

# **ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY**

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## DOCUMENT CONTROL AND AMENDMENT RECORD

### Policy in Relation to Anti-Fraud, Bribery and Corruption Policy

Version	Date	Details	Author / Reviewer	Approving Committee (s)	Date of Approval
1.0	29/05/13		Kam Johal	Audit Committee	26/11/13
2.0	August 2016	Policy reviewed and updated to embody latest guidance and best practice to reflect NHS Protect policy template and merged with Anti-Bribery policy.	LCFS		
3.0	August 2018	Policy reviewed and updated to reflect changes from NHS Protect to NHS Counter Fraud Authority (CFA). Update following South East Structure changes.	CFS/VM	Managing Director	02/10/2018

This policy applies to all CCG members, employees, members of the board, members of the Board's committees and sub-committees, members of the CCG's committee and sub-committee (if any) and persons working on behalf of the CCG, as set out in the CCG's constitution.

This document is a policy and a response plan for dealing with suspected fraud and other illegal acts involving dishonesty. It also includes guidance to be issued to all employees setting out Lewisham Clinical Commissioning Group's position on dealing with fraud and what employees should do if they suspect fraud; and has been prepared in accordance with the NHS Anti-Fraud Manual.

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## 1.0 Summary

- 1.1 Lewisham Clinical Commissioning Group is committed to reducing the level of fraud, corruption and bribery within the NHS to an absolute minimum and keeping it at that level, freeing up public resources for better patient care.
- 1.2 This policy has been produced by the Local Counter Fraud Specialist (LCFS), and is intended as a guide for all employees on anti-fraud, bribery and corruption work within the NHS.
- 1.3 All genuine suspicions of fraud and corruption can be reported to the LCFS directly or via the NHS Fraud and Corruption Reporting Line (FCRL) on freephone 0800 028 4060 or at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk).

**See 'Forms 1 and 2' for Lewisham CCG's LCFS contact details**

## 2.0 Introduction

### 2.1 General

- 2.1.1 One of the basic principles of public sector organisations is the proper use of public funds. It is therefore important that all those who work in the public sector are aware of the risk of and means of enforcing the rules against fraud, and bribery, and other illegal acts involving dishonestly or damage to property. For simplicity, all such offences are hereafter referred to as "**fraud**" except where the context indicates otherwise.
- 2.1.2 This document sets out Lewisham Clinical Commissioning Group's policy for dealing with suspected or detected fraud, bribery and corruption, incorporated in the Secretary of State for Health's Directions to NHS Bodies on Counter Fraud Measures issued in November 2004; and more recently under the NHS standard contract 2015/16, and provides advice to employees in dealing with fraud or suspected fraud. This policy details the arrangements made by Lewisham Clinical Commissioning Group for such concerns to be raised by employees or members of the public.
- 2.1.3 Lewisham Clinical Commissioning Group already has procedures in place that reduce the likelihood of fraud occurring. These include a nominated and accredited LCFS, Standing Orders and Standing Financial Instructions, documented procedures and systems of internal control and risk assessment. In addition Lewisham Clinical Commissioning Group, via the Director of Finance will ensure that a risk and fraud awareness culture exists across the organisation.
- 2.1.4 Lewisham Clinical Commissioning Group does not tolerate fraud and bribery within the NHS. The intention is to eliminate all NHS fraud and bribery as far as possible. The aim of the policy and procedure is to protect the property and finances of the NHS and of patients in our care.
- 2.1.5 Lewisham Clinical Commissioning Group is committed to taking all necessary steps to counter fraud, bribery and corruption. To meet its objectives, it has adopted the three key principles which are set out in the NHS CFA strategy:

- Inform and involve – it is necessary to inform and involve those who work for or use the health service on the risks of crime and how to tackle it
- Prevent and deter crime – to remove the opportunities for crime within the NHS to occur or to re-occur
- Hold to account – those who commit crime will be detected, investigated, prosecuted and where appropriate redress sought where possible

2.1.6 Lewisham Clinical Commissioning Group will take all necessary and required steps to counter fraud, bribery and corruption in accordance with this policy, the NHS Anti-Fraud Manual, the policy statement “Applying Appropriate Sanctions Consistently” and any other relevant guidance or advice issued by NHS CFA.

## **2.2 Aims and objectives**

2.2.1 This policy relates to all forms of Fraud, Bribery and Corruption and is intended to provide direction and help to employees who may identify suspected fraud. It provides a framework for responding to suspicions of fraud, advice and information on various aspects of fraud and implications of an investigation. It is not intended to provide a comprehensive approach to preventing and detecting Fraud, Bribery and Corruption. The overall aims of this policy are to:

- improve the knowledge and understanding of everyone in the CCG, irrespective of their position, about the risk of Fraud, Bribery 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 the CCG’s responsibilities in terms of the deterrence, prevention, detection and investigation of Fraud, Bribery and Corruption
- ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
  - criminal prosecution
  - civil prosecution
  - Internal disciplinary action.
  - external action (i.e. referral to professional regulatory body)

## **2.3 Scope**

2.3.1 This policy applies to all employees of Lewisham Clinical Commissioning Group, regardless of position held, as well as consultants, vendors, contractors and/or any other parties who have a business relationship with Lewisham Clinical Commissioning Group. It will be brought to the attention of all employees and form part of the induction process for new staff. It is incumbent on all of the above to report any suspicions they may have concerning fraud and bribery.

