<table>
<thead>
<tr>
<th>Title:</th>
<th>COUNTER FRAUD AND CORRUPTION POLICY</th>
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<tr>
<td>Outcome Statement:</td>
<td>This document identifies Norfolk &amp; Suffolk NHS Foundations Trust’s policy and framework for dealing with fraud, corruption and bribery.</td>
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<td>Written By:</td>
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<tr>
<td>Reviewed By:</td>
<td>Eleni Gill, Local Counter Fraud Specialist</td>
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<td></td>
<td>Mike Tweed, Head of Counter Fraud</td>
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<td>In Consultation With:</td>
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<td>Approved By and Date:</td>
<td>Audit &amp; Risk Committee</td>
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<td>9th October 2013</td>
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<td>Associated Trust</td>
<td>Sanctions &amp; Redress Policy</td>
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<td>NHS Code of Conduct for Managers</td>
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<tr>
<td>Applicable to:</td>
<td>All staff</td>
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<td>For Use By:</td>
<td>All staff, Board of Directors, Board of Governors, Non-Executive Directors and Service Users</td>
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The most up to date version of this policy is published on NSFT Intranet

**Review and Amendment Log**

<table>
<thead>
<tr>
<th>Version Number</th>
<th>Reasons for Development/Review</th>
<th>Date</th>
<th>Description of Change(s)</th>
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<tr>
<td>01</td>
<td>For counter fraud work to be effective, it is essential that the Trust has in place a policy which ensures that the widest range of possible sanctions are applied, commensurate with the seriousness of each case, with due consideration of possible constraints which may effect successful outcomes.</td>
<td>June 2013</td>
<td>Updated with reference to the NHS Standard Contract 2013/2014</td>
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<td>03</td>
<td>To incorporate comments made by PWG on 01/08/2013.</td>
<td>August 2013</td>
<td>Updated to incorporate comments from PWG.</td>
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<tr>
<td>04</td>
<td>To incorporate NHS Protect template local anti fraud, bribery and corruption policy.</td>
<td>Sept 2013</td>
<td>Updated to incorporate NHS Protect template local anti fraud, bribery and corruption policy.</td>
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<tr>
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<td>Updated to incorporate comments</td>
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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, Norfolk & Suffolk Foundation Trust 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 Trust’s policy and response plan for detected or suspected fraud, corruption or bribery. It has the endorsement of the Trust and Executives. The Trust endorses the NHS Counter Fraud Strategy as set out under HSC 1998/231.

1.3 The policy reflects the Trust’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 Trust or any staff, contractors, or persons working for the Trust will incur any criminal liability or reputational damage.

1.4 The Trust already has procedures in place that reduces 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 Trust seeks to ensure that a risk awareness culture exists in the Trust (which includes fraud, corruption and bribery awareness), and have complied with General Condition 6 of the NHS Standard Contract 2013/14 in having appropriate counter fraud arrangements in place.

1.5 The Local Counter Fraud Specialist conducts investigations as directed by the NHS Counter Fraud & Corruption Manual, as required by the Standards for Providers 2013/14 – Anti-Fraud, Corruption & Bribery.

1.6 This Trust does not tolerate fraud and corruption within the NHS and aims to eliminate fraud and corruption in the NHS, as far as possible. To this end all referrals will be professionally investigated and the full range of potential sanctions, including criminal prosecution, will be deployed where there is evidence of wrongdoing.

2. Purpose

2.1 This document is intended to provide the Trust with a policy for dealing with suspected fraud, corruption, bribery and other illegal acts involving dishonesty or damage to property.

2.2 The purpose of this policy is to:
2.2.1 Set out the Trust’s responsibilities and of those working for us, in observing and upholding our position on fraud, corruption and bribery.

2.2.2 Provide information and guidance to those working for us on how to recognise and deal with fraud, corruption and bribery issues.

2.2.3 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.

