



**Worcestershire
Health and Care**
NHS Trust

Local anti-fraud, bribery and corruption policy

July 2017



Tackling fraud and managing security

The local anti-fraud, bribery and corruption policy for Worcestershire Health and Care NHS Trust

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Form 1 Guide – NHS fraud, bribery and corruption: dos and don'ts

1 Introduction

1.1 General

Worcestershire Health and Care NHS Trust (“the Trust”) is committed to conducting every aspect of our business in a transparent and ethical way. The Trust is committed to acting with honesty and integrity in all business dealings and its relationships by developing a systemic approach to preventing bribery.

The Trust will observe all legislation relevant to countering fraud, bribery and corruption (hereafter referred to as economic crime). This requirement applies to every aspect of our conduct, including dealings with the public, stakeholders or suppliers and patient service delivery.

The purpose of this policy is to:

- Define key board, management level and staff responsibilities for preventing economic crime; plus standards for our contractors and any other stakeholders having contact with the Trust.
- Provide appropriate information and guidance to those working for us, with us and having contact with the Trust on how to recognise and deal with economic crime indicators.

Economic crime offences are punishable by up to ten years' imprisonment and the Trust could face an unlimited fine if it is found not to have taken suitable steps to Adhere to the requirements under the Bribery Act 2010.

In this policy, "**third party**" means any individuals or organisations (including sub contractors) you come into contact with during the course of your work for Trust. It covers actual and potential clients, other health bodies, health care providers, contractors, distributors, business contacts, agents, advisers, financial institutions and government, public bodies or political parties; including their employees, advisors, representatives and associates or officials, members and non executive directors.

1.2 Aims and objectives

The purpose of this policy is to:

- Define responsibilities for preventing economic crime at all levels including staff, managers and members of the Governing Body and to provide standards for contractors.
- Clarifies the Trust 's stance and commitment to ensuring there is a robust and clear approach to tackling economic crime.
- Provide appropriate information and guidance to those working for the Trust on how to recognise and deal with bribery and corruption indicators.

1.3 Scope

This policy applies to all individuals working at all levels and grades, including senior managers, officers, executive or non executive directors, employees (whether permanent, fixed-term or temporary), consultants, employment contractors, trainees, seconded staff, home workers, casual workers and agency staff, volunteers, interns, agents, sponsors, or any other person associated with us, or any of our clinics or their employees, wherever located (collectively referred to as "**Trust Personnel**" in this policy).

For the purposes of this policy, the Trust will designate a member of its management team as “Compliance Officer”. The Compliance Officer will be responsible for ensuring that the Trust implement this policy and for carrying out oversight functions as described in this policy and supporting the work of other policies referred to in conjunction within this policy.

The Trust's Anti-Fraud Specialist (AFS) should also be consulted immediately if tangible grounds emerge to suspect bribery or corruption. The AFS will support the Director of Finance (DoF) as a matter of urgent priority in these situations; by coordinating operational liaison, where appropriate, with NHS Protect National Investigation Service or the Police.

2 Definitions

2.1 NHS Protect

Nationally, NHS Protect has responsibility for all policy and operational matters relating to the prevention, detection and investigation of economic crime in the NHS and that any investigations will be handled in accordance with NHS Protect guidance.

2.2 Fraud and Irregularity

Fraud – any person who dishonestly makes a false representation to make a gain for himself or another or dishonestly fails to disclose to another person, information which he is under a legal duty to disclose, or commits fraud by abuse of position, including any offence as defined in the Fraud Act 2006.

Irregularity – An irregularity may be any significant matter or issue, other than fraud, bribery or corruption, which may warrant consideration or investigation. An example of an irregularity may be where a member of staff makes a genuine error or mistake in the course of their duties/responsibilities, but where this error or mistake is subsequently hidden, perhaps to the on-going detriment to the Trust. Additionally, an irregularity may also involve consideration of the possible inappropriate use of NHS funds or assets, which may or may not constitute fraud, theft or corruption.

