

REDRESS POLICY

NOVEMBER / 2020

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Date Issued:	November 2020
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This policy will impact on:	All CCG employees, any staff seconded to the CCG and contract and agency staff.	
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Author:	Victoria Rimmington, Finance Manager	
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CONTENTS

		Page
1.	INTRODUCTION	4
2.	SCOPE	4
3.	POLICY PURPOSE AND AIMS	4
4.	IMPACT ANALYSIS	5
4.1	Equality	5
4.2	Bribery Act 2010	5
5.	NHS CONSTITUTION	6
5.1	The CCG is committed to:	6
5.2	This Policy supports the NHS Constitution and	6
6	ROLES / RESPONSIBILITIES / DUTIES	6
7.	PROCEDURES	7
7.1	Contact	7
7.2	Investigations	7
7.3	Sanctions	8
7.4	Redress	11
7.5	Publicity	12
8.	TRAINING AND AWARENESS	12
9.	MONITORING AND EFFECTIVENESS	12
10.	POLICY REVIEW	13
11.	ASSOCIATED DOCUMENTATION	13
APPENDICES		
Appendix 1	Equality Impact Analysis	14

1. INTRODUCTION

Redress is to set right, to remedy the action taken by an individual(s) against the CCG in order to counteract the effects of fraud, bribery, corruption and security breaches/criminal activity.

One of the primary aims of the NHS Counter Fraud Authority (NHSCFA) is to reduce fraud and protect vital resources within the NHS. By keeping low levels of fraud maintained, the right funds and resources are available for better patient care and services.

It is vital that all who come into contact with NHS Hull Clinical Commissioning Group, e.g. employee, contractor or patient, understand that fraud and security breaches against the NHS and against the CCG are unacceptable and will not be tolerated and that the CCG is committed to applying all appropriate sanctions.

This policy outlines the CCG's position in terms of the sanctions and the actions should there be a need to apply them.

2. SCOPE

This policy applies to all employees of the CCG, any staff who are seconded to the CCG, contracted and agency staff, or any other individual engaged in any capacity on behalf of the CCG.

This policy is available on the CCG website.

3. POLICY PURPOSE AND AIMS

The NHSCFA has developed strategies to counter fraud, "Leading the Fight against NHS Fraud is the organisational strategy for 2017-20."

The processes to deliver the strategies are fully supported by NHS Hull CCG and this work covers three main objectives:

1. To educate and inform those who work for or use the NHS about fraud in the health service and how to tackle it.
2. To prevent and deter fraud in the NHS by removing opportunities for it to occur or to re-occur.
3. To hold to account those who have committed fraud against the NHS by detecting and prosecuting offenders and seeking redress where viable.

The CCG, the CCG's Local Counter Fraud Specialist (LCFS) and Local Security Management Specialist (LSMS) work to deter fraud and security breaches and have in place preventative measures to reduce the risks.

Please refer to the Counter Fraud, Bribery and Corruption Policy or Security Management policy in circumstances where fraud or security breaches are suspected. These will be investigated by the LCFS/LSMS on behalf of the CCG.

4. IMPACT ANALYSIS

4.1 Equality

The CCG is committed to:

- Eliminating discrimination and promoting equality and diversity in its policies, procedures and guidelines, and
- Designing and implementing services, policies and measures that meet the diverse needs of its population and workforce, ensuring that no individual or group is disadvantaged.

The equality impact of this policy has been considered, and no adverse equality impact identified (please see Appendix 1 for the full Equality Impact Assessment).

4.2 Bribery Act 2010

NHS Hull Clinical Commissioning Group has a responsibility to ensure that all staff are made aware of their duties and responsibilities arising from The Bribery Act 2010.

The Bribery Act 2010 makes it a criminal offence to bribe or be bribed by another person by offering or requesting a financial or other advantage as a reward or incentive to perform a relevant function or activity improperly performed. The penalties for any breaches of the Act are potentially severe. There is no upper limit on the level of fines that can be imposed and an individual convicted of an offence can face a prison sentence of up to 10 years.

For further information see <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-quick-start-guide.pdf>.

If you require assistance in determining the implications of the Bribery Act please contact the Local Counter Fraud Specialist on 0191 441 5936, email counterfraud@auditone.co.uk or ntawnt.counterfraud@nhs.net.

Due consideration has been given to the Bribery Act 2010 in the development of this policy

5. NHS CONSTITUTION

5.1 The CCG is committed to:

- The achievement of the principles, values, rights, pledges and responsibilities detailed in the NHS Constitution, and
- Ensuring they are taken account of in the production of its Policies Procedures and Guidelines.

