

AQuA – 7 July 2020

Strategic Clinical Executive – Date

GP Members Committee (GPMC) – Date

**Clinical Commissioning Group Governing Body - 2 September**

**2020**

**Review of counter fraud bribery and corruption policy**

Lead Executive:	Wendy Allott - Chief Finance Officer
Lead Officer:	Matt Jones - Head of Financial Services
Lead GP:	Jason Page

## **Purpose:**

The above policy has been reviewed in line with the CCG's standard processes for policy review. The amended policy was brought to OE 07-05-20 for approval. It is being returned today for information following the addition to Section 3.9 to cover the role of fraud champion

## **Background:**

This policy was last updated April 2018, with a review date of April 2020.

## **Analysis of key issues and of risks**

The policy has been reviewed by the CCG's Anti-Crime Specialist (360 Assurance) and internal finance team.

In summary

1. No material changes have been required to the content of the policy.
2. Minor changes to wording have been made in some places (and these are listed below).
3. New section added to cover role of Fraud Champion (section 3.9)
4. Where there are references or hyperlinks to content held on the CCG's intranet; that content has either been or is currently in the process of being updated.

To assist OE members , changes made under point 2 and 3 above are shown below in red

- Section 2 ,Page 3: Words added  
"This policy is mandatory and applies to all staff whether permanent or temporary and whether employed directly or indirectly within any part of the CCG. For the avoidance of doubt this includes anybody employed via an agency, all bank staff, **honorary staff, externally appointed consultants, self-employed contractors** and those employed on fixed term contracts".
- Section 3.6, Page 5: Wording changed from 'direct reports'  
"CCG managers are responsible for ensuring that policies, procedures and processes within their local area are adhered to and kept under constant review. It is the responsibility of managers to ensure that **staff** are aware of fraud, bribery and corruption..... "
- Section 3.9 . **This is a new section added to cover the role of Fraud Champion.**

## **Patient, Public and Stakeholder Involvement:**

n/a
<b>Equality Impact:</b>
Assessment attached
<b>Financial Implications:</b>
None
<b>Human Resource Implications:</b>
None
<b>Procurement Advice:</b>
None required
<b>Data Protection Impact Assessment:</b>
No issues arising from this paper
<b>Approval history:</b>
This is the first meeting
<b>Recommendations:</b>
Governing Body are asked to note the amendments and support the proposed changes to the policy. Note next scheduled review date of April 2022
<b>Paper is for consideration and support</b>

<b>Title:</b>	<b>COUNTER FRAUD, BRIBERY AND CORRUPTION POLICY</b>
<b>Reference No:</b>	<b>004/FIN</b>
<b>Owner:</b>	<b>Wendy Allott, Chief Finance Officer</b>
<b>Author</b>	<b>Matt Jones- Head of Financial Services</b>
<b>First Issued On:</b>	<b>April 2013</b>
<b>Latest Issue Date:</b>	<b>May 2020</b>
<b>Operational Date:</b>	<b>May 2020</b>
<b>Review Date:</b>	<b>April 2022</b>
<b>Consultation Process</b>	<b>OE 07-05-2020 AQUA 07-07-2020 GB 05-08-2020</b>
<b>Ratified and approved by:</b>	<b>Governing Body</b>
<b>Distribution:</b>	<b>All staff and GP members of the CCG.</b>
<b>Compliance:</b>	<b>Mandatory for all permanent and temporary employees of NHS Rotherham CCG.</b>
<b>Equality &amp; Diversity Statement:</b>	<b>In applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.</b>

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## 1. POLICY STATEMENT

This document sets out the NHS Rotherham Clinical Commissioning Group (referred to as 'the CCG') policy for suspected and detected fraud, bribery and corruption.

One of the basic principles of public sector organisations is the proper use of public funds. It is, therefore, important that all those who work in the public sector are aware of the risk of, and means of, enforcing the arrangements against fraud, bribery, corruption and other illegal acts involving dishonesty or damage to property.

The CCG requires all staff to always act honestly and with integrity to safeguard the public resources they are responsible for. The CCG will not tolerate any acts of fraud, bribery or corruption perpetrated against it or involving its employees and will actively pursue all available criminal and civil actions including the recovery of any loss suffered as a result.