2.3.2 This policy covers all business activities of employees or others acting on behalf of Lewisham Clinical Commissioning Group.

2.3.3 This policy is applicable to all employees, contracted staff and staff on honorary contracts whose payroll costs are partially or fully funded by a third party under a formal arrangement. It is also applicable for trainee

professionals and students hosted for the provision of work or vocational experience, including temporary staff, volunteers and other people engaged to work on Lewisham Clinical Commissioning Group business.

2.3.4 This policy also applies to CCG members, members of the Board, members of the Board's committees and sub-committees, members of the CCG's committee and sub-committee (if any).

2.3.5 In implementing this policy, managers must ensure that all staff are treated fairly and within the provisions and spirit of Lewisham Clinical Commissioning Group's Equal Opportunities Policy. Special attention should be paid to ensure the policy is understood where there may be barriers to understanding caused by the individual's circumstances, where the individual's literacy or use of English is weak, or where the individual has little experience of working life.

2.3.6 Counter Fraud Charters are in place between NHS CFA and key stakeholders such as professional associations and patient groups; setting out their commitment to work together to tackle fraud. Counter Fraud charters have been agreed with:

- Professional Associations
  - Association of Optometrist
  - British Medical Association
  - Federation of Ophthalmic and Dispensing Opticians
  - Pharmaceutical Services Negotiating Committee
- Patient Groups
  - Long Term Medical Conditions Alliance
  - Royal National Institute for the Blind
- The Royal College of Nursing
- The Association of British Dispensing Opticians
- Unison
- Regulatory Bodies
  - General Medical Council
  - General Dental Council
  - General Optical Council
  - Royal Pharmaceutical Society of Great Britain
- Protocol with Health Professional Council

### **3.0 Definitions**

#### **3.1 NHS Counter Fraud Authority (CFA)**

3.1.1 Arrangements to counter fraud and corruption were initiated in September 1998 and have been embodied in Secretary of State's Directions. These Directions clearly specified the roles and responsibilities of all health bodies in countering fraud and have been amended in the new Contract and the Health and Social Care Act 2012. Under the NHS standard contract 2015/16, 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 the Director of Finance has nominated a Counter Fraud Specialist to tackle fraud, corruption and bribery within the CCG .

The NHSCFA is a new special health authority charged with identifying, investigating and preventing fraud and other economic crime within the NHS and the wider health group. It has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS. All instances where fraud is suspected are properly investigated until their conclusion by accredited staff. Any investigations will be handled under current legislation.

3.1.2 More information about the NHS CFA can be found at [www.cfa.nhs.uk](http://www.cfa.nhs.uk)

## 3.2 Fraud

3.2.1 The Fraud Act 2006 represented 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**.

3.2.2 The offences of fraud can be committed in three ways:

- 1) Fraud by false representation (s.2) – lying about something using any means, e.g. by words or actions
- 2) Fraud by failing to disclose (s.3) – not saying something when you have a legal duty to do so
- 3) Fraud by abuse of a position of trust (s.4) – abusing a position where there is an expectation to safeguard the financial interests of another person or organisation.

3.2.3 It should be noted that all offences under the Fraud Act 2006 occur where the act or omission is committed dishonestly and with intent to cause gain or loss. The gain or loss does not have to succeed, so long as the intent is there.

## 3.3 Bribery and corruption

3.3.1 The Bribery Act 2010 came into force from 1<sup>st</sup> July 2011 and repeals existing corruption legislation. The Act has introduced the offences of offering and or receiving a bribe. It also places specific responsibility on organisations to have in place sufficient and adequate procedures to prevent bribery and corruption taking place.

3.3.2 Definitions for bribery and corruption vary. Some common definitions are:

**Bribery** – Under the Bribery Act 2010, bribery is defined as “Inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other privileges”. No actual gain or loss has to be made.

**Corruption** – This can broadly be defined as the offering or acceptance of inducements, gifts, favours, payment or benefit-in-kind which may influence the action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.

**Gift** – a ‘gift’ is defined as any item of cash or goods, or any service, which is provided for personal benefit at less than its commercial value

Employees of Lewisham Clinical Commissioning Group will not request or receive a bribe from anybody, nor imply that such an act might be considered. This means that you will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person as an incentive or reward to perform improperly your function or activities. It does not matter whether the other person is a UK or foreign public official, political candidate, party official, private individual, private or public sector employee or any other person (including creating the appearance of an effort to improperly influence another person).

- 3.3.3 Lewisham Clinical Commissioning Group may, in certain circumstances, be held responsible for acts of bribery committed by intermediaries acting on its behalf such as subsidiaries, clients, business partners, contractors, suppliers, agents, advisors, consultants or other third parties. The use of intermediaries for the purpose of committing acts of bribery is prohibited.
- 3.3.4 All employees should be aware that bribery will normally, dependent on the circumstances of the case, be regarded as gross misconduct thus warranting summary dismissal without previous warnings. However, no such action will be taken before a proper investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.
- 3.3.5 The organisation and all employees, independent of their grade and position, shall at all times comply with the Bribery Act 2010 and with this policy.

