



North Central London
Integrated Care Board

Counter Fraud, Bribery and Corruption Policy

Version 1: July 2022

1.	Summary	This document sets out the Counter Fraud, Bribery and Corruption Policy for NHS North Central London Integrated Care Board (ICB).
2.	Accountable Director	Phill Wells, Chief Finance Officer.
3.	Author	Jennifer Nabwogi, Governance & Risk Lead.
4.	Applies to	All ICB members (including committee members), staff, self-employed consultants, contractors, officers and office holders.
5.	Groups/individuals who have overseen development of this policy	Governance and Risk Team
6.	Groups which were consulted and have given approval	Internal auditors, Local Counter Fraud Specialist and Head of Governance & Risk.
7.	Equality Impact Analysis completed	This policy has been written in accordance with the provisions of the Equality Act 2010.
8.	Ratifying committee and date of final approval	Board of Members approved on 4 July 2022.
9.	Version	Version 1
10.	Locations available	ICB website and staff intranet.
11.	Related documents	<ul style="list-style-type: none"> • The ICB Constitution; • Speaking Up (Whistleblowing) Policy; • Standards of Business Conduct Policy; • Disciplinary Policy; • Conflicts of Interest Policy; • Sponsorship and Joint Working with the Pharmaceutical Industry Policy.
12.	Disseminated to	Board of Members and all staff, including business partners and others.

13.	Date of implementation	4 July 2022.
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Document Version Control

Date	Version	Action	Amendment	Author
04.07.2022	1	The policy was created for the new North Central London Integrated Care Board. It was adapted from the previous Counter Fraud, Bribery and Corruption Policy in place for the CCG.		Jennifer Nabwogi, Governance & Risk Lead Chris Hanson, Governance & Risk Lead

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1.0 Introduction

- 1.1 This document sets out the counter fraud, bribery and corruption policy for NHS North Central London Integrated Care Board ('ICB'). It provides processes, procedures and actions to take to prevent fraud, bribery and corruption, and to deal with it should it occur.
- 1.2 **Equalities**
This policy has been created and written in accordance with the provisions of the Equality Act 2010 ('EA 2010'). In addition, it supports the achievement of the aims of the EA 2010 and the Public Sector Equality Duty contained therein.
- 1.3 **Help and Support**
For any support with this policy please contact the Governance and Risk Team.
- 1.4 **NHS Counter Fraud Authority ('NHS CFA')**
The NHS CFA has the responsibility for the detection, investigation and prevention of fraud and economic crime within the NHS. Its aim is to lead the fight against fraud affecting the NHS and wider health service, by using intelligence to understand the nature of fraud risks, investigate serious and complex fraud, reduce its impact and drive forward improvements.
- 1.5 A copy of the NHSCFA strategy: Strategy 2020 to 2023, is available at: https://cfa.nhs.uk/resources/downloads/documents/corporate-publications/NHSCFA_Strategy_2020-23.pdf.
- 1.6 The ICB has adopted the new Government Functional Standard 013 for counter fraud. This functional standard exists to create a coherent, effective and mutually understood way of doing business within government organisations and across organisational boundaries, and to provide a stable basis for assurance, risk management, and capability improvement.
- 1.7 From April 2021 all NHS organisations are required to provide assurance against the Functional Standard, which was overseen by the Chief Finance Officer and the Chair of the Audit Committee and in line with the existing approach to assurance against counter fraud requirements.
- 1.8 The NHS CFA is supporting the integration of the new requirements into the NHS and is responsible for receiving Counter Fraud Functional Standard Returns ('CFFSR').
- 1.9 The full standards are found here: <https://cfa.nhs.uk/government-functional-standard/NHS-requirements>

2.0 Aims, principles and scope of the policy

- 2.1 This policy relates to all forms of fraud, bribery and corruption and is intended to provide direction and help to staff who may identify or suspect 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 also intended to ensure that the ICB complies with all relevant counter fraud legislation and official guidance.
- 2.2 This policy is not intended to provide a comprehensive approach to preventing and detecting fraud, bribery and corruption. The overall aims of this policy are to:

- 2.2.1 improve the knowledge and understanding of everyone working in the ICB, irrespective of their position, about the risk of fraud and bribery within the NHS and its unacceptability;
- 2.2.2 assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly;
- 2.2.3 set out the ICB's overall key role specific responsibilities in terms of the deterrence, prevention, detection and investigation of fraud, bribery and corruption;
- 2.2.4 ensure that appropriate sanctions are considered following an investigation, which may include any or all of the following:
 - criminal prosecution
 - civil prosecution
 - internal/external disciplinary action
- 2.3 This policy applies to all ICB staff, regardless of position held, as well as Board Members, Clinical Leads, consultants, vendors, contractors, and/or any other parties who have a business relationship with the ICB. It will be brought to the attention of all staff and form part of the induction process for new staff. It is incumbent on all of the above to report any concerns they may have concerning fraud, bribery and corruption.
- 2.4 This policy does not apply to employment related matters, for example how staff are treated at work, conditions of employment or relationships with colleagues. Such matters are covered by HR policies, such as the Grievance Policy, Flexible Working Policy and Appraisal Policy.
- 2.5 Concerns about contracted professionals may result in a referral to the appropriate regulatory or professional body/association that the individual may be a member of.

3.0 The policy

- 3.1 All staff of the ICB, Board members, Clinical Leads, consultants, vendors, contractors and other parties who have a business relationship with the ICB have a personal responsibility to protect the assets of the NHS, including all buildings, equipment and monies from fraud, bribery and corruption.
- 3.2 The ICB is committed to maintaining an honest, open and well-intentioned atmosphere where all those who have a business relationship with the ICB are able to best fulfil the objectives of the ICB and those of the NHS. In addition, the ICB is committed to the elimination of fraud, to the rigorous investigation of any fraud allegations and to taking appropriate action against wrong doers, including possible criminal prosecution, as well as undertaking steps to recover any assets lost as a result of fraud.
- 3.3 The ICB encourages anyone having reasonable suspicions of fraud to report it, (see appendix (iv) for details of who to report suspicions to). No individual will suffer any detrimental treatment as a result of reporting reasonably held suspicions. The Public Interest Disclosure Act 1998 came into force in July 1999 and gives statutory

protection, within defined parameters, to staff who make disclosures about a range of subjects, including fraud and bribery, which they believe to be happening within any organisation employing them. Within this context, 'reasonably held' means suspicions reported in good faith and not knowingly false or malicious.

