



Surrey & Sussex Healthcare NHS Trust

An Organisation-wide Counter Fraud and Bribery Policy and Response Plan

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The latest approved version of this document supercedes all other versions. Upon receipt of the latest approved versions all other version should be destroyed, unless specifically stated that the previous version(s) are to remain extant. If in any doubt please contact the document owner or Policy Coordinator.	

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Change history			
Version	Date	Author/Procedure Lead	Details of change
1	Jan 2008	N Edwards,	New Policy
2	May 2011	Sarah Pratley, Local Counter Fraud Specialist	Review and revision to incorporate Bribery Act offences.

SUMMARY OF COUNTER FRAUD AND BRIBERY POLICY AND RESPONSE PLANS

This document provides Surrey and Sussex Healthcare Trust ('the Trust') with a policy and a response plan for dealing with suspected incidents of fraud, corruption and bribery.

The vast majority of people who work in the NHS are professional and honest, but like all NHS organisations, the Trust must have a very clear anti fraud/corruption/bribery policy.

Fraud, corruption and bribery are unacceptable at whatever level, and staff found to have committed any of these will be subject to disciplinary and/or criminal action through the courts. Losses to the Trust may also be recovered from staff.

This policy is designed to minimise loss to the Trust and ensure that all staff are aware of what they should and should not do and how they can support the Trust's anti-fraud culture. It does this by setting out the mechanisms for informing, deterring, preventing, detecting and providing effective action against, fraud, corruption and bribery.

In particular the policy provides clear procedures for reporting suspected fraud, bribery or corruption for: employees, contractors, non executives, suppliers, patients, employees and committee members of organisations we fund. This policy and the procedures it contains must be followed by Trust staff.

The Chief Financial Officer (Finance Director) is responsible for ensuring the Trust has capacity and systems to deal with fraud, corruption and bribery and commissions a pro-active anti-fraud service from a Local Counter Fraud Specialist (LCFS), which is a company separate from the Trust specialising in this area. In this Trust there is also strong working between LCFS and the Human Resources department. The LCFS and the actions of the CFO and HR are overseen by the Trust's Audit and Assurance Committee, which consists of non executive directors and sits at least 6 times a year.

Trust staff need to be aware of how far-reaching, and clear, the law now is in respect of fraud, corruption and bribery. Recently the Bribery Act 2010 has been published, which provides additional clarity but also requires organisations to take greater steps to minimise bribery.

Reporting fraud, bribery or corruption

If you have any concerns about suspected fraud, bribery or corruption within the Trust, please report it by contacting any of the following:

Local Counter Fraud Specialist (LCFS):	Chief Financial Officer (Finance Director):	National NHS Fraud & Corruption Reporting Line
Sarah Pratley	Paul Simpson	
Tel: 020 7953 8367 Mob: 07769 640781	Tel: 01737 231815 Mob: 07786 514985	Tel: 0800 028 4060
email: sarah.pratley@parkhill.org.uk	email: paul.simpson@sash.nhs.uk	

1. Introduction

- 1.1 The Trust has a budget of approximately £197 million and employs around 3,000 staff. The Trust is responsible for the NHS healthcare of approximately 400,000 people in its area. As with other large public sector organisations, the size and nature of our services put us at risk of loss due to fraud, corruption and bribery both from within the Trust and outside it. For simplicity, all such offences are referred to in the policy and response plan as “fraud”, except where the context indicates otherwise.
- 1.2 The Trust is committed to ensuring that fraud is reduced to the lowest level of risk. However, where fraud does occur the Trust will deal with it in a firm and controlled manner by rigorous investigation of such cases. An important part of this approach has been the introduction of a Counter Fraud Policy which was approved by the Trust’s Board on 22 January 2008, and subsequently updated, and approved, as changes in legislation and/or best practice occur.
- 1.3 The Trust is committed to maintaining an honest and open atmosphere within the organisation. Therefore, the Trust expects employees to lead by example in ensuring opposition to fraud and to give help, information and support to deal with fraud. This policy clearly outlines what the Trust expects from employees as regards fraud prevention and provides guidance to those members of staff who come across suspected fraud. Also, The Fraud Response Plan further provides detailed guidance on how matters of fraud will be dealt with.
- 1.4 The Trust endorses the NHS Counter Fraud Strategy as set out in HSC 1998/231. The Trust has complied with the Secretary of State’s Directions November 1999 (amended 2004, 2005, 2006 and 2007) and HSC 1999/062 by nominating a Local Counter Fraud Specialist (LCFS).
- 1.5 The Trust needs everyone’s help to stop fraud so if you know of a suspected fraud, please tell the ‘nominated officers’ about it and give them the details, so they can investigate it. Every case is treated in strict confidence and you can provide information anonymously - but it's much more helpful if the ‘nominated officers’ can contact you for a bit more information. If you have any concerns about suspected fraud, corruption and bribery within the Trust, please report it by:
 - Contacting the LCFS: Sarah Pratley (020 7953 8367 / 07769 640781; email: sarah.pratley@parkhill.org.uk)
 - Contacting the Chief Financial Officer: Paul Simpson (01737 231815 / 07786 514985; email: paul.simpson@sash.nhs.uk)

- Calling the national NHS Fraud & Corruption Reporting Line on 0800 028 40 60
- Referring to contacts as defined within the Trust's Policy on the Raising of Serious Concerns (Whistleblowing).

