



Cheshire CCG Anti-Fraud, Bribery and Corruption Policy

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1.0 Introduction

General

- 1.1 This policy is the first documented Anti-Fraud, Bribery and Corruption Policy for Cheshire CCG, following the merging of the previous NHS Eastern Cheshire, South Cheshire, Vale Royal and West Cheshire CCGs. This document is effective from July 2020 and replaces all previous Anti-Fraud, Bribery and Corruption Policy in place at any former CCG. This document will be subject to further review before the 31st March 2020 to ensure it is fit for purpose for the future.
- 1.2 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 conduct themselves in an honest and professional manner and they believe that fraud, bribery and corruption, committed by a minority, is wholly unacceptable as it ultimately leads to a reduction in the resources available for patient care.
- 1.3 Cheshire CCG is committed to reducing the level of fraud, corruption and bribery within the NHS to an absolute minimum and keeping it at that level, freeing up public resources for better patient care. This policy is intended as a guide for all employees (regardless of position), as well as contractors, consultants, vendors and other internal and external stakeholders who have a professional or business relationship with the CCG.
- 1.4 Under the NHS Standards Contract all organisations are required to put in place appropriate anti-fraud management arrangements. The NHS CFA approach to tackling fraud and other economic crime against the NHS ('Leading the fight against NHS fraud: Organisational strategy 2017-20') is guided by four principles:
 - **Inform and involve:** raise awareness of fraud against the NHS, and work with over 1.3 m NHS staff, with stakeholders and the public to highlight those risks and the consequences of fraud against the NHS;
 - **Prevent and deter:** provide solutions to identified fraud risks, discourage individuals who may be tempted to commit fraud against the NHS and ensure that opportunities for fraud to occur are minimised;
 - **Investigate, sanction and seek redress:** investigate allegations of fraud thoroughly and to the highest professional standards, where appropriate seek the full range of civil, criminal and disciplinary sanctions and seek redress where possible;
 - **Continuously review and hold to account:** fraud is constantly evolving and continuous re-evaluation and improvement is needed to ensure that we keep ahead of the problem. Where this does not take place, or where there is a reluctance to do so, then organisations must be held to account for their inaction.
- 1.5 The overall requirement underpinning these principles is effective strategic governance, strong leadership and a demonstrable level of commitment to tackling fraud from senior management within organisations.
- 1.6 Cheshire CCG encourages anyone having reasonable suspicions of fraud, bribery or corruption to report them and that it is the health body's policy that no employee will suffer in any way as a result of reporting such concerns.

- 1.7 All genuine suspicions of fraud, bribery and corruption can be reported to the Anti-Fraud Specialist or through the NHS Fraud and Corruption Reporting Line (FCRL) on Freephone 0800 028 40 60 operated by Crimestoppers or online via <https://cfa.nhs.uk/reportnhsfraud>.

Aims and objectives

- 1.8 This policy relates to all forms of fraud, bribery and corruption and aims to provide direction and help to employees, office holders and all other staff who work for and with the CCG 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, corruption and bribery. The overall objectives of this policy are to:
- Improve the knowledge and understanding of everyone in the CCG, irrespective of their position, about the risk of fraud, corruption and bribery 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;
 - Set out the CCG's responsibilities in terms of the deterrence, prevention, detection and investigation of fraud, corruption and bribery;
 - Ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
 - Criminal prosecution;
 - Civil prosecution;
 - Internal/external disciplinary action.

Scope

- 1.9 This policy has been produced by the CCG's AFS, and is intended to provide a guide on what fraud and corruption risks are in the NHS; what everyone's responsibility are to prevent fraud, bribery and corruption; and also how to report concerns and/or suspicions with the intention of reducing fraud to a minimum within the CCG.

2.0 Definitions

NHS Counter Fraud Authority (NHS CFA)

- 2.1 The NHS CFA is a special health authority dedicated to tackling fraud, bribery and corruption within the health service. The NHS CFA provides a clear focus for both the prevention and investigation of fraud across the health service and works with NHS regulators to properly uncover fraud and tackle it effectively.