- 3.4 Any suspicions raised maliciously or knowingly to be false will be subject to a full investigation and appropriate disciplinary action may be taken. A copy of the disciplinary policy can be found at the staff intranet.
- 3.5 The ICB recognises that, while cases of theft are usually obvious, there may initially only be a suspicion regarding potential fraud and so staff should report the matter to their Local Counter Fraud Specialist who will then ensure that procedures are followed.
- 3.6 The ICB has a zero-tolerance approach to bribery. The giving or receiving of bribes is absolutely prohibited. ICB staff, Board members and Clinical Leads will not pay a bribe to anybody. This means not offering, promising, or rewarding in any way or giving a financial or other advantage to any person in order to induce that person to perform his/her function or activities improperly. It does not matter whether the other person is a UK or foreign public official, political candidate, party official, private individual, private or public sector staff or any other person (including creating the appearance of an effort to improperly influence another person).
- 3.7 The ICB procures goods and services ethically and transparently with the quality, price and value for money determining the successful supplier/contractor, not by receiving (or offering) improper benefits. The ICB's, business partners and all staff, independent of their grade and position, shall at all times comply with the Bribery Act 2010 and with this policy. No person representing the ICB or involved in the procurement of goods or services may accept any bribe or other inducement, either personally or on behalf of the organisation, that seeks to influence / or may be perceived to influence, any procurement decisions.
- 3.8 The ICB may, in certain circumstances, be held responsible for acts of bribery committed by intermediaries acting on their behalf such as business partners, contractors, suppliers, agents, advisors, consultants or other third parties. The use of intermediaries for the purpose of committing acts of fraud, bribery and corruption is prohibited.
- 3.9 All intermediaries shall be selected with care, and all agreements with intermediaries shall be concluded under terms that are in line with this policy. The ICB will contractually require agents and other intermediaries to comply with this policy, and to keep proper books and records available for inspection by the ICB's auditors or investigating authorities. Agreements with agents and other intermediaries shall at all times provide for the necessary contractual mechanisms to enforce compliance with the anti-bribery regime. The ICB will monitor performance and, in case of non-compliance, require the correction of deficiencies, apply sanctions, or eventually terminate the agreement even if this may result in a loss of business.
- 3.10 Where the ICB is engaged in commercial activity (irrespective as to what happens to the profit) it could be considered guilty of a corporate bribery offence if any staff, agent, subsidiary or any other person acting on their behalf bribes another person intending to obtain or retain business or an advantage in the conduct of business for the ICB and the ICB cannot demonstrate that it has adequate procedures in place to prevent such. The ICB does not tolerate any bribery on its behalf, even if this might result in a loss of business for the ICB. Recovery of any losses will always be sought.

- 3.11 The ICB wants all staff, the Board of Members, Clinical Leads and others to feel confident that they can expose any wrongdoing without any risk to themselves. The ICB's whistleblowing policy 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.
- 3.12 To support the reporting of fraud using the NHS CFA fraud reporting process (as outlined above) all staff should be aware of NHS England's Freedom to speak up policy for the NHS, June 2022 and NHS England's Freedom to speak up in Primary Care: Guidance to primary care providers on supporting whistleblowing in the NHS, November 2017 (both links provided at Appendix iv). These all form the minimum standards for the raising of concerns in the NHS for the benefit of all patients in England.
- 3.13 **Reporting fraud or bribery**
If any of the concerns mentioned in this document come to the attention of any staff, Board member, Clinical Lead and/or other staff they must inform the Local Counter Fraud Specialist ('LCFS') or the Chief Finance Officer immediately.
- 3.13.1 Staff can also call the NHS Fraud and Corruption Reporting Line on Freephone 0800 028 40 60 or by filling in an online form at <https://cfa.nhs.uk/reportfraud>, as an alternative to internal reporting procedures and if staff wish to remain anonymous. All information provided is treated in complete confidence and all calls are dealt with by experienced caller handlers.
- 3.13.2 If it is suspected that the LCFS or a member of the management team is implicated, reports should be made to the Chair of the Audit Committee. Alternatively, you can contact NHS CFA directly.
- 3.13.3 In circumstances of attempted bribes offered to ICB staff, ICB Board members, Clinical Leads, other staff or any other associated persons, they must refuse acceptance of the bribe in whatever form and must report this to the LCFS or Chief Finance Officer, immediately. If in doubt, contact either of the above for advice and for guidance on gifts and hospitality and please also refer to the Standards of Business Conduct and Conflicts of Interest policies.
- 3.13.4 A table is provided at Appendix (i) 'Fraud reporting procedure'. It shows the key "what to do" steps - as well as contact details - to be taken where fraud or other illegal acts are discovered or suspected. Managers are encouraged to print the table at Appendix (i) and to display it on staff notice boards in their department.
- 3.13.5 The LCFS will make enquiries to establish whether there is any foundation to the concern raised. If the allegations are found to be malicious, they will also be considered for further investigation as to their source.
- 3.13.6 The Chief Finance Officer, in consultation with NHS CFA and the LCFS, will decide whether there is sufficient cause to conduct an investigation, and whether the Police and External Audit need to be informed.

4.0 Roles and responsibilities

4.1 The ICB has a duty to ensure that a secure working environment is in place, one where all who have a relationship with the ICB 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 ICB has a duty to ensure that those concerns are listened to and addressed.

