

**AGENDA ITEM NO: 11.0.**

<b>Meeting Title/Date:</b>	Governing Body - 19 March 2019		
<b>Report Title:</b>	Local Anti-Fraud, Bribery and Corruption Policy		
<b>Paper Prepared By:</b>	Paul Bell	<b>Date of Paper:</b>	March 2019
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<b>Committees where Paper Previously Presented:</b>	Audit Committee		
<b>Background Paper(s):</b>			
<b>Summary of Report:</b>	To seek approval for a key governance policy.		
<b>Recommendation(s):</b>	The Governing Body is asked to approve the Local Anti-Fraud, Bribery and Corruption Policy for implementation 1 April 2019.		
			<b>Please Select Y/N</b>
<b>Identified Risks:</b> (Record related Assurance Framework or Risk Register reference number)			N
<b>Impact Assessment:</b> (Including Health, Equality, Diversity and Human Rights)			N
<b>Strategic Objective(s) Supported by this Paper:</b>			<b>Please Select (X)</b>
<b>Better Health</b> - improve population health and wellbeing and reduce health inequalities			
<b>Better Care</b> - improve individual outcomes, quality and experience of care			
<b>Delivered Sustainably</b> - create an environment for motivated, happy staff and achieve our control total			X
<b>Please Contact:</b>	Kevin Parkinson Chief Finance Officer		

# Local Anti-Fraud, Bribery and Corruption Policy

NHS Morecambe Bay  
Clinical Commissioning Group

## The Local Anti-Fraud, Bribery and Corruption Policy

DOCUMENT CONTROL	
Title:	Local Anti-Fraud, Bribery and Corruption Policy
Version:	Version 7
Supersedes:	NHS Morecambe Bay CCG Local Counter Fraud and Corruption Policy, version 6
Author (inc Job Title):	Kevin Howells, Local Anti-Fraud Specialist
Name of Senior Officer	Kevin Parkinson
Ratified by: (Name of responsible Committee)	Audit Committee Governing Body
Date ratified:	March 2019
Review date:	March 2020
Target audience:	All Staff (including Governing Body and Membership Council members)
Related Documents:	<p>This policy should be read in conjunction with the following documents;</p> <ul style="list-style-type: none"> <li>• NHS Morecambe Bay CCG Constitution</li> <li>• NHS Standards of Business Conduct</li> <li>• Conflicts of Interest Policy</li> <li>• Whistleblowing Policy</li> </ul> <p>(This list is not exhaustive)</p>

***This policy can only be considered valid when viewed via the Morecambe Bay CCG website. If this document is printed into hard copy or saved to another location, you must check that the version number on your copy matches that of the one online.***

### Amendments from previous version

Page	Policy section affected	Change
2	Document control - Version	Change of policy version number
2	Document control - Author	Change of LCFS name
2	Document control – Date ratified	Changed to March 2019
2	Document control – Review date	Changed to March 2020
5 (bottom)	Introduction - General	Change of LCFS name
6 (top)	Introduction - General	Change of LCFS contact details
Appendix 2 (footer)	Anti-Fraud, bribery and corruption: dos and don'ts (Desktop Guide)	Change of LCFS name and contact details

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# 1 Introduction

## 1.1 General

One of the fundamental principles adopted by all public sector organisations is the proper use of public funds. The vast majority of people who work in the NHS are honest and professional and they find that fraud committed by a small minority is wholly unacceptable as it ultimately leads to a reduction in the resources available for patient and public care.

NHS Morecambe Bay Clinical Commissioning Group (hereafter referred to as the CCG or organisation) is required to have a nationally approved Constitution as stipulated by the NHS Act (2006). This outlines the recognised legal framework by which the CCG is held accountable. The CCG Governing Body is established to ensure that the organisation inspires confidence and trust amongst all staff, partners, funders, suppliers and members of the public and demonstrates the highest level of integrity.

As a publically funded body that commissions public services, the CCG recognises that it has a statutory duty to act with that integrity, and with honesty and to follow the Seven Principles of Public Life as set out by the Committee on Standards in Public Life (the 'Nolan Principles'). The 'Seven Principles of Public Life' are:

1. Selflessness:
2. Integrity:
3. Objectivity:
4. Accountability:
5. Openness:
6. Honesty; and
7. Leadership

The definitions of 'The Seven Principles of Public Life' are included in Appendix 1 of this Policy. This information and further guidance can be obtained from the Public Standards Website which can be accessed using the link provided: <http://www.public-standards.gov.uk>

All employees, members, Governing Body, committee and sub-committee members should act in accordance and comply with the Standards for members of the NHS boards and Clinical Commissioning Group governing bodies in England set out by the Professional Standards Authority which can be accessed using the link below: <http://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-for-members-of-nhs-boards-and-ccgs-2013.pdf?sfvrsn=2>

In order to embed and to protect these aims objectives and principles within the CCG and in conducting its business, the CCG utilises the

support and advice of NHS Counter Fraud Authority (NHSCFA). NHSCFA is an independent Special Health Authority which reports to the Department of Health's Anti-Fraud Unit. It has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, corruption and bribery in the NHS. All instances where fraud is suspected are properly investigated until their conclusion by staff trained by the NHS Counter Fraud Authority. Any investigations will be handled in accordance with the NHSCFA Counter Fraud Manual.

