


Counter Fraud, Bribery and Corruption Policy

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1 INTRODUCTION

1.1 Fraud Bribery & Corruption

1.2 All fraud, bribery and corruption (collectively referred to as economic crime) in the NHS is unacceptable and should not be tolerated. It affects the ability of the NHS to improve health outcomes for people in England, as resources are wrongfully diverted and cannot be used for their intended purpose.

1.3 NHS funds and resources should, therefore, be safeguarded against those minded to committing economic crime.

1.4 NHS Counter Fraud Authority

NHS Counter Fraud Authority (NHSCFA) is a Special Health Authority charged with identifying, investigating and preventing fraud and other economic crime within the NHS and the wider health group. Focussed entirely on counter fraud work, the NHSCFA is independent from other NHS bodies and directly accountable to the Department of Health and Social Care.

2 PURPOSE / POLICY STATEMENT

2.1 This policy aims to:

- Explain how the Herts and West Essex Integrated Care Board (HWE ICB) intends to tackle economic crime following the NHSCFA Strategy guidelines.
- Provides guidance and
- Ensures employees are able to recognise economic crime and understand the correct reporting requirements.

2.2 This policy should be read in conjunction with the organisation's Whistleblowing Policy, and applies to all staff; Board members, volunteers, interns, including Lay members; contractors; consultants; vendors and any other internal or external stakeholders working on behalf of the organisation.

2.3 HWE ICB is committed to ensuring its resources are appropriately protected from fraud, bribery and corruption.

2.4 Activities to tackle economic crime within HWE ICB will be carried out within four key principles for action,

- Strategic Governance
- Inform and involve;
- Prevent and deter; and,
- Hold to account;

2.5 Employees must report any suspicions of economic crime as soon as they become aware of them to ensure they are investigated appropriately and to maximise the chances of financial recovery, via:

- The organisations Lead Counter Fraud Specialist (LCFS)

- The organisations Chief Financial Officer (CFO)
 - the Crimestoppers powered NHS Fraud and Corruption Reporting Line: 0800 028 40 60 or
 - filling in an online form at [cfa.nhs.uk/report fraud](http://cfa.nhs.uk/report-fraud)
- 2.6 The majority of allegations of economic crime will be investigated by the HWE ICB Accredited Counter Fraud Specialists.
- 2.7 Depending on the particular details of the allegation, if necessary, some cases may also be investigated by NHSCFA.
- 2.8 Under no circumstances should any staff member commence an investigation into suspected or alleged economic crime; a summary of what staff should do with any concerns is included as Appendix A and Appendix B. Where there is a concern of deliberate wrongdoing or potential fraud, or they are unsure, staff are encouraged to seek the advice of the Counter Fraud Specialist at the earliest possible stage.
- 2.9 All staff should cooperate with the Counter Fraud Specialists, as well as NHSCFA and other bodies, to facilitate work to tackle economic crime involving the NHS by:
- Providing information and intelligence.
- Facilitating investigations; complying with NHSCFA strategy and guidance and,
 - Not revealing information about open investigations to unauthorised persons (including journalists).
 - Taking all appropriate steps to prevent, detect and investigate economic crime will be taken, including:
 - Appointing qualified/professional personnel to operate in accordance with relevant legislation and relevant standards; and,
 - Ensuring that appropriate measures are included in all financial governance and system controls to tackle economic crime.
- 2.10 All appropriate sanctions will be sought against those found to have committed economic crime, including criminal, civil and disciplinary sanctions. Where applicable, these may include but not be limited to:
- Criminal prosecution
 - Recovery by means of contractual arrangements
 - Recovery via agreement or via a civil court
 - Internal disciplinary sanctions
 - Referral to a professional body such as General Medical Council, Nursing Midwifery Council or Care Quality Commission.