### **3.4 Anti-Fraud Culture**

- 3.4.1 Every employee has a part to play in the fight against fraud. The Group’s Local Counter Fraud Specialist, (LCFS) works alongside the CCG in order to raise awareness of the issues surrounding fraud and thus enforce the message that acts of dishonesty within the organisation and indeed the NHS as a whole will not be tolerated. It is incumbent upon all employees to act vigilantly and responsibly in order to protect the organisation and its resources.

### **3.5 Prevention and Deterrence**

- 3.5.1 The most effective deterrent will come from those employed by, and users of the NHS and it’s contractors who value the services provided and disapprove of those who abuse the system through fraud. In addition, publicity surrounding counter fraud work will seek to deter those who perpetrate or consider perpetrating fraud. In cases where it has not been possible to deter persons who commit fraud, all efforts must be made to prevent the fraud from succeeding. Robust internal systems and controls are essential in foiling attempts to defraud.

### **3.6 Policies and Procedures**

- 3.6.1 Any referenced policy in this document will either mean the existing or revised Lewisham Clinical Commissioning Group policy. Employee compliance should be to which ever policy is in existence.

### **4.0 Professional Standards and Accountability**

- 4.1 The Standards for Members of NHS Boards and Clinical Commissioning Group Governing Bodies in England published by the Professional Standards Authority in November 2012 sets out the following public service values. It is important that high standards of corporate and personal conduct, (based on the recognition that patients must come first), have been a requirement throughout the NHS since its inception. These values are summarized as:

**Accountability:** everything done by those who work within the organisation must be able to stand the tests of parliamentary scrutiny, public judgments on propriety and professional codes of conduct

**Openness:** The organisation's activities should be sufficiently public and transparent to promote confidence between the organisation and its patients, staff and the public.

**Probity:** Absolute honesty and integrity should be exercised in dealing with NHS patients, assets, staff, suppliers and customers.

- 4.2 All those who work within the Group should be aware of, and act in accordance with these values.

### **5.0 Roles and Responsibilities**

#### **5.1 General**

- 5.1.1 Through our day to day work, we are in the best position to recognise any specific risks within our own areas of responsibility. We also have a duty to ensure that those risks – however large or small; are identified and eliminated. Where you believe the opportunity for fraud exists, whether because of poor procedures or oversight, you should report it to the LCFS or the NHS Fraud and Corruption Reporting Line.
- 5.1.2 This section states the roles and responsibilities of employees and other relevant parties in reporting fraud or other irregularities.

#### **5.2 Role of Lewisham Clinical Commissioning Group**

- 5.2.1 The CCG will take all necessary steps to counter Fraud, Bribery and Corruption in accordance with this policy, the NHS Anti-Fraud Manual, the NHS CFA policy statement 'Applying Appropriate Sanctions Consistently' and any other relevant guidance or advice issued by NHS CFA.
- 5.2.2 The CCG will adopt the three key principles that are set out in the NHS CFA strategy. A key element in achieving this is the appointment of an LCFS.

### **Inform & Involve**

The CCG will use Counter Fraud publicity material to persuade those who work in Lewisham CCG, that Fraud, Bribery and Corruption is serious and takes away resources from important services. Such activity will demonstrate that Fraud, Bribery and Corruption is not acceptable and is being tackled.

### **Prevent and Deter**

Deterrence is about increasing the expectation that someone will be caught if they attempt to defraud – this is more than just tough sanctions. The CCG will introduce such measures to minimise the occurrence of Fraud, Bribery and Corruption.

The CCG has policies and procedures in place to reduce the likelihood of Fraud, Bribery and Corruption occurring. These include a system of internal controls, Standing Financial Instructions and documented procedures, which involve physical and supervisory checks, financial reconciliations, segregation and rotation of duties, and clear statements of roles and responsibilities. Where fraud, bribery and corruption has occurred, the CCG will ensure that any necessary changes to systems and procedures take place immediately to prevent similar incidents from happening in the future.

The CCG will develop and maintain effective controls to prevent Fraud, Bribery and Corruption and to ensure that if it does occur, it will be detected promptly and referred to the LCFM for investigation.

### **Hold to Account**

The LCFS will be professionally trained and accredited to carry out investigations into suspicions of Fraud, Bribery and Corruption to the highest standards. In liaison with NHS CFA, the LCFS will professionally investigate all suspicions of Fraud, Bribery and Corruption to prove or disprove the allegation.

Following the conclusion of an investigation, if there is evidence of fraud, available sanctions will be considered in accordance with the guidance issued by NHS CFA – ‘Applying Appropriate Sanctions Consistently’. This may include criminal prosecution, civil proceedings and disciplinary action, as well as referral to a professional or regulatory body.

Recovery of any losses incurred will also be sought through civil proceedings, if appropriate, under the Proceeds of Crime Act 2002, to ensure losses to the CCG and the NHS are returned for their proper use.

The CCG also has a duty to ensure that they provide 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 CCG has a duty to ensure that those concerns are listened to and addressed.

- 5.2.3 The CCG’s Accountable Officer is liable to be called to account for specific failures in the CCG’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 CCG employees. The CCG 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 Accountable Officer and Director of Finance will monitor and ensure compliance with this policy.