4.2 ICB Board of Members

4.2.1 The ICB's Board of Members has a duty to provide clear and demonstrable support and strategic direction for counter fraud, bribery and corruption work and to ensure that evidence of proactive management, control and evaluation of counter fraud, bribery and corruption work is present.

4.2.2 Where the NHS CFA has carried out a qualitative assessment, the Board of Members ensures that recommendations made are fully implemented.

4.3 Chief Executive

4.3.1 The ICB's Chief Executive is liable to be called to account for specific failures in the ICB's system of internal control. The Chief Executive has a duty to ensure that:

4.3.1.1 The ICB has in place a counter fraud, bribery and corruption policy that follows NHS CFA strategic guidance, publicises the NHS CFA's Fraud and corruption reporting line and online reporting tool and has been approved by the executive body or senior management team. That the policy is reviewed and updated as required and levels of staff awareness are measured.

4.4 Chief Finance Officer

4.4.1 The Chief Finance Officer is the executive ICB member responsible for overseeing and providing strategic management and support for all counter fraud, bribery and corruption work for the ICB.

4.4.2 The Chief Finance Officer is provided with powers to approve financial transactions initiated by directorates across the ICB. As part of this role the Chief Finance Officer is responsible for the maintenance and implementation of detailed financial procedures and systems which incorporate the principles of separation of duties and internal checks. The Chief Finance Officer's role, in relation to counter fraud, bribery and corruption, includes:

4.4.2.1 Ensuring that the most recent version of the NHS Standard Contract is used by the ICB when commissioning NHS funded services including acute, care home, community based, mental health and learning disability services;

4.4.2.2 In accordance with Service Condition 24 of the NHS Standard Contract, to nominate a Local Counter Fraud Specialist, a person nominated to act on behalf of the ICB, who is required to review the counter fraud provisions put in place by the provider;

- 4.4.2.3 Identifying and mitigating risks by adopting a risk-based approach when determining the amount of resources required to achieve the highest rating for each NHS CFA Requirement. To ensure that measures to mitigate identified risks are included in the organisational work plan, progress is monitored at senior level and the results are fed back to the Audit Committee;
- 4.4.2.4 Ensuring that the ICB employs or contracts an accredited person (or persons) to undertake the full range of counter fraud, bribery and corruption work, including proactive work to prevent and deter fraud, bribery and corruption and reactive work to hold those who commit fraud, bribery or corruption to account:
- To ensure that the person contracted is nominated to the NHS CFA and has attended specialist training that has been accredited by the Counter Fraud Professional Accreditation Board;
 - Ensure that those carrying out counter fraud, bribery and corruption work have all the necessary tools and resources to enable them to carry out their role efficiently, effectively and promptly, for example, access to IT and secure storage;
 - Ensure that there are effective lines of communication between those responsible for counter fraud, bribery and corruption work and other key staff groups and managers within the ICB including but not limited to audit, risk, finance, communication and human resources;
- 4.4.2.5 Ensure that the ICB reports annually on how it has met Government Functional Standard 013 for counter fraud, as set by the NHS CFA within the NHS Requirements, and provide details of corrective action where the Requirements have not been met;
- 4.4.2.6 Ensure that the ICB has appropriate contract monitoring arrangements in place for all commissioned primary and secondary healthcare services to prevent losses being incurred through fraud, bribery and corruption;
- 4.4.2.7 Together with the LCFS to ensure that the ICB has in place an ongoing programme of work to raise awareness of fraud, bribery and corruption and to create a counter fraud, bribery and corruption culture among staff across all sites. Awareness should cover the NHS CFA's fraud and corruption reporting line and online reporting tool as well as the role of the LCFS. To ensure that the effectiveness of the awareness programme is measured;
- 4.4.2.8 The ICB will have proportionate processes in place for preventing, deterring and detecting fraud, bribery and corruption in procurement and arrangements for preventing, deterring and detecting invoice fraud;

4.4.2.9 The Chief Finance Officer will report annually to the ICB Board of Members on the actual internal financial control and risk management as part of the Board of Member's overall responsibility to prepare a statement of internal control for inclusion in the ICB's annual report;

4.4.2.10 The Chief Finance Officer is also responsible for informing the Audit Committee of all categories of loss.

4.5 Managers

4.5.1 Managers at all levels have a responsibility to ensure that an adequate system of internal control exists within their areas of responsibility and that those controls operate effectively. The responsibility for the prevention and detection of fraud and bribery therefore primarily rests with managers but requires the co-operation of all staff. As part of their responsibility, line managers need to:

4.5.1.1 Inform staff of the ICB's Standards of Business Conduct, Conflicts of Interest and Counter 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;

4.5.1.2 Ensure that all staff for whom they are accountable are made aware of the requirements of this policy;

4.5.1.3 Assess the types of risk involved in the operations for which they are responsible;

4.5.1.4 Include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of a key function is not invested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively;

4.5.1.5 Be aware of this policy and the rules and guidance covering the control of specific items of expenditure and receipts;

4.5.1.6 Identify financially sensitive posts;

4.5.1.7 Ensure that controls are being complied with;

4.5.1.8 Contribute to the assessment of the risks and controls within their business area, which feeds into the ICB's system of internal control;

4.5.2 All instances of actual or suspected fraud or bribery, which come to the attention of a manager, must be reported immediately. It is appreciated that some staff will initially raise concerns with their manager, however, in such cases managers must not attempt to investigate the allegation themselves, and they have the clear responsibility to refer the concerns to the LCFS as soon as possible.

