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<b>Policy title</b>		Anti-Fraud and Bribery policy and guidance		
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<b>Purpose of Policy</b>	<b>Decision</b>	✓		
	<b>Assurance</b>			
	<b>Information</b>			
<b>FOI Status</b>	<b>Public</b>	✓		
	<b>Private</b>			
<b>Category of Policy</b>	<b>Decision</b>	✓		
	<b>Position Statement</b>			
	<b>Information</b>			
<b>Does this document place Individuals at the Centre</b>	<b>Y</b>	<b>N</b>	Yes	
<b>Actions Requested</b>		For approval at Executive Committee		
<b>Which other committees has this item been to?</b>		None		
<b>Reference to other documents</b>		HR002 Whistleblowing policy HR012 Disciplinary policy NEW Devon CCG Constitution Standards of Business Conduct		
<b>Have the legal implications been considered?</b>		Yes		
<b>Equality Impact Assessment</b>				
<b>Who does the proposed piece of work affect?</b>	Staff	✓		
	Patients	✓		
	Carers	✓		
	Public	✓		
			<b>Yes</b>	<b>No</b>
1. Will the proposal have any impact on discrimination, equality of opportunity or relations between groups?				✓
2. Is the proposal controversial in any way (including media, academic, voluntary or sector specific interest) about the proposed work?				✓
3. Will there be a positive benefit to the users or workforce as a result			✓	

of the proposed work?		
4. Will the users or workforce be disadvantaged as a result of the proposed work?		✓
5. Is there doubt about answers to any of the above questions (e.g. there is not enough information to draw a conclusion)?		✓
If the answer to any of the above questions is yes (other than question 3) or you are unsure of your answers to any of the above you should provide further information using <b>Screening Form One</b> available from Corporate Services		
If an equality assessment is not required briefly explain why and provide evidence for the decision.		

**NEW Devon CCG has made every effort to ensure this policy does not have the effect of discriminating, directly or indirectly, against employees, patients, contractors or visitors on grounds of race, colour, age, nationality, ethnic (or national) origin, sex, sexual orientation, marital status, religious belief or disability. This policy will apply equally to full and part time employees. All NEW Devon CCG policies can be provided in large print or Braille formats if requested, and language line interpreter services are available to individuals of different nationalities who require them.**

#### Reference to Core Strategies and Corporate Objectives

Core Strategies, we will:	Corporate Objective	Does this report reference to the Core Strategies/ Corporate Objectives	
		✓	X
1. Take joint ownership with partners and the public for creating sustainable health and care services	1.1 Develop people, and those who support them, to value strengths and personal qualities in all that they do	✓	
	1.2 Listen to people and take action on what they say about services	✓	
2. Implement systems that make the best use of valuable health resources, every time	2.1 Innovate to increase productivity and reduce waste	✓	
	2.2 Commission safe services and reduce avoidable harm	✓	
3. Commission to prevent ill health, promote well being and help people with long-term conditions to live well	3.1 Support people to make healthy lifestyle choices and understand the care, treatment and services available to them	✓	
	3.2 Commission services with partners to reduce health inequalities and improve people's lives	✓	

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2.0	May 2013	Revision of wording
3.0	July 2013	Revision in line with CCG governance arrangements and reporting arrangements
4.0	September 2013	Ratified – approved by Governing Body 18 September 2013
4.1	October 2015	Reviewed and updated to reflect NHS protect guidance and updated reporting lines.
4.1	October 2015	Ratified by Executive Committee
<b>Authors:</b>	Gareth Cottrell, Local Counter Fraud Specialist	
<b>Scrutinised by: (name &amp; title)</b>	John Harle, Governance Manager	
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## CONTENTS

Section	Page
1. Introduction	5
2. Aims and objectives	5
3. Scope	5
4. Definitions	5
5. NHS Protect	6
6. Roles and Responsibilities	7
7. Response plan	10
8. Sanction and redress	11
9. Monitoring and Audit	12
10. Dissemination of the policy	12
11. Review	12

Appendix A: Key Contacts

Appendix B: Investigation Process

Linked strategies, policies and other documents	HR02 Whistleblowing policy
	HR012 Disciplinary policy
	NHS NEW Devon CCG Constitution
	Standards of Business Conduct

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## 1. Introduction

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- 1.1 Northern, Eastern and Western Devon Clinical Commissioning Group (hereafter referred to as the CCG) aims to commission prompt high quality treatment and care where it is needed. The CCG is committed to ensuring its resources are used appropriately and efficiently, and it follows that any misuse of resources must be identified and stopped.

