

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## **1. Introduction**

- 1.1** One of the basic principles of public sector organisations is the proper use of public funds. The NHS is a public funded organisation and consequently it is important that every employee and associated person acting for, or on behalf of Cambridgeshire and Peterborough Clinical Commissioning Group (CCG) is aware of the risk of fraud, corruption and bribery, the rules relating to fraud, corruption and bribery, the process for reporting their suspicions and the enforcement of these rules. The definition of fraud, corruption and bribery is detailed in section 5.
- 1.2** This document sets out the CCG's policy and response plan for detected or suspected fraud, corruption or bribery. It has the endorsement of the CCG Governing Body and the Clinical and Management Executive Team (CMET).
- 1.3** The policy reflects the Governing Body's wish to embed a culture of best practice in anti-fraud, anti-corruption and anti-bribery measures, and enforcement of the policy will reduce the risk that the CCG or any staff, contractors, or persons working for the CCG will incur any criminal liability or reputational damage.
- 1.4** The CCG is committed to the prevention, deterrence and detection of fraud, corruption and bribery and has a zero-tolerance towards those responsible for committing these offences. The CCG will seek appropriate disciplinary, regulatory, civil and criminal sanctions against offenders and where possible will attempt to recover losses. The CCG aims to maintain full compliance with the Bribery Act 2010 and will conduct risk assessments in line with Ministry of Justice guidance to assess how bribery and corruption may affect the organisation.
- 1.5** The CCG already has procedures in place that reduce the likelihood of fraud, corruption and/or bribery occurring. These include the Standing Orders, Standing Financial Instructions, other documented procedures, a system of internal control, and a system of risk assessment. The Governing Body seeks to ensure that a risk awareness culture exists in the CCG (which includes fraud, corruption and bribery awareness), and have complied with the requirements of the NHS Counter Fraud Authority document: *Standards for Commissioners: Fraud, Bribery and Corruption* and the NHS Standard Contract in nominating a Local Counter Fraud Specialist.
- 1.6** The Local Counter Fraud Specialist conducts investigations as directed by the NHS Counter Fraud Manual, as required by NHS Counter Fraud Authority Standards for Commissioners and the NHS Standard Contract.

## **2. Purpose and Scope**

- 2.1** This document is intended to provide the CCG with a policy for dealing with suspected fraud, corruption and bribery.
- 2.2** The purpose of this policy is to:

- Set out the CCG's responsibilities and of those working for us, in observing and upholding our position on fraud, corruption and bribery.
- Provide information and guidance to those working for us on how to recognise and deal with fraud, corruption and bribery issues.
- Give a framework for a response and advice and information on various aspects and implications of an investigation.

**2.3** This policy is not intended to provide detailed direction on the prevention of fraud, corruption or bribery in any particular departments or control systems.

**2.4** This Policy applies to all individuals working at all levels including Governing Body Executive and Lay Members (Including co-opted members), GP Clinical Leads, Honorary Members of the Governing Body, Governors, employees (whether permanent, fixed-term, or temporary), contractors, trainees, seconded, home-workers, casual staff and agency staff, interns and students, agents, sponsors, volunteers, Member Practices when working on CCG business or any other person associated with the CCG wherever located (collectively referred to as "Staff") in this Policy.

**2.5** This Policy is also intended to contribute to maintaining the highest standards of business conduct and ensure compliance with the Seven Principles of Public Life drawn up by the Nolan Committee (see Appendix D).

### **3. Duties and Responsibilities**

**3.1** The responsibilities of staff at various levels in implementing this document are described in Section 6.

### **4. Legislative Framework**

**4.1** The Fraud Act 2006 came into effect on 15 January 2007 and introduced the general offence of fraud. The Act created three key criminal offences as follows: (1) fraud by false representation, (2) fraud by failing to disclose information, and (3) fraud by abuse of position.

**4.2** The Bribery Act 2010 came into effect on 1 July 2011, and replaces the offences at common law and under the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Act 1906 and the Prevention of Corruption Act 1916 (known collectively as the Prevention of Corruption Acts 1889 to 1916) with a new consolidated scheme of bribery offences.

**4.3** The Bribery Act 2010 makes the following criminal offences (1) to give, promise or offer a bribe, (2) to request, agree to receive or accept a bribe, (3) bribery of a foreign public official, and (4) failure of a commercial organisation to prevent bribery (the corporate offence).

## **5 Definitions**

### **5.1 Fraud**

There is no specific definition within the Fraud Act 2006 for this term. The Act instead gives a series of separate offences which set out three possible ways in which fraud can be committed:

- Fraud by false representation
- Fraud by failing to disclose information
- Fraud by abuse of position

In all three classes of fraud, there is the requirement that for an offence to have occurred, the person must have acted dishonestly and they had acted with the intent of making a gain for themselves, or anyone else, or inflicting a loss (or a risk of loss) on another.

Other offences of fraud found within the Fraud Act 2006 are:

- Possession of articles for use in fraud
- Making or supplying of articles for use in fraud
- Obtaining services dishonestly

### **5.2 Examples of NHS Fraud**

There is no one type of fraud – there is in fact an enormous variation in the types of fraud that are committed, as there are in the people who commit them. Among more recurrent frauds are (of which this list is not an exhaustive list):

- Timesheet fraud (e.g. staff and professionals claiming money for shifts that they have not worked, claiming for sessions that they have not carried out)
- False expense claims (e.g. falsified travel or subsistence claims)
- Fraudulent job applications (e.g. false qualifications or immigration status)
- Working whilst sick (e.g. usually working for another organisation without informing the CCG)
- Excess study leave
- Advertising scams (e.g. false invoices for placing advertisements in publications)
- Patient fraud (e.g. false travel claims, fraudulently claiming exemptions from pharmaceutical charges)
- Misappropriation of assets (e.g. falsely ordering goods for own use or to sell)
- Procurement Fraud (e.g. the ordering and contracting of goods or services)
- Fraud by professionals (constitutes specific types of fraud, e.g. false claims from a dentist for treatment not provided, or unauthorised use of NHS facilities/equipment for private use)
- Pharmaceutical fraud (e.g. overcharging for drugs; supplying inferior or reduced quantities of drugs; claiming for drugs not dispensed)
- Fraudulent claims around continuing healthcare, or misuse of personal health budgets.

### **5.3 Bribery**

Bribery and 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. In essence, bribery is offering an incentive or reward to someone to do something that they would not normally do.

There are four offences of bribery within the Bribery Act 2010:

- Two general offences covering the offering, promising or giving of an advantage; and the requesting, agreeing to receive or accepting of an advantage.

*(A simple example would include a candidate for a job offering the interviewer tickets to an event in order to secure the position. Under the Bribery Act 2010, two offences would be committed: one by the person offering the bribe, and one by the person receiving the bribe).*

- A discrete offence of bribery of a foreign public official to obtain or retain business, or an advantage in the conduct of business.
- The offence of failure by a commercial organisation to prevent bribery from occurring.

*(Two simple examples would be:*

- a) Where an act of bribery has occurred, for a director, manager or officer of an organisation ignoring an act or acts of bribery within the organisation. Under the Bribery Act 2010, the corporate offence would have been committed.*
- b) Where an act of bribery has occurred, it was subsequently established that the organisation employing the individual failed to have adequate procedures in place to identify and prevent the act of bribery by its employee. Again, under the Bribery Act 2010, the corporate offence would have been committed).*

A legal defence within the Bribery Act 2010 requires organisations to demonstrate that they have “adequate procedures” in place to prevent any bribery from occurring: To demonstrate that the CCG has sufficient and adequate procedures in place and to demonstrate openness and transparency all individuals working for the CCG are required to comply with the requirements of this policy.

#### **5.4 NHS Counter Fraud Authority (NHSCFA)**

NHSCFA has responsibility for the detection, investigation and prevention of fraud and economic crime within the NHS.

#### **5.5 Counter Fraud Standards**

A requirement in the NHS standard contract is that providers of NHS services (that hold a Monitor’s Licence) must take the necessary action to comply with the NHSCFA’s counter fraud standards. Others should have due regard to the standards. 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 standards. The NHSCFA carries out regular assessments of health organisations in line with the counter fraud standards.

## **6. Public Service Values**

**6.1** Staff must be impartial and honest in the conduct of their business and remain above suspicion whilst carrying out their role within the CCG. A Code of Conduct for NHS Boards was first published, by the NHS Executive in April 1994 and set out the initial public service values. This has been superseded by the seven fundamental public service values specified in the Nolan report set out in Appendix D. The 'Nolan Principles' set out the ways in which holders of public office should behave in discharging their duties.

A further Code of Conduct was issued in October 2002 titled "Code of Conduct for NHS Managers".