5.2 This policy supports the NHS Constitution by committing to use NHS resources responsibly and fairly and providing best value for taxpayer's money.

6. ROLES / RESPONSIBILITIES / DUTIES

6.1 Senior Management Team

The Chief Officer, as Accountable Officer, will provide assurance the Governing Body that this policy and procedure is adhered to through delegation to the appropriate committees and personnel.

The Chief Finance Officer will maintain a robust financial control and budgetary framework for the CCG and pursue, where appropriate, sanctions against any employee or anyone else acting on behalf of the CCG found to be guilty of fraud, corruption, bribery or theft.

Senior management are collectively responsible for ensuring that this policy is understood and adopted by all to whom it applies.

6.2 Human Resources

As the investigation into a suspicion of fraud, bribery, corruption or theft commences and proceeds, both Human Resources and the LCFS/LSMS will advise the CCG on the full range of sanctions that are available.

The Human Resources Team will provide any appropriate technical advice and support to enable losses to be identified at the earliest opportunity. This will allow the LCFS/LSMS to reference them in any disciplinary hearings so that redress is considered throughout the process.

6.3 Finance Team

The Finance Team, once a decision has been taken to impose a financial sanction will follow up debts through their usual processes.

6.4 Employees

All employees will comply with this and any other associated policies and

procedures, associated documents are listed at section 11 below.

6.5 **Local Counter Fraud Specialist (LCFS)**

The LCFS is responsible for taking forward all counter fraud work locally in accordance with national standards and reports directly to the Chief Finance Officer.

6.6 **Local Security Management Specialist (LSMS)**

The LSMS is responsible for taking forward all security management work locally in and reports directly to the Chief Finance Officer.

7. **PROCEDURES**

7.1 **Contact**

Where there is a suspected fraud, theft or security incident, it should be reported to the following teams.

The CCG's Counter Fraud Team is provided by Audit One. If an employee suspects that fraud, bribery or corruption has taken place they should ensure it is reported to the LCFS, Nikki Cooper on 01482 866800, mobile 07872 988939 or by email: nikki.cooper@audit-one.co.uk or nikki.cooper1@nhs.net (secure). If the LCFS is not available please contact the AuditOne Fraud hotline on 0191 441 5936, email counterfraud@auditone.co.uk or ntawnt.counterfraud@nhs.net (secure).

Alternatively, reports can be made directly to the Chief Finance Officer. If the referrer feels for any reason that they are unable to report the matter internally, referrals can be made to the NHSCFA, via the Fraud and Corruption Reporting Line on 0800 028 4060 (powered by Crimestoppers) or online at: <https://cfa.nhs.uk/reportfraud>.

The CCG's LSMS should be approached to discuss any security incidents. The LSMS is contactable on telephone number 07906 651391 or email at gary.ross@audit-one.co.uk or gary.ross@nhs.net (secure). If the LSMS is not available please contact the AuditOne Fraud hotline, on the details above.

7.2 **Investigation**

When a suspected fraud, theft or security incident has been reported, the LCFC/LSMS will lead an investigation.

During a fraud investigation, in compliance with standard 4.6 of the NHSCFA Standards for Commissioners any loss will be identified and quantified working in conjunction with Human Resources, Payroll and any other relevant departments or organisations, to calculate the amount of monies lost due to the alleged fraud. Any theft will be dealt with in the same way, even though mandated NHS Standards do not apply.

Where fraud/theft is proven, all options will be considered, including criminal, civil and disciplinary procedures. Further detail is provided at Section 7.3 Every attempt

to redress the incident to minimise the effect/loss to the CCG will be sought.

The LCFS/LSMS will report the total of the loss to the Chief Finance Officer advising of the possible actions available to recover any monies lost.

The Chief Finance Officer will make the recommendation to the Chief Officer whether to pursue a recovery detailing the most cost-effective method of recovery.

It is vital that the CCG ensures that if an employee, contractor or member of the public has committed fraud/theft then they do not profit from their crime and that any financial gain is recovered, including any costs associated with such recovery.

7.3 Sanctions

In compliance with standards 4.3 and 4.6 of the NHSCFA Standards for Commissioners there are four main sanctions, which can be applied by the CCG. Each sanction will play an equally important role in creating and maintaining an anti-crime culture across the organisation:

1. Civil

Civil sanctions can be taken against those who commit fraud, bribery or, corruption to recover money and/or assets which have been obtained, including interest and costs.

2. Criminal

The LCFS will work in partnership with the NHSCFA, the Police and/or the Crown Prosecution Service to bring a case to court against an alleged offender. The LSMS would work with the Police and/or the Crown Prosecution Service only.