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## 2. Aims and Objectives

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- 2.1 The aim of this policy is to provide a guide for employees on what fraud is in relation to the NHS, what everyone's responsibility is to prevent fraud, bribery and corruption and how to report it. The CCG recognises the importance of keeping fraud against the NHS to an absolute minimum thereby ensuring that resources are used to better patient care.

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## 3. Scope

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- 3.1 The CCG requires all staff and members to act honestly and with integrity and to safeguard the CCG's reputation. It is the responsibility of all staff and members to read and be familiar with the contents of this Policy and related procedures, and to identify and notify the Chief Finance Officer of any suspected cases of fraud or fraud risk.
- 3.2 This policy applies to the following:
- All staff, members and lay members engaged by Northern, Eastern and Western Devon Clinical Commissioning Group;
  - Bank and agency staff working for the CCG;
  - Staff providing services to the CCG via a contracted arrangement or Service Level Agreement;
  - Staff on honorary contracts whose payroll costs are partially or fully funded by a third party under a formal arrangement; and
  - Trainee professionals and students hosted by the CCG for the provision of work or vocational experience.

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## 4. Definitions

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- 4.1 Fraud can be defined as: ***A dishonest act or omission made with the intention of making a financial gain or causing a financial loss.***
- 4.2 It should be noted that the dishonest act does not need to be successful for fraud to be committed, as long as an intention exists. It should also be noted that the financial gain does not have to be personal but can be for the benefit of another.
- 4.3 ***Fraud by False Representation (S.2) – lying about something or misrepresenting a fact by any means, e.g. by words or actions.***
- 4.4 ***Fraud by Failing To Disclose Information (S.3) – not saying something when you have a legal duty to do so e.g. failing to notify an employer of a criminal conviction***

or a professional sanction;

- 4.5 **Fraud by Abuse Of Position (S.4)** – *abusing a position where there is an expectation to safeguard the financial interests of another person or organisation, e.g. an employed carer stealing money from patients he is responsible for.*
- 4.6 This can involve manipulating records including travel claims, petty cash vouchers, or the falsification of invoices for payment.

### **The Definition of Bribery**

- 4.7 **General bribery offences** - Sections 1 to 5 of the Bribery Act 2010 (which replaces all previous statutory and common law provisions in relation to bribery) sets out the "general bribery offences".
- 4.8 Bribery occurs when a person offers, gives or promises to give a "**financial or other advantage**" to another individual in exchange for "**improperly**" performing a "**relevant function or activity**".
- 4.9 Being bribed, is defined as requesting, accepting or agreeing to accept such an advantage, in exchange for improperly performing such a function or activity.
- 4.10 A "**financial or other advantage**" has a wide meaning and could include holidays or entertainment, contracts, non-monetary gifts and offers of employment etc.
- 4.11 A "**relevant function or activity**" covers "any function of a public nature; any activity connected with a business, trade or profession; any activity performed in the course of a person's employment; or any activity performed by or on behalf of a body of persons whether corporate or unincorporated".
- 4.12 The conditions attached are that the person performing the function could be expected to perform it in good faith or with impartiality, or that an element of trust attaches to that person's role.
- 4.13 Activity will be considered to be "**improperly**" performed when the expectation of good faith or impartiality has been breached, or when the function has been performed in a way not expected of a person in a position of trust.
- 4.14 The standard in deciding what would be expected is what a reasonable person in the UK might expect of a person in such a position.
- 4.15 Any concerns about bribery must be referred to the Chief Finance Officer.

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## **5. NHS Protect**

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- 5.1 NHS Protect has responsibility for policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS. Any investigation will be handled in accordance with NHS Protect guidance and in line with the NHS Protect strategy *Tackling crime against the NHS: A strategic approach*.