### STATEMENT OF THE CCG GOVERNING BODY:

***The Governing Body is committed to the elimination of fraud, bribery and corruption by ensuring there is a strong anti-fraud, bribery and corruption culture, proactive prevention through widespread awareness and rigorous investigation of any such cases, and where proven, to ensure wrong doers are appropriately dealt with, which includes taking steps to recover assets lost as a result of fraud, bribery or corruption.***

***Any apparent fraud, bribery or corruption or financial irregularity will be rigorously investigated and all available sanctions (including criminal prosecution, disciplinary action and reference to any relevant professional organisation) will be pursued. Any suspicions of fraud, bribery or corruption will be referred to an accredited NHS Counter Fraud Specialist (CFS) appointed by the CCG, for formal investigation to determine whether there is prima facie evidence of a criminal offence.***

***The seeking of financial redress and recovery of losses will always be considered in cases of fraud, bribery or corruption and recovery of the loss caused by the perpetrator will always be sought.***

***Redress allows resources that are lost through dishonest acts to be returned to the NHS for use as intended for the provision of high quality patient care and services.***

***All staff have a duty to protect the assets of the CCG, to comply with its policies and also to co-operate with any investigation and the Governing Body wishes to encourage anyone having suspicions of fraud, bribery or corruption to report them to the Chief Finance Officer (CFO) or the CFS. All members of staff can, therefore, be confident that their reasonably held suspicions will be taken seriously.***

## 2. SCOPE OF THE POLICY

This policy is mandatory and applies to all staff whether permanent or temporary and whether employed directly or indirectly within any part of the CCG. For the avoidance of doubt this includes anybody employed via an agency, all bank staff, honorary staff, externally appointed consultants, self-employed contractors and those employed on fixed term contracts.

**For concerns which relate to fraud, bribery or corruption these should be reported through the provisions of this policy and not under the provisions of the Whistleblowing Policy although it is advised that all staff are made aware of the Whistleblowing Policy which can be found on the CCG intranet policy pages.**

## 3. ROLES AND RESPONSIBILITIES

### 3.1 Chief Officer (CO)

The CO has the overall responsibility for funds entrusted to the CCG.

This includes instances of fraud, bribery and corruption. The CO must ensure adequate policies and procedures are in place to protect the organisation and the public funds it receives.

### **3.2 Chief Finance Officer**

The CFO has powers to approve financial transactions initiated across the CCG within the delegated limits and has a duty to pass on any suspicions of fraud, bribery or corruption to the CFS.

It is the responsibility of the CFO to prepare, document and maintain detailed financial procedures and systems and to apply the principles of separation of duties and internal checks to supplement those procedures and systems.

The CFO will report annually to the Governing Body on the adequacy of internal financial controls and risk management as part of the Governing Body's overall responsibility to prepare a statement of internal control for inclusion in the CCG's annual report.

The CFO will, depending on the outcome of initial investigations, inform appropriate CCG officers of suspected cases of fraud, bribery and corruption, especially in cases where the loss may be above an agreed limit or where the incident may lead to adverse publicity.

### **3.3 Internal and External Audit**

The role of internal and external audit includes reviewing controls and systems and ensuring compliance with financial instructions.

### **3.4 Human Resources (HR)**

It is the responsibility of HR to liaise with the CFO in relation to suspected cases of fraud, bribery and corruption, including regular contact with the CFS in the conduct of any investigation. A Working Together Protocol is in place and should be referred to in the event of any concerns relating to fraud, bribery or corruption.

### **3.5 Counter Fraud Specialist**

The CFS is responsible for taking forward all anti-fraud work locally in accordance with national standards and reports directly to the CFO.

Adherence to NHS Counter Fraud Authority standards is important in ensuring that the CCG has appropriate anti-fraud, bribery and corruption arrangements in place and that the CFS will look to achieve the highest standards possible in their work.

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

The CFS will conduct an annual risk assessment in relation to the work undertaken to prevent fraud, bribery and corruption.

It is the role of the CFS to investigate any allegations of fraud, bribery and corruption in line with NHS Counter Fraud Authority standards. The CFS is professionally trained and accredited to conduct counter fraud, bribery and corruption work, including investigations. All criminal investigations undertaken by the CFS are conducted in accordance with relevant legislation.

### **3.6 Managers**

CCG managers are responsible for ensuring that policies, procedures and processes within their local area are adhered to and kept under constant review.

It is the responsibility of managers to ensure that staff are aware of fraud, bribery and corruption and understand the importance of protecting the organisation from it. Managers will also be responsible for the enforcement of disciplinary action for staff who do not comply with policies and procedures.

Managers must report any instances of actual or suspected fraud, bribery or corruption brought to their attention to the CFS immediately. It is important that managers do not investigate any suspected activities themselves.