NHS Morecambe Bay CCG is committed to reducing the level of fraud, bribery and corruption within both the organisation and the wider NHS to an absolute minimum and keeping it at that level, freeing up public resources for better patient care. The CCG will seek the appropriate disciplinary, regulatory, civil and criminal sanctions (as well as referrals to any professional bodies where appropriate) against fraudsters and where possible, will attempt to recover losses.

This policy has been produced by the Local Anti-Fraud Specialist (AFS) and is intended as a guide for all employees on counter fraud, bribery and corruption activities being undertaken within the CCG and NHS; as well as informing all CCG staff how to report any concerns or suspicions they may have.

This policy is also reflective of the latest guidance and direction regarding Conflicts of Interests and Whistleblowing requirements. Conflicts of Interests within the developing NHS environment are a potential significant risk to organisations and could lead to fraudulent or corrupt actions. It is vital that an understanding of the potential implications across all the CCG's policies is clearly communicated to all staff and members. This policy is supported and endorsed by senior management and the CCG's membership.

The CCG wishes to encourage anyone having reasonable suspicions of fraud, bribery or corruption to report them. It is also the CCG's policy that no employee shall suffer in any way as a result of reporting reasonably held suspicions, and the CCG will do its utmost to ensure that all members of staff can be confident that they will not suffer as a result of doing so. This protection is given under the Public Interest Disclosure Act, with which the CCG is obliged to comply. The policy is supported and endorsed by senior management and the CCG's Governing Body.

For the purposes of this policy "reasonably held suspicions" shall mean any suspicions other than those which are totally groundless (and/or raised maliciously).

The CCG's Anti-Fraud Service is provided under contract by Mersey Internal Audit Agency (MIAA), an NHS agency. The CCG's nominated AFS is **Kevin Howells**.

All genuine suspicions of fraud, bribery or corruption can be reported to the AFS directly, via MIAA, on **07825 732629** (or **0161 743 2008**) and [kevin.howells@miaa.nhs.uk](mailto:kevin.howells@miaa.nhs.uk). If the CCG's AFS is not available, please report your concerns to another member of the MIAA Counter Fraud Team.

Alternatively, report your suspicions through the NHS Fraud and Corruption Reporting Line (FCRL) on Freephone **0800 028 40 60**. This dedicated 24 hour reporting line, powered by independent charity Crimestoppers, provides the facility to report concerns of NHS fraud, bribery or corruption at any time anonymously. Suspicions can also be referred via the NHS Online Fraud Reporting Form [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk); via the CCG's Chief Finance Officer, or through the CCG's Whistleblowing arrangements.

## **1.2 Strategic Approach**

The CCG is committed to taking all necessary steps to counter fraud, bribery and corruption. To meet this objective, the CCG complies with the unified approach as documented in the Standards for Commissioners, within the following four key areas:

- Strategic Governance;
- Inform and Involve;
- Prevent and Deter; and,
- Hold to Account.

## **1.3 Aims and objectives**

This policy relates to all forms of fraud, bribery and corruption and is intended to provide direction and help to all interested/concerned parties who may identify suspected criminality. It provides a robust framework for responding to suspicions of fraud, bribery and corruption, as well as offering advice and information on various aspects of those offences and the implications of an investigation. It is not intended, in itself, to provide a comprehensive approach to preventing and detecting all NHS fraud, corruption and bribery.

The overall aims of this policy are to:

- Improve the awareness, knowledge and understanding of everyone in NHS Morecambe Bay CCG, irrespective of their position, about the risk of fraud, bribery and corruption within the organisation, its unacceptability and the CCG's zero tolerance stance on fraud;
- Assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly, yet discreetly;

- Set out NHS Morecambe Bay CCG’s responsibilities in terms of the deterrence, prevention, detection and investigation of fraud, bribery and corruption;
- Ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
  - Criminal prosecution;
  - Civil prosecution;
  - Internal (CCG)/external (professional body) disciplinary action;
  - Recovery of any financial/monetary losses as a result of fraud or bribery.

## **1.4 Scope**

This policy applies to CCG members, Governing Body, committee and sub-committee members and all employees of NHS Morecambe Bay CCG, regardless of position held, as well as consultants, vendors, contractors, and/or any other parties who have a business relationship with NHS Morecambe Bay CCG.

This policy and other closely aligned policies covering Conflicts of Interests and Whistleblowing in particular, will continue to be brought to the attention of all employees through robust communication and engagement channels and will form part of the induction process for all new staff and members. Staff briefings by the AFS and their attendance at the CCG’s Audit Committee remains a vital component in this approach and the CCG remains committed to that aim. Anti-fraud, bribery and corruption related issues will remain an integral component of the CCG’s Audit Committee work plan.