The Trust has procedures in place that reduce the likelihood of fraud occurring. These include Standing Orders, Standing Financial Instructions, documented procedures, a system of internal control (including Internal and External Audit) and a system of risk assessment. In addition, the Trust seeks to ensure that a comprehensive anti-fraud, bribery and corruption culture exists throughout the Trust via the appointment of a dedicated AFS, in accordance with the NHS Protect Standards for Provider Organisations and the provisions within the Standard NHS Contract relating to Fraud, and Security Management.

It is expected that Non-Executive Directors and staff at all levels will lead by example in acting with the utmost integrity and ensuring adherence to all relevant regulations, policies and procedures.

2.3 Bribery and corruption

A bribe is any form of material inducement, reward or advantage; financial or otherwise, that is offered, promised or provided to a person in order to gain any commercial, contractual, regulatory or personal advantage through the improper performance of a relevant function or activity as a result of the bribe:

“Financial or other advantage”, although not defined in the Act, means payments, gifts, hospitality or anything else that could be reasonably perceived as an “advantage” or ‘form of benefit’ as understood by its normal, everyday meaning.

“Improper performance” means action in breach of an expectation that a person will act in good faith, impartially, or in accordance with a position of trust; including proven non-compliance with Trust standing financial instructions, orders, controls and standards of business or codes of professional conduct.

A “relevant function or activity” means any function of a public nature, connected with a business or service, performed in the course of a person’s employment or performed by or on behalf of an incorporated or unincorporated body of persons.

The Trust may also face other corruption risks caused solely by the interplay of strictly external factors and players. This type of threat is associated with more subtle forms of market manipulation. The Trust procurement and purchasing functions must remain vigilant about due diligence, bid rigging or price fixing indicators and those linked to systematic contractual supply of goods or services of inferior quality / quantity contrary to specification.

Trust personnel should also be aware that it is also an offence of fraud by abuse of position to dishonestly favour one party and materially disadvantage others in the course of awarding a business or employment contract. These conditions do not require inducements to be offered or received.

All instances of suspected bribery and corruption should also be reviewed against terms of the Trust’s Anti-Fraud Policy to establish the enquiries to be undertaken.

Examples - Offering a bribe: A bribe would occur if:

- A payment was made to influence an individual responsible for deciding whether the Trust should be selected as the preferred bidder / supplier for the provision of goods or services in procurement or via other purchasing processes
- A payment was made to a 3rd party by a contractor instructed by the Trust in order to facilitate quicker service from the 3rd party
- A payment was promised to a Trust staff member in exchange for disclosing confidential commercial or patient information

Examples - Receiving a bribe: A bribe would occur if:

- A pharmaceutical company makes payment to a member of the Trust’s staff (or other incentive) to influence their decision making in respect of the selection of a pharmaceutical product or equipment to appear on the Trust’s drug formulary
- A patient offers a member of staff a payment (or other incentive) to speed up beyond the usual timeframe the provision of a particular aspect of their care, or to be arbitrarily moved up a waiting list
- A contractor offers a Trust budget holder a free, all expenses paid holiday as an incentive to ignore deficiencies in goods or services supplied to the organisation, or ignore and conceal complaints made

3 Roles and responsibilities

Roles

The Trust has a duty to ensure that it provides a secure environment in which to work, and one where people are confident to raise concerns without worrying that it will reflect badly on them. This extends to ensuring that staff feel protected when carrying out their official duties and are not placed in a vulnerable position. If staff have concerns about any procedures or processes that they are asked to be involved in, the Trust has a duty to ensure that those concerns are listened to and addressed.

The Trust’s 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 of Trust employees.

The Trust 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. Therefore, the Chief Executive and DoF will monitor and ensure compliance with this policy.

Employees

For the purposes of this policy, 'Employees' includes the Trust staff, Board, Executive and Non-Executive Members (including Co-Opted Members) and Honorary Members to the Board.