1.6 The Trust Board wishes to encourage anyone having 'reasonable suspicions' of fraud to report them (i.e. any suspicions other than those which are raised maliciously). It is Trust policy, which will be rigorously enforced, that no employee or independent contractor will suffer in any way because of reporting reasonably held suspicions.

2. Purpose

2.1 The Trust is determined to protect itself and the public from fraud and is committed to the maintenance of a policy for the prevention and detection of fraud and corruption. It is the Trust's intent to investigate any suspected acts of fraud, misappropriation or irregularity. An objective and professional investigation will be conducted regardless of the position of any party who might be or may become involved in fraudulent activity.

2.2 This policy provides a framework for:

- Encouraging fraud deterrence and prevention;
- Raising awareness of fraud and promoting its detection;
- Performing investigations and facilitating recovery;
- Where appropriate, invoking disciplinary or court proceedings and referrals to the police;
- Publishing, monitoring, and updating the policy and its related procedures;

3. Definitions

3.1 Fraud can be defined as a dishonest act to cause or attempt to cause a loss, or expose to a risk of loss, or gain for themselves, or another, by, either:

- (S.2) making a false representation;
- (S.3) failing to disclose information; or;
- (S.4) abusing ones position (See Appendix A).

3.2 The Fraud Act 2006 came into force on the 15 January 2007 and, therefore, is applicable for offences occurring on or after that date. The Fraud Act defines fraud as per section 3.1.

3.3 As the Fraud Act 2006 became law on 15 January 2007, previous legislation must still be applied to offences occurring before this date.

Before, the Fraud Act, there was no legal definition of fraud, but the generally held view was that fraud before this date is:

'Causing loss or making a gain at the expense of someone by deception and dishonest means' (Fraud Review 2005:23).

3.4 As there was no specific law for fraud, fraudulent behaviour encompasses a variety of offences contrary to numerous legislation which can be used to prosecute fraud, such as: Theft Acts 1968, 1978, 1996; Forgery and Counterfeiting Act 1981; Criminal Attempts Act 1981; Conspiracy to defraud etc.

3.5 Fraud is also a civil law violation known as tort (a civil wrong for which the law provides a remedy). A civil fraud typically involves the act of making a false representation of a fact susceptible of actual knowledge which is relied upon by another person, to that person's detriment.

3.6 **Examples of NHS Fraud**

There is no one type of NHS 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 the more common kinds of fraud are:

- Timesheet fraud (e.g. staff and professionals claiming money for hours they have not worked)
- False expense claims (e.g. false travel or subsistence claims)
- Fraudulent job applications (e.g. false qualifications or immigration status)
- Working whilst sick and receiving sick pay (e.g. usually working for another organisation without informing the Trust)
- Undertaking other work during NHS time (e.g. failing to declare they are working for another organisation).
- Excess Study Leave.
- Advertising scams (e.g. false invoices for placing adverts in publications)
- Patient Fraud (e.g. false travel claims, fraudulently claiming exemptions for optical, dental or pharmaceutical charges)
- Misappropriation of assets (e.g. falsely ordering goods for own use/ to sell)
- Procurement Fraud (e.g. the ordering and contracting of goods and services)
- Fraud by professionals (Doctors, Dentists, Pharmacists, Opticians – constitutes specific types of fraud such as false claims for treatment, unauthorised use of NHS facilities/ equipment)
- Pharmaceutical Fraud by companies (e.g. overcharging for drugs, supplying inferior or reduced quantities of drugs etc).

- 3.7 **Corruption** can also be fraud, and is unacceptable. The law dealing with corrupt activity in the UK is to be found in the Bribery Act 2010. This Act replaces the Prevention of Corruption Acts of 1889 – 1916.
- 3.8 The Bribery Act 2010 (see Appendix B) establishes four new criminal offences of bribery:
- Offering or paying a bribe.
 - Requesting or receiving a bribe
 - Bribing a Foreign Public Official
 - A corporate offence of failing to prevent bribery being undertaken on its behalf.

4. Duties

4.1 Chief Financial Officer

Under Secretary of State Directions, The Chief Financial Officer has a legal responsibility to make sure fraud, bribery and corruption are prevented, detected and investigated. Combating fraud, bribery and corruption requires an understanding of how and why it happens, the ways in which it can be minimized and how to professionally investigate it; therefore the Chief Financial Officer nominates a LCFS to tackle fraud, bribery and corruption within the Trust.

4.2 Local Counter Fraud Specialist (LCFS)

The LCFS is an experienced and accredited (professionally qualified) counter fraud specialist. In essence, the role of the LCFS is to respond to and proactively tackle risks and occurrences of fraud, bribery and corruption at the Trust by providing a robust and effective prevention, detection and Investigation function. The LCFS is responsible for ensuring the Trust achieves the seven specific objectives of the National Counter Fraud Strategy at the Trust:

- the creation of an **anti-fraud culture**;
- maximum **deterrence** of fraud;
- successful **prevention** of fraud which cannot be deterred;
- prompt **detection** of fraud which cannot be prevented;
- professional **investigation** of detected fraud;
- effective **sanctions**, including appropriate legal action against people committing fraud;
- effective methods for seeking **redress** in respect of money defrauded.