Outcomes can range from a criminal conviction to fines and imprisonment.

3. Disciplinary

Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act.

Staff should refer to the organisation's disciplinary policy; however, dishonesty - including fraud, theft or providing false information - constitutes gross misconduct which may result in dismissal

4. Professional body Investigation

The CCG will report an individual to their professional body where it is felt their fitness to practice is impaired on account of their actions and as a result of an investigation and/or prosecution.

The CCG reserves the right to use whatever means are available to recover the loss, including legal redress.

The application of a criminal, civil or disciplinary procedure need not necessarily be a stand-alone sanction. Dependent on the outcome of an investigation, each sanction is capable of being applied and it is not unusual for each of the sanctions to overlap.

It is however, important that when running parallel sanctions, that one proceeding does not undermine the other(s) and although there is no set rule, it is usual that a criminal investigation will take precedence over the other three types of sanction. Further advice should be sought from the LCFS whenever parallel sanctions are being considered.

7.3.1 Civil Proceedings

The civil recovery route is available to the CCG and this could include a number of options including the Small Claims Court and Debt Collection Agencies.

When weighing up the cost effectiveness of such action, as well as considering the amount of the outstanding debt and the likelihood of success, the CCG should also consider the likely deterrent effect a successful civil court action would achieve.

In order to pursue a claim through the Court, the CCG must demonstrate that attempts have been made to recover the money, and all reasonable avenues of redress have been sought.

Civil recovery should not be considered as a first option.

For external bodies or NHS contractor, recovery should be affected by formal contact. They should be written to advising them of the debt and inviting a proposal to pay.

Should they not respond, or the proposal is deemed to be unacceptable, they should be written to making a formal demand for the money. This letter should be sent by "Recorded Delivery".

Should this demand be ignored, the external body or contractor should be sent a third and final letter again by "Recorded Delivery" advising them that the CCG will be considering legal action through the Civil Court process in order to secure the recovery.

In this instance the Chief Finance Officer should seek the advice from the Solicitors concerning recovery. Costs associated with the recovery should be included in the claim submitted to the Court.

For employees, ex-employees, external bodies or NHS contractors, if following a conviction, the court awards compensation and/or costs the action will be awarded from the court and collected from the individual by the court. The LCFS/LSMS will notify the Finance Department of the award and the expected periodical payment.

Where the payment from the court does not materialise after a period not exceeding three months, the Finance Department will be responsible for following the matter up with the relevant court.

7.3.2 Disciplinary Action

Decisions regarding the disciplinary will be made in line with the CCG's Disciplinary Policy. Recovery of loss can be settled through earnings.

Payment from Earnings

Following disciplinary action, if the employee is still employed by the CCG, recovery can be affected through payroll until the debt is met.

The employee should be written to confirming the debt and a reasonable proposal will be made for recovery. An agreement will be sought with the employee to ensure that recovery is made in the shortest possible time

Where an employee is in the process of leaving, they should be advised that the recovery can be actioned through the final salary payment.

Where the available funds are insufficient, they should be written to advising them of the debt and inviting a proposal to pay.

Attachment of Earnings

Where an individual is employed elsewhere, an arrangement can be made through the Courts to recover losses via payroll. An attachment of earnings order is a method by which money will be stopped from the employee's wages to pay back the debt.

The amount to be paid each month is determined by the Courts, who work out the minimum amount of money the person needs to live on, referred to as the 'protected earnings rate'. If the person earns more than the protected earnings rate, an order will be made; if the person is on a low wage, it may not be possible to make an attachment of earnings order.

7.3.3 Criminal Prosecution

During the course of a fraud investigation, the LCFS will keep in regular contact with the NHSCFA who will provide advice in relation to the level of evidence and potential sanctions.

The decision regarding the application of criminal prosecution will rest with the Chief Finance Officer but will be decided following advice from the **NHSCFA** and the Crown Prosecution Service.

Depending on the extent of the loss and the circumstances of the case, a criminal prosecution may prove the most judicious route for the recovery of losses to be obtained under the Proceeds of Crime Act 2002.

Costs and compensation associated with a criminal prosecution will be determined through the investigation process and based on the evidence.

The LCFS/LSMS will keep a record of the time spent on the investigation and this will be converted to a cost based on an hourly rate. This information will be passed

to the Crown Prosecutor at the earliest opportunity and prior to the commencement of a court case.