Employees must act in accordance with the Trust's Standards of Business Conduct, Gifts and Hospitality and Declaration of interest policies which include guidance on the receipt of gifts or hospitality.

Employees also have a duty to protect the assets of the Trust including information, goodwill and reputation, as well as property.

Employees are expected to act in accordance with the standards laid down by their Professional Institute(s), where applicable.

The Trust Standing Orders and Standing Financial Instructions place an obligation on all staff and Non-Executive Directors to act in accordance with best practice. In addition, all Trust staff and Non-Executive Directors must declare and register any interests that might potentially conflict with those of the Trust or the wider NHS.

In addition, all employees 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 should always:

- act with honesty, integrity and in an ethical manner
- 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 deceive.

All employees 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.

When an employee suspects that there has been economic crime, they must report the matter to the nominated AFS.

Managers

Line managers at all levels have a responsibility to ensure that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively. The responsibility for the prevention and detection of economic crime therefore primarily rests with managers but requires the co-operation of all employees.

As part of that responsibility, line managers need to:

- Inform staff of the Trust's code of business conduct, gifts and hospitality, declaration of interest and anti-fraud, bribery and corruption policies as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms

- 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
- be aware of the Trust's anti-fraud, bribery and corruption policy and the rules and guidance covering the control of specific items of expenditure and receipts
- ensure that controls are being complied with
- contribute to their director's assessment of the risks and controls within their business area, which feeds into the Trust's and the Department of Health Accounting Officer's overall statements of accountability and internal control.

All instances of actual or suspected economic crime, which come to the attention of a manager, must be reported immediately. It is appreciated that some employees will initially raise concerns with their manager, however, in such cases managers must not attempt to investigate the allegation themselves, and they have the clear responsibility to refer the concerns to the AFS as soon as possible.

Where staff have access to the Internet, managers need to ensure that any use is linked to the performance of their duties and any private use specifically agreed beforehand. Any instance of deliberate viewing of offensive material (e.g. pornography or hate material) must be reported immediately.

Anti-Fraud Specialist (AFS)

The NHS Protect Standards for Providers and the provisions within the Standard NHS Contract relating to Fraud and Security Management require the Trust to appoint and nominate an AFS. The AFS's role is to ensure that all cases of actual or suspected economic crime are notified to the DoF and reported accordingly.

The AFS will regularly report to the DoF on the progress of the investigation and when/if referral to the police is required.

The AFS will:

- Ensure that the DoF is kept apprised of all referrals/cases.
- Investigate all cases of fraud.
- In consultation with the DoF and NHS Protect, will report any case to the Police as agreed.
- Report any case and the outcome of the investigation to the NHS Protect and DoF, and provide required reports to NHS Protect.
- Ensure that other relevant parties are informed where necessary e.g. Human Resources will be informed where an employee is a suspect.
- Ensure that the Trust incident and losses reporting systems are followed.
- Ensure that any system weaknesses identified as part of the investigation are followed up with management or Internal Audit.

The AFS in consultation with the DoF will review the strategic objectives contained within the assurance framework to determine any potential fraud risks. Where risks are identified these will be included on the Trust's risk register so the risk can be proactively addressed.

Director of Finance

The DoF, in conjunction with the Chief Executive, monitors and ensures compliance with NHS guidance regarding fraud and corruption.

The DoF, in consultation with NHS Protect and the AFS, will decide whether there is sufficient cause to conduct an investigation, and whether the Police and External Audit need to be informed.

The DoF or the AFS will consult and take advice from the Director of HR if a member of staff is to be interviewed or disciplined. The DoF or AFS will not conduct a disciplinary investigation, but the employee may be the subject of a separate investigation by HR.

The DoF will, depending on the outcome of investigations (whether on an interim/ongoing or a concluding basis) and/or the potential significance of suspicions that have been raised, inform the Chair of the Trust and the Chair of the Audit Committee of cases, as may be deemed appropriate or necessary.