## **2 Definitions**

### **2.1 NHS Counter Fraud Authority (NHSCFA)**

NHSCFA has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS and any investigations will be handled in accordance with NHSCFA guidance and requirements.

### **2.2 Fraud**

The Fraud Act 2006 introduced an entirely new way of investigating and prosecuting fraud. Previously, the word ‘fraud’ was an “umbrella” term used to cover a variety of criminal offences falling under various legislative acts. It is no longer necessary to prove that a person has been deceived, or for a fraud to be successful. The focus is now on the dishonest behaviour of the suspect and their intent to make a gain either for themselves or another; to cause a loss to another; or, expose another to a risk of a loss.

There are several specific offences under the Fraud Act 2006; however, there are three primary ways in which it can be committed that are likely to be investigated by the AFS, the examples below are not exhaustive:

**1. Fraud by false representation (section 2)**

i.e. lying on a CV or NHS job application form or claiming for hours not undertaken, mileage not claimed or by working whilst signed off sick from the NHS organisation.

**2. Fraud by failing to disclose information, when under a legal obligation to do so (section 3)**

i.e. failing to declare a conviction, disqualification or commercial interest when such information may have an impact on your NHS role, duties or obligations and where you are required to declare such information as part of a legal commitment to do so.

**3. Fraud by abuse of a position of trust (section 4)**

i.e. a carer abusing their access to patient monies, or an employee using commercially confidential NHS information to make a personal gain. (The abuse of position occurs where there is an expectation on the individual to safeguard the financial interests of another person or organisation, i.e. the NHS.)

It should be noted that all offences under the Fraud Act 2006 occur where the act or omission is committed dishonestly and with intent to cause gain or loss. The gain or loss does not have to succeed, so long as the intent is there. Successful prosecutions under the Fraud Act 2006 may result in an unlimited fine and/or a potential custodial sentence of up to 10 years.

Points 2 and 3 above are of particular relevance in the developing NHS environment. A significant issue and risk facing CCG's is that of Conflicts of Interests. The relevance of the CCG's policy for handling and managing Conflicts of Interests must be seen in conjunction with and be aligned to this particular policy. The declarations required of staff and members and the transparent reporting of those must also be clearly recognised.

**2.3 Bribery and corruption**

The Bribery Act 2010 came into effect on 1st July 2011. Bribery and corruption involves offering, promising or giving a payment or benefit-in-kind in order to influence others to use their position in an improper way to gain some form of personal, financial or commercial advantage for oneself or another. The person(s) requesting, receiving or benefitting from the bribe is/are also committing an offence.

Bribery and corruption prosecutions can be brought using specific pieces of legislation:

- Prevention of Corruption Acts 1906 and 1916, for offences committed prior to 1st July 2011, and,
- Bribery Act 2010, for offences committed on or after 1st July 2011.

The Bribery Act 2010 [‘the Act’] has updated UK law by making it a criminal offence to:

- offer, promise, or give a bribe [section 1]; and/or,
- request, agree to receive, or accept a bribe [section 2].

Corruption is generally considered to be an ‘umbrella’ term covering such various activities as bribery, money laundering, corrupt preferential treatment, kickbacks, cronyism and embezzlement.

Under the 2010 Act, however, bribery is now a series of specific criminal offences. Generally, bribery is defined as: *an inducement or reward offered, promised or provided to someone to perform their functions or activities improperly in order to gain a personal, commercial, regulatory and/or contractual advantage.*

Examples of bribery in an NHS context could be a contractor attempting to influence a procurement decision-maker by giving them an extra benefit or gift as part of a tender exercise; or, a medical or pharmaceutical company providing holidays or other excessive hospitality to a clinician in order to influence them to persuade their organisation to purchase that company’s particular clinical supplies.

A bribe does not have to be in cash; it may involve the awarding of a contract, the provision of gifts, hospitality, sponsorship, the promise of work, a job offer, or some other benefit or favour. The persons making and receiving the bribe may be acting on behalf of others – under the Bribery Act 2010, all parties involved may be prosecuted for a bribery offence.

Staff are strongly reminded of their responsibility to ensure that they are transparent in respect of recording any gifts, hospitality or any form of sponsorship. They should refer to the CCG’s policies covering;

- Acceptance of Gifts and Hospitality
- Declaration and Conflicts of Interests
- Sponsorship and Procurement

The above range of policies have been updated by the CCG and remain under continual review, given their importance. Registers and Declarations of Interests are routinely reported by the CCG and are made publically available as required.

The Bribery Act 2010 is also extra-territorial in nature. This means that anyone involved in bribery activity overseas may be liable to prosecution in the UK if the bribe is in respect of any UK activity, contract or organisation. To this end, the Bribery Act 2010 also includes an offence of bribing a foreign public official [s.6].