In addition, all staff and those working for the CCG, are expected to:

- Ensure that the interest of patients remain paramount at all times
- Be impartial and honest in the conduct of their official business
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money
- Not abuse their official position for personal gain or to benefit their family or friends
- Not to seek advantage or further private business or other interests in the course of their official duties.

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

## **7. Responsibilities within the Organisation**

### **7.1 NHS Counter Fraud Authority (NHSCFA)**

NHSCFA has 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. More details can be found in the NHSCFA strategy document: *Leading the fight against NHS fraud: Organisational strategy 2017-2020* (available at: <https://cfa.nhs.uk/about-nhscfa/corporate-publications>).

Any investigations will be handled in accordance with NHSCFA guidance.

### **7.2 CCG Governing Body**

The CCG's Governing Body and Lay Members should provide a clear and demonstrable support and strategic direction for counter fraud, bribery and corruption work. They should review the proactive management, control and



the evaluation of counter fraud, bribery and corruption work. The Governing Body and Lay Members should scrutinise NHSCFA assessment reports, where applicable, and ensure that the recommendations are fully actioned.

### **7.3 Chief Finance Officer**

The Chief Finance Officer has overall responsibility for ensuring compliance with requirements set out under within the NHS Counter Fraud Authority document: *Standards for Commissioners: Fraud, Bribery and Corruption*.

Under these Standards, the Chief Finance Officer has a legal responsibility to make sure fraud, corruption and bribery is prevented, detected and investigated. Combating fraud, corruption and bribery requires an understanding of how and why it happens, the ways in which it can be minimised and how to professionally investigate it. In line with the Standards, the Chief Finance Officer has nominated a Local Counter Fraud Specialist to tackle fraud, corruption and bribery within the CCG.

Where a referral concerning fraud, corruption or bribery has been made to the Chief Finance Officer they will inform the Local Counter Fraud Specialist at the first opportunity and delegate to him/her responsibility for leading any investigation whilst retaining overall responsibility him/herself.

The Chief Finance Officer shall inform and consult the Accountable Officer and Chief Operating Officer in cases where the loss may be above the delegated limit or where the incident may lead to adverse publicity.

### **7.4 Local Counter Fraud Specialist (LCFS)**

The Local Counter Fraud Specialist is responsible for managing and delivery of all counter fraud work within the CCG in accordance with an agreed annual work plan. Under the NHS Counter Fraud Authority Standards and in line with the NHS Counter Fraud Manual, the Local Counter Fraud Specialist is responsible for investigating allegations of fraud and corruption at the CCG. Presently, the CCG has contracted with RSM to provide a counter fraud service.

Adhering to NHSCFA counter fraud standards is important in ensuring that the organisation has appropriate counter fraud, bribery and corruption arrangements in place and the LCFS will look to achieve the highest standards possible in their work.

The Local Counter Fraud Specialist is an experienced and accredited (professionally qualified) counter fraud specialist. In essence the role of the Local Counter Fraud Specialist is to respond to and proactively tackle risks and occurrences of fraud, corruption and bribery at the CCG by providing a robust and effective prevention, detection and investigation function. The Local Counter Fraud Specialist is responsible for ensuring that the CCG complies with the four-stage approach developed by NHS Counter Fraud Authority:

- Strategic governance - anti-fraud measures are embedded at all levels across the organisation;

- Inform and involve – the creation of an anti-fraud culture;
- Prevent and deter - maximum deterrence of fraud and successful prevention of fraud which cannot be deterred;
- Hold to account - professional investigation of detected fraud, effective sanctions, including appropriate legal action against people committing fraud and bribery offences. Effective methods in place for seeking redress in respect of money defrauded.

The Local Counter Fraud Specialist reports to the Chief Finance Officer but any CCG employee can speak to and ask for advice from the Local Counter Fraud Specialist. The Local Counter Fraud Specialist is authorised to receive reports of suspected fraud and bribery from anyone, whether an employee of the CCG, independent contractors, patients or other third party. All employees have a responsibility to the CCG to raise their genuine concerns.

The Local Counter Fraud Specialist employs a risk-based methodology to enable the CCG to target resources at high risk areas and throughout the year undertakes proactive reviews in these areas which can detect fraud. Such reviews together with investigations, ensure the Local Counter Fraud Specialist identifies and counters vulnerabilities within the CCG's systems by implementing effective prevention, detection and corrective controls to reduce the likelihood of fraud and bribery.

## **7.5 Director of Corporate Affairs**

The Director of Corporate Affairs is responsible for advising those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures, as requested.

The consideration of 'triple tracking' options, namely criminal, civil and disciplinary sanctions (including Professional Regulatory Body sponsored disciplinary sanctions) shall be taken in conjunction with the Director of Corporate Affairs and the LCFS.

## **7.6 Line 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 and bribery therefore primarily rests with managers but requires the co-operation of all employees.

As part of that responsibility, line managers need to:

- ensure that all employees for whom they are accountable are made aware of the requirements of this policy, as well as those contained within the CCG's Conflicts of Interest (including gifts, hospitality and sponsorship) policy;
- enforce disciplinary action for staff who do not comply with policies,

- procedures and processes;
- 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 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 CCG and the Department of Health Accounting Officer's overall statements of accountability and internal control.

All instances of actual or suspected fraud and bribery, which come to the attention of a manager, must be reported immediately to the LCFS. 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 refer the concerns to the LCFS or NHSCFA, 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.

## **7.7 Audit Committee**

The purpose of the Audit Committee (AC) is to provide an independent check on the financial management of the CCG. The AC meets, receives and considers reports by the internal and external auditors on all aspects of financial processes and procedure. Both the Local Counter Fraud Specialist and the Chief Finance Officer attend the AC. The AC receives regular updates on counter fraud activity, and reviews, approves and monitors counter fraud work, including annual work plans; annual reports; NHSCFA quality assessment reports; and annual self-assessment review toolkits, including the implementation of associated action plans.

## **7.8 Human Resources**

Human Resources (HR) will liaise closely with managers and the LCFS from the outset if an employee is suspected of being involved in fraud and/or bribery, in accordance with agreed liaison protocols. HR staff are responsible for ensuring the appropriate use of the CCG's disciplinary procedure. The HR department will advise those involved in the investigation on matters of employment law and other procedural matters, such as disciplinary and

complaints procedures, as requested. Close liaison between the LCFS and HR will be essential to ensure that any parallel sanctions (i.e. criminal, civil and disciplinary sanctions) are applied effectively and in a coordinated manner and that staff are at all times treated in accordance with CCG values.

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.

## **7.9 Information Management and Technology**

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

## **7.10 Staff and Member Practices**

All CCG employees and others acting on behalf of the organisations, must apply the following principles:

- Not accepting gifts, hospitality or benefits of any kind from a third party which might be perceived as compromising their personal judgement or integrity;
- Not using their official position to further their private interests or those of others;
- Declare any private interests as required by policies;
- Base all procurement decisions and negotiations of contracts solely on achieving best value for money for the tax payer;
- Refer to their line manager when faced with a situation for which there is no adequate guidance;
- If in any doubt, seek advice from the appropriate assistant director or director.
- If you suspect that fraud, bribery or corruption has taken place, it is your responsibility to ensure it is reported to the LCFS and/or to NHSCFA.

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

An essential component of the CCG anti-bribery approach is to ensure that **all** staff comply with the governance requirements of CCG's policies and procedures in place to ensure full compliance with the Bribery Act 2010. The policies and procedures, that all staff must make themselves aware of, and comply with are:

### **CCG Constitution**

*Section 8 ~ Standards of Business Conduct and Managing Conflicts of Interest*

**Standing Financial Instructions (embodied within the CCG Constitution)**

*Section 20. Acceptance of Gifts by Officers and Link to Standards of Business Conduct*

**Standards of Business Conduct and Commercial Sponsorship Policy**

Any gifts or hospitality made to or received from a 'third party' in the course of CCG duties, and which exceeds the threshold stipulated in the CCG's Standards of Business Conduct and Commercial Sponsorship Policy must be formally declared and registered in accordance with this policy.

Where it is anticipated that the gifts or hospitality to be made to or received from a 'third party' may exceed the threshold stipulated in the CCG's policy then staff must obtain prior authorisation and approval from their line manager.

A 'third party' means any individual or organisation who staff may come into contact with during the course of their work with the CCG and includes actual and potential clients, suppliers, distributors, business contacts, agents, advisors, government and public bodies, including their advisors, representatives and officials, politicians, and political parties.

**Freedom to Speak Up at Work (Whistleblowing) Policy**

All staff and member practices must ensure that they have read, understand and comply with this policy. The reporting of fraud, bribery and corruption is the responsibility of all those working for, or under the control of the CCG.