Within the Trust the LCFS reports to the Chief Financial Officer but has regular liaison with the Head of Employee Relations. This ensures the augmentation, where appropriate, of the Trust's counter fraud and HR functions. Any member of the Trust staff can speak to and ask for advice from the LCFS. The LCFS is authorised to receive reports of suspected

fraud from anyone, whether an employee of the Trust, independent contractors, patients and other third parties, and staff have a responsibility to the Trust to raise their genuine concerns. Under Secretary of State Directions and the Trust's Standing Orders and Standing Financial Instructions, the LCFS is the only person responsible for investigating allegations of fraud and corruption at the Trust.

4.3 Audit and Assurance Committee

The Audit and Assurance Committee (AAC) is a non-executive committee of the Board that has no executive powers, other than those specifically delegated in the terms of reference. The AAC is authorised to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee, and all employees are directed to co-operate with any request made by the AAC. The AAC is authorised by the Board to obtain outside legal or other independent professional advice and to secure the attendance of outsiders with relevant experience and expertise if it considers it necessary.

4.4 Employees and Contractors

All employees and contractors of the Trust are individually responsible for:

- Securing the property of the Trust.
- Abiding by the Standing Orders (SOs) and Standing Financial Instructions (SFIs).
- Avoiding loss.
- Conforming with the rules and regulations contained in the Trust's Policies & Procedures.

5. Elements of the Anti-Fraud Policy and Response Plan

The Trust's Counter Fraud and Bribery Policy and Response Plan is based on a series of comprehensive and related elements designed to frustrate any fraudulent or corrupt act. These elements are:

- Operating Culture
- Deterrent, Preventative and Detection Measures
- Fraud Response Plan (Reporting and Investigation Procedure)

5.1 Operating Culture

5.1.1 The Trust is determined that the culture of the organisation meets the expectations of the Committee on Standards of Public Life and is committed to the Seven Nolan Principles. All those who work in the Trust should be aware of, and act in accordance with, these values.

- **SELFLESSNESS:** Holders of public office 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 families or their friends.
- **INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that may influence them in the performance of their official duties.
- **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.
- **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.
- **OPENNESS:** Holders of public office should be as open as possible about all their decisions and the actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **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.
- **LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

5.1.2 The Trust expects employees to lead by example in ensuring opposition to fraud, bribery and corruption. Therefore, employees should adhere to rules, regulations and National and Local Codes of Conduct. Also, employees should ensure that all procedures and practices are beyond reproach by addressing any weaknesses which employees may identify.

5.1.3 The Trust requires all individuals and organisations with whom it deals in any capacity to behave towards the Trust with integrity and without intent or actions involving fraud, bribery and corruption.

5.1.4 Trust employees and members of the public are positively encouraged to raise any concerns they may have on these issues which impact on Trust activities by following the Trust's Whistleblowing Policy and Complaints Procedures.

5.1.5 The Trust supports induction, fraud awareness and work related training, particularly for employees involved in internal control systems, to ensure that their responsibilities and duties are regularly highlighted and reinforced and best practice is followed across all Trust services.

5.1.6 The LCFS is required to investigate activities suspected of involving fraud, bribery and corruption. The LCFS workplan is required to provide adequate coverage of the risk of fraud, bribery and corruption and also to reflect the requirement for staff to be properly and regularly trained.

5.1.7 Where appropriate, the Trust co-operates with other public sector bodies in the prevention, detection and investigation of fraud, bribery and corruption. The Trust also takes part in the National Fraud Initiative (NFI) by providing payroll data to be matched against other public organisations which will detect any fraudulent activity by Trust staff.

5.2 Deterrent, Preventative and Detection Measures

5.2.1 This policy will be placed on the internet and intranet. All new inductees receive counter fraud handout and the LCFS delivers tailor made programmes in fraud awareness to existing Trust staff and contractors. In addition, the LCFS produces quarterly newsletters and puts articles in the in-house publication and on the Intranet including reporting the outcome of investigations. Also, the Trust dispatch press releases in respect of investigations. Posters and Leaflets are placed around the Trust, its sites and within professional contractors' premises.

5.2.2 The Trust protects itself against fraud by identifying weaknesses in its systems which may create potential fraud risks and responds by putting in proper systems and controls, and ensures they are implemented and not overridden.

5.2.3 Detection measures are built into systems which will alert the Trust to any fraudulent attempts. In addition, auditors perform thorough checks on systems which detect any anomalies. Also, the LCFS employs a risk-based methodology to enable the Trust to target resources at high risk areas and throughout the year undertakes proactive reviews in these areas which can detect fraud.