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## 6. Roles and Responsibilities

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### Chief Operating Officer

- 6.1 The Chief Operating Officer is the CCG's accountable officer and therefore has the overall responsibility for funds entrusted to it. This includes instances of fraud, bribery and corruption. The Chief Executive must ensure adequate policies and procedures are in place to protect the organisation and the public funds it receives.

### All Staff

- 6.2 All staff have an implicit duty to protect the assets of the CCG. Assets include finances, information and goodwill as well as property. Some guidance on how to recognise fraud and how to prevent it is attached at Appendices A and B. It is the responsibility of any member of staff who suspects fraud or bribery to report this.
- 6.3 Under no circumstances should a member of staff speak or write to representatives of the press, TV, radio, or to another third party, about a suspected fraud. The established lines of reporting to the Chief Finance Officer should be used and staff can be reassured that all allegations will be investigated. Nor should the person or persons about whom an allegation is made be informed of the fact without the permission of the Chief Finance Officer. Care needs to be taken to ensure that nothing is done that could give rise to an action for slander or libel. It is also critical not to jeopardise any future investigations.

### Audit Committee

- 6.4 The Audit Committee is responsible for monitoring the CCG's counter fraud arrangements, including considering an annual report of counter fraud work.

### Chief Finance Officer

- 6.5 The Chief Finance Officer is responsible for:
- the investigation of any allegations of fraud and bribery and for the delivery of a programme of proactive counter fraud work as detailed in the annual work plan;
  - operational matters such as authorising the investigation of alleged fraud, including the arrest, interviewing and prosecution of subjects and for the recovery or write-off of any sums lost to fraud; and
  - informing the Chief Officer and the Chair of the Audit Committee in cases where there may be a substantial loss to the CCG or where the incident may lead to adverse publicity.
- 6.6 Local Counter Fraud Specialist
- 6.7 The LCFS will ensure that all cases of actual or suspected fraud are reported to NHS Protect through the Area Anti-Fraud Specialist (AAFS) before any investigation or referral to the Police takes place.

6.8 The LCFS will liaise with the AAFS and, in conjunction with the Chief Finance Officer, will decide who will conduct the investigation and when / if referral to the Police is required.

6.9 The LCFS will, amongst other duties:

- ensure that the Chief Finance Officer is kept apprised of all cases;
- in consultation with the Chief Finance Officer and the AAFS, report any case to the Police as necessary;
- report the outcome of the investigation to the Chief Finance Officer and the AAFS;
- ensure that other departments, e.g. Human Resources (HR) are informed where necessary. HR will be informed where an employee is a suspect. (LCFS and HR to comply with the relevant protocol between both parties); and
- ensure that any system weaknesses identified as part of an investigation are followed through with management to implement changes.

### **Human Resources Department**

6.10 A counter fraud investigation differs from that of a disciplinary matter. However, a disciplinary enquiry can proceed in parallel with a criminal investigation as long as there is close co-operation between Human Resources staff; the CCG's investigating officer and the Chief Finance Officer.

6.11 The Human Resources function shall advise those involved in the disciplinary investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures, as required.

6.12 In some cases, such as when a major diversion of funds is suspected, speed of response, including the suspension or re-allocation of members of staff involved, may be crucial to avoid financial loss.

### **Internal/External Audit**

6.13 Through their work, Internal and External Audit will be alerted to the risk of fraud and bribery. Through on-going liaison with the LCFS, Internal Audit will seek to assess the control measures in place to manage key fraud and bribery risks where these fall within the scope of their audits.

6.14 Any incident or suspicion that comes to Internal or External Audit's attention will be passed immediately to the LCFS. The outcome of the investigation may necessitate further work by Internal or External Audit to review systems.

### **DELT Shared Service (IT Provider)**

6.15 DELT Shared Service via Governance will report all cases to the LCFS where there is suspicion that IT is being used for fraudulent purposes. This includes inappropriate potentially fraudulent Internet or E-mail use.

6.16 All staff should be aware of the Computer Misuse Act 1990 and fraudulent use of

information technology will be reported by the CCG Governance Manager to the LCFS.

- 6.17 HR will be informed if there is a suspicion that an employee has breached the organisation's regulations.