3. Legislative Framework

3.1 The Fraud Act 2006 came into effect on 15\textsuperscript{th} January 2007, and introduced the general offence of fraud. The Act created three key criminal offences as follows: (2) fraud by false representation, (3) fraud by failing to disclose information, and (4) fraud by abuse of position.

3.2 Many of the offences referred to as fraud were covered by the Theft Acts of 1968 and 1978; however, the Fraud Act 2006 means it is no longer necessary to prove a person has been deceived. The focus is now on the dishonest behaviour of the subject and their intent to make a gain or cause a loss. Cases will still be prosecuted under the Theft Acts should the offence have occurred before 15\textsuperscript{th} January 2007.

3.3 Under the Fraud Act 2006, a person found guilty of fraud is liable, on summary conviction, to a fine of up to £5,000 and/or imprisonment for up to 12 months, or if convicted on indictment, an unlimited fine and/or imprisonment for up to 10 years.

3.4 The Bribery Act 2010 came into effect on 1\textsuperscript{st} 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.

3.5 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 being undertaken on its behalf.

3.6 Under the Bribery Act 2010, a person found guilty of bribery is liable, on summary conviction, to a fine of up to £5000 and/or imprisonment for up to 12 months; or if convicted on indictment, an unlimited fine and/or imprisonment for up to 10 years. If a Trust is found to have taken part in bribery, it could face an unlimited fine, be excluded from tendering for public contracts and face serious damage to its reputation.
3.7 The Public Interest Disclosure Act (PIDA) 1998 provides a clear signal that it is safe and acceptable for all staff to raise any specific concerns that they may have. By providing strong protection for those who raise concerns, the legislation will help ensure that employers address the message and not the messenger. It is a safety net for the Trust, its employees and users of its services. The fundamental principle behind the legislation is to improve governance and accountability within organisations.

3.8 Raising and Escalating a concern is when any member of staff, contractor or person working for a Trust raises a concern by informing their employer, a regulator, customers, the police or the media about a serious risk, malpractice, or wrongdoing that affects others 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.

3.9 Often it is only through Raising and Escalating a Concern that this information comes to light and can be addressed before real damage is done. Raising and Escalating a Concern is a valuable activity which can positively influence all of our lives. The Trust Board fully endorses the provisions of the Public Interest Disclosure Act 1998 and wishes to encourage anyone having reasonable suspicions of fraud, corruption and/or bribery to report them in accordance with the Trust’s Public Interest Disclosure Policy (Whistleblowing Policy).

3.10 Please see the Trust’s Public Interest Disclosure Policy (Whistleblowing Policy) for additional information.

4. Scope

4.1 This document applies to all individuals working at all levels including Board, Executive and Non-Executive Members (including co-opted members), Honorary Members of the Board, Governors, employees (whether permanent, fixed-term, or temporary), contractors, trainees, seconded, home-workers, casual staff and agency staff, interns and students, agents, sponsors, volunteers or any other person associated with a Trust wherever located (collectively referred to as “Staff”) in this Policy.

5. Definitions

5.1 Fraud

5.1.1 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:

5.1.1.1 Fraud by false representation;

5.1.1.2 Fraud by failing to disclose information; and
5.1.3 Fraud by abuse of position.

5.1.2 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 another, or inflicting a loss (or a risk of loss) on another.

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

5.1.3.1 Possession of articles for use in fraud;
5.1.3.2 Making or supplying of articles for use in fraud; and
5.1.3.3 Obtaining services dishonestly.