In addition, the Bribery Act 2010 introduces a new 'corporate offence' [s.7] of the failure of commercial organisations to prevent bribery. The Department of Health Legal Service has stated that NHS bodies are deemed to be 'relevant commercial organisations' to which the Act applies. As a result, an NHS body may be held liable (and punished with a potentially unlimited fine) when someone "associated" with it bribes another in order to get, keep or retain business for the organisation. However, the organisation will have a defence, and avoid prosecution, if it can show it had "adequate procedures" in place designed to prevent bribery.

Finally, under s.14 of the Bribery Act 2010, a senior officer of the organisation (e.g. Chief Officer, Chair) would also be liable for prosecution if they consented to or connived in a bribery offence carried out by another. Under such circumstances, as an example, the Chief Officer may be prosecuted for a parallel offence to that brought against the primary perpetrator. Furthermore, the organisation could also be subject to an unlimited fine because of the Chief Officer's consent or connivance.

To reiterate, the Bribery Act 2010 is applicable to NHS organisations including NHS Morecambe Bay CCG and, consequently, it also applies to (and can be triggered by) everyone "associated" with the CCG who performs services for it, or on its behalf, or who provides the CCG with goods. This includes those who work for and with the CCG, such as employees, agents, subsidiaries, contractors and suppliers (regardless of whether they are incorporated or not). The term "associated person" has an intentionally wide interpretation under the Bribery Act 2010.

NHS Morecambe Bay CCG adopts a zero tolerance attitude towards bribery and corruption, and does not and will not, pay or accept bribes or offers of inducement to or from anyone, for any purpose.

NHS Morecambe Bay CCG is fully committed to the objective of preventing bribery and will ensure that adequate procedures, which are proportionate to our risks, are in place to prevent bribery and which will be regularly reviewed. The CCG, in conjunction with NHSCFA, will seek to obtain the strongest penalties – including criminal prosecution, disciplinary and/or civil sanctions and recovery of losses – against anyone associated with NHS Morecambe Bay CCG who is found to be involved in any bribery or corruption activities.

As with the Fraud Act 2006, a conviction under the Bribery Act 2010 may ultimately result in an unlimited fine and/or a custodial sentence of up to 10 years imprisonment.

These messages will continue to be communicated and reinforced by the CCG with the support of NHSCFA. All engagement and training opportunities will continue to be supported.

## **2.4 Employees**

For the purposes of this policy, “employees” includes NHS Morecambe Bay CCG staff, as well as Governing Body and Lay Members (including co-opted and honorary members).

## **3 Roles and responsibilities**

This section states the roles and responsibilities of employees, stakeholders and other relevant parties in reporting fraud, bribery or corruption.

Through the CCG’s day-to-day work, staff are in the best position to recognise any specific risks within their own areas of responsibility. All individuals have a duty to ensure that those risks and concerns – however large or small – are identified, mitigated and eliminated. Where staff believe the opportunity for fraud, bribery or corruption exists, whether because of poor procedures or oversight, that member of staff should report it to the CCG’s nominated AFS or the NHS Fraud and Corruption Line; or to the Chief Finance Officer; or via the CCG whistleblowing arrangements.

NHS Morecambe Bay CCG will take all necessary steps to counter fraud, bribery and corruption in accordance with this policy, the NHS Counter Fraud Manual, NHSCFA’s strategy “*Tackling Crime against the NHS: A Strategic Approach*”, its policy statement ‘*Applying Appropriate Sanctions Consistently*’ and any other relevant legislation, guidance, and advice issued by NHSCFA.

### **3.1 Role of NHS Morecambe Bay CCG**

NHS Morecambe Bay CCG, through its Governing Body and its Audit Committee, has a duty to provide robust governance and oversight of the CCG to ensure that its funds, people and assets are adequately protected against criminal activity, including fraud, bribery and corruption. The Governing Body are also responsible for setting the tone across the CCG that fraud, bribery and corruption will not be tolerated.

The CCG has a duty to ensure that it provides a secure environment in which to work, and one where people are confident to raise concerns without worrying that it will reflect badly on them. This extends to

ensuring that staff feel protected when carrying out their official duties and are not placed in a vulnerable position. If staff have concerns about any procedures or processes that they are asked to be involved in, the CCG has a duty to ensure that those concerns are listened to and addressed.

CCG employees are afforded legal protection under the Public Interest and Disclosure Act 1998 (PIDA) so long as any concern that is raised is made in good faith. This Act will protect a whistle-blower if they suffer any form of victimisation or are dismissed by offering them a route to an employment tribunal. The protections offered by PIDA are echoed in the CCG's internal Whistleblowing Policy.

### **3.2 Chief Officer**

The CCG's Chief Officer has the overall responsibility for funds, assets and resources entrusted to the CCG. This includes instances of fraud, bribery and corruption. The Chief Officer must ensure adequate policies and procedures are in place to protect the organisation and the public funds it receives. This must form part of the Chief Officer's reviews and Annual Governance Statement reports.