Fraud

2.2 The Fraud Act 2006

The Fraud Act 2006 created a single offence of fraud with three ways of committing it. Fraud can, therefore, be defined as follows:

'Fraud is the intentional distortion of either financial statements or other records, by persons internal or external to the organisation, in order to conceal the misappropriation of assets or otherwise to make a gain or cause a loss.'

- 2.3 Under the Fraud Act 2006, 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.
- 2.4 The offences of fraud can be committed in three ways:
- Fraud by false representation (s.2) – lying about something, using any means, e.g. by words or actions;
 - Fraud by failing to disclose (s.3) – when under a legal obligation to do so, 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;
 - Fraud by abuse of a position (s.4) – 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, e.g. the NHS.).
- 2.5 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.
- 2.6 In criminal law, fraud falls within both the Fraud Act 2006 and the Theft Act 1968.

Bribery and Corruption

- 2.7 The Bribery Act 2010 came into effect on 1st July 2011. Bribery is generally defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so. The maximum penalty for bribery is 10 years imprisonment, with an unlimited fine. In addition, the Act introduces a corporate offence of failing to prevent bribery by an organisation not having adequate preventative procedures in place. The CCG may avoid conviction if it can be demonstrated there were procedures and protocols in place to prevent bribery. The corporate offence is not a stand-alone offence, but always follows from a bribery and/or corruption offence committed by an individual associated with the company or organisation in question.
- 2.8 Bribery 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.
- 2.9 Bribery and corruption prosecutions can be brought using specific 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.
- 2.10 The Bribery Act updated UK law by making it a criminal offence to:

- offer, promise, or give a bribe; and/or,
 - request, agree to receive, or accept a bribe.
- 2.11 Corruption is generally considered to be a generic “umbrella” term covering such various activities as bribery, corrupt preferential treatment, kickbacks, cronyism, graft or embezzlement. Bribery is now a specific offence in law.
- 2.12 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 (i.e. a bribe) 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 CCG to purchase that company’s particular clinical supplies.
- 2.13 A bribe does not have to be in cash; it may be the awarding of a contract, the provision of gifts, hospitality, sponsorship, the promise of work or some other benefit. The persons making and receiving the bribe may be acting on behalf of others – The bribe itself can occur either before or after the corrupt act.
- 2.14 Staff are reminded to ensure that they are transparent in respect of recording any gifts, hospitality or sponsorship. They should refer to the separate policies covering;
- Acceptance of Gifts and Hospitality;
 - Declaration of Interests;
 - Sponsorship.
- 2.15 The Act 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 or contract. To this end, the Act also includes an offence of bribing a foreign public official.
- 2.16 In addition, the Act introduces a new ‘corporate offence’ of the failure to prevent bribery. NHS bodies are deemed to be ‘relevant commercial bodies’ 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 CCG. However, the CCG will have a defence, and avoid prosecution, if it can be demonstrated that there were adequate procedures in place designed to prevent bribery.
- 2.17 Finally, under the Bribery Act, a senior officer of the CCG (e.g. a Senior Manager, or a Lay Member) would also be liable for prosecution if they consented to or connived in a bribery offence carried out by another. Furthermore, the CCG could also be subject to an unlimited fine because of the senior officer’s consent or connivance.
- 2.18 As the Bribery Act is applicable to all NHS bodies which includes CCG, it also applies to (and can be triggered by) everyone “associated” with the CCG who perform services for the CCG, or on behalf of the CCG, or who provide the CCG with goods. This includes those who work for and with the CCG, such as employees, office holders and all other staff who work for and with the CCG’s agents, subsidiaries, contractors and suppliers (regardless of whether they are incorporated or not).
- 2.19 The CCG adopts a ‘zero tolerance’ attitude towards bribery and do not, and will not, pay or accept bribes or offers of inducement to or from anyone, for any purpose. The CCG is fully committed to the objective of preventing bribery and will ensure that adequate procedures,

which are proportionate to risk, are in place to prevent it and these will be regularly reviewed. The CCG shall in conjunction with the NHS Counter Fraud Authority, seek to obtain the strongest penalties – including criminal prosecution, disciplinary and/or civil sanctions – against anyone associated with the CCG who is found to be involved in any bribery or corruption activities.

