



# Fraud, Bribery and Corruption Policy & Response Plan

This procedural document supersedes: CORP/FIN 1 (D) v.5 – Fraud, Bribery and Corruption Policy and Response Plan



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## Amendment Form

Please record brief details of the changes made alongside the next version number. If the procedural document has been reviewed **without change**, this information will still need to be recorded although the version number will remain the same.

Version	Date Issued	Brief Summary of Changes	Author
Version 6	29 June 2016	<p>Re formatted to accord with current Trust policy document layout.</p> <p>Minor amendments to terminology.</p> <p>Removal of Glossary.</p> <p>Insertion of updated Flowchart at Section 3 as per ANCR Sub-committee guidance and revise of desktop guide at Appendix 2.</p> <p>Removal of references to the Area Anti-Fraud Specialist and insertion of generic NHS Protect references due to NHS Protect strategy change and re-organisation taking place during 2016/17.</p>	Mark Bishop
Version 5	9 December 2013	<p>Reviewed on change of Counter Fraud provider. Renaming of Policy to rationalise Fraud, Bribery &amp; Corruption references. Update of key contact details, flowchart and desktop guide, plus amendments following recent changes in guidance issued by NHS Protect. Inclusion of NHS Standards for Providers where fraud is concerned and general formatting of contents.</p>	Mark Bishop
Version 4	January 2013	<p>Policy revised due to NHS department title changes, introduction of the Bribery Act and to reformat into the Trust corporate style. Also included text on theft and criminal damage recovery.</p>	Jon Goodison
Version 3	January 2010	<p>Major changes made throughout. Please read in full.</p>	Jon Goodison

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## 1. INTRODUCTION

The Trust is committed to deterring and detecting all instances of fraud, bribery and corruption within the Trust and to ensuring that losses are reduced to an absolute minimum therefore freeing up public resources for better patient care. This policy has been produced by the Local Counter Fraud Specialist (LCFS) for Doncaster and Bassetlaw Hospitals NHS Foundation Trust (DBH) and is intended as a guide for all employees on counter fraud work within the NHS.

**All genuine suspicions of fraud, bribery and corruption can be reported to the LCFS or through the NHS Fraud and Corruption Reporting Line (FCRL) on 0800 028 40 60 or online at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk).**

This policy applies to all employees of DBH, regardless of position held, be it permanent or temporary as well as consultants, vendors, contractors, and/or any other parties who have a business relationship with DBH. It will be brought to the attention of all employees on Induction and forms part of the Fraud Awareness sessions provided by the LCFS as part of the Statutory and Essential Training (SET) program.

This policy relates to all forms of fraud, bribery and corruption and is intended to provide direction and help to employees. It provides a framework for responding to suspicions of fraud, bribery and corruption, whilst providing advice and information on various aspects of fraud and the implications of an investigation. The overall objectives of this policy are to:

- improve the knowledge and understanding of everyone in DBH irrespective of their position, about the risk of fraud and corruption within the organisation and its unacceptability;
- assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly;
- set out DBH's responsibilities in terms of the deterrence, prevention, detection and investigation of fraud and corruption;
- ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
  - criminal prosecution
  - internal disciplinary action
  - civil prosecution
  - professional body disciplinary action

## 2. PURPOSE

One of the basic principles of public sector organisations is the proper use of public funds. The majority of people who work in the NHS are honest and professional and they find that fraud committed by a minority is wholly unacceptable as it ultimately leads to a reduction in the resources available for patient care.

This policy indicates the determination of the DBH to confront the problems of fraud, bribery and corruption. The Board is committed to the prevention, deterrence and detection of such incidents within DBH, to the rigorous investigation of any such cases and where fraud or other criminal acts are proven, to ensure that appropriate action is taken. DBH will also take all steps necessary to recover any assets lost as a result of fraudulent acts.

For simplicity all such offences are referred to in this paper as 'fraud', except where the context indicates otherwise. The legal understanding of fraud, bribery and corruption is outlined below:

## 2.1 Fraud

The Fraud Act 2006 represents an entirely new way of investigating fraud. It is no longer necessary to prove that a person has been deceived. The focus is now on the dishonest behaviour of the suspect and their intent to make a gain or cause a loss.

The main criminal offences of fraud are now classified as follows:

- Fraud by false representation;
- Fraud by failing to disclose information;
- Fraud by abuse of position;
- Possession of articles for use in fraud;
- Making or supplying articles for use in fraud;
- Participating in fraudulent business;
- Obtaining services dishonestly.

## 2.2 Bribery and Corruption

The Bribery Act 2010 makes it a criminal offence to give, promise or offer a bribe, and to request or agree to receive or accept a bribe, either at home or abroad. It also includes bribing a foreign official. In addition, the Act introduces a corporate offence, which affects all NHS organisations that fail to prevent bribery by not having adequate preventative procedures in place.

Bribery and corruption can be broadly defined as the offering or acceptance of inducements, gifts, favours, payment or benefit-in-kind which may influence the action of any person. Bribery and corruption does not always result in a loss and the corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another. The Trust has policy and procedures in place in relation to declarations of interest and a hospitality/gifts register<sup>1</sup>. Staff are required to familiarise themselves with the policy and comply with it as a proportionate measure to mitigate bribery. In addition, the Trust has included Bribery in its local fraud risk assessment in line with Ministry of Justice guidance and the Chief Executive has issued a Trust wide statement regarding bribery, which has relevant links to this policy and the policy relating to standards of business conduct.

<sup>1</sup> CORP/FIN 4 – Standards of Business Conduct and Employees Declarations of Interest policy

### **2.3 Information Management and Technology**

The Computer Misuse Act 1990 and the Data Protection Act 1998 also cover offences involving the use of information technology equipment and data in the commission of fraudulent acts.