### **3.3 Chief Finance Officer**

The Chief Finance Officer has powers to approve financial transactions initiated by directorates across the organisation.

The Chief Finance Officer prepares documents, maintains detailed financial procedures and systems and ensures that they apply the principles of separation of duties, controls and internal checks to supplement those procedures and systems.

The Chief Finance Officer, supported by the Chief Officer, will report annually to the Governing Body and, where applicable, the Membership Council on the adequacy of internal financial control and risk management as part of the Governing Body's overall responsibility to prepare a statement of internal control for inclusion in the CCG's annual report.

The Chief Finance Officer must ensure adequate policies and procedures are in place to protect the CCG and the public funds it receives.

The Chief Finance Officer is liable to be called to account for specific failures in NHS Morecambe Bay CCG's system of internal controls. However, responsibility for the operation and maintenance of controls falls directly to line managers and requires the involvement of all of CCG employees including those who provide support services on behalf of the organisation.

The CCG has a duty to ensure employees who are involved in or who are managing internal control systems receive adequate training and support in order to carry out their responsibilities. Therefore, the Chief Finance Officer will monitor and ensure compliance with this policy.

The Chief Finance Officer will, depending on the outcome of initial investigations, inform appropriate senior management of suspected cases of fraud, bribery and corruption, especially in cases where the loss may be above an agreed limit or where the incident may lead to adverse publicity.

The Chief Finance Officer may be responsible, in consultation with the Anti-Fraud Specialist, for informing third parties such as external audit or the police at the earliest opportunity, as circumstances dictate.

The Chief Finance Officer will inform and consult the chair in cases where the loss may be above the agreed limit or where the incident may lead to adverse publicity.

The Chief Finance Officer will delegate fraud investigations to the CCG's AFS who has responsibility for leading the investigation and may provide any necessary support to the AFS required to pursue an investigation. The Chief Finance Officer will inform the head of internal audit of any fraud investigations where significant control failings in key business areas are identified.

The Chief Finance Officer or the AFS will consult and take advice from the head of Human Resources (HR) if a member of staff is to be interviewed or disciplined. The Chief Finance Officer or AFS will not conduct a disciplinary investigation, but the employee may be the subject of a separate investigation by HR.

#### **3.4 Internal and external audit**

The role of internal and external audit includes reviewing controls and systems and ensuring compliance with financial instructions. Internal and external audit also have a duty to pass on any suspicions of fraud, bribery or corruption to the local Anti-Fraud Specialist (AFS). The outcome of the investigation may necessitate further work by internal or external audit to review systems.

#### **3.5 Human resources (HR)**

HR will liaise closely with appropriate senior CCG staff and the AFS 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 NHS Morecambe Bay CCG's staffing and related policies, including the disciplinary procedures. HR 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 AFS and HR will be essential in respect of any decision as to whether to exclude an employee from the CCG while necessary enquires are ongoing, though any final decision to exclude is that of the CCG.

Close liaison between the AFS 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. NHSCFA policies, such as “*Applying Appropriate Sanctions Consistently*” (April 2013) and “*Parallel Criminal and Disciplinary Investigations*” (April 2013), will also apply.

HR will take steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, as well as the veracity of required qualifications and memberships of professional bodies, in terms of their propriety and integrity. In this regard, temporary and fixed-term contract employees are treated in the same manner as permanent employees.

### **3.6 Local Anti-Fraud Specialist**

CCGs are required to nominate and appoint an AFS, adhering to NHSCFA standards, ensuring that the CCG has appropriate anti-fraud, bribery and corruption arrangements in place and that the AFS will look to achieve the highest standards possible in their work.

The AFS is operationally accountable to the CCG’s Chief Finance Officer, and reports on the progress of all anti-fraud, bribery and corruption activity to the CCG’s Audit Committee.

The AFS will regularly report to the Chief Finance Officer on the progress of anti-fraud work, including investigations, and when/if referral to the police is required.

The AFS will also:

- ensure that the Chief Finance Officer is informed about all referrals/cases and approves any necessary investigation activity.
- in particular, conduct investigations of all alleged fraud, bribery and corruption in accordance with the NHS Counter Fraud Manual (incorporating the Investigation Case File Toolkit), NHSCFA Standards for Commissioners and relevant criminal law.
- be responsible for the day-to-day implementation of the key principles of anti-fraud, bribery and corruption activity and, in particular, the investigation of all suspicions of fraud, bribery and corruption.

- in consultation with the Chief Finance Officer, report any case to the police or NHSCFA as agreed and in accordance with the NHS Counter Fraud Manual.
- report any case and the outcome of the investigation through the NHSCFA national case management system (FIRST).
- ensure that other relevant parties are informed where necessary, e.g. the Human Resources (HR) service will be informed if an employee is the subject of a referral.
- ensure that CCG's incident and losses reporting systems are followed.
- ensure that any system weaknesses identified as part of an investigation are followed-up with management and reported to internal audit.
- adhere to the Counter Fraud Professional Accreditation Board (CFPAB) Principles of Professional Conduct as set out in the NHS Counter Fraud Manual, which are professionalism, objectivity, fairness, expertise, propriety and vision,
- ensure that the Chief Finance Officer is informed of NHSCFA investigations, including progress updates.