4.6 Staff

- 4.6.1 All staff (including office holders such as Members of the ICB and Clinical Leads) should be aware that fraud and bribery will normally, dependent upon the circumstances of the case, be regarded as gross misconduct thus warranting summary dismissal/termination of contract without previous warnings. However, no such action will be taken before a proper investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.
- 4.6.2 All staff 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 staff should always:
- Act in an ethical manner;
 - Behave in a way that would not give cause for others to doubt that ICB staff deal fairly and impartially with official matters;
 - Be alert to the possibility that others might be attempting to deceive.
- 4.6.3 ICB staff will not request or receive a bribe from anybody, nor imply that such an act might be considered. This means that you will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person as an incentive or reward to perform improperly your function or activities.
- 4.6.4 Staff must act in accordance with the Standards of Business Conduct Policy and Conflicts of Interest Policy which include guidance on the receipt of gifts or hospitality.
- 4.6.5 Staff also have a duty to protect the assets of the ICB including information, goodwill and reputation, as well as property.
- 4.6.6 Staff are expected to act in accordance with the standards laid down by their professional institute(s), where applicable.
- 4.6.7 The ICB's Standing Orders and Standing Financial Instructions place an obligation on all staff, office holders and Board members to act in accordance with best practice. In addition, all ICB staff, office holders and ICB members must declare and register any interests that might potentially conflict with those of the ICB or the wider NHS in accordance with the provisions of the Conflicts of Interest Policy.
- 4.6.8 When a staff member suspects that there has been fraud or bribery, they must report the matter to the nominated Local Counter Fraud Specialist.

4.7 NHS Counter Fraud Authority

- 4.7.1 The purpose of the NHS Counter Fraud Authority is to lead the NHS in protecting its resources by using intelligence to understand the nature of fraud risks, investigate serious and complex fraud, reduce its impact and drive improvements.

4.8 Local Counter Fraud Specialist (LCFS)

- 4.8.1 Function Standard 013, Requirement 9 requires the ICB to employ or contract an accredited, person nominated to the NHS CFA to undertake the full range of counter fraud, bribery and corruption work, including proactive work to prevent and deter fraud, bribery and corruption and reactive work to hold those who commit fraud, bribery or corruption to account. The role of the LCFS includes a responsibility to:
- 4.8.1.1 Undertake the full range of counter fraud, bribery and corruption work on behalf of the ICB including proactive work to prevent and deter fraud, bribery and corruption and reactive work to hold those who commit fraud, bribery and corruption to account;
 - 4.8.1.2 Ensure that the ICB liaises proactively with other organisations and agencies (including police, home office, local authorities, regulatory and professional bodies to assist in countering fraud, bribery and corruption. All liaison complies with relevant legislation, such as the Data Protection Act 1998, General Data Protection Regulations ('GDPR') and with other relevant ICB policies;
 - 4.8.1.3 Ensure that the ICB uses the NHS CFA case management system to record all reports of suspected fraud, bribery and corruption, to inform national intelligence. That the ICB uses this system to support and progress the investigation of fraud, bribery and corruption allegations, in line with NHS CFA guidance;
 - 4.8.1.4 Ensure that the ICB shows commitment to pursue and/or support the NHS CFA in pursuing the full range of available sanctions against those found to have committed fraud, bribery or corruption as detailed in NHS CFA's guidance and advice;
 - 4.8.1.5 Ensure that the ICB completes witness statements that follow best practice and comply with national guidance;
- 4.8.2 Investigation of the majority cases of alleged fraud will be the responsibility of the LCFS.
- 4.8.3 The LCFS, in consultation with the Chief Finance Officer, will review the strategic objectives contained within the assurance framework to determine any potential fraud or bribery risks. Where risks are identified these will be included on the appropriate risk register so that the risk can be proactively managed.

4.9 Internal and External Audit

- 4.9.1 The ICB reviews new and existing policies and procedures to ensure that appropriate counter fraud, bribery and corruption measures are included, for example, procedures in human resources, standing orders, Standing Financial Instructions and other finance and operational policies. The ICB evaluates the success of the measures in place in reducing fraud, bribery and corruption, where risks have been identified. The audit function ensures that:

- 4.9.1.1 The ICB uses relevant information and intelligence to identify anomalies that may be indicative of fraud, bribery and corruption and take appropriate action, including proactive exercises to address them and that the findings are acted upon promptly;
 - 4.9.1.2 The ICB issues, implements and complies with all appropriate fraud, bribery and corruption intelligence bulletins, prevention guidance alerts issued by NHS CFA. In addition, the ICB issues local counter fraud, bribery and corruption warnings and alerts to all relevant staff following guidance in the NHS CFA's 'Intelligence Alerts, Bulletins and Local Warnings Guidance'.
- 4.9.2 Any incident or suspicion of fraud that comes to Internal or External Audit's attention will be passed immediately to the LCFS.

4.10 Human Resources

- 4.10.1 Human Resources ('HR') will liaise closely with managers and the LCFS, from the outset, where any member of staff is suspected of being involved in fraud in accordance with agreed liaison protocols. HR is responsible for ensuring the appropriate use of the ICB's disciplinary procedures. The HR department shall advise those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures. Close liaison between the LCFS and HR will be essential to ensure that any parallel sanctions (i.e. criminal and disciplinary) are applied effectively and in a coordinated manner. Human resources will also:
- 4.10.1.1 Ensure that the ICB has a fully implemented code of conduct that includes reference to the fraud, bribery and corruption policy and the requirements of the Bribery Act 2010. That the effectiveness of implementation of the process and staff awareness of the requirements of the code of conduct are regularly tested;
 - 4.10.1.2 Seek assurance from employment agencies used that the staff they provide have been subject to adequate vetting checks, in line with guidance from the NHS CFA, NHS Employers and the Home Office;
 - 4.10.1.3 Ensure that all new staff are subject to the appropriate level of pre-employment checks, as recommended by NHS Employers, before commencing employment with the ICB;
 - 4.10.1.4 Ensure that interviews under caution are conducted in line with the National Occupational Standards (CJ201.2) and the Police and Criminal Evidence Act 1984.
- 4.10.2 Human Resources will take steps, at the recruitment stage, to establish, as far as possible, the previous record of potential staff 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 staff are treated in the same manner as permanent staff.

