

# BNSSG CCG Governing Body Meeting

Date: Tuesday 2<sup>nd</sup> June 2020

Time: 1:30pm

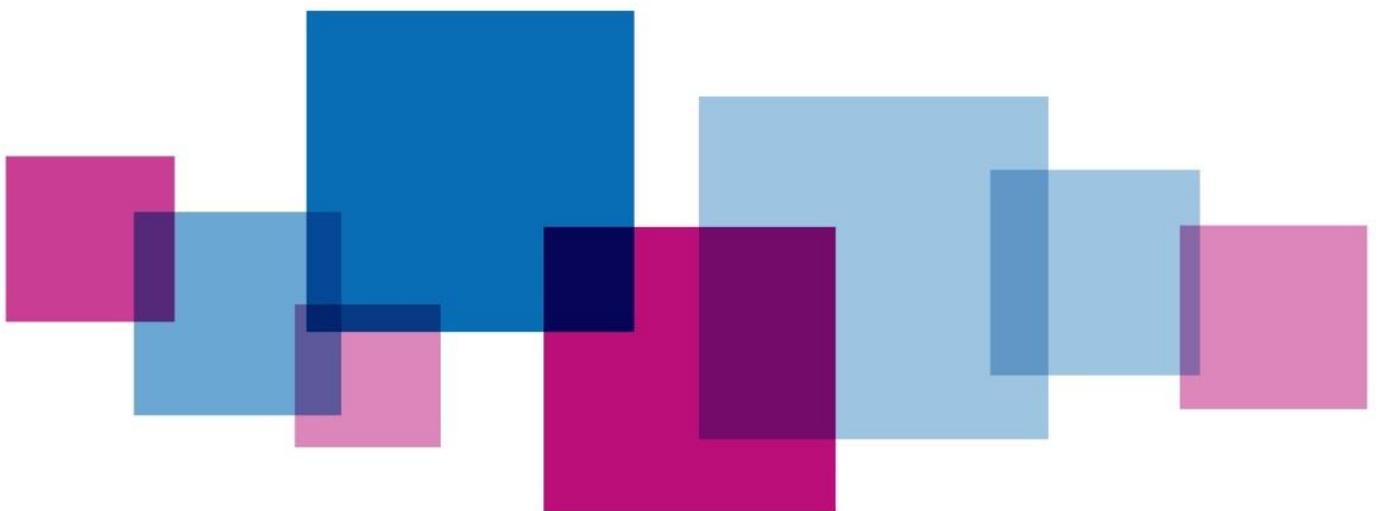
Location: Virtual meeting to be held via Webex. Details within the calendar invite

<b>Agenda Number :</b>	9.2
<b>Title:</b>	Local Counter Fraud, Bribery and Corruption Policy
<b>Purpose: Decision</b>	
<b>Key Points for Discussion:</b>	<p>This policy contains no major changes. Key minor changes to the policy are detailed below:</p> <ul style="list-style-type: none"> <li>Proposed lengthening of review cycle from 1 to 2 years as a result of a lack of major change to national template or standards.</li> <li>Inclusion of paragraph 6.9.4. to set out the appetite for parallel criminal and disciplinary investigations, where public protection is paramount and liaison between HR and LCFS is key.</li> <li>Change to implementation plan to reflect that this is a reviewed policy, as opposed to a new policy.</li> </ul>
<b>Recommendations:</b>	To approve
<b>Previously Considered By and feedback :</b>	Corporate Policy Review Group – minor wording changes.
<b>Management of Declared Interest:</b>	N/A
<b>Risk and Assurance:</b>	N/A
<b>Financial / Resource Implications:</b>	N/A
<b>Legal, Policy and Regulatory Requirements:</b>	NHS CFA Counter Fraud Standards for Commissioners: Standard 2.2. <b>Compliant.</b>
<b>How does this reduce Health Inequalities:</b>	N/A
<b>How does this impact on Equality &amp; diversity</b>	No impact.
<b>Patient and Public Involvement:</b>	No requirement.