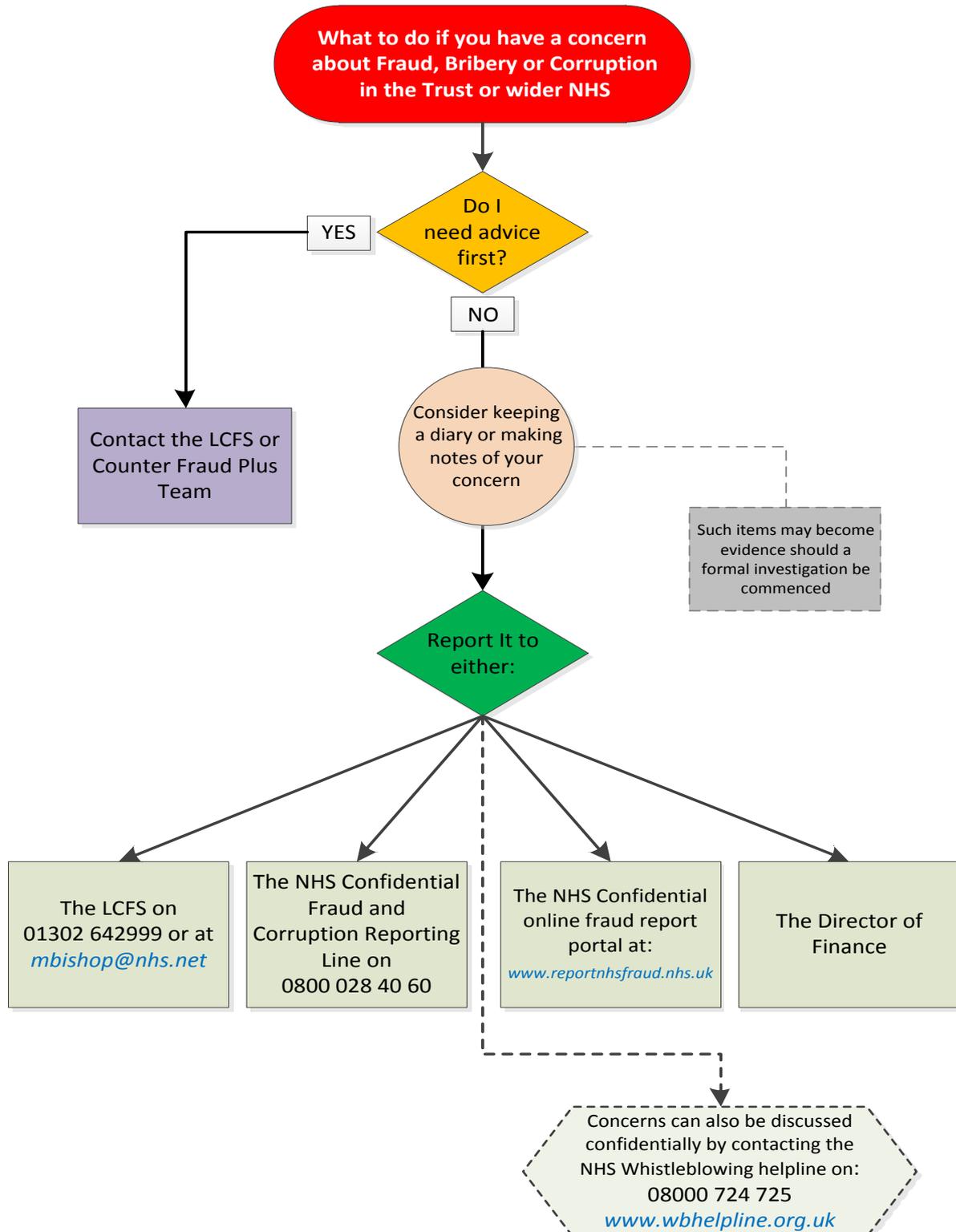
### **2.4 Summary**

The remainder of this document provides guidance and direction to all Trust employees in dealing with the identification and notification of suspected cases of fraud, bribery and corruption (hereafter referred to collectively as fraud). The intention is to ensure that everyone understands how to raise issues of legitimate concern within a structure, which is supportive and robust.

This policy does not cover the law and rules of investigating fraud, which is the responsibility of the trained and accredited LCFS/NHS Protect staff that are required to adhere to relevant legislation and the NHS Anti-Fraud Manual.

### 3. FLOWCHART

To provide a quick reference guide the following flowchart sets out the basic procedures to be followed for reporting any concern of fraud. The narrative elements of the policy should be read in full for a detailed explanation of requirements and reporting guidance.



## 4. NATIONAL ARRANGEMENTS TO COUNTER FRAUD & CORRUPTION

The policy and response plan should not be seen as stand-alone documents. They need to be regarded as part of the national imperative to counter fraud and corruption within the NHS as a whole. The following paragraphs explain the national arrangements introduced to counter fraud and corruption and briefly describe the remits of various organisations and individuals now established within the national infrastructure.

NHS Protect has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption and the management of security in the NHS. All instances are properly investigated until their conclusion by staff trained by NHS Protect. Any investigations will be handled in accordance with the NHS Anti-Fraud Manual

NHS Standards for Providers (fraud, bribery and corruption) give a clear framework for what is to be done and ensure that DBH applies a consistent, effective and professional approach to countering fraud and corruption. Final accountability for local counter fraud work remains the responsibility of the Chief Executive and the Director of Finance.

DBH will take all necessary steps to counter fraud in accordance with this policy, the NHS Anti-fraud manual, the policy statement 'Applying Appropriate Sanctions Consistently' both published by NHS Protect and any other relevant directions, guidance or advice issued.

The Trust is required to have a professionally trained and accredited LCFS appointed. They have a vital role to play in acting as the "first line of defence" against fraud and corruption. To become an LCFS, a person is required to undertake intensive training and be fully accredited by the Counter Fraud Professional Accreditation Board (CFPAB). NHS Protect provides advice and support to the LCFS in undertaking this work at a local level.

## 5. PUBLIC SERVICE VALUES

The codes of conduct for NHS boards and NHS managers set out the key public service values. They state that high standards of corporate and personal conduct, based on the recognition that patients come first, have been a requirement throughout the NHS since its inception.

The core NHS values are:

- **Accountability** – everything done by those who work in the organisation must be able to stand the tests of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.
- **Probity** – there should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, staff and suppliers, and in the use of information acquired in the course of NHS duties.
- **Openness** – the organisation's activities should be sufficiently public and transparent to promote confidence in its dealings with patients, staff and the public.

Everyone who works in DBH should be aware of, and act in accordance with these values.

## 6. THE BOARD'S POLICY

The Board is absolutely committed to maintaining an honest and open atmosphere within the Trust. It is therefore also committed to the identification and rigorous investigation of any instances of fraud. There is a framework in place which reduces the likelihood of fraud occurring, this includes:

- SOs; SFIs and a Scheme of Delegation;
- Code of Conduct;
- documented policies and procedures;
- a process of risk assessment;
- implementation of an Operational Fraud Work Plan.