### **5.3 Employees**

5.3.1 Lewisham Clinical Commissioning Group's Prime Financial Policies, Standing Orders, Standing Financial Instructions, policies and procedures place an obligation on all employees to act in accordance with best practice. In addition, all employees must act in accordance with Gifts and Hospitality and Declaration of Interest policies and declare and register any interests which might potentially conflict with those of Lewisham Clinical Commissioning Group; or the wider NHS and follow guidance on the receipt of gifts or hospitality.

5.3.2 Employees are expected to act in accordance with the standards laid down by their Professional Institute(s), where applicable and have a personal responsibility to ensure that they are familiar with them. Employees who are involved in receiving offers of sponsorship, funding or gifts from outside agencies should also comply with their own professional codes of practice. Professional staff must also make themselves aware of their own professional body codes of conduct, e.g. Nursing and Midwifery Council, General Medical Council, professional, legal, accounting and other bodies.

5.3.3 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 Lewisham Clinical Commissioning Group's employees deal fairly and impartially with official manners;
- be alert to the possibility that others might be attempting to deceive.

5.3.4 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.

5.3.5 If an employee suspects that there has been fraud, corruption or bribery, they must report the matter to the nominated Local Counter Fraud Specialist (see LCFS heading below).

5.3.6 All employees should be aware that fraud (of finances of the NHS or of patients in our care) will normally, dependent upon the circumstances of the case, be regarded as gross misconduct thus warranting summary dismissal without previous warnings. However, no such action will be taken before a proper investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal investigation and prosecution.

### **5.4 Managers**

5.4.1 Managers must be vigilant and ensure that procedures to guard against Fraud, Bribery and Corruption are followed. They should be alert to the

possibility that unusual events or transactions could be symptoms of Fraud, Bribery and Corruption. If they have any doubts, they must seek advice from their nominated LCFS.

5.4.2 Managers must instil and encourage an Anti-Fraud, Bribery and Corruption culture within their team and ensure that information on procedures is made available to all employees. The LCFS will proactively assist the encouragement of an anti-fraud culture by undertaking work that will raise fraud awareness.

5.4.3 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 Fraud, Bribery and Corruption therefore primarily rests with managers but requires the co-operation of all employees.

As part of that responsibility, managers need to:

- inform staff of the CCGs' code of business conduct and the Fraud, Bribery and Corruption Policy 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
- ensure that any use of computers by employees is linked to the performance of their duties within the CCGs
- be aware of the CCGs' Fraud, Bribery and Corruption 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 their department's assessment of the risks and controls within their business area, which feeds into the CCGs' and the Department of Health Accounting Officer's overall statements of accountability and internal control.

5.4.4 All instances of actual or suspected Fraud, Bribery or Corruption 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; they have the clear responsibility to refer the concerns to their nominated LCFS as soon as possible.

## **5.5 Local Counter Fraud Specialist (LCFS)**

- 5.5.1 The Directions to NHS Bodies on Countering Fraud Measures 2004, and more recently under the NHS standard contract 2015/16, 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 2015/16, the Director of Finance has nominated a LCFS to tackle fraud, corruption and bribery within the CCG. The LCFS's role is to ensure that all cases of actual or suspected fraud, corruption and bribery are notified to the Director of Finance and reported accordingly.
- 5.5.2 Investigation of the majority of cases of alleged fraud within Lewisham Clinical Commissioning Group will be the responsibility of the nominated LCFS. NHS CFA will only investigate cases which should not be dealt with by Lewisham Clinical Commissioning Group. Following receipt of all referrals, NHS CFA will add any known information or intelligence and based on the following case acceptance criteria (not exhaustive), determine if a case should be investigated by NHS CFA or returned for local investigation:

Cases which:

- have a strategic or national significance or are deemed to be of suitable national public interest;
- from intelligence or information have been identified as being part of a suspected criminal trend or an area which is suspected of being targeted by organised crime and which requires a centrally coordinated investigation;
- form part of a series of linked cases already being investigated or about to be by NHS CFA;
- are known or likely to have a high degree of complexity either in the nature of the fraud or the investigation required;
- will require a significant investigation which could include the involvement of other agencies such as OFT, FSA, or Serious Fraud Office (not day to day involvement of agencies on lower level cases);
- have any factors which would determine that the case should be investigated outside of the NHS body, for example very senior management involvement, the need to use directed surveillance, obtain communications data or use powers provided to NHS CFA in the NHS Act 2006;
- extend beyond the geographical, financial or legal remit of the NHS body affected by the fraud; may be retained by NHS CFA.

5.5.3 The LCFS will:

- ensure that the Director of Finance is informed about all referrals/cases
- be responsible for the day-to-day implementation of the three key
- principles of counter Fraud, Bribery and Corruption activity as set

out in the NHS CFA strategy and, in particular, the investigation of all suspicions of fraud

- investigate all cases of fraud
- in consultation with the Director of Finance, report any case to the police or NHS CFA as agreed and in accordance with *NHS CFA guidance*
- report any case and the outcome of the investigation through the NHS CFA national case management system (FIRST)
- ensure that other relevant parties are informed where necessary, e.g. Human Resources (HR) will be informed if an employee is the subject of a referral
- ensure that the CCGs' incident and losses reporting systems are followed
- ensure that any system weaknesses identified as part of an investigation are followed up with management and reported to internal audit
- not have responsibility for or be in any way engaged in the management of security for any NHS body
- ensure that the Director of Finance is informed of regional team investigations, including progress updates
- ensure cases are handled appropriately, taking account of best practice and the employment relationship

5.5.4 The LCFS in consultation with the Director of Finance will review the strategic objectives within the assurance framework to determine any potential fraud risks. Where risks are identified, these will be included on Lewisham Clinical Commissioning Group's Risk Register so the risk can be proactively reviewed and addressed.