<b>Communications and Engagement:</b>	As per implementation plan.
<b>Author(s):</b>	Elias Hayes, Senior Local Counter Fraud Specialist.
<b>Sponsoring Director / Clinical Lead / Lay Member:</b>	Sarah Truelove

# Local Counter Fraud, Bribery and Corruption Policy



**Please complete the table below:**

*To be added by corporate team once policy approved and before placing on website*

<b>Policy ref no:</b>	To be filled in by Corporate Services
<b>Responsible Executive Director:</b>	Sarah Truelove, Deputy Chief Executive / Chief Finance Officer
<b>Author and Job Title:</b>	Elias Hayes, Senior Local Counter Fraud Specialist
<b>Date Approved:</b>	To be filled in by Corporate Services
<b>Approved by:</b>	To be filled in by Corporate Services
<b>Date of next review:</b>	May 2022

**Policy Review Checklist**

	<b>Yes/ No/NA</b>	<b>Supporting information</b>
Has an Equality Impact Assessment Screening been completed?	Yes	See Appendix A.
Has the review taken account of latest Guidance/Legislation?	Yes	Template and guidance Provided by NHS Counter Fraud Authority.
Has legal advice been sought?	N/A	
Has HR been consulted?	Yes	Chance to review at CPRG
Have training issues been addressed?	Yes	Please see implementation plan at Appendix B.
Are there other HR related issues that need to be considered?	No	
Has the policy been reviewed by Staff Partnership Forum?	No	The policy will be shared with SPF for information
Are there financial issues and have they been addressed?	N/A	

	<b>Yes/ No/NA</b>	<b>Supporting information</b>
What engagement has there been with patients/members of the public in preparing this policy?	N/A	
Are there linked policies and procedures?	Yes	See Associated Policies Section
Has the lead Executive Director approved the policy?	Yes	Approved by CFO
Which Committees have assured the policy?	None	The Corporate Policy Review Group has discussed this policy
Has an implementation plan been provided?	Yes	The Chief Financial Officer (CFO) and the LCFS will agree annual and specific measures of the effectiveness of this policy
How will the policy be shared with:  Staff?  Patients?  Public?	Intranet and Internet	See Implementation Plan
Will an audit trail demonstrating receipt of policy by staff be required; how will this be done?	Yes	Staff are required to demonstrate that they have read and understood the policy via email to the Corporate Team.
Has a DPIA been considered in regards to this policy?	Yes	
Have Data Protection implications have been considered?	Yes	

**Version Control** *please remove this box once approved and finalised*

<b>Version</b>	<b>Date</b>	<b>Consultation</b>
----------------	-------------	---------------------



1	6/3/2018	Approved by GB
1.1	9/5/2019	Approved by GB
1.2	18/5/2020	Current.

## Table of Contents

1. Introduction .....	5
BNSSG CCG Values .....	6
2. Purpose and Scope .....	6
3. Definitions.....	7
4. Duties and Responsibilities .....	8
5. Codes of Conduct.....	14
6. The Response Plan .....	15
7. Recovery of Losses due to Fraud and Corruption .....	17
8. Sanctions.....	17
9. Reporting the Results of the Investigation .....	18
10. Monitoring Compliance and Effectiveness .....	18
11. Associated Policies .....	19
12. Training Requirements.....	19
13. Equality Impact Assessment .....	19
14. Appendices .....	19
14.1. Appendix A - Equality Impact Screening.....	19
14.2. Appendix B - Implementation Plan .....	19
Appendix A – Equality Impact Assessment Screening.....	20
Appendix B – Implementation Plan .....	21