4.11 Information Management and Technology

The Information Governance and Freedom of Information Manager will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. This includes inappropriate internet/intranet, e-mail, telephone, PDA use and any offence under the Computer Misuse Act 1990. Human Resources will be informed if there is a suspicion that a staff member is involved.

5.0 Recovery of losses incurred by fraud, bribery or other illegal acts

- 5.1 Seeking of financial redress or recovery of losses will always be considered in cases of fraud or bribery that are investigated by the LCFS or the NHS CFA where a loss is identified. As a general rule, recovery of the loss caused by the perpetrator should always be sought. The decisions must be taken in light of the particular circumstances of each case.
- 5.2 The ICB is committed to seek recovery and/or support the NHS CFA in seeking recovery of NHS funds that have been lost or diverted through fraud, bribery and corruption, following an assessment of the likelihood and financial viability of recovery. Redress allows resources that are lost to fraud and bribery to be returned to the NHS for use as intended, for provision of high-quality patient care and services. The ICB will publicise cases that have led to successful recovery of NHS funds.
- 5.3 Sections 10 and 11 of the NHS Counter Fraud and Bribery Manual provide in-depth details of how sanctions can be applied where fraud and bribery 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 ICB or civil law.
- 5.4 In cases of serious fraud and bribery, it is recommended that parallel sanctions are applied, for example, disciplinary action relating to the status of the staff 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.
- 5.5 NHS CFA can also apply to the courts to make a restraining order or confiscation order under the Proceeds of Crime Act 2002 ('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.
- 5.6 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 or pensions.
- 5.7 The civil recovery route is also available to the ICB if this is cost-effective and desirable for deterrence purposes. This could involve a number of options such as applying through the Small Claims Court, County Court, High Court and/or recovery through debt collection agencies. Each case needs to be discussed with the Chief Finance Officer to determine the most appropriate action.

- 5.8 The appropriate senior manager, in conjunction with the HR department, 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 ICB. In all cases, current legislation must be complied with.
- 5.9 Action to recover losses should be commenced as soon as practicable after the loss has been identified. Given the various options open to the ICB. it may be necessary for various departments to liaise about the most appropriate option.
- 5.10 In order to provide assurance that policies were adhered to, the Chief Finance Officer will maintain a record highlighting where recovery action was required, how it was issued and when the action was taken. This will be reviewed and updated on a regular basis.

6.0 Public Service values

- 6.1 High standards of corporate and personal conduct, based on the recognition that patients come first, have been a requirement throughout the NHS since its inception. The three fundamental public service values are:

6.2 Accountability

Everything done by those who work in and with the ICB must be able to stand the tests of parliamentary scrutiny, public judgements and professional codes of conduct.

6.3 Probity

Absolute honesty and integrity should be exercised in dealing with NHS patients, assets, staff, suppliers and customers.

6.4 Openness

All actions by the ICB should be sufficiently public and transparent to promote confidence in the ICB by our patients, our staff and the public.

- 6.5 In addition, all those who work for, or are in contract with the ICB, should exercise the following when undertaking their duties:

6.5.1 Selflessness ...should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends;

6.5.2 Integrity ...should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties;

6.5.3 Objectivity ... should, in carrying out public business, (including making public appointments, awarding contracts, or recommending individuals for rewards and benefits), make choices on merit;

6.5.4 Accountability...are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office;

6.5.5 Openness...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 demands;

- 6.5.6 Honesty...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;
- 6.5.7 Leadership ...should promote and support these principles by leadership and example.
- 6.5.8 These standards are national benchmarks that inform our local policies and procedures. The arrangements made in this policy have been designed to ensure compliance with the national standards.

7.0 Training

- 7.1 The ICB will provide counter fraud, bribery and corruption training to all staff, those with specific responsibilities in relation to Functional Standard 013 counter fraud, contractors and committee members on a regular basis to make them aware of their responsibilities in supporting the ICB's counter fraud, bribery and corruption arrangements.

8.0 Monitoring Effectiveness

- 8.1 The ICB will ensure effectiveness of the arrangements in this policy through an annual review of the policy and whenever there are changes to the fraud, bribery and corruption legislation or guidance.
- 8.2 NHS CFA supports organisations through regular benchmarking, compliance testing, evaluation of effectiveness and value for money indicators. This will be achieved through the quality assurance programme and performance ratings. The quality assurance programme comprises two main processes; assurance and assessment.
- 8.3 The quality assurance process includes an annual self-review against Functional Standard 013, counter fraud, NHS Requirements. This is known as the Counter Fraud Functional Standard Return ('CFFSR') which is submitted via an NHS CFA portal.
- 8.4 For this self-review, the ICB marks itself against each Requirement as either Compliant (green), Partially Compliant (Amber) or Non-Compliant (Red). A work-plan is required to address all non-compliant Requirements which will be monitored by the Audit Committee. The assessment process is conducted by the NHS CFA's Quality and Compliance team in partnership with the ICB.
- 8.4 In addition, the ICB is required to provide an annual statement of assurance against the Government Functional Standard 013, Counter fraud. This statement of assurance is provided through completion of the annual report.
- 8.5 As a result of reactive and proactive work completed throughout the financial year, closure reports are prepared and issued by the LCFS. System and procedural weaknesses are identified in each report and suggested recommendations for improvement are highlighted. The ICB, together with the LCFS will track the recommendations to ensure that they have been implemented.
- 8.6 If the ICB, in the judgement of the NHS CFA Quality and Compliance team, requires an assessment, the NHS CFA will select the type of assessment that will be undertaken.