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

3.0 Roles and responsibilities

The Governing Body / Governance and Audit Committee

- 3.1 The Governing Body (particularly via its Governance and Audit Committee) has a duty to provide adequate governance and oversight of the CCG to ensure that their 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.

Chief Officer

- 3.2 The Chief Officer as the organisations accountable officer has overall responsibility for securing funds, assets and resources entrusted to it, including 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.
- 3.3 However, responsibility for the operation and maintenance of controls falls directly to line managers and requires the involvement of all of the CCG's employees. The CCG therefore have 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 Officer and Executive Director of Finance and Contracts will monitor and ensure compliance with this policy.

Executive Director of Finance and Contracts

- 3.4 The Executive Director of Finance and Contracts is provided with powers to approve financial transactions initiated by teams across the organisation. The Executive Director of Finance and Contracts in conjunction with the Chief Officer monitors and ensures compliance with the CCG's national requirements regarding fraud, bribery and corruption.
- 3.5 The Executive Director of Finance and Contracts will:
- Prepare documents and maintain detailed financial procedures and systems and incorporate these principles of separation of duties and internal checks to supplement those procedures and systems;
 - Report annually to the Governing Body and the Membership Council on the adequacy of internal financial control and risk management as part of the Governing Body's overall responsibility to prepare the Annual Governance Statement for inclusion in the NHS body's annual report;
 - 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 Executive Director of Finance and Contracts will delegate to the CCG's Anti-Fraud Specialist, who has responsibility for leading the investigation, whilst retaining overall responsibility him/herself;
- Consult and take advice from the outsourced Human Resources service if a member of staff is to be interviewed or subject to disciplinary procedures. The Executive Director of Finance and Contracts or the Anti-Fraud Specialist will not conduct a disciplinary investigation, but the employee may be the subject of a separate investigation by HR;
- The Executive Director of Finance and Contracts will provide any necessary support to the Anti-Fraud Specialist if required to pursue an investigation;
- The Executive Director of Finance and Contracts will be responsible, in consultation with the Anti-Fraud Specialist and the NHS Counter Fraud Authority, for informing third parties such as external audit or the police at the earliest opportunity, as circumstances dictate;
- The Executive Director of Finance and Contracts will inform and consult the Chief Officer in cases where the loss may be excessive, or where the incident may lead to adverse publicity;
- The Executive Director of Finance and Contracts will inform the Head of Internal Audit if an investigation identifies significant control failings in key business areas.

Internal and External Audit

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

Human Resources Support

- 3.7 Where possible, the Executive Director of Finance and Contracts will liaise closely with managers, the Anti-Fraud Specialist and the HR service from the outset if an employee is suspected of being involved in fraud and/or corruption, in accordance with agreed liaison protocols. Staff are responsible for ensuring the appropriate use of the disciplinary procedure. The HR service 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 Anti-Fraud Specialist and the commissioned HR service will be essential to ensure that any parallel sanctions (i.e. criminal, civil and disciplinary sanctions) are applied effectively and in a coordinated manner.
- 3.8 The CCG, through the HR service will take steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, office holders and all other staff who work for and with the CCG, 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, office holders and all other staff who work for and with the CCG are treated in the same manner as permanent employees, office holders and all other staff who work for and with the CCG.