5.2 Examples of NHS Fraud

5.2.1 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):

5.2.1.1 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).
5.2.1.2 False expense claims (e.g. falsified travel or subsistence claims).
5.2.1.3 Fraudulent job applications (e.g. false qualifications or immigration status).
5.2.1.4 Working whilst sick (e.g. usually working for another organisation without informing the Trust).
5.2.1.5 Excess study leave.
5.2.1.6 Advertising scams (e.g. false invoices for placing advertisements in publications).
5.2.1.7 Patient fraud (e.g. false travel claims, fraudulently claiming exemptions from pharmaceutical charges).
5.2.1.8 Misappropriation of assets (e.g. falsely ordering goods for own use or to sell).
5.2.1.9 Procurement Fraud (e.g. the ordering and contracting of goods or services).
5.2.1.10 Fraud by professionals (i.e. Pharmacists – constitutes specific types of fraud such as false claims for treatment, unauthorised use of NHS facilities/equipment).

5.2.1.11 Pharmaceutical fraud by companies (e.g. overcharging for drugs, supplying inferior or reduced quantities of drugs etc).

5.3 Corruption

5.3.1 Corruption was defined (in the context of the Prevention of Corruption Acts) as the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person. Bribery, a form of corruption, is an act implying money or gift giving that alters the behaviour of the recipient.

5.3.2 The Bribery Act 2010 replaces the fragmented and complex offences at common law and in the Prevention of Corruption Acts 1889-1916.

5.4 Bribery

5.4.1 There is no specific definition within the Bribery Act 2010 of this term. The Act however does set out four offences of bribery from which a definition can be inferred as a financial or other type of advantage that is offered or requested intending to induce another person to perform improperly one of their functions in their position of trust or responsibility, or as a reward for improper performance.

5.4.2 In essence, bribery is offering an incentive or reward to someone to do/for doing something that they would not normally do.

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

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

5.4.3.2 A discrete offence of bribery of a foreign public official to obtain or retain business or an advantage in the conduct of business.

5.4.3.3 A new offence of failure by a commercial organisation to prevent a bribe being paid for or on its behalf.

5.4.3.4 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 Trust has sufficient and adequate procedures in place and to demonstrate openness and transparency all individuals working for the
Trust are required to comply with the requirements of this policy.

5.5 Examples of Bribery

5.5.1 The Bribery Act 2010 outlines the offences of bribery as the receipt or acceptance of a bribe, or the offer to, promise or giving of a bribe, which assists in obtaining / retaining business or financial advantage, or the inducement or reward of someone for the “improper performance” of a relevant function. There is however no set types of bribery and there is huge variation in the types of scenarios and circumstances where bribery could occur. A non exhaustive list of examples of where bribery could take place is as follows:

5.5.2 Offering a bribe

5.5.2.1 You offer a potential client tickets to a major sporting event, but only if they agree to do business with the Trust.

5.5.3 Receiving a bribe

5.5.3.1 A supplier gives your nephew a job but makes it clear that in return they expect you to use your influence in the Trust to ensure that it continues to do business with them.

5.5.3.2 Someone responsible for awarding an employment contract is offered gifts and/or hospitality by one of the candidates or someone linked to them to ensure they get the job.

5.5.3.3 Someone responsible for booking bank or agency staff is offered lavish gifts and/or hospitality, by an agency, to ensure their agency staff are booked by the Trust.

5.5.3.4 Someone responsible for choosing suppliers (medical or non-medical) or awarding business contracts is offered gifts and/or hospitality by an existing/new supplier, contractor or business to ensure they are selected as a supplier.

5.5.3.5 Someone associated with the purchasing of drugs and/or the selection of approved drugs to the Trust is offered gifts, hospitality and/or paid expenses by a medical representative or drugs firm to ensure their drugs are purchased and/or added to the formulary for prescribing by the Trust.

5.5.3.6 Someone associated with the prescribing of drugs is offered gifts and/or hospitality by a medical representative or drugs firms to ensure they prescribe their drugs.
5.5.3.7 Someone associated with the provision of training is offered gifts and/or hospitality by an external training company to ensure they are selected to provide training at the Trust.

5.6 NHS Protect

5.6.1 NHS Protect has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, corruption and bribery in the NHS and that any investigations will be handled in accordance with NHS Protect guidance. Reference is made to the NHS Protect Strategy – Tackling Crime against the NHS: a strategic approach.