# Local Counter Fraud, Bribery and Corruption Policy

## 1 Introduction

- 1.1. One of the basic principles of public sector organisations is the proper use of public funds. The majority of people who work in the NHS are honest and professional and they find that fraud committed by a minority is wholly unacceptable as it ultimately leads to a reduction in the resources available for patient care.
- 1.2. The NHS Counter Fraud Authority (NHS CFA) is charged with identifying, investigating and preventing fraud and other economic crime within the NHS and the wider health group. As a special health authority focused entirely on counter fraud work, the NHS CFA is independent from other NHS bodies and directly accountable to the Department of Health (DH).
- 1.3. The aim is to protect staff and resources from activities that would otherwise undermine their effectiveness and their ability to meet the needs of patients and professionals. Ultimately, this helps to ensure the proper use of valuable NHS resources and a safer, more secure environment in which to deliver and receive care.
- 1.4. BNSSG CCG does not tolerate fraud, bribery or corruption within the NHS. The aim is to eliminate all NHS fraud, bribery and corruption as far as possible. To meet its objectives, it has adopted the operational framework developed by the NHS CFA:
  - Strategic Governance - that supports a zero tolerance approach to wrongdoing; makes this clear to all staff; and monitors, at the very top of the organisation, the effectiveness of the arrangements in place. BNSSG CCG will appoint a qualified Local Counter Fraud Specialist (LCFS) to support this commitment.
  - Inform and Involve - through setting clear policies and a code of conduct for all staff; raising awareness of the risks; and liaising with other organisations to develop a shared resistance to wrongdoing.

- Prevent and Deter - through focused assessment of risks in existing systems and processes; audit and review of records; proactive checks of new employees and new service suppliers.
- Hold to Account - through audit of known higher risk areas; investigating allegations and indications of wrongdoing; and seeking maximum punishment and reparation if wrongdoing is shown.

## **BNSSG CCG Values**

This policy supports the values of the organisation by informing staff of their responsibility to act with integrity and to do the right thing. The CCG is committed to reducing the level of fraud, bribery and corruption within the NHS to increase the resources available for providing better patient care. This policy details how staff should conduct themselves whilst working for the CCG, and raises awareness of fraud, bribery and corruption offences and the reporting lines available for staff who wish to report and suspicions of illicit activity.

## **2. Purpose and Scope**

- 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:
  - 2.1.1. Improve the knowledge and understanding of all employees in BNSSG CCG, irrespective of their position, about the risk of fraud, bribery and corruption within the organisation and its unacceptability.
  - 2.1.2. Assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly.
  - 2.1.3. Ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following: criminal prosecution, civil prosecution or internal/external disciplinary action.
  - 2.1.4. To reduce the occurrence of fraud, bribery and corruption at the CCG.
- 2.2. This policy applies to all employees of BNSSG CCG, regardless of position held, any individual performing duties on behalf of the CCG, consultants, vendors, contractors, and/or any other parties who have a business

relationship with BNSSG CCG. It will be brought to the attention of all employees and form part of the induction process for new staff.

### **3. Definitions**

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

3.1.1. The NHS CFA is responsible for the detection, investigation and prevention of fraud and economic crime within the NHS. Its aim is to lead the fight against fraud affecting the NHS and the wider health and social care sector, by using intelligence to understand the nature of fraud risks, investigate serious and complex fraud, reduce its impact and drive forward improvements.

3.1.2. The CCG will take all necessary steps to counter fraud, bribery and corruption in accordance with this policy and the NHS CFS Counter Fraud and Corruption Manual, (available to the director of finance and information and local counter fraud specialist (LCFS) only), the policy statement 'Applying Appropriate Sanctions Consistently' published by NHS CFA and any other relevant guidance or advice issued by NHS CFA. Available at: <https://cfa.nhs.uk/about-nhscfa/corporate-publications>

#### **3.2. NHS Counter Fraud Standards<sup>1</sup>**

3.2.1. Service Condition 24 of the NHS Standard Contract states that providers of NHS services must take the necessary action to comply with the NHS CFA's Counter Fraud Standards. The NHS CFA Counter Fraud Standard 1.8 for commissioners states that all commissioners must review appropriate providers' counter fraud arrangements.

3.2.2. This policy document is written in accordance with these standards. The NHS CFA carries out regular assessments of health organisations in line with the Counter Fraud Standards.

#### **3.3. Economic Crime**

3.3.1. Economic Crime can be defined as illegal acts committed by an individual or a group of individuals to obtain a financial or professional advantage. In such crimes, the offender's principal motive is economic gain. This term is the overarching name for crimes such as Fraud, Bribery and Corruption.