9.0 Definitions used in this policy

- 9.1 Fraud - refers to a range of economic crimes or any other illegal acts committed by an individual or group of individuals to obtain a financial or professional gain. Fraud against the NHS takes many forms; here are just a few examples:
- False claims - This can range from patients claiming for free treatment when they are not entitled to it, to NHS professionals claiming money for services they have not provided.
 - Payment diversion fraud - This happens when fraudsters trick an NHS organisation into paying money to them, for example by pretending to be from one of the organisation's regular suppliers.
 - Procurement fraud - This relates to the purchasing of goods and services by an NHS organisation. An example is bid rigging, when bidders agree between themselves to eliminate competition, denying the organisation a fair price or delivering poor quality goods or services.
 - Misrepresentation of qualifications or experience - This occurs when someone applying for a job claims to have qualifications or experience they do not actually have. This is particularly serious if it occurs in senior and medical positions.
 - Timesheet fraud - This happens when staff falsify their timesheets, for example to obtain payment for hours they have not actually worked.
- 9.2 Bribery and corruption - Bribery and corruption involves offering, promising or giving a payment of benefit-in-kind to influence others to use their position in an improper way to gain an advantage:
- 9.2.1 Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event. Bribery does not always result in a loss. The corrupt person may not benefit directly from their deeds, however, they may be using their position to give some advantage to another.
- 9.2.2 The Bribery Act 2010 defines bribery as offering an incentive to someone to do something which they would not normally do. For example:
- If you were responsible for recruiting an individual to join the ICB and you were offered and accepted tickets to an event by one of the candidates or someone linked to them; or
 - If you were responsible for purchasing goods or services and you were offered and accepted a meal by the supplier.
- You could be guilty of committing an offence under the Bribery Act 2010 by accepting a bribe.
- 9.2.3 The offence of bribery refers to offering, as well as accepting, so that if you offered a bribe in order to encourage someone to purchase services from the ICB, you would also be guilty of an offence under the Act.
- 9.2.4 Proportionate procedures have been put in place to mitigate the risk of bribery and acts as a statutory defence against section 7 of the Bribery Act 2010, protecting the ICB from committing an offence of negligently failing to prevent a bribe. The principles are as follows;

Principle 1: Proportionate procedures

Prevention measures and procedures are proportionate to the nature, scale and complexity of the ICB's activities. Procedures are clear, practical, accessible, effectively implemented and enforced.

Principle 2: Top-level commitment

There is a top-level commitment to preventing bribery by persons associated with it. The ICB fosters a culture of integrity where bribery is unacceptable.

Principle 3: Risk Assessment

The ICB assesses the nature and extent of its exposure to potential external and internal risks of bribery. The assessment is periodic, informed and documented. Risk assessments enable the accurate identification and prioritisation of the bribery risks that the ICB faces. Factors that will be considered include staff training, policies and procedures, financial controls and top-level management.

Principle 4: Due Diligence

Due diligence is firmly established as an element of corporate good governance. The ICB takes a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the ICB.

Principle 5: Communication (including training)

The ICB ensures that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication.

Principle 6: Monitoring and review

The ICB monitors and reviews procedures designed to prevent bribery where necessary. This may be determined by changes in legislation, incidents of bribery within the NHS or the ICB.

- 9.3 The ICB has procedures in place that reduce the likelihood of fraud occurring. These include Standing Orders, Standing Financial Instructions, documented procedures, Conflict of Interest policy and Standards of Business Conduct Policy, a system of internal control (including Internal and External Audit) and a system of regular risk assessment. In addition, the ICB seeks to ensure that a comprehensive counter fraud and bribery culture exists throughout the ICBs via the appointment of a dedicated Local Counter Fraud Specialist, in accordance with the NHS Secretary of State's Directions.

10.0 Related Documents and Policies

- The ICB Constitution;
- Standing Financial Instructions;
- Speaking Up (Whistleblowing) Policy;
- Standards of Business Conduct Policy;
- Disciplinary Policy;
- Conflicts of Interests policy;
- Sponsorship and Joint Working With The Pharmaceutical Industry Policy.

Appendix (i) Fraud Reporting Procedure

This includes:	What to do:	DO
<p>Fraud</p> <ul style="list-style-type: none"> Any deliberate intention to make a gain for themselves or anyone else, or inflicting a loss (or a risk of loss) on another i.e. the NHS. This could be through the falsification of any records or documents or obtaining any service(s) and/or failing to disclose information. <p>Bribery</p> <ul style="list-style-type: none"> Anything that induces or intends to induce improper performance. This covers offering, promising or giving a bribe, requesting, agreeing to receive or accepting a bribe, and failing to prevent bribery. Where someone is influenced by bribery or a payment of benefit-in-kind to unreasonably use their position to give some advantage to another. 	<p>If any of these concerns come to light you must immediately report your suspicions and what you have discovered to one of the following:</p> <ul style="list-style-type: none"> The Local Counter Fraud Specialists: kirsty.clarke8@nhs.net matt.wilson2@nhs.net Chief Finance Officer Phill Wells The NHS Fraud Reporting Line 0800 0284060 (Powered by Crimestoppers) <p>Or online https://cfa.nhs.uk/reportfraud</p> <p>Confidentiality will be maintained and all matters will be dealt with in accordance with the NHS Counter Fraud Manual.</p> <p>You will not suffer any recriminations as a result of raising concerns – You have protection under The Public Interest Disclosure Act 1998.</p>	<ul style="list-style-type: none"> ✓ Tell someone! <i>Confidentiality will be respected.</i> <i>Any delay might cause the organisation to suffer further financial loss.</i> ✓ Make a note of your concerns! <i>Note all relevant details, what was said, the date time and names of all parties involved.</i> ✓ Keep a record or copy any documentation that arouses your suspicion.

Appendix (ii) Summary of the Fraud Act 2006

Section 1: Provisions for a general offence of fraud

There are several new offences created the main three being sections 2, 3 and 4. The Act also creates new offences of obtaining services dishonestly and of possessing, making and supplying articles for use in fraud, as well as containing a new offence of fraudulent trading applicable to non-corporate traders.