Anti-Fraud Specialist

- 3.9 The Anti-Fraud Specialist is operationally accountable to the Executive Director of Finance and Contracts and reports on the progress of all fraud, bribery and corruption activity to the Governance and Audit Committee. The Anti-Fraud Specialist liaises with several key stakeholders and key contacts across the CCG and undertakes their duties to the highest possible standards at all times.
- 3.10 The role and responsibilities of the Anti-Fraud Specialist are clearly defined within the NHS Counter Fraud Authority Fraud, Bribery and Corruption Manual. This confidential manual also specifies how the Anti-Fraud Specialist should carry out duties at a local level in relation to:
- Developing an anti-fraud culture within the CCG;
 - Seeking to deter, prevent or detect fraud;
 - Investigating fraud;
 - Seek to apply sanctions where fraud is proven and obtain redress.
- 3.11 Adhering to NHS Counter Fraud Authority Standards for Commissioners is important in ensuring that the CCG has appropriate anti-fraud, bribery and corruption arrangements in place and that the Anti-Fraud Specialist will look to achieve the highest standards possible in their work.
- 3.12 Whilst all these actions form the basis of an Anti-Fraud Specialist's role, the main area in relation to this policy is the approach to investigating suspected fraud, bribery and corruption.
- 3.13 The Anti-Fraud Specialist will conduct risk assessments in relation to their work to prevent fraud, bribery and corruption and ensure this assessment is integrated into the overall CCG's risk management processes.
- 3.14 Only the accredited Anti-Fraud Specialist can carry out investigations into suspected fraud, bribery and corruption using the documentation and processes specified within the NHS Counter Fraud Authority Fraud, Bribery and Corruption Manual. This covers:
- Opening and maintaining an investigation file;
 - Recording cases on the national NHS Counter Fraud Authority fraud case recording system;
 - Control and movement of files;
 - Investigative procedures and methods;
 - Interviewing under caution;
 - Witness statements;
 - Surveillance and the Regulation of Investigatory Powers Act 2000;
 - Exhibits;

- Liaison with the Police.

3.15 The key points to be followed by the Anti-Fraud Specialist are to ensure that:

- The Executive Director of Finance and Contracts is informed about all of the CCG's 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 Authority Counter Fraud, Bribery and Corruption Manual, Investigation Toolkit, NHS Counter Fraud Authority Standards for Commissioners and relevant criminal law;
- In consultation with the Executive Director of Finance and Contracts, report any relevant case to the police and or NHS Counter Fraud Authority;
- Report and update any case and the outcome of an investigation through the NHS Counter Fraud Authority's national case management system;
- Ensure that other relevant parties are informed of investigations where necessary, e.g. Human Resources (HR), if an employee is the subject of a referral;
- The CCG's incident and losses reporting systems are followed;
- Any system weaknesses identified as part of an investigation are followed up with management and reported to internal audit;
- At all times, adhere to the Counter Fraud Professional Accreditation Body (CFPAB)'s Principles of Professional Conduct, as set out in the NHS Counter Fraud Authority Counter Fraud, Bribery and Corruption Manual, which are – professionalism, objectivity, fairness, expertise, propriety and vision;
- The Executive Director of Finance and Contracts is informed of any known national NHS Counter Fraud Authority investigations that may affect the CCG.

3.16 In addition, the Anti-Fraud Specialist will be responsible for the day-to-day implementation of the generic areas of anti-fraud, bribery and corruption strategy, as agreed in the fraud risk-assessed annual work plan.

3.17 The Anti-Fraud Specialist will not have responsibility for, or be in any way engaged in the management of security for the CCG.

Managers

3.18 All managers are responsible for ensuring that policies, procedures and processes within their local area are adhered to and kept under constant review.

3.19 Managers must instil and encourage an open, honest and transparent culture within their team and ensure that information on any necessary policy or procedure is made available to all employees, office holders and all other staff who work for and with the CCG. The Anti-Fraud Specialist will proactively assist the embedding of this culture by undertaking work that will raise awareness of the risks of fraud, bribery and corruption.

3.20 Managers must also be vigilant and 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 and corruption. If they have any doubts, they must seek advice from the CCG's nominated Anti-Fraud Specialist.