---

<sup>1</sup> <https://cfa.nhs.uk/counter-fraud-standards>

### 3.4. Fraud

3.4.1. The Fraud Act 2006 represents a fundamental shift in the elements required to prove a fraud offence. 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.

3.4.2. The offence of fraud can be committed in three ways:

3.4.2.1. Fraud by false representation (Section 2) – lying about something using any means, e.g. by words or actions.

3.4.2.2. Fraud by failing to disclose information (Section 3) – not saying something when you have a legal duty to do so.

3.4.2.3. Fraud by abuse of position (Section 4) – abusing a position where there is an expectation to safeguard another person or organisation.

### 3.5. Bribery and Corruption

3.5.1. The Bribery Act received assent in 2010 and repealed previous anti-bribery/corruption legislation. It covers the public and private sector. The purpose of the legislation is to simplify the law on bribery and to allow a more effective response to bribery offences that occur either in the UK or abroad.

3.5.2. The main offences covered by the Act are:

3.5.2.1. An offence of active bribery (i.e. giving, promising or offering a bribe), which applies in the public or private sector.

3.5.2.2. An offence of passive bribery (i.e. requesting, agreeing to receive or accepting a bribe), which applies in the public or private sector.

3.5.2.3. A specific offence of bribing a foreign public official.

3.5.2.4. A new ‘corporate’ offence which applies where a corporate body or partnership fails to prevent persons performing services on their behalf from paying bribes.

## 4. Duties and Responsibilities

4.1. BNSSG CCG will take all necessary steps to counter fraud, bribery and corruption in accordance with this policy, the NHS CFA *Counter Fraud and Corruption Manual*, (available to the CFO and LCFS only), the policy statement *Applying Appropriate Sanctions Consistently* published by NHS CFA and any other relevant guidance or advice issued by NHS CFA.

- 4.2. **The BNSSG CCG Governing Body** is responsible for gaining assurance that:
- 4.2.1. BNSSG CCG has adopted and is operating adequate procedures and controls to deter and prevent wrongdoing from occurring, in compliance with the NHS England standard commissioning contract and the NHS CFA “Standards for Commissioners”.
  - 4.2.2. Adequate arrangements are in place to ensure that all staff are aware of the standards of personal and professional behaviour expected of them; and that all staff have access to this policy.
- 4.3. **The Audit Governance and Risk Committee** is responsible for gaining assurance that:
- 4.3.1. BNSSG CCG has appointed a qualified Local Counter Fraud Specialist (LCFS) to lead the drive to maintain and improve the standards and processes for deterring, detecting and investigating wrongdoings; and seek prosecution where wrongdoing is discovered.
  - 4.3.2. The annual counter fraud work plan is adequate and provides a reasonable balance between raising fraud awareness across BNSSG CCG and evaluating the effectiveness of BNSSG CCG’s counter-fraud systems and controls.
  - 4.3.3. It receives periodical reports from the LCFS on the progress against the work plan and update of the progress of any investigations.
  - 4.3.4. It receives a formal annual report of BNSSG CCG’s compliance with the standards set by NHS CFA.
- 4.4. **The Chief Financial Officer** is the lead for all anti-fraud, bribery and corruption work in the BNSSG CCG, monitors and ensures compliance with SC24 of the NHS England standard commissioning contract and is responsible for:
- 4.4.1. Ensuring that an annual risk assessment is carried out by the BNSSG CCG, using the tools provided by NHS CFA.
  - 4.4.2. Managing the continuity of appointment of a qualified LCFS to the BNSSG CCG; and ensuring that the counter-fraud service continues to be delivered in the event of the departure, or long term absence of the appointed LCFS.
  - 4.4.3. Overseeing the delivery of services from the LCFS including induction and any relevant training or promotional activities.
  - 4.4.4. Providing the relevant required support to the LCFS in any investigations that they carry out.