All staff are individually responsible for:

- Securing the property of the CCG
- Avoiding loss
- Conforming with the rules and regulations contained in the CCG's policies and procedures

All staff are required to follow any Code of Conduct related to their personal professional qualifications.

**Conflicts of Interest Policy**

Staff must declare any possible conflicts of interest which they may have in contracts entered into by the CCG, or which relates to aspects of their work for the CCG (such as business interests or other employment) and these must be noted in a register maintained for that purpose.

All Lay Members and GP Members (including Local Commissioning Group members) are required to declare and register potential conflicts between their duties and personal or professional lives in keeping with the CCG's Constitution and Conflicts of Interest Policy.

If staff suspect there has been fraud, corruption or bribery, they must report the matter to the nominated Local Counter Fraud Specialist.

***All staff are required to avoid any activity that might lead to, or suggest, a breach of this policy. Any Staff found in breach of this policy may be liable to disciplinary (including summary dismissal) and/or criminal action.***

## **7.11 Internal and External Audit**

Internal and External Audit review controls and systems to ensure they are compliant with the financial instructions. It is also their duty to pass on any suspicions of fraud, bribery or corruption to the LCFS.

Any incident or suspicion of fraud, corruption and/or bribery that comes to Internal or External Audit's attention will be passed immediately to the Local Counter Fraud Specialist.

## **8 Policy**

### **8.1 The Response Plan**

The CCG is committed to tackling fraud, corruption and bribery. When this is discovered there is a need for clear, prompt and appropriate action. Therefore, having a fraud, corruption and bribery response plan increases the likelihood that the crisis will be managed effectively. The response will be effective and organised and will rely on the principles contained within this section.

The CCG will be robust in dealing with any fraud, corruption or bribery issues, and can be expected to deal timely and thoroughly with any person who attempts to defraud the CCG or who engages in corrupt practices, whether they are Lay Members, GP Clinical Leads, employees, suppliers, patients or unrelated third parties. Appendix A contains further an overview of the fraud response process.

The Local Counter Fraud Specialist will conduct all investigations in accordance with national guidance and in particular in full compliance with the NHS Counter Fraud Manual issued by NHS Counter Fraud Authority. This will cover all aspects of conducting a professional investigation, including gathering evidence and interviewing.

It should be added that under no circumstances should a member of staff speak, email or write to representatives of the press, TV, radio or to another third party about a suspected fraud, corruption or bribery issue without the express authority of the Chief Operating Officer except within the provisions stated in the CCG's Freedom to Speak Up (Whistleblowing Policy). Care needs to be taken to ensure that nothing is done that could give rise to an action for slander or libel.

In some cases, e.g. if a major diversion of funds is suspected, speed of response will be crucial to avoid financial loss in following the processes laid out within this policy.

## 8.2 Referring a suspicion of Fraud, Corruption and/or Bribery

Anyone, whether staff or a member of the public, can refer such allegations to the Local Counter Fraud Specialist.

If any staff have good reason to suspect a colleague, patient or other person of fraud, corruption and/or bribery, involving the CCG, they should report their genuine concerns to the Local Counter Fraud Specialist or Chief Finance Officer immediately.

If there is a concern that the LCFS or the Director of Finance themselves may be implicated in suspected fraud, bribery or corruption, a report should be made to the Chief Executive or Chair of the Audit Committee.

The Local Counter Fraud Specialist will then decide on the next course of action and advise the member of Staff accordingly.

Suspicions of fraud and/or bribery should be reported to any of the following:

1. Local Counter Fraud Specialist
2. Chief Finance Officer
3. NHS Counter Fraud Authority National Fraud and Corruption Reporting Line on **0800 028 4060**
4. NHS Counter Fraud Authority on-line at **<https://cfa.nhs.uk/reportfraud>**
5. Protect (formerly Public Concern at Work) on **020 3117 2520**. This is an independent charity who can offer advice on how to proceed.
6. Freedom to Speak Up Guardian.

Furthermore, all employees should be made aware of NHS Improvement and NHS England's: Freedom to speak up: raising concern's (whistleblowing) policy for the NHS, April 2016 <sup>1</sup> and NHS England's Freedom to speak up in Primary Care: Guidance to primary care providers on supporting whistleblowing in the NHS, November 2017 <sup>2</sup>. These form the minimum standard to help normalise the raising of concerns in the NHS for the benefit of all patients in England.

<sup>1</sup> *NHS Improvement and NHS England's Freedom to speak up: raising concern's (whistleblowing) policy for the NHS, April 2016* <https://improvement.nhs.uk/resources/freedom-to-speak-up-whistleblowing-policy-for-the-nhs/>

<sup>2</sup> *NHS England's Guidance Freedom to speak up in primary care: Guidance to primary care providers on supporting whistleblowing in the NHS, November 2017* <https://www.england.nhs.uk/wp-content/uploads/2016/11/whistleblowing-guidance.pdf>

All referrals will be treated in complete confidence.

If Human Resources or any other Staff in the CCG receive any allegations of fraud, corruption and/or bribery, they should refer them to the Local Counter Fraud Specialist before taking any further action.

Time may be of the utmost importance to prevent further loss to the CCG. Staff should be encouraged to report their first suspicions and not undertake lengthy consideration of alternative explanations. They should be reassured that all initial investigation into their suspicions will be of the highest professional standard. Where during an initial investigation, no evidence of fraud is found, the Local Counter Fraud Specialist will ensure there is equal protection of the innocent suspect, and the well-intentioned reportee.

All reported allegations of fraud will be referred to the Chief Finance Officer, including those immediately dismissed as minor or otherwise not investigated. The Local Counter Fraud Specialist will initiate and maintain a Diary of Events (or such record as required by the NHS Counter Fraud Manual) to record the progress of the investigation.

### **8.3 Responding to an Allegation**

8.3.1 Where a referral concerning fraud, corruption and/or bribery has been made to the \*Chief Finance Officer, the Chief Finance Officer shall inform the Local Counter Fraud Specialist at the first opportunity.

*\* Where a referral concerns the Chief Finance Officer this should be raised with the CCG Secretary in the first instance.*

8.3.2 On receipt of a referral/allegation of suspected fraud, the Local Counter Fraud Specialist will assess the allegation to determine a course of action. This may involve making preliminary enquiries such as obtaining information from CCG systems.

8.3.3 After such preliminary enquiries, where appropriate, the Local Counter Fraud Specialist will seek agreement from the \*Chief Finance Officer to carry out an investigation.

8.3.4 If a criminal event is believed to have occurred but fraud, corruption or bribery is not suspected, the \*Chief Finance Officer must immediately inform the police and the Local Security Management Specialist (LSMS) if theft or arson is involved, and where appropriate the Governing Body and External auditors, in accordance with the CCG's Standing Financial Instructions.

8.3.5 The Local Counter Fraud Specialist is responsible for investigating all instances of fraud, corruption and/or bribery in the CCG.

8.3.6 The Local Counter Fraud Specialist will regularly report to the Chief Finance Officer on all fraud, corruption and/or bribery cases they investigate, at particular stages of individual investigations. In addition, the Local Counter Fraud Specialist will provide the Audit Committee with updates as to the progress of investigations.



- 8.3.7 Depending upon the nature of the investigation, the Local Counter Fraud Specialist will normally work closely with management and other agencies such as the Police to ensure that all matters are properly investigated and reported upon. The circumstances of each case will dictate who will be involved and when.
- 8.3.8 The detailed arrangements for the investigation of any suspected fraud, bribery, or corruption are contained in the NHS Counter Fraud Manual and within the CCG's policies e.g. Disciplinary Policy and the Standing Financial Instructions. The Local Counter Fraud Specialist will record the progress of the investigation in accordance with the legal codes of practice (Police and Criminal Evidence Act 1984, Regulation of Investigatory Powers Act 2000, Criminal Procedures and Investigation Act 1996) and other legislative requirements (e.g. Data Protection Act 2018).
- 8.3.9 On the conclusion of the investigation the Local Counter Fraud Specialist will report their findings and recommendations to the Chief Finance Officer. The Chief Finance Officer is the sole person who can determine whether or not any formal action is justified and what form such action takes. However, guidance can be sought from the Chief Operating Officer and the Local Counter Fraud Specialist.
- 8.3.10 If the Chief Finance Officer decides that formal action is to be taken against the subject(s) of an investigation, the Local Counter Fraud Specialist will comply with the NHS Counter Fraud Authority guidance 'Applying Appropriate Sanctions Consistently'. This will involve using an appropriate combination of the sanctions described below:
- Civil – Civil sanctions can be taken against those who commit fraud, bribery and corruption to recover money and/or assets which have been obtained, including interest and costs.
  - Criminal – The LCFS will work in partnership with NHS Counter Fraud Authority, the police and/or the Crown Prosecution Service to bring a case to court against an alleged offender. Outcomes can range from a criminal conviction to fines and imprisonment.
  - Disciplinary - Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act.
  - Professional body disciplinary – If warranted, staff may be reported to their professional body, as a result of a successful investigation/prosecution.
- 8.3.11 The CCG will seek financial redress whenever possible to recover losses to fraud, bribery and corruption. Redress can take the form of confiscation and compensation orders, a civil order for repayment, or a local agreement between the CCG and the offender to repay monies

lost. Further details can be found in the CCG's Sanction and Redress Guidance attached as **Appendix E**. The aim of this document is to make all CCG staff, contractors and those who undertake work on behalf of the CCG, aware of the arrangements in place following a fraud investigation to apply appropriate sanctions and wherever possible to recover any financial losses.