In cases where the Chief Finance Officer may be implicated, the Chief Officer will replace the CFO in the above process.

In addition, the AFS will be responsible for the day-to-day implementation of the four generic areas of anti-fraud, bribery and corruption strategy (Strategic Governance, Inform & Involve, Prevent & Deter and Hold to Account), as agreed in the fraud risk-assessed annual work plan. The Annual Work Plan is agreed and monitored through the CCG's Audit Committee. The AFS will not have responsibility for, or be in any way engaged in, the management of security for any NHS body.

### **3.7 Managers**

Managers must also be vigilant and ensure that procedures to guard against fraud, bribery and corruption are followed. They should be alert to the possibility that unusual events or transactions could be symptoms of fraud, bribery and corruption. If they have any doubts, they must seek advice from the nominated AFS and have the facility to escalate any issues, concerns or risks appropriately.

Managers must instil and encourage an anti-fraud, bribery and corruption culture within their team and ensure that information on this policy and its related procedures are made available to all employees. The AFS will proactively assist the encouragement of an anti-fraud

culture by undertaking work that will raise fraud awareness. Regular engagement, communications and training will be co-ordinated between the AFS and the CCG.

All instances of actual or suspected fraud, bribery or corruption which come to the attention of the manager, must be reported to the AFS immediately. It is appreciated that some employees will initially raise concerns with their manager. However, in such cases, it is important that managers do not investigate any allegations of fraud, bribery or corruption themselves, but have a clear responsibility to refer the concerns to the AFS as soon as possible. A clear escalation and reporting approach is set out within this policy for such circumstances. A desktop guide is attached at Appendix 2.

Line managers at all levels have a responsibility to ensure that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively. The responsibility for the prevention and detection of fraud, bribery and corruption therefore primarily rests with managers but requires the co-operation of all employees.

As part of that responsibility, line managers need to:

- Inform staff of NHS Morecambe Bay CCG's Standards of Business Conduct and Anti-Fraud, Bribery and Corruption policies as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms;
- Ensure that all employees for whom they are accountable are made aware of the requirements of the policies;
- Be responsible for the enforcement of disciplinary action for staff who do not comply with policies and procedures;
- Assess the types of risk involved in the operations for which they are responsible;
- Ensure that adequate control measures are put in place to mitigate and minimise the risks. This must include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of a key function is not invested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively;
- Ensure that any use of computers by employees is linked to the performance of their duties within NHS Morecambe Bay CCG;
- Be aware of NHS Morecambe Bay CCG's Anti-Fraud, Bribery and Corruption Policy and the rules and guidance covering the control of specific items of expenditure and receipts;
- Identify financially sensitive posts;
- Ensure that controls are being complied with;
- Contribute to their director's assessment of the risks and controls within their business area, which feeds into NHS Morecambe Bay

CCG's and the Department of Health Accounting Officer's overall statements of accountability and internal control;

- Report any instances of actual or suspected fraud, bribery or corruption brought to their attention to the AFS immediately.

**It is important that managers do not investigate any suspected financial crimes or suspicions of fraud themselves.**

### 3.8 All employees and members

All employees, members and Lay Members are required to comply with NHS Morecambe Bay CCG's policies and procedures and apply best practice in order to prevent fraud, bribery and corruption (for example in the areas of procurement, personal expenses and ethical business behaviour). Staff should be aware of their own responsibilities in protecting the organisation from these crimes.

Individuals are also expected to 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. Additionally individuals also have a duty to protect assets of the CCG, including information, goodwill and property.

Furthermore, as referred to in the opening principles relating to this policy, individuals have a responsibility to comply with all applicable laws and regulations relating to ethical business behaviour, procurement, personal expenses, conflicts of interest, confidentiality and the acceptance of gifts and hospitality. This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees should always:

- Avoid acting in any way that might cause others to allege or suspect them of dishonesty;
- Behave in a way that would not give cause for others to doubt that NHS Morecambe Bay CCG's employees deal fairly and impartially with official matters;
- Be alert to the possibility that others might be attempting to deceive.

All employees have a duty to ensure that public funds are safeguarded, whether or not they are involved with cash or payment systems, receipts or dealing with contractors or suppliers.

All CCG employees and members who are involved in or manage internal control systems should receive adequate training and support in order to carry out their responsibilities.

If an employee suspects that fraud, bribery or corruption has taken place, they should ensure it is reported to the AFS and/or using the other reporting methods explained below.

### **3.9 Information management and technology**

The Head of Information Security (or equivalent) will contact the AFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes.