### **Third Parties Acting on Behalf of the CCG**

- 6.18 Any third party acting on behalf of the CCG shall be responsible for complying with this Policy and other relevant CCG policies, including reporting any concerns/suspicions of fraud and bribery.

### **Area Anti-Fraud Specialists**

- 6.19 Area Anti-Fraud Specialists (AAFSs) are the frontline face of NHS Protect for all health bodies within their region.
- 6.20 The AAFS is responsible for the management and vetting of all local investigation case papers and evidence and witness statements submitted for the consideration of prosecutions.
- 6.21 AAFSs ensure that local investigations are conducted within operational and legislative guidelines to the highest standards for all allegations of fraud in the NHS and provide help, support, advice and guidance to DoFs, LCFSs, Audit Committees and other key stakeholders in their region.
- 6.22 The AAFS allocates, supervises and monitors fraud referrals and notifications to the LCFS. Explain that the AAFS provides support as to the direction of ensuing investigations as required and oversees the LCFS's performance.
- 6.23 The AAFS ensures that all information and intelligence gained from local investigative work is reported and escalated as appropriate at both local and national level so that fraud trends can be mapped and used to fraud-proof future policies and procedures.

### **CCG Managers**

- 6.24 All managers are responsible for ensuring that policies, procedures and processes within their local area are adhered to and kept under constant review.
- 6.25 Managers have a responsibility to ensure that staff are aware of fraud, bribery and corruption and understand the importance of protecting the organisation from it. Managers will also be responsible for the enforcement of disciplinary action for staff who do not comply with policies and procedures.
- 6.26 Managers must report any instances of actual or suspected fraud, bribery or corruption brought to their attention to the LCFS immediately. It is however important that managers do not investigate any suspected financial crimes themselves.

- 6.27 Managers are expected to ensure that adequate controls are in place within their sphere of responsibility including robust checking and auditing processes designed to prevent, detect and deter fraud and error.

### **The CCG's role as commissioners**

- 6.28 Service Condition 24 of the NHS Standard Contract sets out what providers need to do in respect of Counter Fraud arrangements. The CCG will ensure that NHS resources are protected from fraud, bribery and corruption using regular reviews of the anti-fraud arrangements of the providers from which it commissions activity.

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## **7. Response Plan**

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### **Bribery and corruption**

- 7.1 The CCG has conducted risk assessments in line with Ministry of Justice guidance to assess how bribery and corruption may affect the organisation. This has found that proportionate procedures have been put in place to mitigate identified risks.
- 7.2 The CCG has a policy and procedure in place in relation to declarations of interest and the hospitality/gifts including the obligation in staff to complete the appropriate register in the event of an offer of a gift or hospitality. Staff should consult the relevant policy for further information.

### **Reporting fraud, bribery or corruption**

- 7.3 A report should be made as soon as there is a suspicion of fraud or bribery.
- 7.4 You should report your suspicions to the Chief Finance Officer (see Appendix A for contact details) without delay. **Under no circumstances should you begin your own investigation.**
- 7.5 Managers should seek advice from the Chief Finance Officer where they have any doubts about whether or not a referral should be made.
- 7.6 In all cases the Chief Finance Officer will ensure that the suspicions or concerns raised are investigated strictly in accordance with the CCG's policies.

### **Anonymity**

- 7.7 Unless there are truly exceptional reasons, suspicions of fraud or bribery should not be reported by an anonymous letter or telephone call, as this can seriously limit the scope of any investigation because often too little information is disclosed. Please consider other options.
- 7.8 When requested however, it **shall be the policy** of the CCG to take such steps as can reasonably be expected to protect the identity of the person making the report of suspected fraud or bribery.

## Confidentiality

- 7.9 You should ensure that you do not discuss your suspicions with anyone else that you work with. This will protect your anonymity (should you wish) and will ensure that evidence is not tampered with.
- 7.10 Suspected fraud, bribery and corruption can also be reported to NHS Protect using the NHS Fraud and Corruption Reporting Line on freephone 0800 028 40 60 or by filling in an online form at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk), as an alternative to internal reporting procedures and if staff wish to remain anonymous.
- 7.11 All reports of fraud and corruption will be taken seriously and will be thoroughly investigated.