- 8.3.12 The use of parallel sanctions or the 'triple track' approach helps to maximise the recovery of NHS funds and assets whilst minimising duplication of work.
- 8.3.13 The CCG's Disciplinary Policy will be used where the outcome of the investigation indicates improper behaviour on the part of Staff. The Local Counter Fraud Specialist shall liaise with the Director of Corporate Affairs regarding providing evidence for disciplinary hearings.
- 8.3.14 Where the CCG has suffered a financial loss from a fraud or bribery offence, the CCG will take action to pursue recovery in all applicable cases, subject to authorisation from the Chief Finance Officer.
- 8.3.15 The Local Counter Fraud Specialist will seek authorisation from the Chief Finance Officer if a matter is to be reported to the Police. The LCFS will liaise with Police by providing a prosecution file and participating in interviews and searches. The LCFS shall attend court to give evidence and liaise with the Crown Prosecution Service as required.
- 8.3.16 The Local Counter Fraud Specialist acts on behalf of the CCG in the event of any formal action and must ensure there is coordination between the various parties involved such as where external legal advisers are used.
- 8.3.17 When a fraud, corruption or bribery offence has occurred at the CCG, the Local Counter Fraud Specialist will identify system weaknesses and make recommendations to the CCG to strengthen the control environment and reduce the risk of such an event occurring again.
- 8.3.18 The Local Counter Fraud Specialist is required to advise NHS Counter Fraud Authority of every investigation and refer appropriate matters to NHS Counter Fraud Authority.
- 8.3.19 The Chief Finance Officer is responsible for the smooth running of this protocol and where clarification is required his, or her, decision will be final.
- 8.3.20 For all alleged cases reported to the Local Counter Fraud Specialist, the Local Counter Fraud Specialist will liaise with the appropriate lead HR manager and subject's line manager, where necessary and appropriate. Communication during an investigation will be limited to relevant witnesses to protect the confidentiality of the investigation.

## **8.4 Subsequent Action**

8.4.1 Following the conclusion of each case a written report will be drafted and presented to the Chief Finance Officer. Consideration will be given to the circumstances in which the offence occurred, and the need for changes to controls or audit activity to prevent such an offence occurring again.

8.4.2 The CCG will also publicise the outcome of any successful prosecution to support its aim of deterring fraud and bribery and creating an anti-fraud and anti-bribery culture.

## **9. Policy Compliance**

All staff must comply with the requirements set out within this policy. Failure to do so may be considered a disciplinary matter leading to action being taken under the CCG's disciplinary procedure.

## **10. Consultation and Communication with Stakeholders**

This policy has been written in consultation with key local stakeholders including the Chief Finance Officer.

## **11. Approval of Policy**

This policy is sponsored by the Chief Finance Officer and approved by Audit Committee and ratified by the CCG Governing Body.

## **12. Responsibility for Document Development**

The nominated author for this policy is the Local Counter Fraud Specialist. The lead Director for this policy is the Chief Finance Officer. The Committee charged with monitoring the development of this document is the Audit Committee.

## **13. Equality Impact Assessment**

Under the Race Relation (Amendment) Act 2000 the CCG is required to undertake equality impact assessments on all policies/guidelines and practices. This obligation has been expanded to include equality and human rights with regard to disability, age, gender and religion.

## **14. Consultation, Approval and Ratification Process**

### **14.1 Consultation process**

The following are identified:

- Chief Finance Officer
- Director of Corporate Affairs
- Audit Committee

## 14.2 Policy Approval and Ratification Process

The policy will be approved by the Audit Committee.

The policy will be ratified by the CCG Governing Body

## 15. Dissemination and Implementation

The policy will be communicated to all Staff, Managers and Member Practices via the CCG extranet and website.

## 16. Process for Monitoring Compliance and Effectiveness

### 16.1 Standards/Key Performance Indicators

The following monitoring processes are in place for this policy:

Standard	Monitoring Process
Monitoring arrangements for compliance and effectiveness.	A report will be provided to the approving committee.
Responsibility for conducting the monitoring/audit.	The Local Counter Fraud Specialist will monitor the effectiveness of this policy.
Frequency of the monitoring/audit.	Annual.
Process for reviewing results and ensuring improvements in performance occur.	The Audit Committee will review the results of this audit/report. The discussion and any action points will be recorded in the minutes and followed up by the Audit Committee.

## 17. References

- Human Rights Act 1998. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- NHS Litigation Authority. (2007). An Organisation-wide Policy for the Development and Management of Procedural Documents, [Online], Available:
- Race Relations (Amendment) Act 2000. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- The Sex Discrimination (Gender Reassignment) Regulations 1999. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- The Sex Discrimination Act 1975 (Amendment) Regulations 2003. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- NHS Counter Fraud Manual – NHS Counter Fraud Authority, London.
- Applying Appropriate Sanctions Consistently. NHS Counter Fraud Authority, London.
- Fraud Act 2006. Available at: <http://www.legislation.gov.uk/ukpga/2006/35/contents>
- The Bribery Act 2010. Available at: [www.legislation.gov.uk/ukpga/2010/23/data.pdf](http://www.legislation.gov.uk/ukpga/2010/23/data.pdf)