The DoF is also responsible for informing the Audit Committee of all categories of loss.

Internal and External Audit

Any incident or suspicion that comes to Internal or External Audit's attention will be passed immediately to the AFS.

Human Resources

Human Resources will liaise closely with Managers and the AFS, from the outset, where an employee is suspected of being involved in fraud in accordance with agreed liaison protocols. Human Resources are responsible for ensuring the appropriate use of the Trust's Disciplinary Procedure. The Human Resources Department shall advise those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures. Close liaison between the AFS and Human Resources will be essential to ensure that any parallel sanctions (i.e. criminal and disciplinary) are applied effectively and in a coordinated manner.

Human Resources will take steps at the recruitment stage to establish, as far as possible, the previous record of potential employees as well as the veracity of required qualifications and memberships of professional bodies, in terms of their propriety and integrity. In this regard, temporary and fixed term contract employees are treated in the same manner as permanent employees.

Information Management & Technology

The Head of Information Security (or equivalent) will contact the AFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. This includes inappropriate internet/intranet, e-mail, telephones and PDA's use as outlined in paragraph

Human Resources will be informed if there is a suspicion that an employee is involved.

External Communications

Individuals (be they employees, agency staff, locums, contractors or suppliers) must not communicate with any member of the press, media or another third party about a suspected fraud as this may seriously damage the investigation and any subsequent actions to be taken. Anyone who wishes to raise such issues should discuss the matter with either the DoF or the Chief Executive.

4 The response plan

This section outlines the action to be taken where fraud, corruption or other illegal acts involving dishonesty, inappropriate Internet use, or damage to property are discovered or suspected. For completeness, it also deals with the action to be taken where theft is discovered or suspected.

If any of the concerns mentioned in this document come to the attention of an employee, they must **inform the Anti-Fraud Specialist or the DoF immediately**. Employees can also call the **NHS Fraud and Corruption Reporting Line on freephone 0800 028 40 60**. This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting the NHS. It allows NHS staff who are unsure of internal reporting procedures to report their concerns in the strictest confidence. All calls are dealt with by experienced caller handlers.

Contact information for the above is listed on the final page of this policy.

The attached Appendix A is designed to be a reminder of the key “what to do” steps - as well as contact details - to be taken where fraud 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.

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

Sufficient enquiries will be made by the AFS to establish whether or not there is any foundation to the allegations. If the allegations are found to be malicious, they will also be considered for further investigation as to their source.

The Trust wants all employees to feel confident that they can expose any wrongdoing without any risk to themselves. In accordance with the provisions of the Public Interest Disclosure Act 1998, the Trust has produced a whistle blowing policy.

This procedure is intended to complement the Trust’s local anti-fraud, bribery and corruption policy and code of business conduct and ensures there is full provision for staff to raise any concerns with others if they do not feel able to raise them with their line manager/management chain. It can be found on the Trust intranet site.

DISCIPLINARY ACTION

The disciplinary procedures of the Trust must be followed where an employee is suspected of being involved in a fraudulent or other 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 shall prevail.

All employees should note that disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act. This section is linked to the organisation’s disciplinary policy and which can be obtained from the Trusts intranet and/or Human Resources.

POLICE INVOLVEMENT

In accordance with the NHS Protect Anti-Fraud Manual, the DoF, in conjunction with the AFS and NHS Protect, will decide whether or not a case should be referred to the police. Human Resources and line managers will be involved as necessary.

Any referral to the police will not prohibit action being taken under the Trust's disciplinary procedures.

RECOVERY OF LOSSES INCURRED TO FRAUD AND CORRUPTION

The seeking of financial redress or recovery of losses should always be considered in cases of fraud or corruption that are investigated by either the AFS or NHS Protect where a loss is identified. As a general rule, recovery of the loss caused by the perpetrator should always be sought. The decisions must be taken in the light of the particular circumstances of each case.

Redress allows resources that are lost to economic crime to be returned to the NHS for use as intended, for provision of high-quality patient care and services.