5.2.4 The Trust has a number of procedures and rules to ensure that financial, working and organisational procedures are properly controlled. We have set out a framework for dealing with the affairs of the Trust and all employees have a duty to comply with their provisions. All staff and independent contractors have a duty to protect the resources of the Trust which include finance, property as well as information. Managers should ensure their staff have read and understood the following policies and procedures, providing support and alternative formats as required:

- Codes of Conduct for Managers
- Standing Orders, Standing Financial Instructions and Scheme of Delegation

- Standards of Business Conduct
- Declaration of Interests Guidance
- Accounting procedures, Finance Rules and records
- Departmental procedures
- Recruitment Policy
- Disciplinary Policy
- Internal audit
- Sound internal control systems designed to prevent and detect fraud
- Independent external auditors
- Whistleblowing Policy
- A system of risk assessment
- Nolan Principles

5.2.5 Thorough documentation, including working manuals and operating procedures, is expected of all financial and operational systems and these must be issued to relevant staff. Every effort must be made to continually review and develop these systems in line with best practice to ensure efficient and effective internal controls, including the effective segregation of duties, and to deter fraudulent activity. Management and staff should be familiar with the types of improprieties that might occur within their area of responsibility and be alert for any indications of such conduct. Appendix D is a general guide on spotting the warning signs.

5.2.6 The adequacy and appropriateness of the Trust's financial systems is independently monitored and assessed by External Audit and the control and operating systems by Internal Audit. Senior Management is committed to continuously improving the systems for which it is responsible, both through their own self-assessments and by positive response to audit recommendations.

5.2.7 Employee recruitment is required to be in accordance with procedures laid down by the Recruitment and Selection Policy, in particular, written references must be obtained, and other appropriate checks made, to confirm the honesty and integrity of potential employees before appointments are made.

5.2.8 Trust employees are required to follow any Code of Conduct related to their personal professional qualifications.

5.2.9 Any offers of gifts or hospitality, which are in any way related to their Trust duties, must be discussed by the employee with their Head of Department and acceptance of offers of gifts or hospitality may be required to be registered in line with the Trust's Policy on Standards of Business Conduct.

5.2.10 Trust employees must declare any possible conflicts of interest which they may have in contracts entered into by the Trust and these must be noted in a register maintained for that purpose.

5.2.11 All non executives directors have to register potential conflicts between their duties and personal or professional lives.

Any employee in breach of these regulations may be liable to disciplinary action including summary dismissal.

5.3 Fraud Response Plan (Reporting Fraud and Investigation Procedure)

5.3.1 The Trust will be robust in dealing with any fraud, and can be expected to deal timely and thoroughly with any person or organisation who attempts to defraud the Trust or who engages in corrupt practices, whether they are non executives, employees, suppliers, patients or unrelated third parties. Appendix C is an overview of the fraud response plan.

5.4 Reporting Fraud

5.4.1 What to do if you suspect a fraud:

If you discover or suspect a colleague, patient or other person of committing fraud you must:

- Immediately tell the 'nominated officers': Chief Financial Officer or LCFS
- Secure records in your possession
- Record details of relevant events
- Await further advice (the nominated officers will decide on the next course of action and advise you accordingly).
- If the concern or query involves an executive director, the matter should be reported to the Chair of the Audit Committee and passed to the LCFS to investigate.

Staff/contractors should report suspicions immediately and not undertake lengthy consideration of alternative explanations.

Everything reported to the 'nominated officers' is treated in the strictest confidence and an employee can request to remain anonymous. Well intentioned employees making a referral will be protected from any unacceptable behaviour from the subject of the referral or anyone else.

5.4.2 What not to do?

- Do not confront 'suspect'
- Do not assume only one person involved

- Do not talk about your suspicions, concerns or queries
- Do not contact any external organisation except as detailed in 5.4.4 or 5.4.5 (only the Chief Financial Officer or the LCFS are permitted to make such contact).

The reason for the above is twofold:

- to ensure evidence is secured against loss, destruction or tampering
- to ensure that nothing is done that could give rise to an action for slander or libel

MOST IMPORTANTLY: Do not worry about being mistaken and do not do nothing!

5.4.3 Whistleblowing/ Public Interests Disclosure Act 1998

Whistleblowing is when an employee informs their employer, a regulator, customers, the police or the media about a dangerous or illegal activity that they are aware of through their work e.g. concerns about health and safety risks, potential environmental problems, fraud, corruption, deficiencies in the care of vulnerable people, cover-ups and many other problems. The Trust fully endorses the provisions of the Public Interest Disclosure Act 1998 and encourages anyone having reasonable suspicions of fraud to report them. The Trust's Policy on the Raising of Serious Concerns (Whistleblowing), which will be rigorously enforced, is that no employee should suffer because of reporting reasonably held suspicions under the provisions of the Act.

5.4.4 National fraud and Corruption Hotline

If you feel you are unable to talk to anyone within the Trust, or the LCFS, then staff/contractors can contact the National Fraud and Corruption reporting line by telephoning 0800 028 4060. Your call will be treated in confidence and you can remain anonymous.

5.4.5 Independent Advice

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.co.uk> or telephone 020 7404 6609.