3 DEFINITIONS

3.1 Fraud

3.2. The Fraud Act 2006 created a criminal offence of fraud and defines three main ways of committing it:

Fraud by false representation
A person is in breach of this section if he/she: <ul style="list-style-type: none">• Dishonestly makes a false representation, and• Intends, by making the representation to make a gain for themselves or another, or to cause loss to another or to expose another to a risk of loss. A representation is false if: <ul style="list-style-type: none">• It is untrue or misleading, and• The person making it knows that it is, or might be, untrue or misleading.
Fraud by failing to disclose information
A person is in breach of this section if he/she: <ul style="list-style-type: none">• Dishonestly fails to disclose to another person information which they are under a legal duty to disclose, and• Intends, by failing to disclose the information to make a gain for themselves or another, or to cause loss to another or to expose another to a risk of loss.
Fraud by abuse of position
A person is in breach of this section if he/she: <ul style="list-style-type: none">• Occupies a position in which he/she is expected to safeguard, or not to act against, the financial interests of another person;• Dishonestly abuses that position, and• Intends, by means of the abuse of that position to make a gain for themselves or another, or to cause loss to another or to expose another to a risk of loss.• A person may be regarded as having abused their position even though their conduct consisted of an omission rather than an act.

3.3 The Act states that the terms “Gain” and “Loss” should be read in accordance with the following:

- As extending only to a gain or loss in money or other property; and
- As including any such gain or loss whether temporary or permanent.

“Property” means any property whether real or personal (including things in action and other intangible property).

“Gain” includes a gain by keeping what one has, as well as a gain by getting what one does not have.

“Loss” includes a loss by not getting what one might get, as well as a loss by parting with what one has.

3.4 Fraud carries a maximum sentence of 10 years imprisonment.

3.5 Bribery and Corruption

3.6 Bribery is generally defined as giving or offering someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so; or requesting, agreeing to receive, or accepting the advantage offered.

3.7 The Bribery Act 2010 reformed the criminal law of bribery, making it easier to tackle this offence proactively in both the public and private sectors. It introduced a corporate offence (S7 below) which means that commercial organisations, including NHS bodies, will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery.

	Section	Offence	Detail
Individuals	Section 1	Bribing another person	Offering, promising or giving a bribe in the UK or abroad, in the public or private sector.
	Section 2	Receiving a bribe	Requesting, agreeing to receive or accepting of a bribe in the UK or abroad, in the public or private sector.
	Section 6	Bribery of foreign public officials	Bribery of a foreign public official in order to obtain or retain business.
Organisations	Section 7	Failure to prevent bribery	Failure by an organisation to prevent a bribe being paid by those who perform services for, or on behalf of the organisation (“associated persons”).

3.8 Bribery carries a maximum sentence of 10 years imprisonment and a fine.

3.9 **Theft**

- 3.10 Theft is defined within the Theft Act 1968 as ‘dishonestly appropriating property belonging to another with the intention of permanently depriving the other of it.’
- 3.11 The Theft Act 1968 also includes robbery, burglary, and abstracting electricity amongst other offences.
- 3.12 Should theft or similar offences be suspected by any person the organisation’s Local Security Management Specialist (“LSMS”) should be informed to review security measures who may recommend referral it to the Police if appropriate.

4 **SCOPE**

4.1 **Parties within the Scope of this Document**

- 4.2 This policy applies to all employees HWE ICB and/or any other parties who undertake business on behalf of or representing HWE ICB. This includes (but is not restricted to) Board members, Executive Senior Managers, as well as consultants, vendors, contractors and secondees.

5 **ROLES AND RESPONSIBILITIES**

5.1 **All ICB Employees**

- 5.2 All employees should carry out their duties with due regard for HWE ICB policies and procedures, be aware of fraud, bribery, and corruption (Economic Crime) risks and understand the importance of protecting the organisation against them.
- 5.3 All employees must report any suspicions of fraud, bribery or corruption. A summary of what all employees should do with any concerns and how to report them is included as Appendix A and Appendix B.
- 5.4 All employees should not be afraid to report genuine suspicions of fraud, bribery or corruption. The Public Interest Disclosure Act 1998 protects those who have reasonable concerns and will not suffer discrimination or victimisation for following the correct procedures.
- 5.5 Any fraud, bribery or corruption concerns received through the Whistleblowing policies should be referred to the Counter Fraud Team as soon as possible and whistle-blowers encouraged to report any future fraudulent concerns directly to the Local Counter Fraud Specialist in the first instance.
- 5.6 Employees should not confirm or deny the existence of an ongoing fraud investigation to any unauthorised individual (including journalists) without seeking prior approval from the LCFS or relevant NHSCFA investigator, as appropriate.
- 5.7 For details regarding responsibilities regarding the declaration of gifts and hospitality, refer to the Standards of Business Conduct policy for the organisation. For expectations regarding the Values, Aims, Principles, Behaviours and Accountability, refer to the Corporate Governance Framework.