- 3.21 Managers have a responsibility to ensure that staff are aware of fraud, bribery and corruption and understand the importance of protecting the organisation from it. Managers are also responsible for the enforcement of disciplinary action for staff who do not comply with policies and procedures. The Anti-Fraud Specialist will proactively assist the encouragement of an anti-fraud culture by undertaking work that will raise fraud awareness.
- 3.22 All instances of actual or suspected fraud, bribery or corruption must be brought to the attention of the Anti-Fraud Specialist immediately. It is important that managers do not investigate any suspected financial crimes themselves.
- 3.23 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. As part of that responsibility, line managers need to:
- Inform staff of the CCG's Code of Business Conduct and Anti-Fraud, Bribery and Corruption Policy as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms;
 - Ensure that all employees, office holders and all other staff who work for and with the CCG for whom they are accountable are made aware of the requirements of the policy;
 - Assess the types of risk involved in the operations for which they are responsible;
 - 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;
 - Ensure that any use of computers by employees, office holders and all other staff who work for and with the CCG are linked to the performance of their duties within the CCG;
 - Be aware of the 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 the CCG and the Department of Health Accounting Officer's overall statements of accountability and internal control.

All employees, office holders and other staff who work for and with the CCG

- 3.24 All employees, office holders and all other staff who work for and with the CCG are required to comply with the 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.

3.25 In addition, all employees, office holders and all other staff who work for and with the CCG 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, office holders and all other staff who work for and with the CCG 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 all employees, office holders and all other staff who work for and with the CCG deal fairly and impartially with official matters;
- Be alert to the possibility that others might be attempting to deceive.

3.26 All employees, office holders and all other staff who work for and with the CCG have a duty to ensure that public funds are safeguarded, whether or not they are involved with cash or payments systems, managing budgets or dealing with contractors or suppliers. If an employee suspects that there has been (or might be) fraud, bribery or corruption against the CCG or wider NHS, or has seen any suspicious acts or events, they are expected to report the matter to the Anti-Fraud Specialist or via one of the other channels specified within this policy.

3.27 All employees, office holders and all other staff who work for and with the CCG who are involved in or manage internal control systems should receive adequate training and support in order to carry out their responsibilities.

3.28 For the purposes of this policy, employees, office holders and all other staff who work for and with the CCG includes all the CCG's staff (permanent and temporary) and volunteers, as well as Lay Members.

Information Management and Technology

3.29 The Executive Director of Finance and Contracts will contact the Anti-Fraud Specialist immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. Appropriate liaison with HR will also take place if there is a suspicion that an employee is involved; all of this is to be carried out in line with the Computer Misuse Act 1990.

NHS Counter Fraud Authority

3.30 The NHS CFA deliver anti-crime work that cannot be carried out by NHS health bodies regionally or in isolation. They use intelligence to identify serious and complex economic crime, reduce the impact of crime and drive improvements in anti-crime work.

3.31 Local NHS organisations are primarily accountable for dealing with crime risks in the NHS. NHS CFA provides information and guidance to local AFSs to improve anti-fraud, bribery and corruption work across the NHS.

3.32 The NHS CFA's main objectives are:

- to deliver the Department of Health (DH) strategy, vision and strategic plan, and be the principal lead for counter fraud activity in the NHS in England;
- to be the single expert intelligence led organisation providing a centralised investigation capacity for complex economic crime matters;
- to lead, guide and influence the improvement of standards in counter fraud work, in line with HM Government Counter Fraud Professional Standards, across the NHS and wider health group, through review, assessment and benchmark reporting of counter fraud provision across the system;
- to take the lead and encourage fraud reporting across the NHS and wider health group, by raising the profile of fraud and its effect on the health care system.

4.0 The Response Plan

Bribery and Corruption

- 4.1 The CCG has detailed policies and procedures in place in relation to declarations of interest, sponsorship and hospitality/gifts.

Reporting fraud or corruption

- 4.2 This section outlines the action to be taken if fraud, bribery or corruption is discovered or suspected. If an employee holds any of the concerns or suspicions referred to in this document, they must report it immediately.