In addition, the Board will ensure that a risk and fraud awareness culture exists within DBH. This is achieved by staff awareness training, monitoring and ensuring compliance with the Standards for Providers – Fraud, Bribery and Corruption as required under the new NHS Standard Contract for all organisations providing NHS services and by encouraging all staff to report fraud to those outlined in Annex A.

It is also of note that the Trust promotes a climate of open communication, whereby all staff should be able to raise concerns about financial malpractice sensibly and responsibly without fear of victimisation and in a manner consistent with employees' obligations to DBH. Also the Trust promotes to all staff the protection afforded by the Public Information and Disclosure Act 1998, and has appointed a 'Nominated Officer' for these purposes. Details of this role appear in section 4.

The Board's view is that anyone having reasonable suspicions of fraud has a duty to report them and that no employee will suffer in any way as a result of reporting reasonably held suspicions, unless extenuating circumstances apply.

For these purposes, 'reasonably held suspicions' shall mean any suspicions other than those, which are raised maliciously and found to be groundless.

The Trust adheres to the four principles of generic anti-fraud activity:

1. The application of strong strategic governance, to ensure there is effective leadership and high level commitment to counter fraud work;
2. A comprehensive process to inform and involve all staff in raising awareness of fraud to ensure a robust anti-fraud, bribery & corruption culture exists;
3. Successful implementation of systems to prevent and deter fraud, bribery & corruption;
4. Effective methods are deployed to hold to account those found to be committing fraud, bribery & corruption.

The Trust's counter fraud provision is provided through an SLA with a fraud collaborative service hosted by Northern Lincolnshire and Goole NHS Foundation Trust (NLAG). The Operational Fraud Plan is negotiated directly between the LCFS/Director of Finance and ratified by the Audit and Non-Clinical Risk Sub-committee on behalf of the Board.

## 7. DUTIES AND RESPONSIBILITIES

NHS Protect issues anti-crime standards each year, which fulfil the requirements of the NHS Standard Contract and require the Trust to put in place and maintain appropriate anti-crime arrangements. Responsibilities for counter fraud work are set out in the most recent NHS Standards for Providers – Fraud, Bribery and Corruption and are summarised in the Trust’s SFIs.

The Chief Executive and Director of Finance are responsible for monitoring and ensuring compliance with the Standards. This includes providing unrestricted and unhindered access for LCFS/NHS Protect officers to all staff, premises (wholly owned or contracted), records, documents and data, which are relevant to the detection and investigation of fraud.

The Chief Executive is liable to be called to account for specific failures in the Trust’s system of internal controls. However, responsibility for the operation and maintenance of controls falls directly to line managers and requires the involvement of all Trust employees. DBH therefore has a duty to ensure employees who are involved in or who are managing internal control systems receive adequate training and support in order to carry out their responsibilities. The Chief Executive and Director of Finance will monitor and ensure compliance with this policy.

The responsibilities of officers and staff with key roles in the detection, reporting and investigation of fraud are detailed in the following sub-paragraphs.

### 7.1 Trust Board

The Trust Board fully endorses the requirements of this policy.

### 7.2 Audit and Non-Clinical Risk Sub-Committee

The Audit and Non-Clinical Risk (ANCR) Sub-committee will monitor and ensure the Trust has adequate counter fraud arrangements in place and will report to the Trust Board about all relevant counter fraud activity.

### 7.3 Director of Finance

The Director of Finance will monitor and ensure compliance with the Standards for Providers – Fraud, Bribery & Corruption, in particular:

- ensure that an LCFS is nominated and accredited for DBH and notified to NHS Protect;
- ensure sufficient resources are allocated within the Trust to meet the organisational needs based on fraud risks;
- agree a counter fraud operational plan with the LCFS at the commencement of each financial year and monitor progress against the plan;
- establish and maintain an effective system for dealing with allegations of fraud and corruption;

- promote a culture and reporting mechanism which encourages staff to raise issues of legitimate concern;
- ensure that allegations of fraud and corruption are notified immediately to, and investigated by the LCFS;
- If an investigation is deemed to be appropriate, they will delegate their authority to the LCFS, who has responsibility for leading the investigation, whilst retaining overall responsibility themselves.
- seek financial redress where DBH suffers loss as a result of fraud or corruption;
- facilitate and co-operate with NHS Protect quality inspection work, giving prompt access to Trust staff, workplaces and relevant documentation;
- ensure that the LCFS prepares an annual report which is received and considered by the ANCR Sub-Committee;
- ensure that fraud issues are included as a regular agenda item at all routine ANCR Sub-committee meetings;
- comply with all requests by NHS Protect to participate in national proactive fraud exercises within the stipulated timescales and comply with all relevant guidance issued by NHS Protect.

#### 7.4 LCFS

The LCFS should be allowed to carry out their role in accordance with the requirements of the NHS Anti-fraud Manual and directions issued by NHS Protect, and in particular;

- report direct to the Director of Finance;
- agree a counter fraud operational plan with the Director of Finance at the commencement of each financial year
- provide an annual report on counter fraud work for consideration by the Director of Finance and ANCR Sub-committee;
- be entitled to attend any ANCR Sub-committee meetings and have a right of access to the Chairman and Chief Executive of DBH and all ANCR Sub-committee members;
- undertake pro-active counter fraud work in accordance with a programme agreed with the Director of Finance;
- investigate cases of suspected fraud in accordance with the latest directions and in accordance with all relevant legislation;
- inform NHS Protect (via FIRST) of all cases of suspected fraud investigated by DBH and refer to the National Investigation Team (NIT) all cases appropriate to them;
- record and progress all referrals via the NHS Protect FIRST system;
- where appropriate, provide a report at the conclusion of each investigation for the Director of Finance and relevant addressees;
- participate in a programme of continuing professional development to maintain accreditation and knowledge.

#### 7.5 Internal Audit

Will follow the relevant NHS Internal Auditing Standards and review, appraise and report upon:

- the adequacy and application of financial and other related management controls;

- the extent to which the DBH assets are accounted for and safeguarded from loss of any kind arising from fraud, waste, extravagance, inefficient administration, poor value for money or other causes;
- notification to the Director of Finance and LCFS of instances of suspected fraud resulting from Internal Audit work or otherwise brought to their attention.