- 4.4.5. Depending on the outcome of investigations (whether on an interim/on-going or concluding basis) and/or the potential significance of suspicions that have been raised, inform appropriate senior management accordingly.
- 4.4.6. The Chief Financial Officer will inform and consult the Chief Executive in cases where the loss may be above the agreed limit or where the incident may lead to adverse publicity.
- 4.5. **All managers responsible for commissioning or procuring services** will ensure that special regard is paid to the requirements of the Bribery Act 2010: that all organisations from which services are procured have proportionate controls and checks on their staff to deter and prevent all forms of wrongdoing, including bribery in favour of BNSSG CCG and bribery that does not benefit BNSSG CCG.
- 4.6. **Individual members of staff** are required to:
  - 4.6.1. Act in accordance with the standards laid down by their professional institutes, where applicable, and have a personal responsibility to ensure that they are familiar with them.
  - 4.6.2. Have a duty to protect the assets of BNSSG CCG, including information, goodwill and property.
  - 4.6.3. 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.
  - 4.6.4. Avoid acting in any way that might cause others to allege or suspect them of dishonesty.
  - 4.6.5. Behave in a way that would not give cause for others to doubt that BNSSG CCG's employees deal fairly and impartially with official matters.
  - 4.6.6. Be alert to the possibility that others might be attempting to deceive.
  - 4.6.7. Ensure that public funds are safeguarded, whether or not they are involved with cash or payment systems, receipts or dealing with contractors or suppliers.
  - 4.6.8. If an employee suspects that there has been fraud or corruption, or has seen any suspicious acts or events, they must report the matter to the nominated LCFS.
- 4.7. **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 their responsibility, managers need to:

- 4.7.1. Ensure that procedures to guard against fraud 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 the nominated LCFS.
- 4.7.2. Managers must instil and encourage an anti-fraud, anti-bribery and anti-corruption culture within their team and ensure that information on procedures is made available to all employees as part of local induction and on an ongoing basis. The LCFS will proactively assist the encouragement of an anti-fraud culture by undertaking work that will raise fraud awareness.
- 4.7.3. All instances of actual or suspected fraud 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 the LCFS as soon as possible.
- 4.7.4. Inform staff of BNSSG CCG's code of business conduct and Fraud, and Bribery policy as part of their induction process, paying particular attention to the need for accurate completion of personal records and form.
- 4.7.5. Ensure that all employees for whom they are accountable are made aware of the requirements of the policy.
- 4.7.6. Assess the types of risk involved in the operations for which they are responsible.
- 4.7.7. 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.

- 4.7.8. Ensure that any use of computers or any access to petty cash by employees is linked to the performance of their duties within BNSSG CCG.
  - 4.7.9. Be aware of BNSSG CCG's Fraud and Bribery policy and the rules and guidance covering the control of specific items of expenditure and receipts.
  - 4.7.10. Identify financially sensitive posts.
  - 4.7.11. Ensure that controls are being complied with.
  - 4.7.12. Contribute to their Director's assessment of the risks and controls within their business area, which feeds into BNSSG CCG's and the Department of Health Accounting Officer's overall statements of accountability and internal control.
- 4.8. **Local Counter Fraud Specialist (LCFS)**
- 4.9. The NHS England Standard Contract for Commissioners, Service Condition 24, states that the commissioner is required to have appropriate counter fraud arrangements in place. It is a requirement of the NHS Standard Contract that each Health Body has a nominated and accredited Local Counter Fraud Specialist (LCFS).
  - 4.10. NHS CFA provides *the NHS CFA Counter Fraud Manual* to both LCFS and Chief Financial Officers. This details how counter fraud work should be delivered in order to comply with the requirements of the NHS Standard Contract. The LCFS is required to:
    - 4.10.1. Regularly report on progress against the Counter Fraud Workplan to the Audit, Governance and Risk Committee.
    - 4.10.2. Regularly report to the CFO on the progress of the investigation and when/if referral to the police is required.
    - 4.10.3. Ensure that the Chief Financial Officer is informed about all referrals/cases.
    - 4.10.4. Be responsible for the day-to-day implementation of the NHS CFA operational framework, in particular, the investigation of all suspicions of fraud.
    - 4.10.5. In consultation with the Chief Financial Officer report any case to the police or NHS CFA as agreed and in accordance with the *NHS CFA Counter Fraud and Corruption Manual*.