Section 2: Fraud by False Representation

It is an offence to commit fraud by false representation. The representation must be made dishonestly. This test applies also to sections 3 and 4 below. The current definition of dishonesty was set in 2020 by R v Barton and Booth. This details that the standard to be applied is that of ordinary decent people. It does not matter if the defendant does not feel their actions were dishonest, but whether the jury feel that by their own standards the actions were.

The person must make the representation with the intention of making a gain or causing loss or risk of loss to another. The gain or loss does not actually have to take place.

A representation is defined as false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading. A representation means any representation as to fact or law, including a representation as to a person's state of mind.

A representation may be express or implied. It can be stated in words or communicated by conduct. There is no limitation on the way in which the representation must be expressed. It could be written or spoken or posted on a website.

A representation may also be implied by conduct. An example of a representation by conduct is where a person dishonestly misuses a credit card to pay for items. By tendering the card, he is falsely representing that he has the authority to use it for that transaction. It is immaterial whether the merchant accepting the card for payment is deceived by the representation.

This offence would also be committed by someone who engages in "phishing": i.e. where a person disseminates an email to large groups of people falsely representing that the email has been sent by a legitimate financial institution. The email prompts the reader to provide information such as credit card and bank account numbers so that the "phisher" can gain access to others' personal financial information.

A representation may be regarded as being made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention). The main purpose of this provision is to ensure that fraud can be committed where a person makes a representation to a machine and a response can be produced without any need for human involvement. (An example is where a person enters a number into a "CHIP and PIN" machine.)

Section 3: Fraud by Failing to Disclose Information

Section 3 makes it an offence to commit fraud by failing to disclose information to another person where there is a legal duty to disclose the information. A legal duty to disclose information may include duties under oral contracts as well as written contracts.

For example, the failure of a solicitor to share vital information with a client within the context of their work relationship, in order to perpetrate a fraud upon that client, would be covered by this section. Similarly, an offence could be committed under this section if for example an NHS staff failed to disclose to NCL ICBs ICB that certain patients referred by him for private

treatment are private patients, thereby avoiding a charge for the services provided by that NHS staff during NHS time.

Section 4: Fraud by Abuse of Position

Section 4 makes it an offence to commit a fraud by dishonestly abusing one's position. It applies in situations where the defendant has been put in a privileged position, and by virtue of this position is expected to safeguard another's financial interests or not act against those interests.

The necessary relationship will be present between trustee and beneficiary, director and company, professional person and client, agent and principal, staff and employer, or between partners. It may arise otherwise, for example within a family, or in the context of voluntary work, or in any context where the parties are not at arm's length.

The term "abuse" is not limited by a definition, because it is intended to cover a wide range of conduct. The offence can be committed by omission as well as by positive action. For example, any member of staff who fails to take up the chance of a crucial contract in order that an associate or rival company can take it up instead at the expense of the employer commits an offence under this section.

Any member of staff of a software company who uses his position to clone software products with the intention of selling the products on would commit an offence under this section.

Another example covered by this section is where a person who is employed to care for an elderly or disabled person has access to that person's bank account and abuses his position by removing funds for his own personal use.

Section 5: Provides definitions of Gain and Loss (not relevant for the purposes of this document)

Section 6: Possession etc. of Articles for Use in Frauds

Section 6 makes it an offence for a person to possess or have under his control any article for use in the course of or in connection with any fraud. This wording draws on that of the existing law in section 25 of the Theft Act 1968 (These provisions make it an offence for a person to "go equipped" to commit a burglary, theft or cheat, although they apply only when the offender is not at his place of abode.

Proof is required that the defendant had the article for the purpose or with the intention that it be used in the course of or in connection with the offence, and that a general intention to commit fraud will suffice.

Section 7: Making or Supplying Articles for Use in Frauds

Section 7 makes it an offence to make, adapt, supply or offer to supply any article knowing that it is designed or adapted for use in the course of or in connection with fraud, or intending it to be used to commit or facilitate fraud. For example, a person makes devices which when attached to electricity meters cause the meter to malfunction.

Section 8: "Article"

Section 8 extends the meaning of "article" for the purposes of sections 6 and 7 and certain other connected provisions so as to include any program or data held in electronic form. Examples of cases where electronic programs or data could be used in fraud are: a computer program can generate credit card numbers; computer templates can be used for producing blank utility bills; computer files can contain lists of other peoples' credit card details or draft letters in connection with 'advance fee' frauds.

Section 9: Participating in fraudulent business carried on by sole trader etc.

Section 9 makes it an offence for a person knowingly to be a party to the carrying on of fraudulent business where the business is not carried on by a company or (broadly speaking) a corporate body:

- A person commits the offence of fraudulent trading;
- dishonesty is an essential ingredient of the offence;
- the mischief aimed at is fraudulent trading generally, and not just in so far as it affects creditors;
- the offence is aimed at carrying on a business but that can be constituted by a single transaction; and
- It can only be committed by persons who exercise some kind of controlling or managerial function within the company.

Section 10: Participating in fraudulent business carried on by company (not relevant for the purposes of this document)

Section 11: Obtaining Services Dishonestly

Section 11 makes it an offence for any person, by any dishonest act, to obtain services for which payment is required, with intent to avoid payment. The person must know that the services are made available on the basis that they are chargeable, or that they might be. It is not possible to commit the offence by omission alone and it can be committed only where the dishonest act was done with the intent not to pay for the services as expected.

It requires the actual obtaining of the service. For example, data or software may be made available on the Internet to a certain category of person who has paid for access rights to that service. A person dishonestly using false credit card details or other false personal information to obtain the service would be committing an offence under this section. The section would also cover a situation where a person climbs over a wall and watches a football match without paying the entrance fee - such a person is not deceiving the provider of the service directly, but is obtaining a service which is provided on the basis that people will pay for it.

Section 11 also covers the situation where a person attaches a decoder to her television to enable viewing access to cable / satellite television channels for which they have no intention of paying for.