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 Trust. 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. A further Code of Conduct was issued in October 2002 titled “Code of Conduct for NHS Managers”.

6.1.1 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.

6.1.2 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.

6.1.3 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.

6.1.4 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.

6.1.5 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.
6.1.6 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.

6.1.7 LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

6.2 Furthermore, staff and those working for the Trust are expected to:

6.2.1 Ensure that the interest of patients remains paramount at all times.

6.2.2 Be impartial and honest in the conduct of their official business.

6.2.3 Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money.

6.2.4 Not abuse their official position for personal gain or to benefit their family or friends.

6.2.5 Not to seek advantage or further private business or other interests in the course of their official duties.

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

7. Roles and Responsibilities

7.1 Director of Finance

7.1.1 The Director of Finance has overall responsibility for ensuring compliance with the Standards for Providers 2013/14 on fraud, corruption and bribery.

7.1.2 Under the NHS Standard Contract 2013/14, the Director of Finance has a legal responsibility to make sure fraud and corruption is prevented, detected and investigated. Combating fraud and corruption 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 NHS Standard Contract 2013/14, the Director of Finance has nominated a Local Counter Fraud Specialist to tackle fraud, corruption and bribery within the Trust.

7.1.3 Where a referral concerning fraud or corruption has been made to the Director of Finance, the Director shall 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.
7.1.4 The Director of Finance shall inform and consult the Chief Executive in cases where the loss may be above the delegated limit or where the incident may lead to adverse publicity.

7.2 Local Counter Fraud Specialist

7.2.1 The Local Counter Fraud Specialist is responsible for managing and delivery of all counter fraud work within the Trust in accordance with an agreed annual work plan. Under the NHS Standard Contract 2013/14 and the Trust’s Standing Orders & Standing Financial Instructions, the Local Counter Fraud Specialist is responsible for investigating allegations of fraud and corruption at the Trust.

7.2.2 The Local Counter Fraud Specialist is experienced and an 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 and corruption at the Trust by providing a robust and effective prevention, detection and investigation function. The Local Counter Fraud Specialist is responsible for ensuring that the Trust achieves the seven specific objectives of the National Counter Fraud strategy:

7.2.2.1 The creation of an anti-fraud culture;
7.2.2.2 Maximum deterrence of fraud;
7.2.2.3 Successful prevention of fraud;
7.2.2.4 Prompt detection of fraud;
7.2.2.5 Professional investigation of detected fraud;
7.2.2.6 Effective sanctions, including appropriate legal action against people committing fraud; and
7.2.2.7 Effective methods for seeking redress in respect of money defrauded.

7.2.3 The Local Counter Fraud Specialist reports to the Director of Finance, but any staff at the Trust 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 from anyone, whether an employee of the Trust, independent contractors, patients or other third party. All Staff have a responsibility to the Trust to raise their genuine concerns.

7.2.4 The Local Counter Fraud Specialist 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. Such reviews together with investigations, ensures the Local Counter Fraud Specialist identifies and counters vulnerabilities within the Trust’s systems by implementing effective
prevention, detection and corrective controls to reduce the likelihood of fraud.

7.3 Director of Workforce & Organisational Development (HR)

7.3.1 The Director of Workforce & Organisational Development is responsible for issuing advice to those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures, as requested.

7.3.2 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 Workforce & Organisational Development, the Director of Finance and the Local Counter Fraud Specialist.

7.4 Audit & Risk Committee

7.4.1 As stated within its Terms of Reference, the role of the Audit & Risk Committee is to provide the Board of Directors and Board of Governors with the means of independent and objective review and assurance. Paragraph 11.1.1 states that the “Committee shall monitor the integrity of the establishment and maintenance of an effective system of integrated governance, risk management and internal control, across the whole of the organisation’s activities (both clinical and non-clinical), which supports the achievement of the organisation’s objectives”.