The relevance of the Computer Misuse Act 1990 is that it criminalises unauthorised access to computer systems and deters criminals from using a computer in commission of a criminal, such as fraud.

The subject of any investigation may have their access to the CCG's IT resources suspended, and in some cases access may be removed where an investigation identifies that it is appropriate to do so.

The Head of Information/ CFO will assist the AFS in securing and facilitating appropriate access to any IT-related data controlled by the organisation (including subject-related data) as part of any anti-fraud or corruption investigation.

## **4 The response plan**

### **4.1 Bribery and corruption**

NHS Morecambe Bay CCG has conducted risk assessments in line with NHS Standard Contract guidance and NHSCFA Standards for Commissioners, to assess how fraud, bribery and corruption may affect the CCG. As a result, proportionate procedures have been put in place to mitigate identified risks.

NHS Morecambe Bay CCG's Policies and Procedures in relation to declarations of and conflicts of interest, together with the provisions of the hospitality/gifts and sponsorship/procurement may be found on the CCG website. It is a requirement of the CCG to publish the relevant registers retained in this respect.

### **4.2 Reporting fraud, bribery and corruption**

This section outlines the action to be taken if fraud, bribery or corruption is discovered or suspected. This section must also be read in conjunction with the requirements set out in the two related Conflicts of Interest and Whistleblowing policies.

If an employee or stakeholder has any of the concerns mentioned or referenced in this document, they must inform the nominated AFS as indicated, or NHS Morecambe Bay CCG's Chief Finance Officer immediately, unless the Chief Finance Officer or AFS is implicated. If that is the case, they should report it to the CCG's Chair, Chief Officer,

or Audit Committee Chair (the Conflicts of Interest Guardian) who will decide on the action to be taken.

An employee can also contact any Executive or Lay Member of NHS Morecambe Bay CCG to discuss their concerns if they feel unable, for any reason, to report the matter to the AFS or Chief Finance Officer.

If any employee or stakeholder feels unable, for any reason, to report the matter as above, they can also call the NHS Fraud and Corruption Reporting Line on Freephone **08000 28 40 60**. This facility powered by Crimestoppers provides a dedicated 24 hour reporting line through which suspicions of fraud, bribery and corruption can be reported. Similarly concerns can be reported via the NHS Online Fraud Reporting Form [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk)

Either of these options, provides an easily accessible route for the reporting of genuine suspicions of fraud, bribery and corruption within or affecting the NHS. It allows those people 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.

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. The AFS will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised. If allegations are found to be malicious, they will also be considered for further investigation to establish the source.

Staff should always be encouraged to report reasonably held suspicions directly to the AFS or CFO or through the channels indicated in this section. This can be done by contacting the AFS by telephone or email using the contact details supplied in **Appendix 2**.

NHS Morecambe Bay CCG wants all employees to feel confident that they can expose any wrongdoing without any risk to themselves. In accordance with the provisions of the Public Interest Disclosure Act 1998, NHS Morecambe Bay CCG has produced a whistleblowing policy, which is intended to complement the CCG's Anti-Fraud, Bribery and Corruption Policy and Standards of Business Conduct Policy, and ensures there is full provision for staff to raise any concerns with others if they do not feel able to raise them with their line manager/management chain. This policy has been updated to reflect latest guidance at the time of writing and will continue to be reviewed to ensure its relevance and currency.

ALL reports of fraud, bribery and corruption will be taken seriously and thoroughly investigated. The diagram and desktop guide provided at

**Appendix 2** provides staff and members with a 'route map' to facilitate the raising and reporting of any issues, concerns and risks.

#### **4.3 Disciplinary action**

The disciplinary procedures of NHS Morecambe Bay CCG will be initiated where an employee is suspected of being involved in a fraudulent or otherwise illegal act.

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.

#### **4.4 Police involvement**

In accordance with the NHS Counter Fraud Manual, the Chief Finance Officer, in conjunction with the AFS, 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 NHS Morecambe Bay CCG.

#### **4.5 Sanctions and redress**

The NHSCFA approach to pursuing sanctions in cases of fraud, bribery and corruption is that the full range of possible sanctions – including criminal, civil, disciplinary and regulatory – should be considered at the earliest opportunity and any or all of these may be pursued where and when appropriate. The consistent use of an appropriate combination of investigative processes in each case demonstrates this CCG's commitment to take fraud, bribery and corruption seriously and ultimately contributes to the deterrence and prevention of such actions.

The CCG endorses the NHSCFA approach and adopts the principles contained within their policy entitled '*Parallel Criminal and Disciplinary Investigations*' as well as complying with the provisions of the NHSCFA Counter Fraud Manual with regard to applying sanctions where fraud, bribery and corruption is proven. The organisation maintains an internal joint-working and data sharing protocol between the AFS and the HR Service which also covers their respective investigative duties.