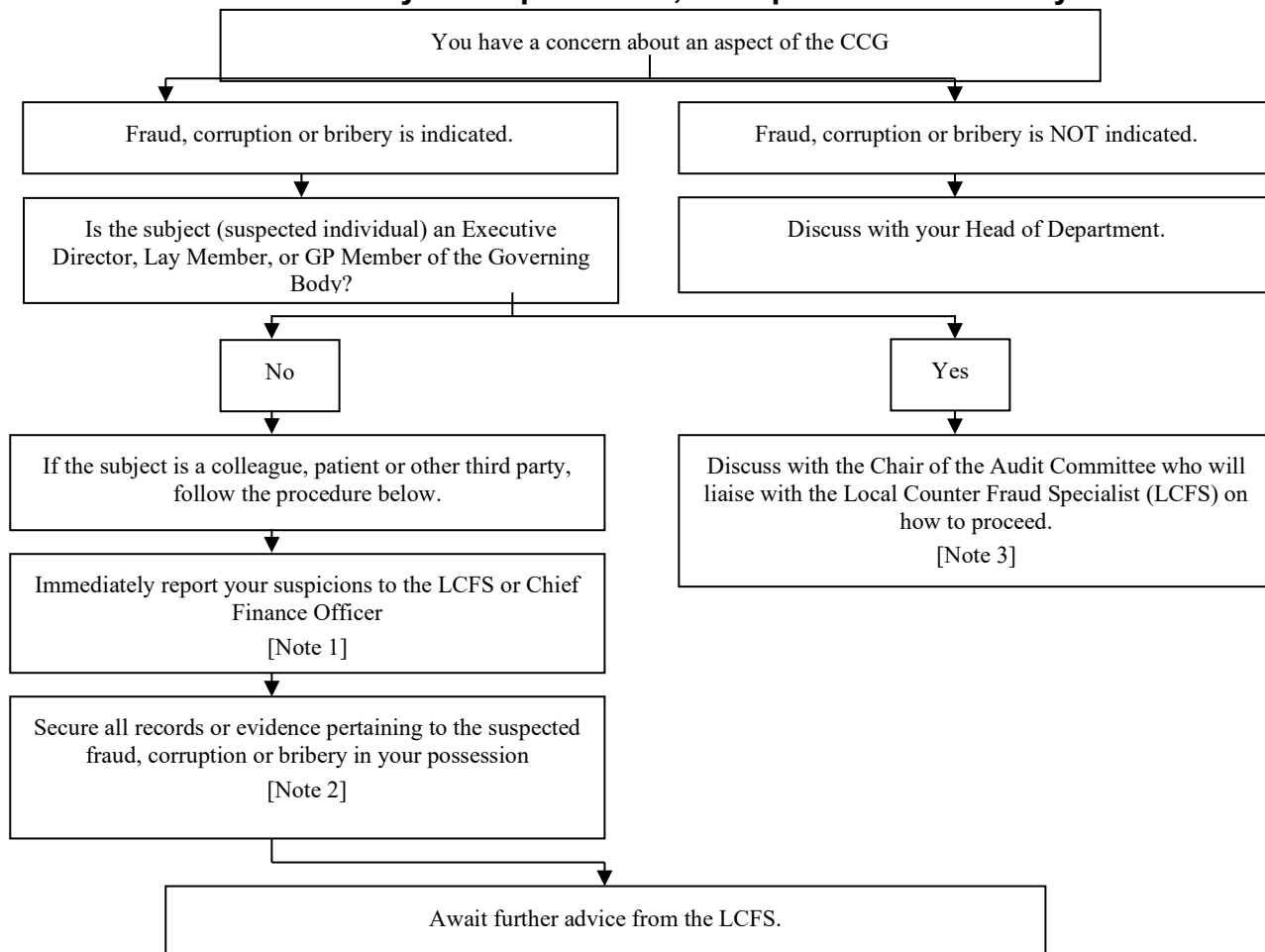
## 18. Associated Documentation

- **Disciplinary Policy.**
- **Sanctions and Redress Guidance (Appendix E)**
- **Freedom to Speak Up at Work (Whistleblowing) Policy.**
- **Conflicts of Interest Policy.**
- **Standards of Business Conduct.**

All of these policies can be accessed on the CCG Website - Link Below  
<http://www.cambridgeshireandpeterboroughccg.nhs.uk/document-finder.htm>

**Appendix A: Fraud, Corruption and/or Bribery Response Plan**

**What to do if you suspect fraud, corruption and/or bribery**



<p>Note 1</p>	<p>Everything reported to the LCFS or Chief Finance Officer is treated in the strictest confidence and Staff can request to remain anonymous.          Contact details:  <b>Local Counter Fraud Specialist</b>  <b>Antony Upton</b>          (T) 0116 282 0581          (M) 07484 040694          Email: <a href="mailto:antony.upton@rsmuk.com">antony.upton@rsmuk.com</a>  <a href="mailto:antonyupton@nhs.net">antonyupton@nhs.net</a></p>
<p>Note 2</p>	<p>Records or evidence includes (but not limited to): electronic documents, paper documents, statements, copies of healthcare records, interview tapes, photographs.          Once you have compiled all evidence in your possession it is prudent to catalogue it.</p>
<p>Note 3</p>	<p>The Chair of the Audit Committee is a Lay Member. Their contact details can be obtained through the CCG Secretary/Deputy Director Corporate Affairs          (T): 01733 776691          (E): sharon.fox3@nhs.net</p>

## Appendix A: Fraud, Corruption and/or Bribery Response Plan

	In the event that the fraud, corruption or bribery concern involves the Audit Chair (Lay Member Group) the individual should seek advice from the CCG Secretary/Deputy Director of Corporate Affairs (contact details above).
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### What not to do if you suspect fraud, corruption and/or bribery

- Do not confront the 'subject'
- Do not assume only one person involved
- Do not talk about your suspicions, concerns or queries to anyone other than the Local Counter Fraud Specialist, Chief Finance Officer, or other authorised bodies listed below.

### Additional advice

#### NHS Counter Fraud Authority Fraud and Corruption Reporting Line

If you do not wish to talk to the LCFS or Chief Finance Officer, you can contact the NHS Counter Fraud Authority on: **0800 028 4060** or report online via: <https://cfa.nhs.uk/reportfraud>

#### Freedom to Speak Up Guardian

The CCG has a dedicated whistleblowing mailbox that may also be used to report suspected fraud or bribery: [capccg.speakup@nhs.net](mailto:capccg.speakup@nhs.net)

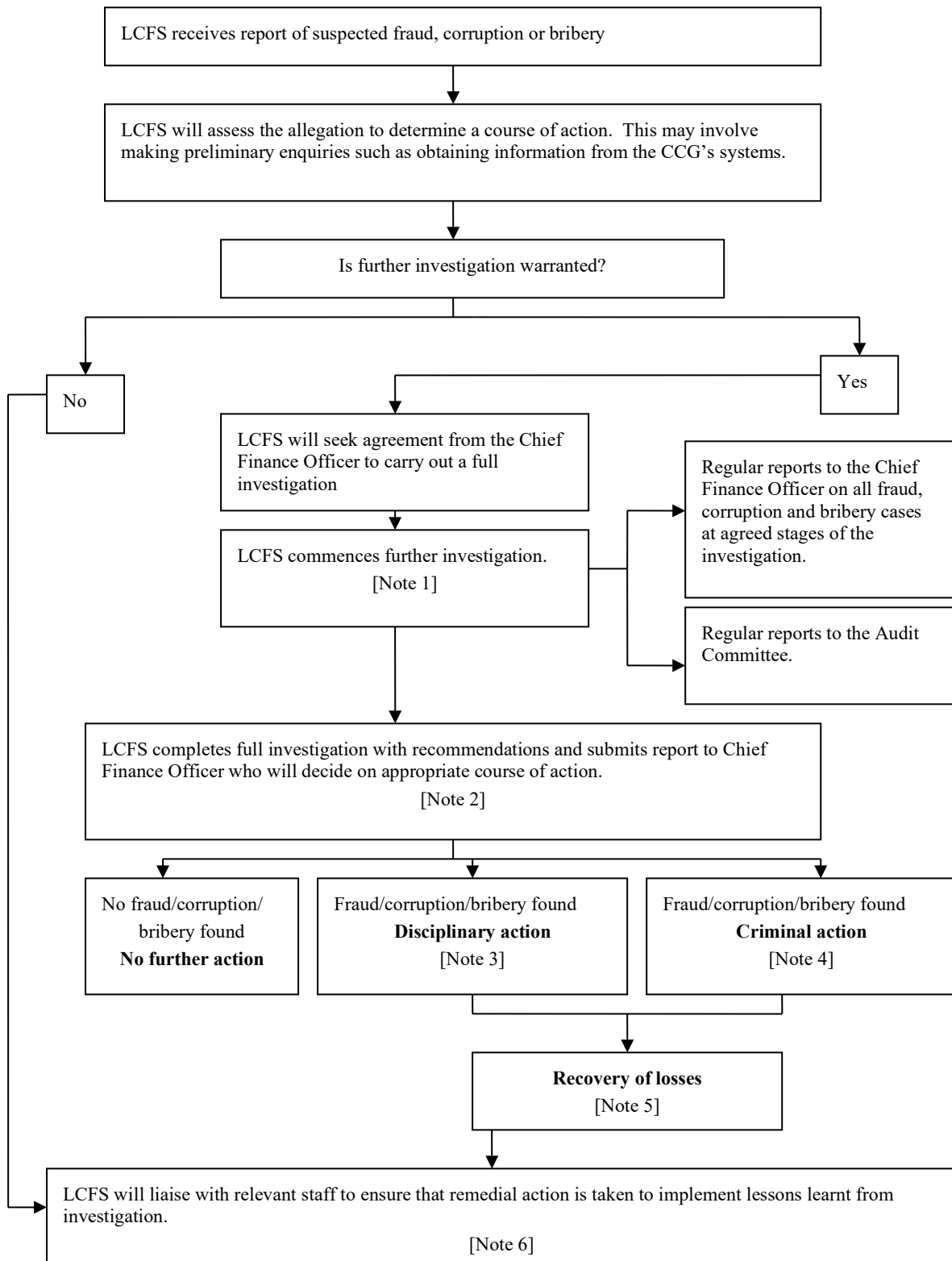
#### Independent Advice

Protect (formerly Public Concern at Work) is an independent charity and legal advice centre which provides free confidential advice to people concerned about wrongdoing in the workplace but who are unsure whether or how to raise the matter. Further information can be found at <http://www.pcaw.org.uk> or telephone 020 3117 2520.

## Appendix A – Fraud, Corruption and Bribery Policy and Response Plan

### Investigation of Fraud, Corruption and/or Bribery

The investigation of fraud, corruption and/or bribery at the CCG can be summarised in the following diagram.