5.5 Investigation of Fraud

- 5.5.1 Where a referral concerning fraud, bribery and corruption has been made to the Chief Financial Officer, the Chief Financial Officer shall inform the LCFS at the first opportunity. There is a protocol for the referral,

- acknowledgement, investigation and reporting of allegations, underpinned by a Memorandum of Understanding.
- 5.5.2 In the event that a referral concerning fraud, bribery and corruption has been made via HR the Head of Policy Development and HR Governance shall inform the LCFS at the first opportunity.
- 5.5.3 On receipt of a referral/allegation of suspected fraud, the LCFS will assess the allegation to determine a course of action.
- 5.5.4 After such preliminary enquires, where appropriate, the LCFS will seek agreement from the Chief Financial Officer to carry out an investigation.
- 5.5.5 The LCFS is responsible for investigating all instances of fraud in the Trust on behalf of the Chief Financial Officer.
- 5.5.6 The LCFS will regularly report to the Head of Policy Development and HR Governance and the Chief Financial Officer on all fraud cases they investigate and at particular stages of individual investigations. In addition, the LCFS will provide the AAC quarterly updates as to the progression of investigations.
- 5.5.7 Dependent upon the nature of the investigation, the LCFS will normally work closely with Trust management and other agencies such as the police, to ensure that all matters are properly investigated and reported upon. Basically, the circumstances of each case will dictate who will be involved and when.
- 5.5.8 The detailed arrangements for the investigations of any suspected fraud, bribery and corruption are contained in the NHS Counter Fraud and Corruption Manual and within Trust policies e.g. Disciplinary Policy, Standing Financial Instructions. The LCFS will record the progress of the investigation and conduct the investigation in accordance with the legal codes of practices (PACE, CPIA, RIPA) and other legislative requirements (e.g. DPA).
- 5.5.9 Upon conclusion of the investigation the LCFS will report their findings and recommendations to the Chief Financial Officer and Head of Policy Development and HR Governance.
- 5.5.10 If a decision is made that formal action is to be taken against the subject(s) of an investigation, the LCFS will comply with the NHS CFS Applying Appropriate Sanctions Consistently Policy 2007. This will involve using an appropriate combination of the sanctions described below:
- Disciplinary action - Trust and/or professional regulatory body (warning, dismissal etc)

- Civil remedy – recover money, interest and costs
- Criminal prosecution – which may result in imprisonment, community penalty, a fine, confiscation or compensation

The use of parallel sanctions or ‘triple-track’ approach helps to maximise the recovery of NHS funds and assets while minimising duplication of work.

5.5.11 The Trust’s Disciplinary Policy will be used where the outcome of the investigation indicates improper behaviour on part of employees. The LCFS shall liaise with the Head of Policy Development and HR Governance in providing evidence for Disciplinary Hearings.

5.5.12 The LCFS has a duty to report all suspected fraud cases to the suspect’s professional body for disciplinary action. In such cases, the LCFS will prepare a file to the body and attend any hearing as required.

5.5.13 Where financial loss has been suffered, through fraudulent activity, the Trust will, where appropriate, pursue the perpetrator for recovery, including taking appropriate legal action. The LCFS shall liaise with legal representatives and attend court as required.

5.5.14 The LCFS will seek authorisation from the Chief Financial Officer and NHS CFS if a matter is to be reported to the Police. The LCFS shall liaise with the police by providing a MG (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.

5.5.15 The LCFS acts on behalf of the Trust 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.

5.5.16 When fraud, bribery and corruption has occurred at the Trust, the LCFS will strengthen the control environment in which the event occurred by identifying any system weaknesses and recommending how they can be addressed to reduce the risk of any such an event happening again.

5.5.17 The LCFS is required to advise the NHS CFS of every investigation and refer appropriate matters to them.

5.5.18 Chief Financial Officer shall maintain a record to contain:

- details of all reported suspicions;
- details of subsequent actions taken and conclusions reached.

This record will be reviewed by the AAC at least once a year and any significant matters will be reported to the Trust Board. The LCFS will have open access to the record. The record will be a confidential document and accessible only by authorised officers. The record is subject to the Data Protection Act 1998 particularly in relation to the retention and destruction of personal data.

5.5.19 The Chief Financial Officer is responsible for the smooth running of this protocol and where clarification is required the Chief Financial Officer's decision will be final.

6. Consultation and Communication with Stakeholders

This policy has been prepared by reference to earlier versions of this document, relevant legislation including the new Bribery Act and expert advice from the Trust's Local Counter Fraud Service. Account has been taken of contributions from the Trust's Audit Committee. Comments have also been received from the Trade Unions.

7. Approval and Ratification

The approving body for this Policy is the Audit and Assurance Committee and the ratifying body, the Trust's Management Board.

8. Review and Revision

The Policy Coordinator will manage the database/system for policy review. This policy will be reviewed no later than November 2014

9. Dissemination and Implementation

The Trust process for dissemination of policies will be followed as described in the Organisation Wide Policy for the Management and Development of Procedural Documents.

This includes:

- posting on the dedicated Policies and Procedures page of the Intranet
- notification to all staff of the new policy on the next available E-Bulletin
- awareness training as part of Counter Fraud Sessions
- highlighting to staff when fraud has occurred as part of a learning process.

10. Archiving

The policy will be held in the Trust database, known as the library and archived in line with the arrangements in the Organisation wide Policy for the Management and Development of Procedural Documents.

Working copies will be available on request from the Policy Co-coordinator by contacting the dedicated mailbox trustpolicies@sash.nhs.uk

11. Monitoring compliance

The Trust has in place a clear framework of systems and procedures to deter and investigate fraud, bribery and corruption. It will ensure that these arrangements are fair and are monitored and updated to keep pace with future developments in preventative, deterrent and detection techniques regarding fraudulent or corrupt activity. To this end, the Trust maintains a continuous review of these arrangements through the AAC, the Chief Financial Officer, Internal Audit and the External Auditors.