The types of sanction which this organisation may apply when a financial offence has occurred, include:

- Civil Redress – the CCG will seek financial redress, whenever possible, to recover losses (of money or assets), including interest and costs, to fraud, bribery and corruption. Redress can be sought in various ways. These include confiscation or compensation orders or use of the Proceeds of Crime

legislation in the criminal courts, as well as civil legal sanctions such as order for repayment or an attachment to earnings repayments. As a CCG, we the organisation actively publicise the fact that redress will be sought where applicable to recover monies lost to fraud and corruption, thus creating a further deterrent effect.

- Criminal Prosecution – The AFS will work in partnership with NHSCFA, the police and/or the Crown Prosecution Service, where appropriate, to bring a case to court against an alleged offender. Outcomes can range from a criminal conviction to fines and imprisonment.
- Disciplinary Sanctions – Disciplinary procedures will also be initiated where an employee is suspected of being involved in a fraudulent or illegal act.
- Professional Body Disciplinary Sanctions – Where appropriate and if warranted, the CCG reserves the right to also report staff to their professional body as a result of a successful investigation and/or prosecution.

Redress allows resources that are lost to fraud, bribery and corruption to be returned to the NHS for use as intended, for provision of high-quality patient care and services.

## **5 Review**

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

Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud, bribery and corruption. Arrangements will include reviewing system controls, policies and procedures on an on-going basis and identifying weaknesses in processes.

Where deficiencies are identified as a result of the monitoring, NHS Morecambe Bay CCG will ensure appropriate recommendations and action plans are developed and any recommendations made will be discussed and implemented.

### **5.2 Dissemination of the policy**

The Anti-Fraud, Bribery and Corruption Policy will be made available to all staff, via a variety of forms of communications, including the CCG's internet. Regular staff awareness and responsibility updates will be given through the CCG's communication channels including team briefs, Practice and CCG bulletins. The AFS will also provide staff briefings and any relevant training on an ongoing basis.

It is vital that all staff, individuals and members understand and adhere to this policy.

### **5.3 Review of the policy**

The CCG's Anti-Fraud, Bribery and Corruption Policy will be reviewed at least annually. This may occur more frequently should other related policy changes impact. The AFS will review the policy on behalf of the CCG before ratification. The policy will be considered through the CCG's Audit Committee and approved by the Governing Body.

## APPENDIX 1

### The 'Seven Principles of Public Life'

The 'Seven Principles of Public Life' (also known as the 'Nolan Principles') were defined by the Committee for Standards in Public Life and are:

#### **1. Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

#### **2. Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

#### **3. Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### **4. Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### **5. Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

#### **6. Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

#### **7. Leadership**

Holders of public office should promote and support these principles by leadership and example.

Further information can be obtained via *The Committee on Standards in Public Life* website which can be accessed using the following link:

<http://www.public-standards.gov.uk/>

## APPENDIX 2

### *Anti-Fraud, bribery and corruption: dos and don'ts A desktop guide and escalation procedure for NHS Morecambe Bay CCG staff*

**FRAUD** is the dishonest intent to obtain a financial gain from, or cause a financial loss to, a person or party through false representation, failing to disclose information or abuse of position. **CORRUPTION** is the deliberate use of bribery or payment of benefit-in-kind to influence an individual to use their position in an unreasonable way to help gain advantage for another. **BRIBERY** is to give promise to offer a bribe, and to request, agree to receive or accept a bribe.

#### DO

- **note your concerns**

Record details such as your concerns, names, dates, times, details of conversations and possible witnesses. Time, date and sign your notes.

- **retain evidence**

Retain any evidence that may be destroyed, or make a note and advise your AFS.

- **report your suspicion**

Confidentiality will be respected – delays may lead to further financial loss.

#### DO NOT

- **confront the suspect or convey concerns to anyone other than those authorised, as listed below.**

Never attempt to question a suspect yourself; this could alert a fraudster or accuse an innocent person.

- **try to investigate, or contact the police directly**

Never attempt to gather evidence yourself unless it is about to be destroyed; gathering evidence must take into account legal procedures in order for it to be useful. Your AFS can conduct an investigation in accordance with legislation.

- **be afraid of raising your concerns** - The Public Interest Disclosure Act 1998 protects employees who have reasonable concerns. You will not suffer discrimination or victimisation by following the correct procedures.

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

- directly contacting the **Local Anti-Fraud Specialist**, or
- telephoning the **Freephone NHS Fraud and Corruption Reporting Line**, or
- contacting the **Chief Finance Officer**
- contacting the CCG's chair

#### *Do you have concerns about a fraud taking place in the NHS?*

If so, any information can be passed to the  
**NHS Fraud and Corruption Reporting Line: 0800 028 40 60**  
All calls will be treated in confidence and investigated  
by professionally trained staff

Your nominated Local Anti-Fraud Specialist is **Kevin Howells**, who can be contacted by telephoning **07825 732629**, or emailing **kevin.howells@miaa.nhs.uk**

If you would like further information about the NHS Counter Fraud Authority, please visit <https://cfa.nhs.uk/>

## *Protecting your NHS*