## 7.6 Director of People & Organisational Development

Will liaise with the LCFS and provide advice to those involved in an investigation regarding employment law, disciplinary and complaints procedures and other procedural matters relating to human resources, and in particular:

- notify the Director of Finance and LCFS immediately of any staff disciplinary cases referred to their department that contain any allegation of fraudulent activity;
- work with the Director of Finance and the LCFS to ensure that the guidance in 'Countering Fraud in the NHS - Applying Appropriate Sanctions Consistently' is followed and applied at a local level;
- take steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, as well as the veracity of required qualifications and memberships of professional bodies, in terms of their propriety and integrity. This will include all relevant and necessary immigration checks. In this regard, temporary and fixed-term contract employees are treated in the same manner as permanent employees.

## 7.7 The Nominated Officer

Should act as a contact point within DBH for staff who have concerns about wrong doing within the Trust in the context of the Whistleblowing Policy and the PIDA 1998 and they will:

- speak to staff 'in confidence' about the wrong doing, but must inform the appropriate Executive Director if details of potentially criminal activity are brought to their attention;
- inform the Director of Finance of instances of suspected fraud where the suspicion appears well founded – where possible this will be done to maintain anonymity if requested by the person raising the initial concern.

## 7.8 Head of Communications and Engagement

Acts as an initial contact point for the LCFS to gain access to the Trust communication systems and services for the promotion of counter fraud work on a National and Local level through:

- Newsletters
- Team Briefs
- DBH Internet and Intranet sites
- Press releases
- Alerts & Warnings
- Payslip messages
- Prevention material
- Include questions on counter fraud provision in the annual staff survey
- Issue an all staff email to promote and support the annual fraud survey

## 7.9 Managers

Managers have a pivotal role to play within the Trust and must inform their staff of the code of business conduct and this policy as part of their induction process, paying particular attention to the need for accurate completion of personal records/forms and in particular;

- ensure that all employees for whom they are accountable are made aware of the requirements of the policy;
- assess the types of risk involved in the operations for which they are responsible;
- ensure that adequate control measures are put in place to minimise the risks. This must include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of a key function is not invested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively;
- ensure that any use of any IT equipment by employees is linked to the performance of their duties within DBH;
- be aware of the Trust's counter fraud policy and the rules and guidance covering the control of specific items of expenditure and receipts;
- identify financially sensitive posts;
- ensure that controls are being complied with;
- contribute to the assessment of the risks and controls within their business area, which feeds into the overall statements of accountability and internal control;
- Facilitate staff to attend Statutory and Essential Training (SET) for fraud awareness as required by the Trust.

## 7.10 All Staff

Must comply with Standing Orders, Standing Financial Instructions, all policies and procedures and will;

- If they suspect that there has been fraud or corruption, or have seen any suspicious acts or events, report the matter without delay to the nominated LCFS;
- protect the assets of DBH including information, goodwill and property;
- act in accordance with the standards laid down by their professional institutes, where applicable, and have a personal responsibility to ensure that they are familiar with them;
- deal with any information relevant to an investigation of suspected fraud in the strictest confidence. Information must not be disclosed except for the purposes of the investigation and no information relating to the investigation must be disclosed to any person or organisation who might possibly be implicated in the case;
- have a responsibility to comply with all applicable laws and regulations relating to ethical business behaviour, procurement, personal expenses, conflicts of interest, confidentiality and the acceptance of gifts and hospitality. This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees must always:

- avoid acting in any way that might cause others to allege or suspect them of dishonesty;
- behave in a way that would not give cause for others to doubt that Trust employees deal fairly and impartially with official matters;
- be alert to the possibility that others might be attempting to commit fraud
- have a duty to ensure that public funds are safeguarded, whether or not they are involved with cash or payment systems, receipts or dealing with contractors or suppliers;
- where applicable -adhere to the Code of Conduct for NHS Managers.

### 7.11 Managing Director of NHS Protect

Has sole responsibility for authorising and undertaking covert surveillance for fraud cases for all NHS bodies, under the Regulation and Investigative Powers Act 2000 (RIPA). If the LCFS believes covert surveillance to be appropriate this will be referred to an appropriate person within NHS Protect for consideration. **No other party within DBH can carry out covert surveillance and will risk breaking the law if they do so.**

### 7.12 LCFS Liaison, NHS Protect

They act as the operational interface for the LCFS between NHS Protect. They will record and liaise on cases notified by the LCFS and;

- liaise and refer on any relevant cases to the NHS Protect National Investigation Team (NIT);
- refer all cases to the NIT where the fraud extends beyond the boundaries of DBH;
- refer all cases to the NIT where there is evidence of corruption involving a public official (i.e. someone either employed by or holding an official position on behalf of NHS Bodies) who is using their public influence for private gain;
- support the LCFS by providing quality training, guidance and advice;
- monitor compliance with the standards set for counter fraud work;
- supply DBH with information where fraud is established to enable the Trust to seek recovery of lost resources.

## 8. THE RESPONSE PLAN

The narrative which follows summarises the appropriate action to be taken at each step of the process.

### 8.1 Reporting Suspicions of Fraud, Bribery and Corruption

Any person with a concern about fraud or corruption must at the earliest opportunity report it to either:

- The LCFS
- NHS Fraud & Corruption Reporting Line (FCRL) on: **0800 028 40 60**
- online at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk)
- The Director of Finance

**It is understood that in reality staff will ordinarily report their concerns through their own line management. However, due to the dangers that untrained staff may unknowingly compromise an investigation and render evidence inadmissible at court or that the extent of others potential involvement may be unknown, this line of reporting is not encouraged by NHS Protect.**

In addition to the foregoing, you have the option to raise a concern as set out in the 'Whistleblowing Policy' (also known as Voicing your Concerns). This method does where applicable afford staff with protection in accordance with the Public Interests Disclosure Act 1998. NHS Protect is a proscribed organisation under this act. All enquiries from staff will be dealt with confidentially, but fraud allegations will be reported to the Director of Finance and/or LCFS.

If you do not want to disclose your identity, you can raise your concerns anonymously via the:

- NHS FCRL (calls will be treated in confidence by trained staff and will then be passed to the relevant investigator) or via the online portal;
- NHS Whistleblowing Hotline on 08000 724 725 or via email on enquiries@wbhelpline.org.uk who will advise the employee on how to proceed.