12. References

Secretary of State's Directions November 1999 (amended, 2004, 2005, 2006, 2007)
NHS Counter Fraud Strategy
HSC 1999/062
The Fraud Act 2006
The Theft Acts 1968, 1978, 1996
Forgery and counterfeiting Act 1981
Criminal Attempts Act 1981
The Bribery Act 2010 (replacing the Prevention of Corruption Acts of 1889 – 1916).

13. Associated Documents

Corporate Governance Manual
Trust's Standing Financial Instructions
Standards of Business Conduct
Policy on the Raising of Serious Concerns (Whistleblowing)
Nolan Principles
Professional Codes of Conduct
NHS Code of Conduct for NHS Boards
NHS Code of Conduct for NHS Managers
Disciplinary Procedure
Disciplinary Procedure for Medical and Dental Staff (Maintaining High Professional Standards)

Appendix 1: Fraud Act 2006

A person is guilty of fraud if he is in breach of any of the sections listed below (*which provide for different ways of committing the offence*).

- section 2 (fraud by false representation)
- section 3 (fraud by failing to disclose information)
- section 4 (fraud by abuse of position).

A person who is guilty of fraud is liable:

- on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);
- on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine (or to both).

Section 2: Fraud by false representation

- A person is in breach of this section if he/she:
 - (a) dishonestly makes a false representation, and
 - (b) intends, by making the representation:
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.
- A representation is false if:
 - (a) it is untrue or misleading, and
 - (b) the person making it knows that it is, or might be, untrue or misleading.
- “Representation” means any representation as to fact or law, including a representation as to the state of mind of:
 - (a) the person making the representation, or
 - (b) any other person.
- A representation may be express or implied.
- For the purposes of this section a representation may be regarded as 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).

Section 3: Fraud by failing to disclose information

- A person is in breach of this section if he/ she:
 - (a) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and
 - (b) intends, by failing to disclose the information:
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

Section 4: Fraud by abuse of position

- A person is in breach of this section if he/she:
 - (a) occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person,
 - (b) dishonestly abuses that position, and
 - (c) intends, by means of the abuse of that position:
 - (i) to make a gain for himself or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

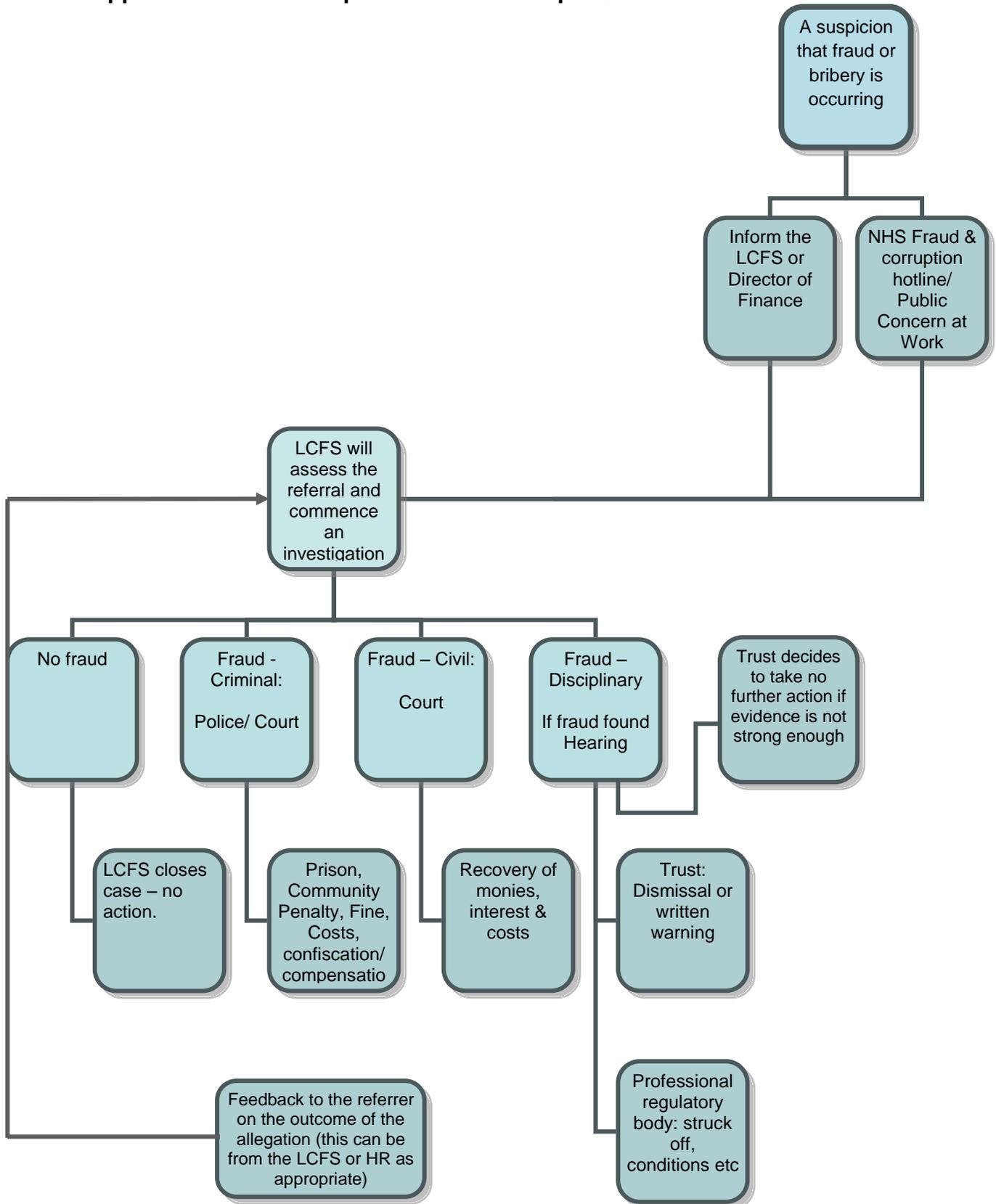
- A person may be regarded as having abused his position even though his conduct consisted of an omission rather than an act.