## **5.6 Accountable Officer and Managing Director**

5.6.1 The Managing Director is responsible for approving financial transactions across the organisation, and prepares documents and maintains detailed financial procedures and systems which apply the principles of separation of duties and internal checks.

5.6.2 The Accountable Officer reports annually to the Governing Board on the adequacy of internal financial controls and risk management as part of the Boards overall responsibility to prepare a Statement of Internal Control for inclusion in the CCGs Annual Report.

## **5.7 Director of Finance**

5.7.1 The Director of Finance, in conjunction with the Managing Director, monitors and ensures compliance with Secretary of State Directions regarding Fraud, Bribery and Corruption. The Director of Finance will, depending on the outcome of investigations (whether on an interim/ongoing or concluding basis) and/or the potential significance of suspicions that have been raised, inform appropriate senior management accordingly.

5.7.2 The LCFS shall be responsible, in discussion with the Director of Finance, for informing third parties such as external audit or the police at the earliest opportunity, as circumstances dictate.

- 5.7.3 The Director of Finance will inform and consult the Managing Director in cases where the loss may be above the agreed limit or where the incident may lead to adverse publicity.
- 5.7.4 The Director of Finance will inform the Head of Internal Audit at the first opportunity. If an investigation is deemed to be appropriate, the Director of Finance will delegate to the CCGs' LCFS, who has responsibility for leading the investigation, whilst retaining overall responsibility him/herself.
- 5.7.5 The Director of Finance or the LCFS will consult and take advice from Human Resources (HR) if a member of staff is to be interviewed or disciplined. The Director of Finance or LCFS will not conduct a disciplinary investigation, but the employee may be the subject of a separate investigation by HR.
- 5.7.6 The Director of Finance is responsible for informing the Audit Committee of all categories of loss.

## **5.8 Internal and external audit**

- 5.8.1 Internal auditors will undertake a programme of audits as directed by the Audit Committee, to include reviewing controls and systems and ensuring compliance with financial transactions. The CCG has a statutory duty to ensure that it has in place adequate arrangements for the prevention and detection of fraud and corruption
- 5.8.2 Any incident or suspicion that comes to internal or external audit's attention will be passed immediately to the nominated LCFS. The outcome of the investigation may necessitate further work by internal or external audit to review systems.

## **5.9 Human resources**

- 5.9.1 HR will liaise closely with managers and the LCFS from the outset if an employee is suspected of being involved in fraud and/or corruption, in accordance with agreed liaison protocols. HR staff are responsible for ensuring the appropriate use of the CCGs' disciplinary procedure. The HR department will advise those involved in the investigation on matters of employment law and other procedural matters, such as disciplinary and complaints procedures, as requested. Close liaison between the LCFS and HR will be essential to ensure that any parallel sanctions (i.e. criminal, civil and disciplinary sanctions) are applied effectively and in a coordinated manner and that staff are at all times treated in accordance with CCG values.
- 5.9.2 HR 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.

## **5.10 Information management and technology**

- 5.10.1 The Head of Information Security (or equivalent) will contact the LCFS immediately in all cases where fraudulent use of information technology or

breaches of the Computer Misuse Act 1990 is suspected. HR will also be informed if there is a suspicion that an employee is involved.

## **5.11 Governance and Risk**

5.11.1 The Governance and Risk team will review risks, incidents and complaints information and alert the LCFS to any suspicions they identify. The LCFS will advise the Governance and Risk Manager of any risks or incidents that they identify. Due to the confidential nature of LCFS work this will usually be at the end of an investigation or when allegations have been substantiated.

## **5.12 Procurement**

5.12.1 Procurement practices will be conducted in a fair and transparent manner; and contractors or suppliers known or reasonably suspected to be paying bribes will not be dealt with. Before engaging contractors and suppliers, Lewisham Clinical Commissioning Group will ensure that properly documented due diligence is undertaken. Unless prospective contractors and suppliers have effective anti-bribery programmes in place, Lewisham Clinical Commissioning Group will contractually require them to comply with the Anti-Bribery policy. Agreements with contractors and suppliers shall, at all times, provide for the necessary contractual mechanisms to enforce compliance with the anti-bribery arrangements. Lewisham Clinical Commissioning Group will monitor performance and, in cases of non-compliance, will require the correction of deficiencies, sanctions may be applied, or eventually agreements will be terminated.

## **5.13 External Communications**

5.13.1 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 act of bribery 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 Director of Finance or Managing Director.

## **5.14 Training**

5.14.1 Lewisham Clinical Commissioning Group will provide anti-bribery training to all its employees on a regular basis to make them aware of our Anti-Bribery policy and guidelines, in particular of possible types of bribery, the risks of engaging in bribery activity and how employees may report a suspicion of bribery.