- 4.10.6. Report any case and the outcome of the investigation through NHS CFA's national case management system, FIRST.
  - 4.10.7. 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.
  - 4.10.8. Ensure that BNSSG CCG's incident and losses reporting systems are followed.
  - 4.10.9. Ensure that any system weaknesses identified as part of an investigation are followed up with management and reported to internal audit.
  - 4.10.10. Adhere to the Counter Fraud Professional Accreditation Board (CFPAB's) Principles of Professional Conduct as set out in the *NHS CFA Counter Fraud and Corruption Manual*.
  - 4.10.11. Ensure that the Chief Financial Officer is informed of NHS CFA investigations, including progress updates.
  - 4.10.12. Report any case and the outcome of the investigation to the Corporate Secretary to be reported as a Serious Incident.
  - 4.10.13. Liaise on a regular basis with the Corporate Secretary and other members of staff as required.
  - 4.10.14. The LCFS shall be responsible, in discussion with the Chief Financial Officer, for informing third parties such as external audit or the police at the earliest opportunity, as circumstances dictate.
  - 4.10.15. The LCFS will not conduct a disciplinary investigation, but the employee may be the subject of a separate investigation by HR.
  - 4.10.16. Provision of induction, training and other activities to support understanding and adoption of LCFS matters including this policy.
- 4.11. Internal and external audit**
- 4.11.1. 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.
- 4.12. Human Resources**
- 4.12.1. Will liaise closely with managers and the LCFS from the outset if an employee is suspected of being involved in fraud, bribery or

corruption, in accordance with agreed liaison protocols. HR staff are responsible for ensuring the appropriate use of BNSSG CCG's Disciplinary Policy and procedure.

4.12.2. 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.

4.12.3. 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. Such information will be shared with recruiting managers.

#### 4.13. **Information Management and Technology**

4.13.1. The head of Information Security (or equivalent) will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. HR will also be informed if there is a suspicion that an employee is involved.

## 5. **Codes of Conduct**

5.1. The three fundamental public service values underpinning the NHS and all public service sector work specified by the NHS Code of Conduct are;

5.1.1. **Accountability:** Everything done by those who work in the organisation must be able to withstand public and parliamentary scrutiny.

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

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

5.2. Duty of Candour: Candour is defined by Robert Francis QC, in the 2013 Mid Staffordshire Public Inquiry report as: "The volunteering of all relevant information to persons who have or may have been harmed by the provision

of services, whether or not the information has been requested and whether or not a complaint or a report about that provision has been made.” These standards of openness will apply to non-clinical issues unless doing so would breach the BNSSG CCG’s obligations of confidentiality.

- 5.3. All those who work in the organisation should be aware of, and act in accordance with, these values.

## 6. The Response Plan

- 6.1. If an employee has any of the concerns mentioned in this document, they must inform the nominated LCFS or BNSSG CCG’s Chief Financial Officer, unless the Chief Financial Officer or LCFS is implicated. If that is the case, they should report it to the Audit Chair or Chief Executive, who will decide on the action to be taken.
- 6.2. Employees can also call the NHS CFA Fraud and Corruption Reporting Line on Freephone **0800 028 40 60**. This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting the NHS. It allows NHS staff who are unsure of internal reporting procedures, to report their concerns in the strictest confidence. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.
- 6.3. Additionally, members of staff are able to report suspicions of fraud, bribery or corruption via the NHSCFA online reporting facility at:  
<https://cfa.nhs.uk/reportfraud>
- 6.4. 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.
- 6.5. 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.
- 6.6. Staff are encouraged to report reasonably held suspicions directly to the LCFS.
- 6.7. **Disciplinary action**
- 6.7.1. The disciplinary procedures of BNSSG CCG must be followed if an employee is suspected of being involved in a fraudulent or otherwise illegal act.