Note 1	Depending upon the nature of the investigation, the LCFS will normally work closely with management and other agencies such as the Police, to ensure that
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## Appendix A – Fraud, Corruption and Bribery Policy and Response Plan

	<p>all matters are properly investigated and reported upon. Basically, the circumstances of each case will dictate who will be involved and when.</p> <p>The detailed arrangements for the investigations of any suspected fraud or corruption are contained in the NHS Counter Fraud Manual and within CCG's policies e.g. Disciplinary Policy, Standing Orders and Standing Financial Instructions. The LCFS will record the progress of the investigation and conduct the investigation in accordance with the legal codes of practices (Police and Criminal Evidence Act 1994, Regulation of Investigatory Powers Act 2000, Criminal Procedures and Investigation Act 1996. and other legislative requirements (e.g. Data Protection Act 2018).</p>
Note 2	<p>The Chief Finance Officer is the sole person who can determine whether or not any formal action is justified and what form such action takes; however, guidance can be sought from the LCFS.</p> <p>If the Chief Finance Officer decides that formal action is to be taken against the subject(s) of an investigation, the LCFS will comply with the NHS Counter Fraud Authority 'Applying Appropriate Sanctions Consistently' guidance. This will involve using an appropriate combination of the sanctions described below:</p> <ul style="list-style-type: none"> <li>• Disciplinary action –CCG and/or Professional Regulatory Body (warning, dismissal etc.)</li> <li>• Civil remedy – recover money, interest and costs</li> <li>• Criminal prosecution – which may result in imprisonment, community penalty, a fine, confiscation or compensation</li> </ul> <p>The use of parallel sanctions or 'triple-track' approach helps to maximize the recovery of NHS funds and assets while minimising duplication of work.</p>
Note 3	<p>The Disciplinary Procedure will be used where the outcome of the investigation indicates improper behaviour on the part of staff. The LCFS shall liaise with the Director of Corporate Affairs in providing evidence for Disciplinary Hearings.</p> <p>Where the CCG has suffered a financial loss from a fraud or bribery offence, the CCG will take action to pursue recovery in all applicable cases, subject to authorisation from the Chief Finance Officer.</p>
Note 4	<p>The LCFS will seek authorisation from the Chief Finance Officer if a matter is to be reported to the Police. The LCFS shall liaise with the police by providing a Prosecution File and participate in interviews, searches etc. The LCFS shall attend court to give evidence and liaise with the Crown Prosecution Service as required. The LCFS acts on behalf of the CCG in the event of any formal action and must ensure there is co-ordination between the various parties involved such as where external legal advisors are used.</p>
Note 5	<p>Where financial loss has been suffered through fraudulent or corrupt activity, the CCG will pursue the perpetrator for recovery, including taking appropriate legal action. The LCFS shall liaise with legal representatives and attend court as required.</p>
Note 6	<p>When a fraud, corruption or bribery offence has occurred at the CCG, the LCFS will identify system weaknesses and make recommendations to strengthen the control environment, to reduce the risk of any such event happening again.</p>

## APPENDIX B: CHECKLIST FOR THE REVIEW AND APPROVAL OF PROCEDURAL DOCUMENT

To be completed and attached to any policy document when submitted to the Governing Body for consideration and approval.

	Title of document being reviewed:	Yes/No	Comments
<b>1.</b>	<b>Title</b>		
	Is the title clear and unambiguous?	Yes	
	Is it clear whether the document is a guideline, policy, protocol or standard?	Yes	
<b>2.</b>	<b>Rationale</b>		
	Are reasons for development of the document stated?	Yes	
<b>3.</b>	<b>Development Process</b>		
	Is it clear that the relevant people/groups have been involved in the development of the document?	Yes	Consultation with Chief Finance Officer and Associate Director of Corporate Affairs
	Are people involved in the development?	Yes	
	Is there evidence of consultation with stakeholders and users?	Yes	
<b>4.</b>	<b>Content</b>		
	Is the objective of the document clear?	Yes	
	Is the target population clear and unambiguous?	Yes	The target audience is all staff
	Are the intended outcomes described?	Yes	
<b>5.</b>	<b>Evidence Base</b>		
	Are key references cited in full?	N/A	
	Are supporting documents referenced?	N/A	
<b>6.</b>	<b>Approval</b>		
	Does the document identify which committee/ group will approve it prior to ratification by Governing Body?	Yes	Audit Committee
<b>7.</b>	<b>Dissemination and Implementation</b>		
	Is there an outline/plan to identify how this will be done?	Yes	
<b>8.</b>	<b>Document Control</b>		
	Does the document identify where it will be held?	Yes	
<b>9.</b>	<b>Process to Monitor Compliance and Effectiveness</b>		
	Are there measurable standards or KPIs to support the monitoring of compliance with and effectiveness of the document?	Yes	Monitored through the NHS Counter Fraud Authority Qualitative Assessment Process
	Is there a plan to review or audit compliance with the document?	Yes	
<b>10.</b>	<b>Review Date</b>		
	Is the review date identified?	Yes	
	Is the frequency of review identified? If so is it acceptable?	Yes	
<b>11.</b>	<b>Overall Responsibility for the Document</b>		
	Is it clear who will be responsible for co-ordinating the dissemination, implementation and review of the document?	Yes	

### Executive Sponsor Approval

- If you approve the document, please sign and date it and forward to the author. Policies will not be forwarded to TMB for ratification without Executive Sponsor Approval.

Name		Date	
Signature			
<b>CCG Governing Body Ratification</b>			
The Chief Operating Officer's signature below confirms that this policy was ratified by the Governing Body.			
Name		Date	
Signature			
<b>Responsible Committee Approval – only applies to reviewed policies with minor changes</b>			
The Committee Chair's signature below confirms that this policy was approved by the responsible Committee.			
Name		Date	
Name of Committee		Name & role of Committee Chair	
Signature			

## Appendix C - Equality Impact Assessment Tool

### Equality Impact Assessment - Form

<b>Name of Proposal (policy/strategy/function/service being assessed)</b>	Counter Fraud and Anti-Bribery Policy
Those involved in assessment:	CCG Secretary and Local Counter Fraud Specialist
Is this a new proposal?	Updated Policy for adoption by the CCG
Date of Initial Screening:	February 2016
What are the aims, objectives?	To ensure that all CCG staff, and those working for us, are aware of and uphold the organisations' position on fraud, corruption and Bribery.
Who will benefit?	The CCG.
Who are the main stakeholders?	The policy is relevant to all individuals working at all levels in the organisation. This includes Executive and Lay members of the Governing Body, GP Clinical Leads, all employees, whether permanent, fixed-term or temporary, contractors, trainees or any other person associated with the CCG.
What are the desired outcomes?	To embed a culture of best practice in anti-fraud, anti-corruption and anti-bribery measures throughout the organisation.
What factors could detract from the desired outcomes?	Lack of awareness and/or non-enforcement of the policy.
What factors could contribute to the desired outcomes?	Proactive work of the Local Counter Fraud Service. Awareness raising of the Policy via the CCG Website.
Who is responsible?	Within the CCG - Chief Finance Officer supported by the Local Counter Fraud Specialist
Have you consulted on the proposal? If so with whom? If not why not?	No specific consultation as not applicable. Revised policy to be presented to and discussed with Audit Committee

<b>Which protected characteristics could be affected and be disadvantaged by this proposal (Please tick)</b>		Yes	No
Age	<u>Consider:</u> Elderly, or young people		✓
Disability	<u>Consider:</u> Physical, visual, aural impairment Mental or learning difficulties		✓

Gender Reassignment	<u>Consider:</u> Transsexual people who propose to, are doing or have undergone a process of having their sex reassigned		✓
Marriage and Civil Partnership	<u>Consider:</u> Impact relevant to employment and /or training		✓
Pregnancy and maternity	<u>Consider:</u> Pregnancy related matter/illness or maternity leave related mater		✓
Race	<u>Consider:</u> Language and cultural factors, include Gypsy and Travellers group		✓
Religion and Belief	<u>Consider:</u> Practices of worship, religious or cultural observance, include non-belief		✓
Sex /Gender	<u>Consider:</u> Male and Female		✓
Sexual Orientation	<u>Consider:</u> Know or perceived orientation		✓

What information and evidence do you have about the groups that you have selected above?

N/a
-----

Consider: Demographic data, performance information, recommendations of internal and external inspections and audits, complaints information, JNSA, ethnicity data, audits, service user data, GP registrations, CHD, Diabetes registers and public engagement/consultation results etc.

**How might your proposal impact on the groups identified? For example, you may wish to consider what impact it may have on our stated goals: Improving Access, Promoting Healthy Lifestyles, Reducing Health Inequalities, Supporting Vulnerable People**

Examples of impact re given below:

- Moving a GP practice, which may have an impact on people with limited mobility/access to transport etc.
- Planning to extend access to contraceptive services in primary care without considering how their services may be accessed by lesbian, gay, bi-sexual and transgender people.
- Closure or redesign of a service that is used by people who may not have English as a first language, and may be excluded from normal communication routes.

Please list the positive and negative impacts you have identified in the summary table on the following page.

<b>1 Summary</b>	
Positive impacts (note the groups affected)	Negative impacts (note the groups affected)
N/a	N/a

Summarise the negative impacts for each group:

N/a
-----

What consultation has taken place or is planned with each of the identified groups?