Confiscation of Assets

In cases of serious fraud (generally £5,000 or more), the **NHSCFA** can apply to the courts to make orders concerning the restraint and confiscation of the proceeds of criminal activity. Restraint orders are generally obtained when a suspect is charged with a relevant criminal offence.

Confiscation and compensation orders can only be made if an offender is found guilty of an offence from which he has benefited. It is therefore important to identify assets at an early stage of the investigation in order to prevent a defendant from moving assets beyond reach. In such cases the LCFS will work closely with the NHCFA and the Chief Finance Officer.

7.4 Redress Process

Whilst further action may be taken the CCG should attempt to recover the loss incurred. This should be attempted to be recovered where and as soon as possible

7.4.1 Voluntary Repayment

If an offer to repay is received it must only be accepted on the condition that it is 'without prejudice' of any other criminal, civil or disciplinary action that may still be undertaken

If voluntary repayment is to occur, then a single payment in full will be the preferred method. Payment should be made payable to the CCG.

If payment is to be made by instalments, details of the arrangement will be passed to the CCG's Finance Department who will manage recovery of the debt.

7.4.2 Debtor Invoice

A debtor invoice and notification letter may be issued by the Finance Department as a form of seeking redress.

The letter should contain a 'Without prejudice' clause to inform the subject that any repayment of an overpaid amount will not prejudice any other criminal or civil action being taken by the CCG in respect of the subject.

7.4.3 Recovery of contributions from Her Majesty's Revenue and Customs (HMRC)

Certain types of proven fraud cases such as false references used to gain employment from the outset may enable the CCG to recover contributions made to HMRC and the CCG will liaise with HMRC to ensure this is used wherever possible.

7.4.4 NHS Pension Scheme

Following a criminal prosecution of fraud if an employee is a member of the NHS Pension Scheme, redress can be sought through the scheme.

The NHS Pensions Agency is responsible for administering the scheme, and the provision for redress was introduced in the Pension Act 1995.

The Pensions Agency operates according to the code of practice set out in the NHS Pension Scheme Regulations, Statutory Instrument 1995/300. Part T5 of the regulations covers the recovery of money, which states that,

“If a loss of public funds occurs as a result of a member’s criminal, negligent or fraudulent act or omission, the Secretary of State may reduce any benefits or other amounts payable to, or in respect of, the member by an amount equal to the loss.”

There can be a delay using this form of redress as the Pensions Agency is only able to make recovery from benefits in payment at normal pension age, or earlier in the case of retirement on health grounds.

Certain types of proven fraud cases such as false identity documents used to gain employment from the outset may enable the CCG to recover pension contributions and the CCG will liaise with the NHS Pensions Agency to ensure this is used wherever possible.

7.5 Publicity

In addition, the CCG will aim to publicise all local cases of fraud, and will stress that recovery is vigorously sought. This will act as a strong deterrent to those thinking of committing fraud and will further reinforce the message that a counter fraud culture is embedded within the organisation.

8. TRAINING AND AWARENESS

This policy will be communicated to staff via team meetings/team brief and will be available for staff on the CCG website.

9. MONITORING AND EFFECTIVENESS

The Integrated Audit and Governance Committee is responsible for monitoring the effectiveness of Counter Fraud work to provide assurance to the Governing Body that the business of the CCG is being conducted in line with the Counter Fraud, Bribery and Corruption policy, associated policy documents, relevant legislation and other statutory requirements.

Continuous monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. Arrangements may include reviewing system controls on an ongoing basis and identifying weaknesses in processes.

The Senior Leadership Team is provided with an update when required on all security investigations which are carried out and the findings and recommendations will be sent to the relevant manager for them to act upon if appropriate.

Where deficiencies are identified as a result of monitoring, the CCG should explain how appropriate recommendations and action plans are developed and how any

recommendations made should be implemented.

10. POLICY REVIEW

This Policy will be reviewed every two years from date of implementation or more frequently if necessary.

11. ASSOCIATED DOCUMENTATION

Counter Fraud Bribery and Corruption Policy

Security Management Policy

Disciplinary Policy

Whistleblowing Policy

Standing Financial Instructions

Standing Orders

Standards of Business Conduct

NHS Counter Fraud Authority <https://cfa.nhs.uk/>

Appendix 1

Please refer to the EIA Overview & Navigation Guidelines located in Y:\HULLCCG\Corporate Templates and Forms\Equality and Diversity Information before completing your EIA)