## Acting upon your suspicions – The Do's and Don't

- 7.12 If you suspect fraud or bribery within the workplace, there are a few simple guidelines that should be followed:
- 7.13 **DO:**
- Make an immediate note of your concerns;
  - Where possible note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of any parties involved;
  - Convey your suspicions to someone with the appropriate authority and experience, as set out within the Anti-Fraud and Bribery policy; and
  - Deal with the matter promptly. Any delay may cause the CCG to suffer further financial loss.
- 7.14 **DON'T:**
- Do nothing;
  - Be afraid of raising your concerns. You will not suffer any recrimination from the CCG as a result of voicing a reasonably held suspicion, and any matter you raise will be dealt with sensitively and confidentially;
  - Approach or accuse any individuals directly;
  - Try to investigate the matter yourself. There are special rules surrounding the gathering of evidence for use in criminal cases. Any attempt to gather evidence by people who are unfamiliar with these rules may compromise the case; and
  - Convey your suspicions to anyone other than those with the proper authority.

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## 8. Sanction and redress

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- 8.1 This section outlines the sanctions that can be applied and the redress that can be sought against individuals who commit fraud, bribery and corruption against the CCG.
- 8.2 All investigations are conducted with NHS Protect's 'Parallel Criminal and Disciplinary Investigations' guidance in mind thereby allowing all appropriate sanctions to be brought to bear including;

- Civil –civil sanctions can be taken against those who commit fraud, bribery and corruption to recover money and/or assets which have been fraudulently obtained, including interest and costs.
- Criminal –the LCFS will work in partnership with NHS Protect, the police and/or the Crown Prosecution Service to bring a case to court against an alleged offender. Outcomes can range from a criminal conviction to fines and imprisonment.
- Disciplinary – the LCFS will work with the CCG’s Human Resources Department with a view to disciplinary procedures being initiated where an employee is suspected of being involved in a fraudulent or illegal act. Investigations will be conducted in such a way that criminal and disciplinary processes are not brought into conflict with each other.
- Professional body disciplinary – if warranted, staff may be reported to their professional body as a result of a successful investigation/prosecution.

8.3 The CCG will seek financial redress whenever possible to recover losses to fraud, bribery and corruption. Redress can take the form of confiscation and compensation orders, a civil order for repayment, or a local agreement between the organisation and the offender to repay monies lost.

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## **9. Monitoring and audit**

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- 9.1 Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud, bribery and corruption. Arrangements might include reviewing system controls on an on-going basis and identifying weaknesses in processes.
- 9.2 Where deficiencies are identified as a result of monitoring, the LCFS will make appropriate recommendations to make the CCG more resilient to fraud. The LCFS will develop a suitable action plan indicating how any recommendations made should be implemented.

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## **10. Dissemination of the policy**

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- 10.1 It is important that all member of staff understand and are aware of this policy. It should be available within the CCG’s intranet and searchable using appropriate keywords.

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## **11. Review**

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- 11.1 This policy is extant for a period of 3 years from the date of ratification unless circumstances dictate the need for an earlier review. Contact points are listed in Appendix A and may be reviewed at any time. The LCFS is responsible for review and update of this policy.

## Appendix A: Key Contacts

<b>Role</b>	<b>Name</b>	<b>Tel</b>	<b>e-mail</b>
Chief Financial Officer	Hugh Groves	01392 356003	<a href="mailto:hugh.groves@nhs.net">hugh.groves@nhs.net</a>
Local Counter Fraud Specialist	Gareth Cottrell	01872 25 8057 07814 002364	<a href="mailto:Gareth.cottrell@nhs.net">Gareth.cottrell@nhs.net</a>
Interim Counter Fraud Manager	Paul Thomas	01803 656435	<a href="mailto:p.thomas@nhs.net">p.thomas@nhs.net</a>
Area Anti-Fraud Specialist	Debbie Cole	01275 460035 07967 713009	<a href="mailto:Debbie.Cole@nhsprotect.gsi.gov.uk">Debbie.Cole@nhsprotect.gsi.gov.uk</a>

Appendix B: Investigation Process