6.7.2. 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.

## 6.8. Police involvement

6.8.1. In accordance with the *NHSCFA Counter Fraud and Corruption Manual*, the Chief Financial Officer, 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 BNSSG CCG.

## 6.9. Managing the investigation

6.9.1. The LCFS, in consultation with BNSSG CCG's Chief Financial Officer, will investigate an allegation in accordance with procedures documented in the *NHS CFA Counter Fraud and Corruption Manual*.

6.9.2. The LCFS must be aware that staff under an investigation that could lead to disciplinary action have the right to be represented at all stages. In certain circumstances, evidence may best be protected by the LCFS recommending to BNSSG CCG that the staff member is suspended from duty. BNSSG CCG will make a decision based on HR advice on the disciplinary options, which include suspension.

6.9.3. BNSSG CCG will follow its disciplinary procedure if there is evidence that an employee has committed an act of fraud, bribery or corruption.

6.9.4. Criminal and Disciplinary Investigations may take place at the same time. Parallel investigations are supported by NHS CFA where disciplinary sanctions could reduce the risk of further financial loss or risks to patient safety. The LCFS and the CCG's Human Resources function will liaise to ensure that appropriate sanctions are pursued.

## 6.10. Gathering Evidence

6.10.1. The LCFS will take control of any physical evidence, and record this in accordance with the procedures outlined in the *NHS CFA Counter Fraud and Corruption Manual*. If evidence consists of several items, such as many documents, LCFS's should record each one with a separate reference number corresponding to the written record. Note that in criminal actions, evidence on or obtained from electronic media needs a document confirming its accuracy.

- 6.10.2. 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.
- 6.10.3. 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.
- 6.10.4. The application of the Fraud and Bribery Policy will at all times be in tandem with all other appropriate BNSSG CCG policies, e.g. Detailed Financial Policies, Conflict of Interests Policy, Gifts and Hospitality Policy and Standing Orders (SOs).

## **7. Recovery of Losses due to Fraud and Corruption**

- 7.1. Redress allows resources that are lost to fraud and corruption to be returned to the NHS for use as intended, for provision of high-quality patient care and services.
- 7.2. The seeking of financial redress or recovery of losses will always be considered in cases of fraud or corruption that are investigated by either the LCFS or NHS CFA where a loss is identified. 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. The decisions will be taken in light of the particular circumstances of each case.

## **8. Sanctions**

- 8.1. The types of sanction that may apply when an offence has occurred are:
  - 8.1.1. 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.
  - 8.1.2. Criminal – The LCFS will work in partnership with NHS CFA, the police and/or the Crown Prosecution Service to bring a case to court against an alleged offender. Outcomes can include cautions, fines and/or imprisonment.
  - 8.1.3. Disciplinary – Where events giving rise to disciplinary action are the subject of legal proceedings, the CCG may take disciplinary action before such legal proceedings are concluded. This will depend on advice from the police or

other prosecuting bodies, including the LCFS on whether it is appropriate to continue with the CCG's disciplinary process.

- 8.1.4. Professional body disciplinary – If warranted, staff may be reported to their professional body as a result of a successful investigation and/or prosecution.

## **9. Reporting the Results of the Investigation**

- 9.1. 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.
- 9.2. If fraud, bribery or corruption is found to have occurred, the LCFS will prepare a report for the Chief Financial Officer 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.
- 9.3. This report should also be available to BNSSG CCG's Audit, Governance and Risk Committee and Governing Body.

## **10. Monitoring Compliance and Effectiveness**

- 10.1. The Chief Financial Officer and the LCFS will agree annual and specific measures of the effectiveness of this policy.
- 10.2. As a minimum, the LCFS will report annually on the number and nature of instances of suspected wrongdoing reported. This report will include details of outcomes and consequences to the individuals involved.
- 10.3. The Chief Financial Officer will commission the LCFS to carry out a review, annually at least, of the levels of awareness of this policy and its contents amongst staff.
- 10.4. The LCFS will, through the annual programme of work, determine the effectiveness of the BNSSG CCG's controls and other efforts to prevent and deter wrongdoing.
- 10.5. The results of these audits will be reported in the LCFS annual report to the Audit, Governance and Risk Committee. Delivery of actions agreed to address

weaknesses and lapses identified in the implementation of the policy will be monitored by the Audit, Governance and Risk Committee.