5.8 **HWE ICB Board**

- 5.9 The Board is absolutely committed to maintaining an honest, open and well-intentioned culture within the organisation. It is, therefore, also absolutely committed to the elimination of fraud, bribery or any other illegal act which occurs either within or against the organisation.
- 5.10 Whilst every effort will be made to prevent fraud and bribery from occurring, where this is not possible, the Board is committed to the rigorous investigation of any such cases. Consequently, all cases of suspected fraud, bribery and dishonesty will be considered for investigation. Where appropriate, criminal prosecution and civil court action may be taken to recover money, costs and interest. Employees of the HWE ICB or of third parties acting on behalf of the HWE ICB may also be subject to disciplinary action and or referral to a professional regulator.
- 5.11 The Board wishes to encourage anyone having reasonable suspicions of fraud and/or bribery to report them. Therefore, it is also the Board's policy, which will be rigorously enforced, that no individual will suffer in any way as a result of reporting a reasonably held suspicion, provided that they have acted in 'good faith' when doing so. For these purposes "reasonably held suspicions" shall mean any suspicions other than those, which are raised maliciously and found to be groundless. is committed to ensuring employees are treated in line with the Public Interest Disclosure Act 1998. The HWE ICB maintains a Raising Concerns (Whistleblowing HWE ICB) policy which should be consulted by employees who are concerned about making a report.
- 5.12 It should be added that under no circumstances should a member of staff speak or write to representatives of the press, TV, radio, or to any other third party about a suspected fraud without the written authority of the Accountable Officer. Care needs to be taken to ensure that nothing is done that could give rise to an action for slander or libel.

5.13 **Audit Committee**

5.14 The HWE ICB Audit Committee will:

- Require assurance that there are adequate arrangements in place for tackling economic crime;
- Approve the counter fraud, bribery and corruption work plan;
- Review the outcomes of counter fraud, bribery and corruption work; and,
- Review the adequacy and effectiveness of policies and procedures, seeking reports and assurances from Officers as appropriate.

5.15 **Chief Executive**

- 5.16 The Chief Executive has overall responsibility for the funds entrusted to the HWE ICB.
- 5.17 As the Accounting Officer, the respective Chief Executive will ensure adequate policies and procedures are in place to protect the HWE ICB from economic crime.

5.18 **Chief Financial Officer**

5.19 The Chief Financial Officer, as a member of the Board, is responsible for overseeing and providing strategic management and support for all work to tackle economic crime within HWE ICB.

5.20 This ensures there is effective leadership and a high level of commitment to the tackling of economic crime within HWE ICB. Identifying a member of the board to oversee this work also helps HWE ICB to focus on its key strategic priorities in the area of economic crime.

5.21 All counter fraud, bribery and corruption services (including for hosted bodies) are provided under arrangements proposed by the Chief Financial Officer and approved by the Audit and Assurance Committees, on behalf of the Boards.

5.22 **NHS Counter Fraud Authority**

5.23 In accordance with its case acceptance criteria NHSCFA will investigate cases of fraud that are not investigated by the HWE ICB Counter Fraud Team.

5.24 HWE ICB will provide access to and support for NHSCFA improvement activity and will fully engage with planning action as a result of that activity.

5.25 **Internal and External Audit**

5.26 Internal audit play a key role in reviewing controls, identifying system weaknesses and test compliance of HWE ICB standing financial instructions.

5.27 External audit have a specific role to conduct an independent examination and express an opinion, on the HWE ICB Partnership financial statements.

5.28 The audit functions are separate and distinct from work to tackle crime, but it is important that there are effective links between those responsible for the audit function and those responsible for tackling economic crime.

5.29 Internal and external audit should meet regularly with those responsible for work to tackle economic crime, to discuss and monitor liaison requirements with reference to the purpose of each function, ensuring they remain effective and fit for purpose.

5.30 **Human Resources**

5.31 HWE ICB managers are responsible for taking forward disciplinary proceedings against employees who have committed an offence; Human Resources provide advice regarding this process following the HWE ICB Disciplinary Policy. It is not unusual for criminal and disciplinary processes to overlap. In the case of parallel criminal and disciplinary processes, these should be conducted separately and by different officers, but there needs to be close liaison between those investigating economic crime and those progressing disciplinary proceedings since one process may impact on the other. This may include the sharing of information where lawful and at the appropriate time.