Appendix 2: Bribery Act 2010

The Act sets out four offences:

- 1. Offering, promising or giving a bribe** to another person to perform improperly a relevant function or activity, or to reward a person for the improper performance of such a function or activity (the active offence). It does not matter whether the person to whom the bribe is offered or given is the same person who is to perform the function or activity concerned. This applies to both public and private functions.
- 2. Requesting, agreeing to receive or accepting a bribe** to perform a function or activity improperly (the passive offence). It does not matter whether the recipient of the bribe requests or receives it directly or through a third party, or whether it is for the recipient's benefit or not. In some cases, it is not necessary for the recipient to know or believe that the performance of the function or activity is improper. This applies to both public and private functions.
- 3. Bribing a foreign public official** – where a person directly, or through a third party, offers, promises or gives any financial or other advantage to a foreign public official ("FPO") (or to a third party at the request or acquiescence of the FPO) in an attempt to influence them in their capacity as a FPO in order to obtain or retain business, or to obtain an advantage in the conduct of business. To constitute bribery under the Act the FPO must be neither permitted nor required by applicable law to be influenced by the offer, promise or gift.
- 4. Failure of a commercial organisation to prevent bribery** (the "Corporate Offence"). A commercial organisation will commit an offence if a person associated with it bribes another (in the UK or overseas) intending to obtain or retain business or a business advantage for that commercial organisation. An associated person includes any person who performs services for the commercial organisation. So, for example, an associated person may include not only employees, agents and subsidiaries, but also entities over which the organisation has no ownership or control.

Appendix 3: Fraud Response Plan – A Simple Overview



Appendix 4: Examples of Fraud Indicators/ Fraud Risk Environment

The following are examples of risk factors that may, either alone or cumulatively with other factors, suggest the possibility of fraud:

- **Unusual employee behaviour** such as refusal to comply with normal rules and practices, lack of delegation especially of mundane tasks, failure to take leave, excessive hours worked, work hidden away when not present, 'accidental' loss or destruction of work, refusing promotion, managers by-passing subordinates, subordinates by-passing manager, living beyond means, job dissatisfaction / unhappy employee, secretiveness or undue defensiveness.
- **Financial irregularities** such as key documents missing (e.g. invoices, contracts,); absence of controls and audit trails; missing expenditure vouchers or other official records; bank and ledger reconciliations not maintained or cannot be balanced; excessive movements of cash or transactions between accounts; numerous adjustments or exceptions; constant overdue pay or expense advances; duplicate payments; large payments to individuals; excessive variations to budgets or contracts.
- **Disorganisation** for example: chronic understaffing in key areas, consistent failures to correct major weaknesses in internal control, inadequate or no segregation of duties e.g. dominance by one person (or a small group) over a work area, lack of staff rotation, over reliance on Trusted individuals/contractors/partners or over reliance on temporary or agency staff.
- **Inadequate supervision**, policies not being followed, lack of senior management oversight, lack of regular reviews, inadequate monitoring to ensure that controls work as intended, low staff morale, weak or inconsistent management.
- **Lax corporate culture**, management frequently override internal control, climate of fear or a corporate culture, employees under stress without excessive workloads, new employees resigning quickly, crisis management coupled with a pressured business environment, high employee turnover rates in key controlling functions leading to understaffing and lost knowledge.
- **Poor work practices**, such as lack of common sense controls, work is left until the employee returns from leave, post office boxes as shipping addresses, documentation that is photocopied or lacking essential information, lack of rotation of duties, unauthorised changes to systems or work practices.

- **Ineffective Human Resources Processes:** Lapse HR procedures e.g. non take up of references, non checking for criminal convictions, regulatory disciplinary actions, qualifications etc. This will not prevent and detect false information given on job applications e.g. qualifications, employment/ education histories, references, identity, immigration status, medical details, declaring conflicts of interest, previous convictions etc.
- **Deficient procurement practice** too close a relationship with suppliers/contractors; suppliers/contractors who insist on Trust with only one particular member of staff; unjustified disqualification of any bidder; lowest tenders or quotes passed over with minimal explanation recorded; defining needs in ways that can be met only by specific contractors; single vendors; vague specifications; splitting up requirements to get under small purchase requirements or to avoid prescribed levels of review or approval.