*Remember that anonymous reports do not allow you to receive feedback on the outcome of investigations that can lead to the assumption nothing has been done and that it also denies NHS counter fraud specialists to opportunity to illicit further relevant information you may have.*

Attached at Appendix 3 is a desktop guide, which provides a reminder of the key contacts and a checklist of the actions to follow if fraud and corruption, or other illegal acts, are discovered or suspected. Managers are encouraged to copy this to staff and to place it on staff notice boards in their department.

## **8.2 The Referral Process**

Referrals should, wherever possible be made in accordance with Para 8.1 above. Further details are available on the DBH Intranet home page under '[Fraud, Security & Safety](#)' pages. Any written referrals should be marked 'Private & Confidential' and sent to the LCFS at: Counter Fraud Office, Ground Floor, D Block, Doncaster Royal Infirmary, Armthorpe Road, Doncaster, DN2 5LT.

Any documentation received by the LCFS in connection with the referral will be retained in accordance with the Criminal Procedure and Investigations Act 1996.

Staff can contact any executive or non-executive director of DBH to discuss their concerns if they feel unable, for any reason, to report the matter to the LCFS or Director of Finance.

All referrals to the LCFS will be logged onto the NHS Protect case management system (known as FIRST). DBH is registered with the ICO and can lawfully hold information under the DPA relevant to the prevention, investigation and detection of crime, and the apprehension and prosecution of offenders.

Anonymous letters, telephone calls, etc. are occasionally received from individuals who wish to raise matters of concern, but not through official channels. While the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously.

The LCFS will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised. If the allegations are found to be malicious, they will also be considered for further investigation to establish their source.

If following a referral the Director of Finance and LCFS are satisfied that there is an appropriate explanation to allay all concerns, then this will be communicated to the referrer (if known).

If the LCFS is to commence an investigation, agreement will be made with the Director of Finance on what immediate action is necessary to secure relevant evidence and to remove individuals under suspicion from the area under investigation.

### **8.3 Managing the Investigation**

Once the incident has been formally referred to the LCFS, they become responsible for its investigation in accordance with relevant legislation and the requirements of the NHS Anti-Fraud Manual. Officers and staff of DBH should not take any action in connection with the investigation without seeking the approval of the Director of Finance (who will consult with the LCFS before providing the necessary directions).

The Director of Finance will be responsible for informing the Chief Executive of any investigation by either the LCFS or NHS Protect. Other relevant Executive Directors and the chairperson of the ANCR Sub-committee should also be informed at an appropriate stage.

Dependent upon the type of investigation, it may be useful for the Director of Finance, LCFS and any other appropriate staff to meet to discuss the case and agree an outline plan as to how it is to be progressed. The decision on whether such a meeting is appropriate will be made by the Director of Finance in consultation the LCFS.

The investigation will be progressed by the LCFS in a lawful manner and in accordance with relevant guidance issued by NHS Protect. All necessary action will be taken to appropriately acquire/access all relevant information and evidence deemed pertinent to the investigation. In the conduct of this aspect, the LCFS will assume the authority of the Chief Executive and Director of Finance in the performance of their investigations.

Interviews under caution will only be carried out by the LCFS, if deemed appropriate and will be conducted in accordance with the Police and Criminal Evidence Act 1984 (PACE) normally at a local Police station.

Following the conclusion of any investigation, the LCFS will discuss the outcome with the Director of Finance and decide how to proceed. If it is believed that no fraud has taken place and no further investigational action is necessary, this will be documented along with the

reasons in the case file and on FIRST. However, due consideration will be given to any other possible sanctions that are available.

Criminal investigations are primarily used for dealing with any criminal activity. The main purpose is to determine if activity was undertaken with criminal intent. Following such an investigation, it may be necessary to bring this activity to the attention of the criminal courts (Magistrates' and /or Crown Court). Prosecution will only take place on the agreement of the Director of Finance and in direct liaison with an appropriate person within NHS Protect and authority of the Crown Prosecution Service (CPS).

Once the investigation has been concluded and the appropriate sanctions progressed, then the LCFS will update the Director of Finance, ANCR Sub-committee and NHS Protect (via FIRST).

#### **8.4 Gathering Evidence**

The LCFS will take control of any physical evidence as exhibits and record this in accordance with the procedures outlined in the NHS Anti-Fraud Manual. All evidence will be stored securely.

Interviews under caution are tape or digitally recorded and will only be carried out by the LCFS (or if appropriate, the investigating police officer) in accordance with the Police and Criminal Evidence Act 1984 (PACE). Interviewees will be contacted in writing to inform them of the date & time and location of the interview. These interviews are not to be confused with disciplinary interviews and the types of person who can be present at the request of the interviewee are covered in the PACE Codes of Practice and will be explained by the LCFS. The interviewee will be entitled to legal representation in such interviews, which will be highlighted in pre-interview correspondence. This is free when under arrest at a police station or generally at their own expense when voluntarily attending an interview under caution.

The LCFS will take formal written statements from any person considered necessary in accordance with the Criminal Justice Act 1967 and other legislation.

#### **8.5 Sanctions & Redress**

Sanctions available within the NHS include criminal and civil prosecution and/or disciplinary action. These are commonly referred to as the 'triple track' approach. In essence, sanctions can be individually taken in anyone of these formats or in combination.

The NHS Anti-Fraud Manual provides in-depth details of how sanctions can be applied where fraud and corruption is proven and how redress can be sought. If the type of sanction involves a combination of criminal and disciplinary action, then the LCFS/NHS Protect should be consulted to ensure that the approach adopted for the disciplinary case does not compromise the success of any potential criminal case. A local protocol is in place between the LCFS and Human Resources to ensure effective liaison is maintained.

In cases of serious fraud and corruption, parallel sanctions will be considered. For example: disciplinary action relating to the status of the employee in the NHS; use of civil law to recover lost funds; and use of criminal law to apply an appropriate criminal penalty upon the individual(s), and/or a possible referral to external bodies – for example, professional bodies – if appropriate.

## **8.6 Disciplinary Action**

The disciplinary procedures of DBH will be followed if an employee is suspected of being involved in a fraudulent or otherwise illegal act. It should be noted, however, that the duty to follow disciplinary procedures will not override the need for legal action to be taken (e.g. consideration of criminal action). In the event of doubt, legal statute will prevail.