- 5.32 Human Resources will, where appropriate, provide information to assist those responsible for dealing with economic crime with any proactive reviews undertaken in relation to detection or prevention activities. In addition, Human Resources will inform those responsible for investigating economic crime of any possible system weaknesses that could allow fraud, bribery or corruption to occur. This includes weaknesses discovered as any part of a Human Resources investigation that did not warrant the commencement of a criminal investigation.
- 5.33 Those responsible with dealing with economic crime should meet regularly with Human Resources to discuss liaison requirements and monitor joint working arrangements, ensuring they remain effective and fit for purpose.
- 5.34 **Nominated and Accredited Lead Counter Fraud Specialists**
- 5.35 Nominated and accredited LCFs work within NHS commissioning and provider organisations to tackle economic crime in line with the NHSCFA Counter Fraud Strategy.
- 5.36 Nominated and accredited LCFs will work with colleagues to promote their work, respond to identified system weaknesses and investigate allegations of fraud, and where appropriate bribery and corruption.
- 5.37 HWE ICB employees will work cooperatively with the HWE ICB counter fraud team and NHSCFA to ensure that proactive and reactive work undertaken is effectively delivered.
- 5.38 Investigative work will usually be carried out by the HWE ICB counter fraud team (in certain circumstances NHSCFA may investigate). This team comprises of nominated and accredited Counter Fraud Specialists.
- 5.39 **Managers**
- 5.40 All managers are responsible for ensuring that policies, procedures and processes within their work areas are adhered to and kept under review. This includes but not limited to authorising annual leave and sickness as appropriate following guidelines.
- 5.41 Managers should ensure that all employees in their teams are aware of fraud, bribery and corruption (economic crime) risks and understand the importance of protecting HWE ICB against them. Managers may also be responsible for the enforcement of disciplinary action for employees who do not comply with policies and procedures and commit economic crime.
- 5.42 If a manager suspects, or is made aware, that someone in their team or a third party may be committing fraud, bribery or corruption, they must immediately report their suspicions to the HWE ICB LCFs.
- 5.43 Managers should in no circumstances investigate suspicions or an allegation themselves. A summary of what employees (including Managers) should do with any concerns is included as Appendix A and B. Routine verification of information or outliers according to normal processes is reasonable. However, where there is a concern that deliberate wrongdoing or potential fraud may have taken place, or they are unsure, employees (including Managers) are encouraged to seek the advice of the relevant HWE ICB LCFs at the earliest possible stage.
- 5.44 Managers must ensure all staff complete the counter fraud training as part of HWE ICB Training requirements.

5.45 **Commissioning Support Unit**

5.46 The Commissioning Support Unit (CSU) will assist the CFO, HR and the LCFS, where an employee is suspected of being involved in fraud and bribery, by allowing them access to staff and any relevant documentation they may hold.

5.47 **Information Management and Technology**

5.48 Information Management and Technology (IM&T) will report all cases to the LCFS in line with the Computer Misuse Act 1990, where there is suspicion, that IT is being used for fraudulent purposes. This includes inappropriate Internet or E-mail use.

6 **POLICY DETAIL**

6.1 **Approach to Tackling Economic Crime**

6.2 **Strategic Governance**

HWE ICB will ensure there is support for work to tackle Economic Crime at all levels with the organisation. The Chief Financial Officer will have overall responsibility for overseeing and providing strategic management and support for the work, ensuring it is embedded across HWE ICB. All counter fraud work will be aligned to the NHSCFA strategy.

5.3 Furthermore, HWE ICB will undertake the full range of work against economic crime.

5.4 A local risk assessment based on the NHSCFA Risk Descriptors and other influencing factors will form the basis of an annual Counter Fraud Plan setting out the work scheduled for the year and authorised by the Audit Committee.

5.5 **Key Principles for Action**

5.6 In order to tackle economic crime, HWE ICB will take a multi-faceted approach that is both proactive and reactive. This approach is set out in the following three key principles for action:

5.7 **Inform and Involve**

HWE ICB will ensure all its employees understand what economic crime is, and their role in ensuring they follow the correct reporting procedures. This can take place through communications and promotions, such as awareness campaigns, newsletters and presentations.