5.14.2 Where employees are undertaking work on behalf of Lewisham Clinical Commissioning Group, but employed by another NHS body which is not Lewisham Clinical Commissioning Group; details of anti-bribery procedures and training will be sought from the relevant NHS employer on an annual basis to provide assurance to Lewisham Clinical Commissioning Group.

## **6.0 The Response Plan**

### **6.1 Bribery and corruption**

- 6.1.1 The CCG has conducted risk assessments in line with Ministry of Justice guidance to assess how bribery and corruption may affect the organisation, and to implement proportionate procedures to mitigate identified risks.
- 6.1.2 The CCG has implemented key policies and procedures covering declarations of interest and hospitality and gifts which all staff are required to adhere to. CCG staff should ensure that they are aware of and have read these policies.
- 6.1.3 Off-the-book accounts and false or deceptive booking entries are strictly prohibited. All gifts, payments or any other contribution, whether in cash or in kind; shall be documented, regularly reviewed and properly accounted for on the books of Lewisham Clinical Commissioning Group. Record retention and archival policy must be consistent with Lewisham Clinical Commissioning Group's accounting standards, tax and other applicable laws and regulations.
- 6.1.4 Lewisham Clinical Commissioning Group procures goods and services ethically and transparently with the quality, price and value for money determining the successful supplier/contractor, not by receiving (or offering) improper benefits. The organisation will not engage in any form of bribery, neither in the UK or abroad. The organisation and all employees, independent of their grade and position, shall at all times comply with the Bribery Act 2010 and with this policy.
- 6.1.5 Employees of Lewisham Clinical Commissioning Group will not request or receive a bribe from anybody, nor imply that such an act might be considered. This means that you will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person as an incentive or reward to perform improperly your function or activities.
- 6.1.6 Bribing anybody is absolutely prohibited. Employees of Lewisham Clinical Commissioning Group will not pay a bribe to anybody. This means that you will not offer, promise, reward in any way or give a financial or other advantage to any person in order to induce that person to perform his/her function or activities improperly. It does not matter whether the other person is a UK or foreign public official, political candidate, party official, private individual, private or public sector employee or any other person (including creating the appearance of an effort to improperly influence another person).
- 6.1.7 Lewisham Clinical Commissioning Group may, in certain circumstances, be held responsible for acts of bribery committed by intermediaries acting on its behalf such as subsidiaries, clients, business partners, contractors, suppliers, agents, advisors, consultants or other third parties. The use of intermediaries for the purpose of committing acts of bribery is prohibited.
- 6.1.8 All intermediaries shall be selected with care, and all agreements with intermediaries shall be concluded under terms that are in line with this policy. Lewisham Clinical Commissioning Group will contractually require its agents and other intermediates to comply with the Anti-Fraud, Bribery and Corruption policy and to keep proper books and records available for inspection by Lewisham Clinical Commissioning Group, auditors or investigating authorities. Agreements with agents and other intermediaries shall at all times provide for the necessary contractual mechanisms to enforce compliance with the anti-

bribery regime. Lewisham Clinical Commissioning Group will monitor performance and, in cases of non-compliance, require the correction of deficiencies, apply sanctions and, or eventually terminate the agreement even if this may result in a loss of business.

- 6.1.9 All employees should be aware that bribery will normally, dependent upon the circumstances of the case, be regarded as gross misconduct thus warranting summary dismissal without previous warnings. However, no such action will be taken before a proper investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution

## 6.2 Reporting fraud, bribery or corruption

- 6.2.1 This section outlines the action to be taken if Fraud, Bribery or Corruption is discovered or suspected.
- 6.2.2 If an employee has any of the concerns mentioned in this document, they must inform the nominated LCFS or the relevant CCG's Director of Finance immediately, unless the Director of Finance or LCFS is implicated. If that is the case, they should report it to the Chair or Chief Operating Officer, who will decide on the action to be taken. An employee can contact any member of the CCGs' senior management team to discuss their concerns if they feel unable, for any reason, to report the matter to the Chair or Chief Operating Officer.
- 6.2.3 Employees can also call the NHS Fraud and Corruption Reporting Line on Freephone 0800 028 4060, or complete the online fraud reporting form at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk). This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting the NHS. It allows NHS staff that are unsure of internal reporting procedures to report their concerns in the strictest confidence. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.
- 6.2.4 **Form 1** (see *Appendices*) provides a reminder of the key contacts and a checklist of the actions to follow if Fraud, Bribery 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.
- 6.2.5 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.
- 6.2.6 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.
- 6.2.7 Staff should always be encouraged to report reasonably held suspicions directly to the LCFS. You can do this by filling in the NHS Fraud, Bribery and

Corruption Referral Form (**Form 2**) or by contacting the LCFS by telephone or email using the contact details supplied on **Form 1** (see *Appendices*).

6.2.8 Lewisham Clinical Commissioning Group 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, Lewisham Clinical Commissioning Group has a Whistle Blowing policy. This is intended to complement Lewisham Clinical Commissioning Group's Anti-Fraud, Bribery and Corruption Policy and ensures that 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 or management chain. The policy can be found on the Intranet.

### **6.3 Disciplinary action**

6.3.1 Lewisham Clinical Commissioning Group's Disciplinary procedure must be followed if an employee is suspected of being involved in a fraudulent or otherwise illegal act.

6.3.2 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.