Section 12: Liability of Company Officers for Offences by Company

This section repeats the effect of section 18 of the Theft Act 1968. It provides that company officers who are party to the commission of an offence under the Bill by their body corporate will be liable to be charged for the offence as well as the company. It applies to directors, managers, secretaries and other similar officers of a company. If the body corporate charged with an offence is managed by its members, the members involved in management can be prosecuted too.

The Fraud Act 2006 repeals the following Theft Act offences:

- Theft Act 1968;
- Section 15 (obtaining property by deception);
- Section 15A (obtaining a money transfer by deception);
- Section 15B (Section 15A: supplementary);
- Section 16 (obtaining a pecuniary advantage by deception);
- Section 20(2) (procuring the execution of a valuable security by deception).

Theft Act 1978:

- Section 1 (Obtaining services by deception).

- Section 2 (evasion of liability).

The Fraud Act came into force on 15th January 2007 and carries a maximum sentence of 10 years' imprisonment with the exception of section 6 which is five years.

Appendix (iii) Summary of the Bribery Act 2010

The following business practices constitute criminal offences under the Bribery Act 2010 and are therefore prohibited:

Offences of bribing another person

Case 1 is where a ICB staff member offers, promises or gives a financial or other advantage to another person and intends the advantage (i) to induce that or another person to perform improperly a relevant function or activity, or (ii) to reward that or another person for the improper performance of such a function or activity.

Case 2 is where a ICB staff member offers, promises or gives a financial or other advantage to another person and knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity by that person.

The bribery must relate to (i) a function of a public nature, (ii) an activity connected with a business, (iii) an activity performed in the course of a person's employment, or (iv) an activity performed by or on behalf of a body of persons (whether corporate or unincorporated). The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust. It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector and whether the advantage is offered, promised or given directly by a ICB staff member or through a third party, e.g. an agent or other intermediary.

Offences relating to being bribed

Case 3 is where a ICB staff member requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by him-/herself or another person).

Case 4 is where a ICB staff member requests, agrees to receive or accepts a financial or other advantage, and the request, agreement or acceptance itself constitutes the improper performance by him-/herself of a relevant function or activity.

Case 5 is where a ICB staff member requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by himself/herself or another person) of a relevant function or activity.

Case 6 is where, in anticipation of or in consequence of a ICB staff member requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly (i) by that, or (ii) by another person at his/her request or with his/her assent or acquiescence.

Again, the bribery must relate to (i) a function of a public nature, (ii) an activity connected with a business, (iii) an activity performed in the course of a person's employment, or (iv) an activity performed by or on behalf of a body of persons (whether corporate or unincorporated). The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust.

It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector, whether a ICB staff member requests, agrees to receive or accepts the advantage directly or through a third party, e.g. an agent or other intermediary, and whether the advantage is for the benefit of a ICB staff member or another person.

In Cases 4 to 6, it does not matter whether a ICB staff member knows or believes that the performance of the function or activity is improper.

Bribery of foreign public officials

Case 7 is where a ICB staff member bribes a foreign public official and intends to (i) influence that official in his/her capacity as a foreign public official and (ii) obtain or retain a business or an advantage in the conduct of business. A foreign public official is someone who holds a legislative, administrative or judicial position of any kind or exercises a public function of a country outside the UK, or is an official or agent of a public international organisation. The following paragraph will apply if any part of the organisation is considered as a 'commercial' one.

Failure of commercial organisations to prevent bribery

A corporate or partnership is guilty of a corporate bribery offence if an staff member, agent, subsidiary or any other person acting on its behalf bribes another person intending to obtain or retain business or an advantage in the conduct of business for the corporate or partnership. For a definition of bribery, please refer to Cases 1, 2 and 7 above.

It should be the policy of a corporate or partnership not to tolerate any bribery on its behalf, even if this might result in a loss of business for it. Criminal liability must be prevented at all times.

Appendix (iv) Where to Report Bribery

Any suspicions of fraud against the ICB should be reported to:

Local Counter Fraud Specialists:

Matt Wilson

Tel: +(0)7484 040 691

or by emailing: matt.wilson2@nhs.net

Kirsty Clarke

Tel: +44 (0)20 3201 8054

or by emailing: kirsty.clarke8@nhs.net

Alternatively, you can telephone the NHS Fraud Reporting Line in confidence on

0800 028 40 60

Or online

<https://cfa.nhs.uk/reportfraud>

NHS Improvement and NHS England's Freedom to speak up policy for the NHS, June 2022

<https://www.england.nhs.uk/publication/the-national-speak-up-policy/>

NHS England' s Guidance Freedom to speak up in primary care: Guidance to primary care providers on supporting whistleblowing in the NHS, November 2017

<https://www.england.nhs.uk/wp-content/uploads/2016/11/whistleblowing-guidance.pdf>

Appendix (v) Example Process Flow Diagram

(Please note this is only an example as it does not cover all recovery routes / process, for example it does not mention the routes through payroll.)

Once a loss has been identified and all investigations have been fully undertaken and reported to the Audit Committee, the Chief Finance Officer and LCFS will consider all recovery of losses options in line with the Counter Fraud, Bribery and Corruption Policy.

The Chief Finance Officer will authorise the appropriate recovery method considering the advice and guidance of the LCFS and legal input where required. The chosen method of recovery will be reported to the Audit Committee.

Appropriate action in relation to the recovery of the loss will be applied by the relevant staff of the ICB liaising with the Chief Finance Officer and LCFS. The LCFS will be responsible for recording recoveries on NHS Counter Fraud Authority's case management system.

The ongoing monitoring and recovery of the loss will be regularly reported to the Audit Committee. The reporting of the outstanding loss will be reported until full recovery has been accomplished or if the Audit Committee in Common decide to write off the debt. The writing off of the debt will be in line with the Losses and Special Payments or Debt Recovery policy.