Managers should conduct risk assessments and mitigate any identified risks, to include the application of controls wherever a risk becomes apparent.

### **3.7 Employees**

All employees are required to comply with the organisation's policies and procedures and apply best practice in order to prevent fraud, bribery and corruption, for example in the areas of procurement, personal expenses and ethical business behaviour.

Employees should be made aware of their responsibilities in protecting the organisation from these crimes and those who are involved in, or manage internal control systems, should receive adequate training and support in order to carry out their responsibilities.

If an employee suspects that fraud, bribery or corruption has taken place, they should ensure it is reported to the CFS and/or to the NHS Counter Fraud Authority.

Employees must be aware, of and comply with, the CCG Prime Financial Policies, the Policy for conflicts and declarations of interest (incorporating gifts, hospitality and commercial sponsorship) and the associated requirement to declare other interests.

### **3.8 Information Management and Technology**

The Computer Misuse Act 1990 makes it a criminal offence to access any part of a computer system, programs and/or data that a user is not entitled to access. The CCG will issue an individual User ID and password which will only be known by the individual they relate to and must not be divulged or misused by other staff. This is to protect the employee from the likelihood of their inadvertently contravening this Act.

The CCG will adhere to the requirements of the Computer Misuse Act 1990 by ensuring staff are made aware of their responsibilities regarding the misuse of computers for personal gain or other fraudulent activities. Any member of staff found to have contravened this Act will be considered to have committed a disciplinary offence, for which a disciplinary investigation will be undertaken. A referral will also be made to the CCG's CFS for further investigation.

### **3.9 Fraud Champion**

The NHSCFA has developed a project aimed at ensuring every health body has a nominated counter fraud champion. The Assistant Chief Officer is NHS Rotherham CCG's nominated Fraud Champion.

The role and duties of the Fraud Champion aim to:

- Promote awareness of fraud, bribery and corruption
- Understand the threat posed from fraud, bribery and corruption
- Understand best practice on countering fraud
- Understand cross-government fraud initiatives and engage the CCG and any associated organisation in those initiatives.

**For absolute clarity: Suspicions of fraud, bribery or corruption should be reported to the CCG's nominated Counter Fraud Specialist or Chief Finance Officer in line with this policy. Any investigations must be undertaken by the CCG's nominated Counter Fraud Specialist.**

**The fraud champion is not qualified to investigate fraud. Managerial responsibility for counter fraud work remains with the Chief Finance Officer. For the purposes of this policy, the Fraud Champion reports to the Chief Finance Officer.**

#### **4. STANDARDS FOR COMMISSIONERS**

The Health and Social Care Act 2012 requires that CCGs put in place and maintain appropriate counter fraud arrangements, in order to meet the requirements of NHS Counter Fraud Authority Standards for Commissioners: Fraud, Bribery and Corruption.

It is the responsibility of the CCG as a whole to ensure it meets the required standards. In order to demonstrate compliance, the NHS Counter Fraud Authority require CCGs to submit an annual self-review of anti-fraud, bribery and corruption activity undertaken within their organisations - this is achieved via the Self-Assessment Review Toolkit (SRT). Upon completion, the SRT provides a red, amber or green (RAG) rating for the organisation.

The NHS Counter Fraud Authority Quality & Compliance Team (QCT) uses the completed SRT as a basis for selecting organisations for detailed assessment.

#### **5. DEFINITIONS**

**5.1** The NHS Counter Fraud Authority (NHSCFA) (formerly NHS Protect) is a special health authority charged with the identification, prevention and investigation of organised and/or complex fraud within the NHS. The NHSCFA maintains oversight and monitoring of counter fraud work across the NHS, including responsibility for counter fraud standards and assessment of performance.

All Rotherham CCG investigations are handled in accordance with NHS Counter Fraud Authority guidance and instructions.

##### **5.2 Fraud**

The Fraud Act 2006 came into force on 15 January 2007 and introduced the general offence of fraud. This is broken into three key sections:

- Fraud by false representation – an example of this would be falsification of timesheets or expense claims;
- Fraud by failing to disclose information – an example of this would be failure to disclose a criminal conviction;
- Fraud by abuse of position – an example of this would be an employee who uses their position to grant contracts or discounts to friends, relatives and associates.

The Fraud Act also created new offences of:

- Possession of, making or supplying articles for use in fraud;
- Fraudulent trading (sole traders);
- Obtaining services dishonestly.