7.4.2 The Audit & Risk Committee 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 Director of Finance attend the Audit & Risk Committee and the Local Counter Fraud Specialist presents progress reports on the counter fraud work undertaken at the Trust. The Audit & Risk Committee can question and ask for further explanation in relation to any aspect of counter fraud work.

7.5 Staff

7.5.1 All Staff must ensure that they have read, understand and comply with this policy. The prevention, detection and reporting of fraud, bribery and other forms of corruption are the responsibility of all those working for or under the control of the Trust. All Staff are individually responsible for:

7.5.1.1 Securing the property of the Trust;

7.5.1.2 Avoiding loss; and

7.5.1.3 Conforming with the rules and regulations contained in the Trust’s policies and procedures, and any codes of conduct associated with their role, where applicable.
7.5.2 Any gifts or hospitality made to or received from a ‘third party’ in the course of Trust duties, and which exceeds the threshold stipulated in the Trust’s Business Conduct Policy must be formally declared and registered in accordance with this policy.

7.5.3 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 Trust’s Gifts and Hospitality Policy, then Staff must obtain prior authorisation and approval from their line manager.

7.5.4 A “third party” means any individual or organisation who Staff may come into contact with during the course of their work with the Trust 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.

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

7.5.6 All Non-Executives are required to declare and register potential conflicts between their duties and personal or professional lives.

7.5.7 Please refer to the Trust’s ‘Standards of Business Conduct Policy’ for more guidance on the standards of business conduct expected of all staff.

7.5.8 If staff suspects that there has been fraud, corruption or bribery, they must report the matter to the nominated Local Counter Fraud Specialist. See section 8.2 below.

7.5.9 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 action including summary dismissal.

7.6 Internal and External Audit

7.6.1 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.

7.6.2 Audit performs thorough checks on systems which detect any anomalies.
7.7 Local Security Management Specialist

7.7.1 Any incident or suspicion of fraud, corruption and/or bribery that comes to the Local Security Management Specialist’s attention will be passed immediately to the Local Counter Fraud Specialist.

7.7.2 The Local Security Management Specialist works within the Trust to minimise safety and security risks (in relation to Trust property and Staff) and investigate any allegations of theft and abuse of Trust property and assets.

7.8 Managers

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

7.8.2 All managers have a responsibility 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.

7.8.3 All managers should report any instances of actual or suspected fraud, bribery or corruption brought to their attention to the LCFS immediately. It is important that managers do not investigate any suspected financial crimes themselves.

7.8.4 Managers will have other responsibilities, including conducting risk assessments and mitigating identified risks.

7.9 Area Anti Fraud Specialists

7.9.1 Area Anti Fraud Specialists (AAFSs) are the frontline face of NHS Protect for all health bodies within their region.

7.9.2 The AAFS is responsible for the management and vetting of all local investigation case papers and evidence and witness statements submitted for the consideration of prosecutions.

7.9.3 The AAFS ensures that local investigations are conducted within operational and legislative guidelines to the highest standards for all allegations of fraud in the NHS. They provide help, support, advice and guidance to DoFs, LCFSs, Audit Committees and other key stakeholders in their region.

7.9.4 The AAFS allocates, supervises and monitors fraud referrals and notifications to the LCFS. The AAFS provides support as to the direction of ensuing investigations as required and oversees the LCFS’s performance.
7.9.5 The AAFS ensures that all information and intelligence gained from local investigative work is reported and escalated as appropriate at both local and national level so that fraud trends can be mapped and used to fraud-proof future policies and procedures.

7.10 Information Management and Technology

7.10.1 The fraudulent use of information technology will be reported by the head of information security (or equivalent) to the LCFS.


8. Policy

8.1 The Response Plan

8.1.1 The Trust is committed to tackling fraud, corruption and bribery. When fraud 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 event will be managed effectively. The response will be effective and organised and will rely on the principles contained within this section.