The appropriate senior manager, in conjunction with Human Resources department, will be responsible for initiating any necessary disciplinary action.

## **8.7 Police Involvement**

The Director of Finance, in conjunction with the LCFS (in liaison with NHS Protect), will decide whether or not a case should be referred to the police. Any referral to the police will not prohibit action being taken under the Trust's disciplinary procedures.

## **8.8 Recovery of Losses Incurred to Fraud**

The seeking of financial redress or recovery of losses will always be considered a priority in cases of fraud that are investigated by either the LCFS or NHS Protect where a loss is identified. As a general rule, recovery of the loss caused by the perpetrator will always be sought by the Trust using all available mechanisms. The decisions must be taken in the light of the particular circumstances of each case. Redress allows resources that are lost to fraud and corruption to be returned to the NHS for use as intended, for provision of high-quality patient care and services.

The civil recovery route is also available to the Trust if this is cost-effective and desirable for deterrence purposes. This could involve a number of options such as applying through the Small Claims Court and/or recovery through debt collection agencies. Each case will be discussed with the Director of Finance to determine the most appropriate action.

NHS Protect can also apply to the courts to make a restraining order or confiscation order under the Proceeds of Crime Act 2002 (POCA). This means that a person's money is taken away from them if it is believed that the person benefited from the crime. It could also include restraining assets during the course of the investigation. Depending on the extent of the loss and the proceedings in the case; it may be suitable for the recovery of losses to be considered under POCA.

Where the matter involves staff, recovery from salary or the withholding of payments due will be considered as appropriate (also see the Overpayment Recoveries, Salary Advances, and Payment of Hardship Loans Policy). Additionally, mechanisms exist to seek recovery of losses

from funds contained within the NHS pension scheme, where an employee has left employment.

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

## 8.9 Suppliers/Contractors

Where losses are incurred through inappropriate payments to suppliers/contractors then, in applicable circumstances, deductions to future payments will be made to reclaim monies. In other instances civil legal proceedings will be initiated. The Trust will also consider the removal of the supplier/contractor from the approved lists. In the case of any breach of contract action, this will follow extant procedures for each of the supplier/contractor groups.

## 8.10 Disciplinary Issues

**DBH Staff.** Suspected incidents of fraud or corruption will be investigated and the member of staff may be suspended in accordance with DBH's Disciplinary Procedure. An investigation or criminal prosecution being progressed by the LCFS, NHS Protect or the Police will not prevent the Trust from completing its own investigation and taking any action deemed appropriate under disciplinary procedures. Disciplinary action will always be considered alongside criminal investigations, **but will not be commenced without consultation with the LCFS/NHS Protect staff involved.** A Copy of the Trust's disciplinary procedure can be found in the policies section on the staff intranet.

**Negligence Contributable to Fraud.** Any employee found to be responsible for the loss of assets through negligence may be subject to disciplinary action in accordance with the Trust disciplinary procedures.

**Obstruction of NHS Counter Fraud Specialists.** Any member of staff found to be deliberately obstructive in the conduct of formal investigations referred to the LCFS or NHS Protect may be committing a criminal offence and subject to prosecution, equally such actions may be dealt with via the Trust disciplinary procedures.

**Involvement of the Local Security Management Specialist (LSMS).** The LSMS is the nominated lead to deal with incidents involving violence, aggression, all aspects of security and theft of property at the Trust. The LSMS will be notified of all incidents relevant to their role and a local protocol is in place between the LCFS and LSMS to facilitate this.

## 9. FUTURE POLICY UPDATES

The Trust's Board accepts that amendments to the Appendices of this policy will be required in future, in order to ensure that references made within the body of the policy and appendices are correct. The Board delegate's authority to the Director of Finance to agree future updates to the Appendices.

These amendments can include the following but this should not be considered an exhaustive list;

- Names, designations and contact details of officers;
- References to NHS agencies;
- Form references.

## 10. TRAINING/SUPPORT

To accord with the NHS Standards for Providers and the Trust's Counter Fraud Operational Work Plan, which is agreed annually by the ANCR Sub-committee all staff must undergo fraud awareness training as part of the Statutory and Essential Training (SET) program. Dependent upon the training matrix requirement this will be via the SET booklet, eLearning and/or live fraud awareness sessions provided by the LCFS. Irrespective of the SET requirement the LCFS will provide bespoke sessions for Teams/Departments and routinely seek out opportunities to provide further training throughout the Trust. Regardless of SET requirements staff at any level can with managerial approval opt to attend a live fraud awareness session as this provides the most up to date and comprehensive form of fraud awareness training. All training will be recorded centrally on OLM.

The policy will be circulated Trust wide on approval and be available on the Trust intranet site.

## 11. MONITORING COMPLIANCE WITH THE PROCEDURAL DOCUMENT

What is being Monitored	Who will carry out the Monitoring	How often	How Reviewed/ Where Reported to
Compliance with the Policy	Local Counter Fraud Specialist	At least annually	Compliance will be reviewed and reported to the ANCR Sub-Committee.
Compliance with the Policy	NHS Protect	On Quality Inspection	Compliance will be reviewed and reported to the Chief Executive, Director of Finance and the ANCR Sub-Committee.

## 12. EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment (EIA) has been conducted on this procedural document in line with the principles of the Equality Analysis Policy (CORP/EMP 27) and the Fair Treatment for All Policy (CORP/EMP 4).

The purpose of the EIA is to minimise and if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, sexual orientation or religious belief. No detriment was identified. (see Appendix 4).