### **6.4 Police involvement**

6.4.1 In accordance with *NHS CFA guidance*, the Director of Finance, in conjunction with the LCFS, 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 local disciplinary procedures of Lewisham Clinical Commissioning Group.

6.4.2 During police investigations, the nominated point of contact will be the LCFS. All requests from the police for additional evidence, statements etc. will be dealt with via the LCFS.

6.4.3 A Memorandum of Understanding is in place between NHS CFA and the Association of Chief Police Officers. This provides a framework for the exchange of information to achieve the prevention, detection, investigation and prosecution of matters of fraud and corruption within or affecting the NHS in England.

### **6.5 Managing the investigation**

6.5.1 The LCFS, in consultation with Lewisham Clinical Commissioning Group's Director of Finance, will investigate allegations in accordance with procedures documented in the NHS Anti-Fraud Manual issued by NHS CFA.

6.5.2 The LCFS must be aware that staff under an investigation which could lead to disciplinary action have the right to be represented at all stages. In certain circumstances, evidence may best be protected by the consideration of an employee's suspension from duty. Lewisham Clinical Commissioning Group will make a decision based on HR advice on the disciplinary options, which include suspension.

6.5.3 Lewisham Clinical Commissioning Group will follow their disciplinary procedure if there is evidence that an employee has committed an act of fraud or corruption.

## **6.6 Gathering evidence**

6.6.1 The LCFS will take control of any physical evidence, and record this in accordance with the procedures outlined in the NHS Anti-Fraud Manual. If evidence consists of several items, such as many documents, LCFSs should record each one with a separate reference number corresponding to the written record. In criminal actions, evidence on or obtained from electronic media needs a document confirming its accuracy.

6.6.2 Interviews under caution or to gather evidence will only be carried out by the LCFS, if appropriate, or the investigating police officer in accordance with the Police and Criminal Evidence Act 1984 (PACE). The LCFS will take written statements where necessary.

6.6.3 All employees have a right to be represented at internal disciplinary interviews by a trade union representative or accompanied by a friend, colleague or any other person of their choice, not acting in a legal capacity in connection with the case; in line with Lewisham Clinical Commissioning Group's Disciplinary policy.

6.6.4 The application of the Counter Fraud, Bribery and Corruption Policy will at all times be in tandem with all other appropriate CCG policies, e.g. Standing Financial Instructions (SFI's).

## **6.7 Reporting Outcomes of the Investigation**

6.7.1 The investigation process requires the LCFS to review the systems in operation to determine whether there are any inherent weaknesses. Any such weaknesses identified should be corrected immediately.

6.7.2 If Fraud Bribery or Corruption is found to have occurred, the LCFS will prepare a report for the Director of Finance and the next CCG's Audit Committee meeting, setting out the following details:

- the circumstances
- the investigation process
- the estimated loss
- the steps taken to prevent a recurrence
- the steps taken to recover the loss

6.7.3 As a result of both reactive and proactive work completed throughout the financial year, closure reports will be prepared and issued by the LCFS. Systems and procedural weaknesses will be identified in each report and recommendations for improvement will be suggested. Lewisham Clinical Commissioning Group, together with the LCFS will track the recommendations to ensure that they have been implemented.

## **6.8 Sanctions and redress**

6.8.1 The seeking of financial redress or recovery of losses will always be considered in cases of Fraud Bribery or Corruption that are investigated by

either the LCFS or NHS CFA where a loss is identified. As a general rule, recovery of the loss caused by the perpetrator will always be sought which may involve action under the Proceeds of Crime Act 2002. The decisions will be taken in the light of the particular circumstances of each case.

- 6.8.2 Redress allows resources that are lost to Fraud, Bribery and Corruption to be returned to the NHS for use as intended, for provision of high-quality patient care and services. Where appropriate, Lewisham Clinical Commissioning Group will utilise the joint-working partnership between NHS CFA and Capsticks for Civil Recovery consideration and action; which includes a free hotline service to discuss options available to the organisation.
- 6.8.3 Chapter 6 of the NHS Anti-Fraud Manual provides in-depth detail of how sanctions can be applied where fraud and/or bribery is proven and how redress can be sought. To summarise, local action can be taken to recover money by using the administrative procedures of Lewisham Clinical Commissioning Group or civil law.
- 6.8.4 In cases of serious Fraud, Bribery and Corruption, 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.
- 6.8.5 NHS CFA 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.
- 6.8.6 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.
- 6.8.7 In some cases (taking into consideration all the facts of a case), it may be that Lewisham Clinical Commissioning Group, under guidance from the LCFS and with the approval of the Director of Finance, decides that no further recovery action is taken.
- 6.8.8 The range of sanctions which the CCG may apply when a financial offence has occurred are given below:

**Criminal** – 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

**Civil** – the civil recovery route is also available to Lewisham Clinical Commissioning Group 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.

**Disciplinary** - 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 Lewisham Clinical Commissioning Group. In all cases, current legislation must be complied with.

The LCFS remit should cover criminal investigations only, and NHS CFA does not endorse the use of LCFS provision for carrying out disciplinary investigations at a health body.

Where both criminal and disciplinary investigations are conducted regarding the same incident, close and supportive liaison between the two is needed

**Professional body disciplinary** – during an investigation if clear evidence exists of a healthcare professionals involvement in fraud or corruption the appropriate regulatory body should be informed so they can consider whether Fitness to Practice procedures should be invoked.