5.8 **Prevent and Deter**

HWE ICB will remove opportunities for economic crime to occur and discourage those individuals who may be tempted to commit these crimes. Successes will be publicised so that the risk and consequences of detection are clear to potential offenders. Those individuals who are not deterred should be prevented from committing crime by ensuring robust systems are in place.

5.9 **Hold to account**

HWE ICB will ensure those who have committed economic crime against it are held to account for their actions. HWE ICB will ensure professionally trained specialists are in place to detect and investigate these offences and will seek to apply the full range of sanctions to those found to have committed fraud, bribery or corruption, including criminal, civil and disciplinary sanctions (Disciplinary sanctions carried out by HR supported by the LCFS as appropriate.).

5.10 HWE ICB will also seek to recover all funds lost to economic crime.

5.11 **Cabinet Office Functional Standard and Measuring Success**

The Cabinet Office has developed Functional Standard GovS 013: Counter Fraud. The purpose of this government functional standard is to set the expectations for the management of fraud, bribery and corruption risk in government organisations. HWE ICB will implement these requirements in order to ensure its resources are protected from economic crime.

5.12 Having appropriate measures in place helps to protect NHS resources against crime and ensures HWE ICB meets these standards.

5.13 HWE ICB will co-operate with the reporting and assurance programme associated with GovS 013 and will aim to continually enhance compliance with the Functional Standards.

7 MONITORING COMPLIANCE

7.1 Awareness of and compliance with the policies and procedures laid down in this document will be monitored by NHSCFA, as part of their quality assurance programme. Independent reviews may be conducted by both Internal and External Audit on a periodic basis.

7.2 The Chief Financial Officer, is responsible for the monitoring, revision and updating of this document.

8 STAFF TRAINING

8.1 Managers must ensure all staff complete the counter fraud training as part of HWE ICB Training requirements

8.2 We will ensure that reasonable adjustments to accommodate the equality needs of individuals, where relevant to the understanding and application of the policy, are made. This helps to ensure that staff understand the policy.

9 ARRANGEMENTS FOR REVIEW

- 9.1 This policy will be reviewed no less frequently than every two years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed.
- 9.2 If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the HWE ICB. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the Integrated Care Board.

10 ASSOCIATED POLICIES, GUIDANCE AND DOCUMENTS

Associated Policies

- Whistleblowing Policy
- Standards of Business Conduct
- Conflicts of Interest
- Disciplinary Policy

Associated Guidance

- NHSCFA Strategy 2023-26
- The Fraud Act
- The Bribery Act 2010

11 REFERENCES

- Provide a list of references of the documents that have informed or contributed to this policy.

12 EQUALITY IMPACT ASSESSMENT

- 12.1 This policy provides guidance on, and explanation of, the process to be followed to support HWE ICB to tackle economic crime. This policy commits to meeting the equality needs of individuals that may be impacted by the process. It also links to other policies and practices where meeting the equality needs of individuals are already embedded. A full equality impact assessment on this policy is, therefore, not required. Agreed with Paul Curry, Equality and Diversity Lead, 6 July 2023.

WHAT TO DO IF YOU HAVE ANY SUSPICIONS OF FRAUD?

If you suspect fraud or bribery within the workplace, there are a few simple guidelines that should be followed:

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 this Anti-Fraud and Bribery Policy; and
- Deal with the matter promptly. Any delay may cause the CCG to suffer further financial loss.

DON'T:

- X Do nothing.
- X Be afraid of raising your concerns. You will not suffer any recrimination from the as a result of voicing a reasonably held suspicion, and any matter you raise will be dealt with sensitively and confidentially.
- X Approach or accuse any individuals directly. If the suspected individual is made aware of the allegation against them, they could destroy or conceal evidence before an official investigation has begun.
- X 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
- X Convey your suspicions to anyone other than those with the proper authority.

How to report suspected fraud taking place in the NHS.

- The organisations LCFS
Eleni Gill eleni.gill@wmas.nhs.uk or 07827 308906
- The organisations CFO
- Or the Crimestoppers powered NHS Fraud and Corruption
Reporting Line: 0800 028 40 60
- Filling in an online form at cfa.nhs.uk/reportfraud