HR / Corporate Policy Equality Impact Analysis:	
Policy / Project / Function:	Redress Policy
Date of Analysis:	2 October 2019
Completed by: (Name and Department)	Victoria Rimmington, Finance Manager
What are the aims and intended effects of this policy, project or function?	To inform of the procedures in place to redress any loss incurred by the CCG as a result of Fraud or Criminal Activity
Are there any significant changes to previous policy likely to have an impact on staff / other stakeholder groups?	Update to contact details, NHS Counter Fraud Authority and inclusion of references to NHS Standards for Commissioners.
Please list any other policies that are related to or referred to as part of this analysis	Counter Fraud Bribery and Corruption Policy Security Management Policy Disciplinary Policy Whistleblowing Policy
Who will the policy, project or function affect?	All employees of the CCG, any staff who are seconded to the CCG, contracted and agency staff and any other individual working on CCG premises
What engagement / consultation has been done, or is planned for this policy and the equality impact assessment?	Audit One - LCFS, SLT/HR Consultation
Promoting Inclusivity and Hull CCG's Equality Objectives. How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation? How does the policy promote our equality objectives:	All employees of the CCG, any staff who are seconded to the CCG, contracted and agency staff and any other individual working on CCG premises regardless of any protected characteristics This policy is available on the internet and is available in different formats and languages if necessary

<ol style="list-style-type: none"> 1. Ensure patients and public have improved access to information and minimise communications barriers 2. To ensure and provide evidence that equality is consciously considered in all commissioning activities and ownership of this is part of everyone's day-to-day job 3. Recruit and maintain a well-supported, skilled workforce, which is representative of the population we serve 4. Ensure the that NHS Hull Clinical Commissioning Group is welcoming and inclusive to people from all backgrounds and with a range of access needs 	
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Equality Data	
<p>Is any Equality Data available relating to the use or implementation of this policy, project or function?</p> <p>Equality data is internal or external information that may indicate how the activity being analysed can affect different groups of people who share the nine <i>Protected Characteristics</i> – referred to hereafter as '<i>Equality Groups</i>'.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <ol style="list-style-type: none"> 1: Recruitment data, e.g. applications compared to the population profile, application success rates 2: Complaints by groups who share / represent protected characteristics 4: Grievances or decisions upheld and dismissed by protected characteristic group 5: Insight gained through engagement 	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>Where you have answered yes, please incorporate this data when performing the <i>Equality Impact Assessment Test</i> (the next section of this document). If you answered No, what information will you use to assess impact?</p> <p>Please note that due to the small number of staff employed by the CCG, data with returns small enough to identify individuals cannot be published. However, the data should still be analysed as part of the EIA process, and where it is possible to identify trends or issues, these should be recorded in the EIA.</p>

Assessing Impact

Is this policy (or the implementation of this policy) likely to have a particular impact on any of the protected characteristic groups?

(Based on analysis of the data / insights gathered through engagement, or your knowledge of the substance of this policy)

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and, if applicable, justification where a <i>Genuine Determining Reason</i> ¹ exists (see footnote below – seek further advice in this case)
<p>It is anticipated that these guidelines will have a positive impact as they support policy writers to complete meaningful EIAs, by providing this template and a range of potential issues to consider across the protected characteristics below. There may of course be other issues relevant to your policy, not listed below, and some of the issues listed below may not be relevant to your policy.</p>				
Gender	✓			This has been considered and has no impact. This policy applies equally to all regardless of gender
Age	✓			This has been considered and has no impact. This policy applies equally to all regardless of age.
Race / ethnicity / nationality	✓			This has been considered and has no impact. This policy applies equally to all regardless of race, ethnicity or nationality.
Disability	✓			This has been considered and has no impact. This policy applies equally to all regardless of disability.
Religion or Belief	✓			This has been considered and has no impact. This policy applies equally to all regardless of religion or belief
Sexual Orientation	✓			This has been considered and has no impact. This policy applies to all

1. ¹ *The action is proportionate to the legitimate aims of the organisation (please seek further advice)*

				regardless of sexual orientation
Pregnancy and Maternity	✓			This has been considered and has no impact. This policy applies to all regardless of pregnancy or maternity.
Transgender / Gender reassignment	✓			This has been considered and has no impact. This policy applies to all regardless of transgender / gender reassignment.
Marriage or civil partnership				This has been considered and has no impact. This policy applies to all regardless of marriage or civil partnershi

Action Planning:

As a result of performing this analysis, what actions are proposed to remove or reduce any risks of adverse impact or strengthen the promotion of equality?

Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:

Sign-off

All policy EIAs must be signed off by Mike Napier, Associate Director of Corporate Affairs

I agree with this assessment / action plan

If *disagree*, state action/s required, reasons and details of who is to carry them out with timescales:

Signed:



Date: 04.02.20