The regulatory body have statutory powers to place conditions on, suspend or remove the registration of professionals whose fitness to practice has been impaired.

6.8.9 Action to recover losses will be commenced as soon as practicable after the loss has been identified. Given the various options open to Lewisham Clinical Commissioning Group, it may be necessary for various departments to liaise about the most appropriate option.

6.8.10 In order to provide assurance that policies were adhered to, the Director of Finance 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.

## **7.0 Review**

### **7.1 Monitoring and auditing of policy effectiveness**

7.1.1 Monitoring of policy effectiveness is essential to ensure that controls are appropriate and robust enough to prevent or reduce fraud. Ongoing review of system controls and identification of weaknesses in processes will be taken into consideration when this policy is reviewed to ensure the policy remains up to date.

### **7.2 Dissemination of the Policy**

- 7.2.1 This policy applies to all CCG staff, Directors, non-Executive Directors, Contractors and Governors. The policy will be referenced at all staff inductions, ant-fraud presentations at Team Meetings and is available to all staff via the CCG Intranet.
- 7.2.2 Lewisham Clinical Commissioning Group is committed to maintain an open, honest and well-intentioned atmosphere within the organisation, so as to best fulfil the objectives of the organisation and of the NHS. It is therefore also committed to the elimination of fraud and prevention of bribery within Lewisham Clinical Commissioning Group, to the rigorous investigation of any such allegations and to taking appropriate action against wrong doers; including possible criminal prosecution as well as undertaking steps to recover any assets lost as a result of fraud.
- 7.2.3 Lewisham Clinical Commissioning Group wishes to encourage anyone having reasonable suspicions of fraud to report them. Lewisham Clinical Commissioning Group's policy, which will be rigorously enforced; is that no individual will suffer any detrimental treatment as a result of reporting reasonably held suspicions. The Public Interest Disclosure Act 1998 came into force in July 1999 and gives statutory protection, within defined parameters, to staff that make disclosures about a range of subjects, including fraud and corruption; which they believe to be happening within the Trust employing them. Within this context, "reasonably held suspicion" means any suspicions, other than those which are raised maliciously and are subsequently found to be groundless.
- 7.2.4 Any unfounded or malicious allegations will be subject to a full investigation and where appropriate, disciplinary action.
- 7.2.5 Lewisham Clinical Commissioning Group expects anyone having reasonable suspicions of fraud to report them. It recognises that, while cases of theft are usually obvious; there may initially only be a suspicion regarding potential fraud and, thus, employees should report the matter to their Local Counter Fraud Specialist who will then ensure that procedures are followed.
- 7.2.6 Employees should also makes themselves familiar with the Whistle Blowing Policy, which provides guidance for staff wanting to raise suspicions about workplace issues, including potential unlawful conduct, financial malpractice or dangers to patients, the public or environment.

### **7.3 Review of the policy**

- 7.3.1 This policy will be reviewed annually by the owner noted on the cover sheet and will be approved by Lewisham Clinical Commissioning Group's Audit Committee.
- 7.3.2 The content of this policy will be monitored against template policies provided by NHS CFA, and will be amended as required to demonstrate changes in Secretary of State Directions or NHS standard contract Directions or the NHS Anti Fraud Manual (as amended).
- 7.3.3 Any abuse or non-compliance with this policy or procedures will be subject to a full investigation, by the Local Counter Fraud Manager, and may result in a

criminal prosecution and/or appropriate disciplinary action, including dismissal.

**NHS Anti-Fraud and corruption: do's and don'ts**  
**A desktop guide for Lewisham CCG employees**

**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.

**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 LCFM.

• **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' and 'Confidential' for the personal attention of the LCFM.

**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 LCFM 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!**

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

- directly contacting the **Local Counter Fraud Specialist**, or
- telephoning the freephone NHS Fraud and Corruption Reporting Line, 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 and Corruption Reporting Line: 0800 028 40 60**  
All calls will be treated in confidence and investigated  
by professionally trained staff

Your Local Counter Fraud Specialist is Melanie Alflatt who can be contacted by emailing [melanie.alflatt@nhs.net](mailto:melanie.alflatt@nhs.net) or by phone on 07899 981415

If you would like more information about NHS Counter Fraud Authority, please visit [www.cfa.nhs.uk](http://www.cfa.nhs.uk)

**Protecting your NHS**

**FORM 2**

**NHS Fraud, Bribery and Corruption referral form**

*All referrals will be treated in confidence and investigated by professionally trained staff*

1. **Date**

2. **Anonymous application <Delete as appropriate>**

*Yes (If 'Yes' go to section 6) or No (If 'No' complete sections 3–5)*

3. **Your name**

4. **Your organisation/profession**

5. **Your contact details**

6. **Suspicion**

7. **Please provide details including the name, address and date of birth (if known) of the person to whom the allegation relates.**

8. **Possible useful contacts**

9. **Please attach any additional information available.**

Submit the completed form (in a sealed envelope marked 'Restricted – Management' and 'Confidential') for the personal attention of the LCFM, TIAA Ltd, Suite 1, 50 Churchill Square, Kings Hill, ME19 4YU.