N/a
-----

What was the outcome of the consultation undertaken?

N/a

What changes or actions do you propose to make or take as a result of research and/or consultation?

**Briefly describe the actions then please insert actions to be taken on to the given Improvement Plan template provided.**

N/a

Will the planned changes to the proposal:

**Please state Yes or No**

Lower the negative impact?	N/a
Ensure that the negative impact is legal under anti-discriminatory law?	N/a
Provide an opportunity to promote equality, equal opportunity and improve relations i.e. a positive impact?	N/a

Taking into account the views of the groups consulted and the available evidence, please clearly state the risks associated with the proposal, weighed against the benefits.

N/a

What monitoring/evaluation/review systems have been put in place?

**Implementation/adherence to this policy is overseen by the Local Counter Fraud Service**

When will it be reviewed?

**Every two-years or as required, following an incident of fraud/bribery**

<b>Date completed:</b>	
<b>Signature:</b>	
<b>Approved by:</b>	CCG Secretary
<b>Date approved:</b>	

## APPENDIX D - Public Service Values

1. The 'Nolan Principles' set out the ways in which holders of public office should behave in discharging their duties. The seven principles are:
  - a) **Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
  - b) **Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
  - c) **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
  - d) **Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
  - e) **Openness** – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
  - f) **Honesty** – Holders of public office 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.
  - g) **Leadership** – Holders of public office should promote and support these principles by leadership and example.

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# Sanctions and Redress Guidance

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<b>Document Name:</b>	Sanctions & Redress Guidance (Recovery of Losses incurred by Fraud or Bribery)
<b>Version:</b>	1
<b>Status:</b>	Draft
<b>Approved By:</b>	To be approved by Audit Committee
<b>Approval Date:</b>	
<b>Effective Date:</b>	
<b>Author:</b>	
<b>Associated policies / procedures</b>	<b>CCG Standing Financial Instructions</b> Counter fraud, bribery and corruption policy Disciplinary policy NHS Counter Fraud Authority 'Applying appropriate sanctions consistently' and 'Parallel criminal and disciplinary investigations'



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## Revision, Approval and Version Control History

This document will be reviewed by NHS Cambridgeshire and Peterborough CCG (the CCG) and signed off for approval.

Version control of the document will be indicated by the version number located on the title page of the document.

The major number 1.0 indicates sign off, approval and acceptance of the document by the board. The minor number 0.1 indicates draft versions.

Both minor and major version changes are identified below.

### Version Control and Revision History

Version Number	Reviewed by	Review Date	Changes Made?

### Approvals

Version Number	Approval Date	Approved by

## Introduction

The CCG is committed to ensuring that all instances of fraud, bribery or corruption are fully investigated, and that appropriate action is taken against those responsible. This form of wrongdoing is costly to the CCG both in terms of reputation and financial loss and deprives the NHS of valuable resources that should be used for providing and improving patient care.

Where fraud, bribery or corruption is proven or believed to be present, it is the responsibility of the CCG to recover the monies lost. Those responsible for executing fraud, bribery or corruption should also be aware that appropriate sanctions will follow, to ensure they do not benefit from their wrongdoing and to act as a strong deterrent to anyone else who might consider misappropriating valuable NHS funds.

This Guidance sets out the options available to the CCG to recover money lost to fraud, bribery and corruption and the range of sanctions that may be applied to those responsible for carrying out these activities.

## Purpose

The aim of this document is to make all CCG staff, contractors and those who undertake work on behalf of the CCG, aware of the arrangements in place following a fraud investigation to apply appropriate sanctions and wherever possible to recover any financial losses.

## Responsibilities

All employees, contractors, providers and members of the public have a responsibility to protect the assets of the organisation, including all buildings, equipment and monies from fraud, theft, bribery or corruption. Any concerns should be reported to the LCFS, Chief Finance Officer, or to the NHS Counter Fraud Authority (NHSCFA) via the Fraud and Corruption Reporting Line or via their online form. Details of these reporting methods can be found in the Counter fraud and anti-bribery policy and/ or the counter fraud pages of the intranet.

The following are those tasked with financial redress and sanctions at the CCG:

### **The Local Counter Fraud Specialist (LCFS):**

- Advises the CCG on the evidence available to be able to seek recovery of funds.
- Ensures that all records are of sufficient quality to be able to support the recovery process.
- Liaises with the NHSCFA to obtain guidance and advice as appropriate and inform the CCG.
- Seeks agreement with the Chief Finance Officer on the most appropriate course of action (or the CEO if the Chief Finance Officer is implicated).
- Liaises with the relevant line manager and payroll manager to facilitate any deductions from salaries.
- Liaises with the police and/or NHSCFA for cases being sent to CPS (either via the police or via the NHSCFA)
- Liaise with HR when parallel criminal (LCFS) and disciplinary (HR) investigations are being conducted to ensure one does not prejudice the other.
- Maintain decision logs on NHSCFA case management system regarding sanctions and redress. This will include reasons for and against the pursuance of such action.
- Upon the provision of details of sanctions/recoveries applied, this will be recorded on the NHSCFA case management system within 20 working days of such a decision.
- Where appropriate, publicise proven cases of fraud and bribery within the organisation with details of sanctions and redress.

### **The Chief Finance Officer:**

- Meets with the LCFS/NHSCFA and a legal advisor to seek appropriate advice and guidance before deciding on a course of action for recovery.
- Agrees appropriate course of action for recovery.
- Ensures that the CCG is effective in recovering any losses incurred to fraud and corruption.
- Ensures that civil redress is progressed effectively through the Finance department.
- Monitors and records the progress of recoveries and report progress to the Audit Committee.

#### **NHS Counter Fraud Authority (NHSCFA)<sup>1</sup>:**

- Provide a centralised investigation capacity for complex economic crime matters in the NHS and investigate the most serious, complex and high-profile cases of fraud, and work closely with the LCFS, Chief Finance Officer, police and the Crown Prosecution Service to bring offenders to justice.
- Provide specialist financial investigators to recover NHS money lost to fraud.
- Approve submission of cases to the CPS where the LCFS has not conducted the investigation jointly with the police.
- Report progress back to the CCG where a case has been adopted.

#### **Human Resources**

- Reviews instances of staff conduct, behaviour, and incident to establish whether there has been a breach of policy, procedure, or legislation.
- Ensures that all records are of sufficient quality to be able to support the recovery process.
- Seeks agreement with the Associate Director of Corporate Affairs (OD and HR) on the most appropriate course of action (or the CEO if the Associate Director of Corporate Affairs (OD and HR) is implicated).
- Liaises with the relevant line manager and payroll manager to facilitate any deductions from salaries.
- Liaise with the LCFS when parallel criminal (LCFS) and disciplinary (HR) investigations are being conducted to ensure one does not prejudice the other.
- Provide details of any sanctions/recoveries applied to the LCFS within 20 working days for recording purposes.

#### **Payroll**

- Liaise with HR, the relevant line manager and LCFS to facilitate any deductions from salaries.
- Implement agreements reached on the amount and timescale of any timescale of repayments.

#### **Finance team**

Where invoices need to be raised:

- Agree with the individual the amount and timescale of any repayments.
- Ensure that invoices are raised and followed up on a timely basis.

#### **Disciplinary Panels**

- Provides a panel of staff that may consist of Directors, Managers and HR staff to establish what sanctions and/or redress may be applied from a disciplinary perspective.
- Ensures that all records are of sufficient quality to be able to support the disciplinary process and decision made.
- Provide details of any sanctions/recoveries applied to the LCFS within 20 working days for recording purposes.

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<sup>1</sup> NHSCFA is a specialist Health Authority tasked with leading the fight against fraud, bribery and corruption in the NHS

## Sanctions and redress

The CCG will always seek to apply appropriate sanctions in response to financial crime perpetrated against the NHS. The range of available sanctions which may be pursued by the relevant decision makers includes:

- criminal prosecution (potentially resulting in fine, imprisonment, community penalty, confiscation and/or compensation order) or out-of-court disposal;
- civil action, including action to preserve assets and recover losses;
- disciplinary action by the CCG; and
- regulatory action by a relevant regulatory body (e.g. GMC, GDC, NMC).

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

- 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; and
- the most appropriate sanction or combination of sanctions is sought where fraud, bribery, corruption or related misconduct is identified.

### **Financial Redress:**

The CCG has an obligation to safeguard public funds. As such, the CCG will seek financial redress wherever possible due to losses to fraud, bribery or corruption. Financial redress can take the form of:

- a confiscation and/or compensation orders in accordance with the Proceeds of Crime Act;
- a civil order for repayment; and
- a local agreement between the organisation and offender to repay any monies.