##### **5.3 Bribery and Corruption**

The Bribery Act 2010 replaced the Prevention of Corruption Acts 1889-1916 and created two general offences of bribery:

- Offering or giving a bribe to induce someone to behave, or to reward someone for behaving, improperly;
- Requesting or accepting a bribe either in exchange for acting improperly, or where the request or acceptance is itself improper.

A new corporate offence was also introduced:

- Negligently failing by a company or limited liability partnership to prevent bribery being given or offered by an employee or agent on behalf of that organisation.

Bribery and corruption involves offering, promising or giving a payment or a benefit-in-kind in order to influence others to use their position in an improper way to gain an advantage. Bribery and corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds, however, they may be unreasonably using their position to give some advantage to another.

By their nature, bribery and corruption can be difficult to detect as they usually involve two or more people entering into a secret agreement. Examples of bribery and corruption are:

- a) Agreement to pay a financial inducement to a public official for securing favour of some description in return.
- b) A company paying a bribe for the benefit of a public official in order to win a business contract. This can sometimes be done through a third party - commonly known as an agent or advisor - who then passes the bribe on to the public official.

## **6. CREATING A STRONG COUNTER FRAUD, BRIBERY AND CORRUPTION CULTURE**

We all have a responsibility to protect our organisation and its resources. Everyone, including the public, the CCG's staff, professionals, managers and policy makers must work together to raise awareness of the CCG's zero tolerance approach to fraud, bribery and corruption, to report concerns and enforce the message to the dishonest minority that such matters are not acceptable within the NHS and will be dealt with accordingly.

The most effective deterrent will come from those of us within the NHS who value the service provided and disapprove of those who abuse the system through fraud, bribery, corruption and other dishonest acts. In addition, publicity surrounding counter fraud, bribery and corruption work will deter some who perpetrate or consider perpetrating related offences. The CCG will publicise successful investigation outcomes both internally and externally as appropriate in order to aid the deterrent effect.

## **7. PROACTIVE PREVENTION AND DETECTION**

The CCG will ensure (through 'fraud proofing') that its systems, policies and processes are sufficiently robust so that the risk of fraud, bribery and corruption is reduced to a minimum. Checks will be conducted in areas identified to be most at risk to fraud, bribery or corruption in order to proactively detect instances that might otherwise be unreported.

Training of all employees will be undertaken annually by the CFS.

## **8. PROFESSIONAL INVESTIGATION OF DETECTED FRAUD, BRIBERY & CORRUPTION**

Criminal offences of fraud, bribery or corruption will be investigated in a professional, objective and timely manner by an accredited NHS Counter Fraud Specialist appointed by the CCG. Internal investigations may also be carried out by Human Resources (HR) staff and/or CCG managers as part of disciplinary procedures. Parallel criminal and disciplinary investigations may be undertaken in accordance with the agreed liaison protocol.

## 9. EFFECTIVE SANCTIONS

Where fraud, corruption or bribery offences are committed, criminal sanctions (including prosecution) will be pursued. Employees of the CCG found to have committed such offences will also be dealt with in accordance with internal disciplinary procedures and referred to professional bodies where appropriate.

## 10. SEEKING REDRESS

The CCG will consider initiating civil recovery action if this is cost-effective and desirable for deterrence purposes. This could involve a number of options such as making an application to the Small Claims Court and/or recovery through debt collection agencies. Each case will be discussed with the CFO to determine the most appropriate action.

## 11. REPORTING SUSPICIONS

All concerns or suspicions relating to fraud, bribery and corruption must be reported to the CCG's nominated CFS using the contact details found on the CCG's intranet <http://intranet.rotherhamccg.nhs.uk/fraud-awareness.htm> ( WA This link comes up at 2017. Claire Croft has confirmed she will work with Gordon to update the content on this link. Therefore the link can stay) or using the referral form attached at Appendix 1 to this policy. Concerns may also be brought to the attention of the CFO, or reported via the NHS Counter Fraud Authority Fraud and Corruption Line, 0800 028 40 60 or online at <https://cfa.nhs.uk/>

On receipt of concerns or suspicions the CFS will undertake preliminary enquiries to substantiate the allegation. The CFS will not usually report back any findings to the referrer for confidentiality reasons. Although suspicions can be reported anonymously, providing contact details may assist with the investigation. The CFS may contact the referrer for further information.