## **11. Associated Policies**

The following list is not exhaustive

- 11.1. Standing Orders
- 11.2. Detailed Financial Policies
- 11.3. Conflict of Interests Policy
- 11.4. Gifts and Hospitality Policy
- 11.5. Information Governance Policy
- 11.6. Disciplinary Policy
- 11.7. Raising Concerns (Whistleblowing) Policy
- 11.8. Recruitment Policy

## **12. Training Requirements**

- 12.1. All staff should be made aware of the policy and their responsibility to report Fraud in the NHS through a mixture of targeted Fraud Awareness sessions and general Fraud Awareness Events performed by the LCFS.
- 12.2. Further guidance can be found within the Implementation Plan at Appendix B.

## **13. Equality Impact Assessment**

- 13.1. An Equality Impact Assessment has not been carried out in relation to this policy, as the Equality Impact Screening anticipated no barriers to accessing the policy and a fair approach to Fraud and Bribery once implemented. This screening can be found at Appendix A.

## **14. Appendices**

- 14.1. Appendix A - Equality Impact Screening
- 14.2. Appendix B - Implementation Plan

## Appendix A – Equality Impact Assessment Screening

Equality Impact Assessment Screening		
Query	Response	
What is the aim of the document?	To facilitate issues of concern of malpractice being heard quickly and fairly	
Who is the target audience of the document (which staff groups)?	All staff and other groups as identified in Section 3 of this policy	
Who is it likely to impact on and how?	Staff	Yes
	Patients	Yes
	Visitors	Yes
	Carers	Yes
	Other – governors, volunteers etc	Yes
Does the document affect one group more or less favourably than another based on the 'protected characteristics' in the Equality Act 2010:	Age (younger and older people)	No
	Disability (includes physical and sensory impairments, learning disabilities, mental health)	No
	Gender (men or women)	No
	Pregnancy and maternity	No
	Race (includes ethnicity as well as gypsy travellers)	No
	Sexual Orientation (lesbian, gay and bisexual people)	No
	Transgender people	No
	Groups at risk of stigma or social exclusion (e.g. offenders, homeless people)	No
	Human Rights (particularly rights to privacy, dignity, liberty and non-degrading treatment)	No

## Appendix B – Implementation Plan

Target Group	Implementation or Training objective	Method	Lead	Target start date	Target End date	Resources Required
Governing Body (GB)	Ensure GB is aware of CCG's responsibilities for countering Fraud, Bribery and Corruption.	Policy and Cover paper to be presented by the Governing Body.	LCFS	Upon Approval	July 2020	LCFS Time GB Time
All Staff	Ensure that all staff are made aware of the policy and its contents.	Communications Team to post policy on Intranet and promote.	Internal Comms Team	Upon Approval	June 2020	Internal Comms Team Time
		Processes within policy to be communicated through internal newsletter.	LCFS / Internal Comms Team	Upon Approval	June 2020	LCFS Time / Internal Comms Team Time
		Policy to be promoted and explained at Stand Up.	LCFS	Upon Approval	June 2020	LCFS Time
All Staff	Ensure that the policy raises awareness of Fraud and promotes an Anti-Fraud Culture within the CCG.	Fraud Awareness Day to be held at South Plaza, to evaluate awareness.	LCFS and Internal Comms	Nov 2020	Nov 2020	LCFS Time / Internal Comms Team Time
		Evaluation as part of the Counter Fraud Staff Survey	LCFS and Internal Comms	Feb 2021	Feb 2021	LCFS Time / Internal Comms Team Time
Patients /Public	Ensure awareness of CCG processes and procedures and anti-fraud actions.	Policy to be placed on website.	External Comms	Upon Approval	July 2020	External Comms Time