### 13. ASSOCIATED TRUST PROCEDURAL DOCUMENTS

- NHS Anti-Fraud Manual
- NHS Code of Conduct for Managers
- DBH Counter Fraud Operational Work Plan
- NHS Protect - Applying Appropriate Sanctions Consistently
- NHS Protect - Standards for Providers – Fraud, Bribery & Corruption (revised annually)
- CORP/EMP 2 - Disciplinary Procedure (inc Staff copy and Managers Guide).
- CORP/EMP 14 - Whistleblowing Policy – Voicing your Concerns
- CORP/FIN 1 - Standing Orders, SFIs & Reservation of Powers to the Board inc Delegation of Powers
- CORP/FIN 4 – Standards of Business Conduct and Employee Declarations of Interest Policy

### 14. REFERENCES

- The Fraud Act 2006
- The Bribery Act 2010
- The Criminal Procedures and Investigations Act 1996
- The Computer Misuse Act 1990
- The Theft Act 1968 & 1978
- The Data Protection Act 1998
- The Police and Criminal Evidence Act 1984
- The Proceeds of Crime Act 2002
- The Regulation and Investigative Powers Act 2000

## APPENDIX 1 – CONTACT DETAILS FOR RAISING A CONCERN

### *Contact Details for Raising Concerns about Fraud*

<i>Contact Name</i>	<i>Contact Details</i>
Jonathan Sargeant – Director of Finance	<b>01302 644488</b> <a href="mailto:Jonathan.sargeant@dbh.nhs.uk">Jonathan.sargeant@dbh.nhs.uk</a>
Mark Bishop Local Counter Fraud Specialist	<b>01302 642999</b> <b>07831 148760</b> (mobile) <a href="mailto:mbishop@nhs.net">mbishop@nhs.net</a>  <a href="mailto:nlg-tr.counterfraudplus@nhs.net">nlg-tr.counterfraudplus@nhs.net</a> (Fraud Team email)
Fraud & Corruption Reporting Line	<b>0800 028 40 60</b> <a href="http://www.reportnhsfraud.nhs.uk/">www.reportnhsfraud.nhs.uk/</a>
NHS Whistleblowers Hotline	<b>08000 724 725</b> <a href="http://www.wbhelpline.org.uk/">www.wbhelpline.org.uk/</a>

## APPENDIX 2 – FREQUENTLY ASKED QUESTIONS

### FAQS

#### **Q: Who pays for NHS fraud?**

We all do!

#### **Q: Do I Have to Report Fraud, Bribery or Corruption?**

Yes - DBH has comprehensive arrangements for countering fraud and corruption and all staff have a duty to protect NHS resources.

#### **Q: What is Fraud?**

Fraud can be described as any kind of irregularity or intentional act that involves deception. It is important that staff understand that fraud is distinct from theft which is more of an opportunist crime and that fraud may arise almost anywhere within DBH and be perpetrated by anyone including; staff, contractors, patients and visitors.

#### **Q: What is Corruption?**

Corruption is generally considered a lack of integrity or honesty (especially susceptibility to bribery) and may involve a position of trust for dishonest gain.

#### **Q: What sort of things might be considered fraudulent?**

It is impossible to list every potential fraudulent act. Here are some typical examples:

- Falsely claiming to be sick or working elsewhere whilst off sick from the Trust
- Falsifying time records e.g. claiming pay for time not worked
- Falsifying flexi-time sheets
- Undertaking private work during NHS time
- Unauthorised private use of NHS equipment with intent to avoid a charge or payment
- Submitting altered/bogus invoices or claims for payment
- Making false claims for subsistence & expenses
- Using deception to steal NHS property
- Falsifying any official records
- Failing to declare criminal convictions to gain employment
- Offering or receiving bribes or inducements
- Selling of NHS/Trust information

#### **Q: What will happen if I report a suspicion of fraud?**

All allegations of fraud within the NHS will be professionally assessed and if necessary, investigated by trained and accredited NHS counter fraud specialists. If a criminal investigation is necessary within DBH, the LCFS will normally undertake this and the investigation will be conducted in accordance with criminal investigation procedures. It is often **not** necessary to involve the Police.

Where fraud is apparent, a triple-track approach to applying sanctions will normally be taken. This will include relevant criminal sanctions via the court system, civil recovery proceedings and disciplinary action via internal Trust procedures. Where appropriate, details of the investigation will normally be passed to appropriate professional bodies (e.g. GMC, NMC) also who will then conduct their own investigation and apply their own sanctions.

Therefore, where concerns are raised they will be fully investigated, feedback will be provided to the person who has highlighted the problem (unless referred anonymously), and appropriate action taken to prevent recurrence. Thus NHS patients, staff and property will receive the protection that they deserve.

**Q: What if it is not fraud and turns out to be theft?**

The responsibility for investigating incidents of theft rests with the Trust's accredited LSMS. The LSMS is also responsible for managing the response to security matters, violence and aggression against staff.

In the absence of an appropriate person being in post, NHS Protect should be informed. The function of the LCFS and LSMS are not to be confused and they must remain distinctly separate.

**Q: Will my personal data be used for the prevention and detection of fraud?**

The Trust proactively searches for fraud occurrences within its systems and data. Such work may include checks on areas of high risk such as payroll and expense claims, payments, sickness absence and procurement.

Also from time to time, the Trust will participate in internal and external data matching exercises involving the electronic comparison of data from different systems (for example payroll and payments data supplied as part of the National Fraud Initiative) to identify inconsistencies, which may indicate fraud. The Trust is committed to reducing the potential for fraud to occur and these exercises are designed to help detect fraudulent and erroneous payments.

In accordance with the DPA and Human Rights legislation, all staff should be aware that their personal data might be used by the Trust for the prevention and detection of fraud. Any queries regarding this work should be referred to the LCFS.

**Q: Where can I find further information?**

The following sources of information are recommended:

- *Direct from the LCFS.* The LCFS actively promotes fraud awareness at DBH. If you would like more information please contact the LCFS directly.
- *On the Staff Intranet.* For those with access to the Intranet, detailed guidance and information on counter fraud measures at DBH can be found by visiting the ['Fraud, Safety and Security'](#) section. Information is also available via the Counter Fraud Plus

team's own intranet home page accessible from an NHS computer via this [link](#). Additionally, from time to time alerts will appear on the staff intranet concerning fraud issues that are necessary for staff to know.

- *On the Internet.* Wider details on countering NHS fraud can also be found on the Internet by visiting <http://www.nhsbsa.nhs.uk/fraud>

### **Q: What is the Board's View?**

The Trust Board is absolutely committed to maintaining an honest, open and well-intentioned atmosphere within the organisation, so as best to fulfil the objectives of the Trust and the wider NHS. It is therefore also committed to the elimination of any fraud and corruption within the Trust, and to the rigorous and professional investigation of any such cases. The Trust is also committed to ensuring that where fraud and corruption is proven that wrong doers are appropriately dealt with through criminal, disciplinary and civil sanctions.