## 12. ACTING ON YOUR SUSPICIONS – DOs AND DONTs

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

### DO

- Make an immediate note of your concerns – note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved.
- Report your suspicions immediately and directly to the CCG appointed CFS, or CFO.
- Deal with the matter promptly, if you feel your concerns are warranted – any delay may cause the CCG to suffer further financial loss.

### DON'T

- Do nothing.
- Be afraid of raising your concerns – you will not suffer any recrimination from the CCG as a result of voicing a reasonably held suspicion. The CCG will treat any matter you raise sensitively and confidentially.
- Approach or accuse any individuals directly.
- Try to investigate the matter yourself – there are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may destroy the case. The CCG appointed CFS is trained in handling investigations in accordance with the NHS Counter Fraud Authority Anti-Fraud Manual.

- Convey your suspicions to anyone other than the CFS, CFO or the NHS Counter Fraud Authority.

### **13. TRAINING REQUIREMENTS**

The CFS will promote fraud, bribery and corruption awareness through the delivery of face to face presentations, the provision of eLearning modules and/or the distribution of newsletters and other materials. Should staff require any other assistance, or advice, they should contact the CFS.

### **14. COUNTER FRAUD REVIEW OF CCG POLICIES**

All CCG policies which are introduced or revised should be reviewed by the CFS prior to implementation to allow for 'fraud proofing' of the policy. The CFS will judge whether 'fraud proofing' is required in respect of any given policy and recommendations made by the CFS should be used to ensure all policies minimise the risk of fraud, bribery or corruption.

### **15. MONITORING / AUDITING ARRANGEMENTS**

The effectiveness and accuracy of this policy will be reviewed on an annual basis by the CFO and the CCG appointed CFS.

Examples of frauds which are prevalent in the NHS are provided at Appendix 2. These examples are provided in order to give an insight into the breadth of risk of fraud to the organisation.

**APPENDIX 1: FRAUD/ /BRIBERY/CORRUPTION REFERRAL FORM**

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**REFERRAL FROM:** *Note: This referral may be made anonymously, however, it is helpful if you can provide at least a telephone contact number so that contact might be made to clarify details if necessary. This number will not be used to attempt to identify you.*

**NAME**

**ORGANISATION/PROFESSION**

**ADDRESS**

**TELEPHONE NUMBER**

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**THE ALLEGED FRAUD, BRIBERY OR CORRUPTION RELATES TO:**

**NAME**

**ADDRESS**

**DATE OF BIRTH (if known)**

***Suspicion***

***Details***

***Possible useful contacts***

***Please attach any available evidence or additional information.***

**Signed**..... **Date**.....

*The CCG's Counter Fraud Specialist will undertake to acknowledge receipt of this referral directly to you within 5 working days, unless anonymous, or requested otherwise.*

**Please return this form, marked Private and Confidential to:**

**Claire Croft, Counter Fraud Specialist, 360 Assurance Anti – Crime Team, Oak House, Moorhead Way, Bramley, Rotherham S66 1YY. [claire.croft1@nhs.net](mailto:claire.croft1@nhs.net)**

## APPENDIX 2:

### Common examples of fraud, bribery and corruption offences occurring within the NHS

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**(This is not an exhaustive list. For other types of fraud, bribery or corruption offences please contact the CFS for advice).**

**Employment:** Presenting forged or fake certificates of qualification to obtain employment; claiming for overtime or shifts not worked; taking sick leave and undertaking unauthorised work for another organisation whilst in receipt of sick pay; claiming expenses (such as travel) when it has not been incurred; falsification of references for a job application; claiming time for college/training but not actually attending; knowingly failing to report and retaining salary or other payments not entitled to; non-declaration of criminal convictions.

**Patients' Monies:** Falsifying patients' monies records to obtain cash and property.

**Pharmaceuticals:** Presentation of forged prescriptions; falsely presenting oneself as another person to receive prescription items; receiving free prescriptions through fraudulently claiming entitlement to exemptions from a charge; pharmacists substituting an expensive drug with a cheaper alternative and making claims for the more expensive one; writing prescriptions for own use.

**Procurement:** Price fixing or price hiking by suppliers; invoicing for products not supplied; over invoicing; supplying unsolicited goods or products.

**NHS Equipment:** Obtaining, or misuse of NHS equipment or goods for private purposes.

**Bribery:** Kickbacks to staff responsible for procurement if they purchase from a particular supplier; patients making informal payments to healthcare practitioners in order to receive treatment more quickly.

**Health Tourism:** A foreign national travelling to the UK with the intention of receiving free healthcare treatment to which they know they are not entitled.