Appendix 5: Secretary of State Directions

Secretary of State Directions can be viewed on the Trust's Intranet Pages by accessing the Support Services menu and then selecting Counter Fraud Service.

Appendix 6: Equality Impact Assessment

Stage One: Screening for Relevance to Protected Characteristics and the Equality General Duty and Prioritising.

<p>Names of assessors carrying out the screening procedure (min of 2- author / manager and staff member / patient representative)</p> <ul style="list-style-type: none"> Suzanne Richardson –Manual handling Sally Knight- Equality & Engagement 	<p>Name of lead author /manager & contact number</p> <p>Sarah Pratley</p>
<p>1. Name of the strategy / policy / proposal / service function</p> <p>An Organisation-wide Counter Fraud and Bribery Policy and Response Plan</p>	<p>Date last reviewed or created & version number.</p> <p>2.0</p>
<p>2. Who is the strategy / policy / proposal / service function aimed at?</p> <p>All Staff, volunteers and contractors working on behalf of the Trust</p>	
<p>3. What are the main aims and objectives?</p> <p>To protect the trust and the public from fraud. The trust is committed to the maintenance of a policy for the prevention and detection of fraud and corruption.</p>	
<p>4. Consider & list what data / information you have regarding the use of the strategy / policy / proposal / service function by diverse groups?</p> <p>Workforce data, Employee relations data</p>	
<p>5. Is the strategy / policy / proposal / service function relevant to any of the protected characteristics or human rights below?</p> <p>If YES please indicate if the relevance is LOW, MEDIUM or HIGH</p> <p><u>Low</u></p> <ul style="list-style-type: none"> The policy may not be relevant to the Equality General Duty* as stated by law 	

- Little or no evidence is available that different groups may be affected differently
- Little or no concern raised by the communities or the public about the policy etc when they are consulted – (recorded opinions, not lack of interest)

Medium

- The policy **may be relevant** to parts of the Equality General Duty* in the policy etc regarding differential impact
- There may be some evidence suggesting different groups are affected differently
- There may be some concern by communities and the public about the policy

High

- There **will be relevance** to all or a major part of the General Equality Duty* in the policy regarding differential impact.
- There will be substantial evidence, data and information that there will be a significant impact on different groups
- There will be significant concern by the communities and relevant partners on the potential impact on implementation of the policy etc.

	Protected Characteristics	Patient, their carer or family	Staff
	• Age	NO	NO
	• Disability	NO	YES, low
a	Physical	NO	YES, low
b	Learning disability	NO	YES, low
c	Sensory impairment, Hearing, sight	NO	YES, low
d	Speech or communication difficulty	NO	YES, low
e	Mental ill health	NO	NO
f	People with HIV / AIDS	NO	NO
g	Head injury, cognitive loss	NO	NO
h	Other	NO	NO

	• Gender Reassignment	NO	NO	
	• Race/ Ethnic Communities / groups	NO	YES, low	
	• Religion or belief	NO	NO	
	• Sex (male female)	NO	NO	
	• Sexual Orientation (Bisexual, Gay, heterosexual, Lesbian)	NO	NO	
	• Marriage & Civil Partnership	NO	NO	
	• Pregnancy & Maternity	NO	NO	
	• Human Rights	NO	NO	
6.	<p>What aspects of the strategy / policy / proposal / service function are of particular relevance to the equality strands?</p> <p>The requirement for all staff to read and understand the relevant policies and procedures</p>			
7.	<p>Does the strategy / policy / proposal / service function relate to an area where there are known inequalities? If so which and how?</p> <p>Disproportionate number of Black & Minority staff in disciplinary processes</p>			
8.	<p>Please identify what evidence you have used / referred to in carrying out this assessment.</p> <p>Workforce data and Employee relations data</p>			
9.	<p>If you identify LOW relevance only can you introduce any minor changes to the strategy / policy / proposal / service function which will reduce potential adverse impacts at this stage? If so please identify here.</p> <p>Managers to have responsibility to ensure that their staff have read and understood the policies and procedures, providing support and alternative</p>			

	languages or formats as needed.		
10	Please indicate if a Full Equality Impact Assessment is recommended. (required for all where there is MEDIUM & HIGH relevance)		NO
11	If you are not recommending a Full Equality Impact assessment please explain why. The policy follows national guidance, the NHS Counter Fraud Strategy and Fraud legislation. With the amendments mentioned above the policy is unlikely to have a negative impact on the protected groups		
12	Signature of author / manager	Date of completion and submission	

*** Equality General Duty relates to: Eliminating discrimination, harassment and victimisation, advancing equality of opportunity & fostering good relations between people of different groups**

Please send completed form to sally.knight@sash.nhs.uk

•	Human Rights
1	the right to life
2	the right not to be tortured or treated in an inhuman or degrading way
3	the right to be free from slavery or forced labour
4	the right to liberty
5	the right to a fair trial
6	the right to no punishment without law
7	the right to respect for private and family life home and correspondence
8	the right to freedom of thought, conscience and religion
9	the right to freedom of expression
10	the right to freedom of assembly and association
11	the right to marry and found a family
12	the right not to be discriminated against
13	the right to peaceful enjoyment of possessions
14	the right to an education
15	the right to free elections