The CCG's Anti-Fraud Specialist is: Ruth Barker

The contact details are:

Telephone: 07584 774 763

Email: ruth.barker@miaa.nhs.uk

or ruth.barker12@nhs.net

- 4.3 If the referrer believes that the Executive Director of Finance and Contracts or Anti-Fraud Specialist is implicated, they should notify whichever party is not believed to be involved who will then inform the Chief Officer and Governance and Audit Committee Chairperson. They will then inform the NHS Counter Fraud Authority.
- 4.4 If an employee feels unable, for any reason, to report the matter internally, employees, office holders and all other staff who work for and with the CCG can also call the NHS Fraud and Corruption Reporting Line on Freephone 0800 028 40 60. This line is operated on behalf of the NHS by Crimestoppers, or report their concerns via the NHS Online Fraud Reporting Form at <https://cfa.nhs.uk/reportfraud>
- 4.5 These NHS reporting options provide easily accessible routes for the reporting of genuine suspicions of fraud, bribery or corruption within or affecting the CCG or wider NHS. It allows NHS staff who are unsure of internal reporting procedures to report their concerns in the strictest confidence. Experienced Crimestoppers trained staff deal with all calls and any caller who wishes to remain anonymous may do so.

- 4.6 Anonymous letters, telephone calls, and other such communications are occasionally received from individuals who wish to raise matters of concern, but may not wish to identify themselves for whatever reason. While the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously and investigated.
- 4.7 The Anti-Fraud Specialist 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 and, if they originate with a CCG employee, disciplinary action will be instigated.
- 4.8 Staff are encouraged to report all reasonably held suspicions directly to the Anti-Fraud Specialist. **Form 2** is available to staff to complete this referral.
- 4.9 The CCG want all employees, office holders and all other staff who work for and with the CCG 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, the CCG has produced a Whistleblowing - Freedom to Speak Up policy. This policy is intended to complement the CCG's Whistleblowing – Freedom to Speak Up and Standards of Business Conduct policies to ensure there is full provision for staff to raise any concerns with others if they do not feel able to raise them within their management teams.
- 4.10 **Form 1** provides a reminder of the key contacts and a checklist of the actions to follow if fraud, bribery and/or corruption, is discovered or suspected. Managers are encouraged to copy this to staff and to place it on staff notice boards.
- 4.11 All reports of fraud, bribery and corruption will be taken seriously and thoroughly investigated.

Disciplinary action

- 4.12 Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act. This is linked to the CCG's Disciplinary Policy.
- 4.13 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.

Police involvement

- 4.14 In accordance with the NHS Counter Fraud Authority Anti-Fraud, Bribery and Corruption Manual, the Executive Director of Finance and Contracts, in conjunction with the Anti-Fraud Specialist and NHS Counter Fraud Authority, will decide whether 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 the CCG.

Managing the investigation

- 4.15 The Anti-Fraud Specialist, in consultation with the CCG's Executive Director of Finance and Contracts, will investigate an allegation in accordance with procedures documented in the NHS Counter Fraud Authority Anti-Fraud, Bribery and Corruption Manual. If fraud is suspected it must be referred to the Anti-Fraud Specialist.
- 4.16 The Anti-Fraud Specialist must be aware that staff under an investigation have the right to be represented at all stages. In certain circumstances, evidence may best be protected by

the Anti-Fraud Specialist recommending to the CCG that the staff member is excluded from duty. The CCG will make a decision based on HR advice on the disciplinary options, which includes exclusion.

Gathering evidence

- 4.17 If evidence of fraud is obtained to substantiate an investigation, then the Anti-Fraud Specialist will take control of any physical evidence, and record this in accordance with the procedures outlined in the NHS Counter Fraud Authority Anti-Fraud, Bribery and Corruption Manual.
- 4.18 Interviews under caution will only be carried out by the Anti-Fraud Specialist, if appropriate, or the investigating police officer in accordance with the Police and Criminal Evidence Act 1984 (PACE). The Anti-Fraud Specialist will take written statements where necessary.
- 4.19 The application of the Anti-Fraud, Bribery and Corruption Policy will at all times be in tandem with all other appropriate policies, e.g. Prime Financial Policies.