8.1.2 The Trust 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 Trust or who engages in corrupt practices, whether they are non-executives, employees, volunteers, suppliers, patients or unrelated third parties. Appendix A contains further an overview of the fraud response process.

8.1.3 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 & Corruption Manual issued by NHS Protect. This will cover all aspects of conducting a professional investigation, including gathering evidence and interviewing.

8.1.4 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 Executive, in consultation with the Trust Chair, except within the provisions stated in the Trust’s Public Interest Disclosure Policy (Whistleblowing Policy). Care needs to be taken to ensure that nothing is done that could give rise to an action for slander or libel.
8.1.5 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

8.2.1 Anyone, whether Staff or a member of the public, can refer such allegations to the Local Counter Fraud Specialist. Upon receipt of a referral, the Local Counter Fraud Specialist must comply with national regulations including the Standards for Providers 2013/14 – anti-fraud, corruption & bribery. Any clinical or patient safety related concerns should be notified to the Medical Director and the Director of Nursing, Quality & Patient Safety.

8.2.2 If any Staff (which includes both Trust employees and agency workers, as defined under 4.1) have good reason to suspect a colleague, patient or other person of fraud, corruption and/or bribery, involving the Trust, they should report their genuine concerns to the Local Counter Fraud Specialist or Director of Finance immediately.

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

8.2.4 Suspicions of fraud should be reported to any of the following:

- 8.2.4.1 The Director of Finance
- 8.2.4.2 Local Counter Fraud Specialist
- 8.2.4.3 National Fraud and Corruption Reporting Line on 0800 028 4060
- 8.2.4.4 Report fraud on-line at www.reportnhsfraud.nhs.uk
- 8.2.4.5 Public Concern at Work on 020 7404 6609. This is an independent charity who can offer advice on how to proceed.

8.2.5 All referrals will be treated in complete confidence.

8.2.6 If HR or any other Staff in the Trust receives any allegations of fraud, corruption and/or bribery, they should refer them to the Local Counter Fraud Specialist before taking any further action.

8.2.7 Time may be of the utmost importance to prevent further loss to the Trust. 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.

8.2.8 All reported allegations of fraud will be referred to the Director of Finance, 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 & Corruption Manual) to record the progress of the investigation.

8.3 Responding to an Allegation

8.3.1 Where a referral concerning fraud or corruption has been made to the Director of Finance, the Director of Finance shall inform the Local Counter Fraud Specialist at the first opportunity.

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 Trust systems.

8.3.3 After such preliminary enquiries, where appropriate, the Local Counter Fraud Specialist will seek agreement from the Director of Finance 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 Director of Finance must immediately inform the police and the Local Security Management Specialist (LSMS) if theft or arson is involved, and where appropriate the Board and External Auditors, in accordance with the Trust’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 Trust.

8.3.6 The Local Counter Fraud Specialist will regularly report to the Director of Finance on all fraud, corruption and/or bribery cases they investigate, at particular stages of individual investigations. In addition the Local Counter Fraud Specialist will liaise with the Director of Workforce & Organisational Development (or nominated deputy) where appropriate and provide the Audit & Risk Committee with quarterly 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 or corruption are contained in the NHS Counter Fraud and Corruption Manual and within the Trust’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 1998).

8.3.9 On the conclusion of the investigation, the Local Counter Fraud Specialist will report their findings and recommendations to the Director of Finance. The Director of Finance 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 Executive and the Local Counter Fraud Specialist.

8.3.10 If the Director of Finance decides that formal action is to be taken against the subject(s) of an investigation, the Local Counter Fraud Specialist will comply with the Trust’s Sanctions & Redress Policy. This will involve using an appropriate combination of the sanctions described below:

8.3.10.1 Disciplinary action: internal (warning, dismissal) and/or referral to Professional Regulatory Body;

8.3.10.2 Civil remedy: recovery of money, interest and costs;

8.3.10.3 Criminal prosecution: may result in imprisonment, community penalty, fine, confiscation or compensation.

8.3.11 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.