Actions which may be taken when considering seeking redress include:

- no further action;
- penalty charges (falsely claiming assistance with NHS Health Charges);
- criminal investigation;
- civil recovery;
- disciplinary action;
- confiscation order under the Proceeds of Crime Act 2002;
- provisions available under Anti-money laundering (AML) legislation; and
- recovery sought from ongoing salary payments or pensions.

### **Criminal Sanctions:**

The LCFS and NHSCFA may conduct a criminal investigation with a view to submitting a case to the Crown Prosecution Service for a decision regarding prosecution for any number of reasons, for example:

- The case is serious and/or extensive;
- If a prosecution took place it would help to challenge beliefs about fraud, bribery and corruption and how and when they can occur;
- If a prosecution took place it would help to prevent or deter financial crime;
- If a prosecution took place it would demonstrate to potential offenders and the public that those who commit crimes against the NHS will be held to account.

This list is non-exhaustive; NHSCFA and health bodies reserve complete discretion to conduct a criminal investigation in any case and to carry out investigations across a range of offences.

Actions which may be taken when considering seeking a criminal sanction include:

- no further action;
- fine;
- suspended sentence;
- custodial sentence;
- community penalty;

- confiscation and/or compensation orders.

### **Civil Sanctions:**

A civil claim with the objective of financial recovery can be brought where financial redress via the criminal route is not thought to be appropriate, or where a health body was not (fully) compensated following a criminal conviction. If successful the claimant is entitled to seek enforcement by various means, including the forced transfer of assets, the forced sale of property to realise capital, or insolvency proceedings.

### **Disciplinary Sanctions:**

As per the Disciplinary Policy, there are a number of actions that may be taken when considering disciplinary sanctions, including:

- no further action;
- verbal warning;
- written warning;
- dismissal;
- recovery of any losses via payroll;
- referral to regulatory body.

### **Regulatory Body Sanctions:**

In certain cases where the conduct of an individual contravenes their regulatory body's Code of Conduct, the CCG may refer the matter to the regulatory body, for example the GMC, GDC, and NMC. It is the responsibility of the Chief Finance Officer to make or direct such referrals.

Following an investigation by the regulatory body the following sanctions may include:

- no further action;
- restrictions to licence;
- being struck off by the regulatory body (i.e. no longer being able to practice profession).

In addition, NHS England may suspend or remove doctors, dentists, and ophthalmic medical practitioners from performers lists comprising those who may provide NHS services. Where clear evidence exists that a healthcare professional has been involved in fraud or corruption, there is likely to be a strong public interest in informing NHS England to enable it to undertake enquiries regarding the allegations and to take action where appropriate. In making its decision, NHS England may consider whether the instances of fraud in question, as well as any current or past investigations relating to the professional, justify such action. The duty to protect patients is a major factor in deciding what action is necessary.

## **Process**

Once the loss has been identified and all investigations have been fully undertaken and reported to the Audit Committee, the Chief Finance Officer and LCFS will consider all recovery of losses options in line with the Counter fraud and anti-bribery policy.

The Chief Finance Officer will authorise the appropriate recovery method considering the advice and guidance of the LCFS. The chosen method of recovery will be reported to the Audit Committee.

Appropriate action in relation to the recovery of the loss will be applied by the relevant staff of the CCG liaising with the LCFS.

The ongoing monitoring and recovery of the loss will be regularly reported to the Audit Committee. The reporting of the outstanding loss will be reported until full recovery has been accomplished or if the Audit Committee decide to write off the debt. The writing off of the debt will be in line with the **CCG's Sanding Financial Instructions (STIs)**.

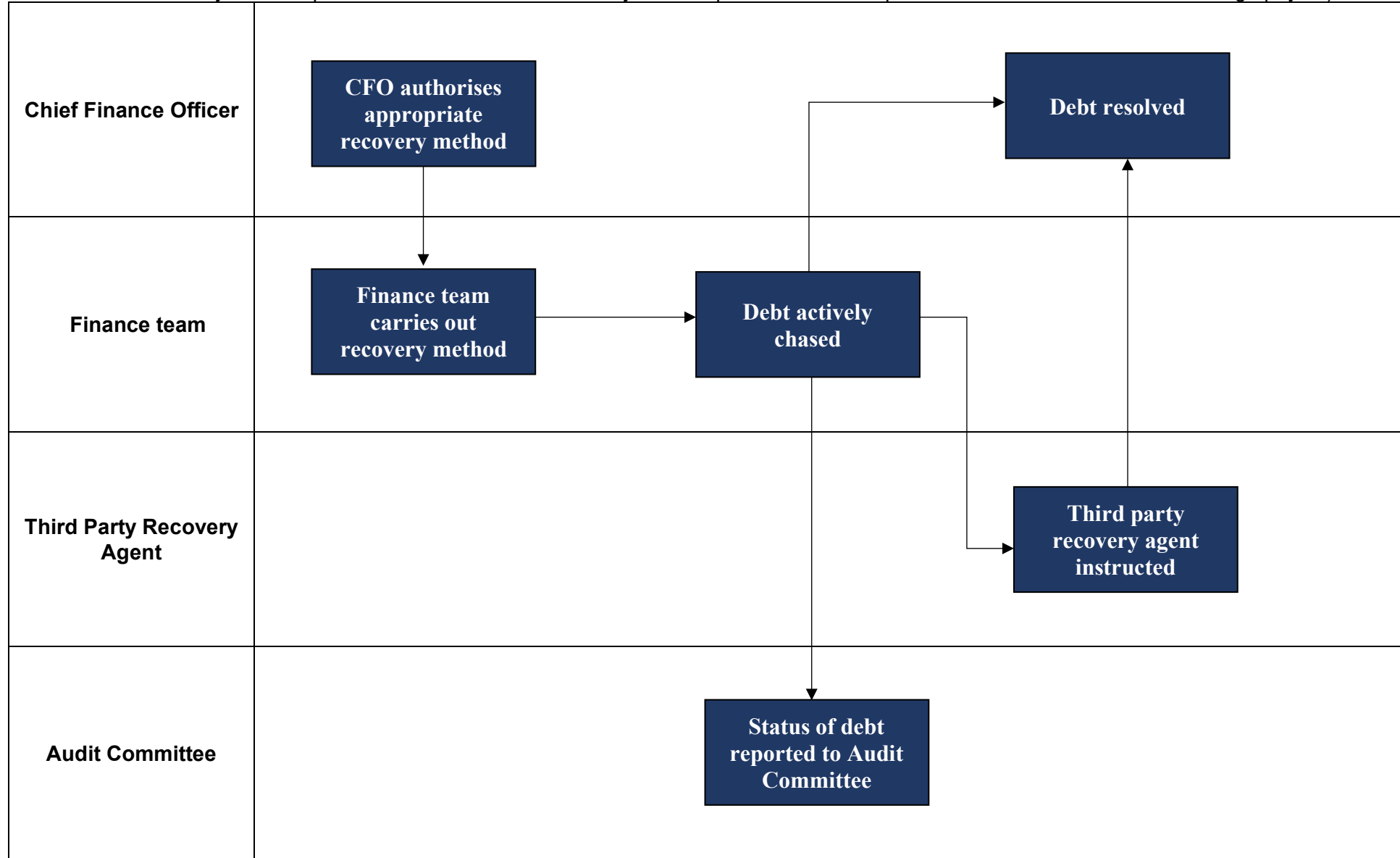
This process applies to:

- all employees and prospective employees of the CCG, 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) members of organisations funded by the CCG;
- employees and principals of partner organisations; and/or
- any other parties who have a business relationship with the CCG.

## Process Flow Diagram – Model Example

Please note this is only an example as it doesn't cover all recovery routes / process, for example we don't mention the routes through payroll)





## Definitions

### **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 CCG, 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.

### **Proceeds of Crime Act:**

The Proceeds of Crime Act 2002 (POCA) enables the confiscation of property accumulated through crime.

Financial investigation under POCA will be considered early on during any investigation where there is evidence of a criminal offence and where recovery of losses is a primary consideration. It can be used to determine whether a person has benefited from his/her criminal conduct, as well as the extent and whereabouts of that benefit. NHSCFA has a team of Accredited Financial Investigators (AFIs) who can apply for orders giving them access to a wide range of financial and other information from third parties, to help them trace and locate the proceeds of crime.

## References

- Fraud Act 2006: [www.legislation.gov.uk/ukpga/2006/35/contents](http://www.legislation.gov.uk/ukpga/2006/35/contents)
- The Bribery Act 2010: [www.legislation.gov.uk/ukpga/2010/23/data.pdf](http://www.legislation.gov.uk/ukpga/2010/23/data.pdf)
- Proceeds from Crime Act 2002: [www.legislation.gov.uk/ukpga/2002/29/contents](http://www.legislation.gov.uk/ukpga/2002/29/contents)