Recover of losses incurred due to fraud, corruption and bribery

- 4.20 The NHS Counter Fraud Authority 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 the CCG's commitment to take fraud, bribery and corruption seriously and ultimately contributes to the deterrence and prevention of such actions.
- 4.21 The CCG endorse the NHS Counter Fraud Authority approach and adopts the principles contained within their policy entitled, 'Parallel Criminal and Disciplinary Investigations'; as well as complying with the provisions of the NHS Counter Fraud Authority Anti-Fraud, Bribery and Corruption Manual with regard to applying sanctions where fraud, bribery or corruption is proven.
- 4.22 The types of sanction, which the CCG may apply when a financial offence has occurred, include:
- **Civil Redress** – We 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 an order for repayment or an attachment to earnings where appropriate, in addition to any locally agreed voluntary negotiations or repayments. The CCG will 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 Anti-Fraud Specialist will work in partnership with NHS Counter Fraud Authority, 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. The CCG’s disciplinary policy can be located on the intranet;
- **Professional Body Disciplinary Sanctions** – Where appropriate and if warranted, the CCG reserve the right to also report staff to their professional body as a result of an investigation and/or prosecution.

Reporting the results of the investigation

- 4.23 The investigation process requires the Anti-Fraud Specialist to review the systems in operation to determine whether there are any inherent weaknesses. Any such weaknesses identified should be corrected immediately.
- 4.24 If fraud or corruption is found to have occurred at the conclusion of the investigation, the Anti-Fraud Specialist will prepare a report for the Executive Director of Finance and Contracts and the CCG’s Governance and Audit Committee meeting. The report will set out the following detail:
- The circumstances;
 - The investigation process;
 - The estimated loss;
 - The steps taken to prevent a recurrence;
 - The steps taken to recover the loss.
- 4.25 An update on any fraud investigation will be provided to the CCG’s Governing Bodies as required.

Action to be taken

- 4.26 The NHS Counter Fraud Authority Anti-Fraud, Bribery and Corruption Manual provides in-depth details of how sanctions can be applied where fraud and corruption is proven and how redress can be sought. To summarise, local action can be taken to recover money by using the administrative procedures of the CCG or the civil law.
- 4.27 In cases of serious fraud and corruption, it is recommended that parallel sanctions are applied. For example: disciplinary action relating to the status of the employee in the NHS; use of civil law to recover lost funds; and use of criminal law to apply an appropriate criminal penalty upon the individual(s), and/or a possible referral of information and evidence to external bodies – for example, professional bodies – if appropriate.
- 4.28 NHS Counter Fraud Authority can also apply to the courts to make a restraining order or confiscation order under the Proceeds of Crime Act (POCA). This means that a person’s money is taken away from them if it is believed that the person benefited from the crime. It could also include restraining assets during the course of the investigation.
- 4.29 Actions which may be taken when considering seeking redress include:
- No further action;
 - Criminal investigation;
 - Civil recovery;

- Disciplinary action;
- Confiscation order under POCA;
- Recovery sought from on-going salary payments.

- 4.30 4.30 In some cases (taking into consideration all the facts of a case), it may be that the CCG, under guidance from the Anti-Fraud Specialist and with the approval of the Executive Director of Finance and Contracts, decides that no further recovery action is taken.
- 4.31 Criminal investigations are primarily used for dealing with any criminal activity. The main purpose is to determine if activity was undertaken with criminal intent. Following such an investigation, it may be necessary to bring this activity to the attention of the criminal courts (Magistrates Court and Crown Court). Depending on the extent of the loss and the proceedings in the case, it may be suitable for the recovery of losses to be considered under POCA.
- 4.32 The civil recovery route is also available to the CCG if this is cost-effective and desirable for deterrence purposes. This could involve a number of options such as applying through the Civil Court and/or recovery through debt collection agencies. Each case will be discussed with the Executive Director of Finance and Contracts to determine the most appropriate action.
- 4.33 The appropriate senior manager, in conjunction with the commissioned HR service, will be responsible for initiating any necessary disciplinary action. Arrangements may be made to recover losses via payroll if the subject is still employed by the CCG. In all cases, current legislation must be complied with.