8.3.12 The Trust’s Disciplinary Policy will be used where the outcome of the investigation indicates improper behaviour on the part of staff, including malicious reporting. The Local Counter Fraud Specialist shall liaise with the Director of Workforce & Organisational Development (or nominated deputy) regarding providing evidence for disciplinary hearings.

8.3.13 Where the Trust has suffered a financial loss from a fraud, the Trust will take action to pursue recovery in all applicable cases, subject to authorisation from the Director of Finance.

8.3.14 The Local Counter Fraud Specialist will seek authorisation from the Director of Finance 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.
8.3.15 The Local Counter Fraud Specialist acts on behalf of the Trust 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.

8.3.16 When a fraud, corruption or bribery has occurred at the Trust, the Local Counter Fraud Specialist will strengthen the control environment in which the event occurred by identifying system weaknesses and making recommendations to the Trust to address these weaknesses to reduce the risk of such an event occurring again.

8.3.17 The Local Counter Fraud Specialist is required to advise NHS Protect of every investigation and refer appropriate matters to NHS Protect.

8.3.18 The Director of Finance is responsible for the smooth running of this protocol and where clarification is required, their decision will be final.

8.3.19 Where necessary and appropriate, where alleged cases are 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. 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 Director of Finance. Consideration will be given to the circumstances in which the fraud occurred, and the need for changes to controls or audit activity to prevent such a fraud occurring again. A brief summary of each case is included in the Interim Counter Fraud Report presented by the LCFS at each Audit & Risk Committee.

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

8.5 Disciplinary Action

8.5.1 Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act. Reference should be made to the Trust’s Disciplinary Policy.

8.6 Sanctions and Redress

8.6.1 It is the policy of the Trust that it will always seek the maximum possible redress in cases where a fraud has been perpetrated against it. The Trust’s Sanctions & Redress Policy details the forms of sanction and redress that can be used by the Trust.
9. Monitoring & Review

9.1 Monitoring and Auditing of Policy Effectiveness

9.1.1 Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. Arrangements include reviewing system controls on an ongoing basis and identifying weaknesses in processes.

9.1.2 Where deficiencies are identified as a result of monitoring, the Trust’s internal auditors will make recommendations for improvements in system controls and agree action plans with management on how the recommendations are to be implemented.

9.1.3 The monitoring arrangements employed by the Trust are detailed within the table shown below.

9.2 Dissemination of the Policy

9.2.1 It is important that staff understand and are aware of the policy, therefore this procedural document is published on the Trust’s intranet. Staff will be informed of this and of any changes and updates via the Monthly Briefing Exchange, Weekly Messages or equivalent.

9.3 Review of the Policy

9.3.1 This policy will be reviewed every two years by the Director of Finance, or sooner should changes in legislation or guidance require it.
### 9. Monitoring Arrangements

<table>
<thead>
<tr>
<th>What will be monitored</th>
<th>How will the monitoring be carried out</th>
<th>When monitoring will occur</th>
<th>Who will conduct the monitoring</th>
<th>Where results will be reported to</th>
<th>How will the resulting action plan be progressed and monitored</th>
<th>Non-compliance is escalated to which Assurance Committee</th>
<th>How will learning take place</th>
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<tr>
<td>Fraud and Corruption</td>
<td>Interim Counter Fraud Reports and an Annual Counter Fraud Report presented to the Audit &amp; Risk Committee. Open and Closed Reports to Director of Finance.</td>
<td>Every two months</td>
<td>Director of Finance / Audit &amp; Risk Committee</td>
<td>Audit &amp; Risk Committee</td>
<td>Action Plan that comes out of the Audit &amp; Risk Committee meetings</td>
<td>Audit &amp; Risk Committee</td>
<td>Use feedback from Director of Finance and Audit &amp; Risk Committee to improve practice</td>
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