The Board supports the role of NHS Protect and will ensure that relevant activity is taken in accordance with their instructions. This includes the appointment of a LCFS who proactively works to detect and deter fraud and investigates suspected fraud as directed by NHS Protect. The Board's requires that anyone having a reasonable suspicion of fraud occurring has a duty to report it. The Trust fully adheres to the provisions of the Public Interest Disclosures Act 1998 which protects employees who make disclosures about a range of subjects from recriminations. Staff should be assured that there will be no recriminations against individuals who report reasonably held suspicions. The Board will however take a serious view of allegations against staff that are malicious in nature, and anyone making such an allegation will themselves be subject to disciplinary action.

Victimising or deterring staff from reporting concerns is a serious disciplinary matter. If you believe that you have good reason to suspect a colleague, supplier or other person of a fraud or an offence involving DBH or a serious infringement of Trust or NHS rules then you should report it to an appropriate person as outlined in Appendix 1 of this policy.

### **Q: What if I don't want to Openly Report my Suspicion?**

If you do not want to speak directly to the LCFS or Director of Finance or anyone else identified in this Policy, then you have the option of contacting the NHS FCRL on **0800 028 40 60** or via [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk). This can be done anonymously and all referrals are handled confidentially by trained staff and concerns raised will be professionally investigated.

Staff should be aware that if they refer their suspicions anonymously it will not be possible to seek clarification from them regarding the information that they have supplied. Nor will the LCFS be able to provide any feedback regarding the outcome of the investigation, and it may therefore appear to the anonymous referrer that no action has been taken by the Trust when this will not have been the case.

***Remember, it's your money and your NHS –  
Don't let the fraudster get away with it.***

## APPENDIX 3 – DESKTOP COUNTER FRAUD GUIDE

# DESKTOP COUNTER FRAUD GUIDE

Doncaster and Bassetlaw Hospitals   
NHS Foundation Trust

**FRAUD** is the dishonest intent to obtain a financial gain from, or cause a financial loss to a person or party through false representation, failing to disclose information or abuse of position.

**CORRUPTION** is the deliberate use of bribery or payment of benefit-in-kind to influence an individual to use their position in an unreasonable way to help gain advantage for another.

## ✓ Do

- **Note your concerns**  
Record details such as your concerns, names, dates, times, details of conversations and possible witnesses. Time, date and sign your notes.
- **Retain evidence**  
Retain any evidence that may be destroyed, or make a note and advise your LCFS.
- **Report your suspicion**  
Delays may lead to further financial loss.

If you suspect that fraud against the NHS has taken place, you must report it immediately, by either:

- contacting the Director of Finance
- directly contacting the Local Counter Fraud Specialist
- contacting the NHS Fraud and Corruption Reporting Line

## ✗ Do Not

- **Confront the suspect or convey concerns to anyone other than those authorised, as listed below**  
Never attempt to question a suspect yourself; this could alert a fraudster or accuse an innocent person.
- **Try to investigate or contact the police directly**  
Never attempt to gather evidence yourself unless it is about to be destroyed; gathering evidence must take into account legal procedures in order for it to be useful. Your LCFS can conduct an investigation in accordance with legislation.
- **Be afraid of raising your concerns**  
The Public Interest Disclosure Act 1998 protects employees who have reasonable concerns. You will not suffer discrimination or victimisation by following the correct procedures.
- **Do nothing!**

Do you have concerns about fraud taking place within the NHS? If so, any information can be passed confidentially to the **NHS Fraud and Corruption Reporting Line** on **0800 028 40 60** or online at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk)



Your Local Counter Fraud Specialist is **Mark Bishop**, who can be contacted by telephoning: **01302 642999** or by email at [mbishop@nhs.net](mailto:mbishop@nhs.net)

If you would like further information about local counter fraud work, visit the Trust's intranet site and click the link for the *'Fraud Safety & Security'* pages.

For more information about NHS Protect work and news go to [www.nhsprotect.nhs.uk](http://www.nhsprotect.nhs.uk)



## Protecting your NHS



## APPENDIX 4 – EQUALITY IMPACT ASSESSMENT PART 1 INITIAL SCREENING

Service/Function/Policy/Project/Strategy	Care Group/Executive Directorate and Department	Assessor (s)	New or Existing Service or Policy?	Date of Assessment
CORP/FIN 1 D v 6 – Fraud, Bribery and Corruption Policy & Response Plan	Finance Directorate	Mark Bishop	Existing	24/06/2016
<b>1) Who is responsible for this policy?</b> Finance Directorate				
<b>2) Describe the purpose of the policy?</b> Sets out the criteria for dealing with suspicions of fraud, bribery and corruption and details how to make a report.				
<b>3) Are there any associated objectives?</b> To ensure compliance with the NHS Anti-Fraud Manual, criminal/civil legislation and disciplinary procedures				
<b>4) What factors contribute or detract from achieving intended outcomes?</b> – None				
<b>5) Does the policy have an impact in terms of age, race, disability, gender, gender reassignment, sexual orientation, marriage/civil partnership, maternity/pregnancy and religion/belief?</b> No				
<ul style="list-style-type: none"> <li>If yes, please describe current or planned activities to address the impact [e.g. Monitoring, consultation] – N/A</li> </ul>				
<b>6) Is there any scope for new measures which would promote equality?</b> [any actions to be taken] N/A				
<b>7) Are any of the following groups adversely affected by the policy?</b>				
<b>Protected Characteristics</b>	<b>Affected?</b>	<b>Impact</b>		
a) Age	No			
b) Disability	No			
c) Gender	No			
d) Gender Reassignment	No			
e) Marriage/Civil Partnership	No			
f) Maternity/Pregnancy	No			
g) Race	No			
h) Religion/Belief	No			
i) Sexual Orientation	No			
<b>8) Provide the Equality Rating of the service / function /policy / project / strategy</b> – tick (✓) outcome box				
<b>Outcome 1</b> ✓	<b>Outcome 2</b>	<b>Outcome 3</b>	<b>Outcome 4</b>	
<i>*If you have rated the policy as having an outcome of 2, 3 or 4, it is necessary to carry out a detailed assessment and complete a Detailed Equality Analysis form in Appendix 4</i>				
<b>Date for next review: June 2019</b>				
<b>Checked by:</b> Jeremy Cook		<b>Date:</b> 24/06/2016		