Timescales

- 4.34 Action to recover losses should be commenced as soon as practicable after the loss has been identified. Given the various options open to the CCG, it may be necessary for various departments to liaise about the most appropriate option.

5.0 Review

Monitoring and auditing of policy effectiveness

- 5.1 Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. Arrangements will include reviewing system controls, policies and procedures on an on-going basis and identifying weaknesses in processes.
- 5.2 Where deficiencies are identified as a result of the monitoring, the CCG will ensure appropriate recommendations and action plans are developed and any recommendations made will be summarised and documented via the CCG's Governance and Audit Committees.

Dissemination of the policy

- 5.3 The policy will be disseminated to all staff and will be held on the organisations website.

Review of the policy

- 5.4 The Anti-Fraud Specialist on a regular basis reviews this policy. Given the ongoing nature of anti-fraud work and the proposed CCG mergers within Cheshire this policy will be reviewed in March 2020 to ensure it remains fit for purpose.

*NHS fraud, corruption and bribery: dos and don'ts
A desktop guide for the Cheshire CCG*

FORM 1

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 Anti-Fraud Specialist.

• **report your suspicion**

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

Complete a fraud report and submit in a sealed envelope marked 'Restricted – Management' and 'Confidential' for the personal attention of the Anti-Fraud Specialist.

DO NOT

• **confront the suspect or confront**

Never attempt to question a suspect or accuse an innocent person.

• **try to investigate, or contact**

yourself unless it is about to be investigated. Follow correct procedures in order for it to be investigated in accordance with the correct procedures.

• **be afraid of raising your concerns**

employees, office holders and others. Report your reasonable concerns. You will be supported through correct procedures.

• **Do nothing!**

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

- directly contacting the **Anti-Fraud Specialist**, or
- telephoning the **freephone NHS Fraud and Corruption Reporting Line**, via the **NHS Online Fraud Reporting Form** <https://cfa.nhs.uk/reportfraud>

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 Anti-Fraud Specialist is **Ruth Barker**, who can be contacted by telephoning **07584 774 763**, or emailing **ruth.barker@miaa.nhs.uk**

If you would like further information about the NHS Counter Fraud Authority, please visit www.cfa.nhs.uk

Protecting your NHS

FORM 2

NHS fraud, corruption and bribery referral form *all referrals will be treated in confidence and investigated by professionally trained staff*

Note: *Referrals should only be made when you can substantiate your suspicions with one or more reliable pieces of information. Anonymous applications are accepted but may delay any investigation.*

- 1. **Date**
- 2. **Anonymous application** *Yes (If 'Yes' go to section 6) or No (If 'No' complete sections 3–5)*
- 3. **Your name**
- 4. **Your organisation/profession**
- 5. **Your contact details**
- 6. **Suspicion**
- 7. **Please provide details including the name, address and date of birth (if known) of the person to whom the allegation relates.**
- 8. **Possible useful contacts**

9. Please attach any available additional information.
Submit the completed form (in a sealed envelope marked 'Restricted – Management' and 'Confidential') for the personal attention of **Ruth Barker**, the nominated Anti-Fraud Specialist to Anti-Fraud Team, Mersey Internal Audit Agency, Ground Floor, Regatta Place, Summers Road, Brunswick Business Park, Liverpool L3 4BL. When complete, this report contains personal details, and as such should only be transmitted electronically using encrypted email facilities or through secure emails channels. Under no circumstances should this report be transmitted electronically without proper secure email processes in place.