The NHS Protect Anti-Fraud Manual provides in-depth details of how sanctions can be applied where economic crime is proven and how redress can be sought. To summarise, local action can be taken to recover money by using the administrative procedures of Trust or the civil law.

In cases of serious economic crime, it is recommended that parallel sanctions are applied. 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 of information and evidence to external bodies – for example, professional bodies – if appropriate.

The 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.

Actions which may be taken when considering seeking redress include:

- No further action
- criminal investigation
- civil recovery
- disciplinary action
- confiscation order under POCA
- recovery sought from ongoing salary payments or pensions.

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

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' Court and Crown Court).

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.

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 needs to be discussed with the DoF to determine the most appropriate action.

The appropriate senior manager, in conjunction with the HR department, will be responsible for initiating any necessary disciplinary action. Arrangements may be made to recover losses via payroll if the subject is still employed by the Trust. In all cases, current legislation must be complied with.

Action to recover losses should be commenced as soon as practicable after the loss has been identified. Given the various options open to the Trust, it may be necessary for various departments to liaise about the most appropriate option.

In order to provide assurance that policies were adhered to, DoF will maintain a record highlighting when recovery action was required and issued and when the action taken. This will be reviewed and updated on a regular basis.

5 Review

Monitoring and auditing of policy effectiveness

The Compliance Officer will monitor the effectiveness and review the implementation of this policy, regularly considering its suitability, adequacy and effectiveness taking into account legal development and changes in the Trust business. Any improvements identified will be made as soon as possible. Internal control systems and procedures will be subject to regular audits to provide assurance that they are effective in countering economic crime.

The Trust Board will also ensure that monitoring and review is accompanied by periodic organisational Anti-Fraud, Bribery and Corruption risk assessments. These will be undertaken at intervals of not less than every 3 years, or more regularly if threat levels rise on a local basis.

Risk analysis will either be undertaken on a stand alone basis or be incorporated within other/wider economic crime (fraud and / or theft) assessments. Findings will inform the work of Trust risk management programmes and local anti-fraud work plans accordingly. The risk register will also be used when it is suitable, to track work to further review risk and implement agreed controls improvement action plans / recommendations and / or targeted detection initiatives.

Trust personnel are also invited to comment on this policy and suggest ways in which it might be improved or better applied. Comments, suggestions and queries should be addressed to the Compliance Officer and / or AFS.

6 Policy appendices

The following policies, where in existence, are considered relevant to this policy.

- Gifts and Hospitality Declaration Procedures;
- Disciplinary Policy;
- Standards of Business Conduct Policy;
- Raising Concerns at Work Policy;
- Whistleblowing;
- Data Protection / Information Disclosure and Governance Policies.

NHS FRAUD, BRIBERY AND CORRUPTION: THE DOS AND DON'TS

A desktop guide for staff

FRAUD is the deliberate or reckless intent to permanently deprive an employer of money or goods through false representation, failing to disclose information or abuse of position.

BRIBERY & 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 AFS.

- **report your suspicion**

Confidentiality will be respected – delays may lead to further financial loss.

Complete a fraud report and submit in a sealed envelope marked 'Restricted – Management' and 'Confidential' for the personal attention of the AFS.

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 AFS 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.

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

- directly contacting the **Anti-Fraud Specialist**, or
- telephoning the **freephone** NHS Fraud and Corruption Reporting Line (**0800 028 4060**), or
- contacting the Director of Finance.

Do you have concerns about a fraud taking place in the NHS?

If so, any information can be passed to the
NHS Fraud, Bribery and Corruption Reporting Line:
0800 028 40 60

All calls will be treated in confidence and investigated

Your nominated Anti-Fraud Specialist is **Paul Westwood**, who can be contacted by telephoning **07545 502400**, or emailing paul.westwood@cwaudit.org.uk. If you would like further information about the NHS Anti-Fraud Service, please visit <http://www.nhsbsa.nhs.uk/fraud>

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