



North West Ambulance Service



NHS Trust

Delivering the right care, at the right time, in the right place

ANTI FRAUD, BRIBERY AND CORRUPTION POLICY AND RESPONSE PLAN

This document explains the North West Ambulance Service NHS Trust Anti-Fraud bribery and corruption policy and the steps that must be taken where Fraud, Bribery or Corruption is suspected. All employees should be aware of the existence of this policy document, while managers should make staff aware of its content. Any member of staff who becomes aware of any Fraud, Bribery and Corruption or other illegal act and does not follow this policy could be subject to disciplinary action.

Recommended by	Director of Finance
Approved by	Executive Management Team
Approval date	21 October 2015
Version number	2.4
Review date	October 2016
Responsible Director	Director of Finance
Responsible Manager (Sponsor)	Deputy Director of Finance
For use by	All Trust Employees

This policy is available in alternative formats on request. Please contact the Corporate Governance Office on 01204 498400 with your request.

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Date of Issue:	November 2015	Date of Review	October 2016

Change record form

Version	Date of change	Date of release	Changed by	Reason for change
1.1	December 2008	26 Feb 2009	P Howard	Amendment of existing policy
1.2	January 2010	16 April 2010	P Baulcombe	Update of existing policy
1.3	February 2011	6 April 2011	P Baulcombe	Review of existing policy
1.4	October 2011		P Baulcombe	Update of existing policy
2.0	30 November 2011	30 November 2011	P Buckingham	Approval by Audit Committee
2.1	September 2013		J Hurst/ LCFS	Review of existing policy and updated against national NHS Protect template document July 2013
2.2	December 2013	December 2013	P Buckingham	Approval by Audit Committee
2.3	September 2014		J Hurst/LCFS	Review of existing policy and updated against NHS Protect template document
2.4	November 2014	November 2014	P Buckingham	Approval by Audit Committee
2.5	October 2015	November 2015	J Hurst/AFS	Annual review of existing policy

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1. Summary

- 1.1 North West Ambulance Service NHS Trust is committed to reducing the level of fraud, bribery and corruption within the NHS to an absolute minimum and keeping it at that level, freeing up public resources for better patient care.
- 1.2 **The Trust Board has a duty to provide adequate governance and oversight of the organisation to ensure that its funds, people and assets are adequately protected against criminal activity, including fraud, bribery and corruption.**
- 1.3 The Trust's Anti-Fraud Service is provided under contract by Mersey Internal Audit Agency (MIAA), an NHS agency. This policy has been produced by the Anti - Fraud Specialist (AFS), Jacqui Procter, and is intended as a guide for all employees on anti-fraud work within the NHS. All genuine suspicions of fraud, bribery and corruption can be reported to the AFS or through the NHS Fraud and Corruption Reporting Line (FCRL) on Freephone 0800 028 40 60 or the online fraud reporting form www.reportnhsfraud.nhs.uk.

2. Introduction

2.1 General

One of the basic principles of public sector organisations is the proper use of public funds. The majority of people who work in the NHS are honest and professional and they find that fraud committed by a minority is wholly unacceptable as it ultimately leads to a reduction in the resources available for patient care. The Trust wishes to encourage anyone having reasonable suspicions of fraud, bribery or corruption to report them. It is also the Trust's policy that no employee will suffer in any way as a result of reporting reasonably held suspicions.

All members of staff can therefore be confident that they will not suffer in any way as a result of reporting reasonably held suspicions. This protection is given under the Public Interest Disclosure Act that the Trust is obliged to comply with.

For the purposes of this policy "reasonably held suspicions" shall mean any suspicions other than those which are totally groundless (and/or raised maliciously). NHS Protect is a business unit of the NHS Business Services Authority. It has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud and corruption and the management of security in the NHS. All instances where fraud is suspected are properly investigated until their conclusion by staff trained by NHS Protect. Any investigations will be handled in accordance with the *NHS Counter Fraud and Corruption Manual*.

North West Ambulance Service NHS Trust does not tolerate fraud, bribery and corruption within the NHS. The aim is to eliminate all NHS fraud, bribery and corruption as far as possible.

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2.2 Generic Areas of Action

- North West Ambulance Service NHS Trust is committed to taking all necessary steps to counter fraud, bribery and corruption. . The Trust continues to adopt NHS Protects three main objectives
- to educate and inform those who work for or use the NHS about crime in the health service and how to tackle it
- to prevent and deter crime in the NHS by removing opportunities for it to occur or to re-occur
- to hold to account those who have committed crime against the NHS by detecting and prosecuting offenders and seeking redress where viable.

2.3 Aims and Scope

This policy relates to all forms of fraud, bribery and corruption and is intended to provide direction and help to employees who may identify suspected fraud. It provides a framework for responding to suspicions of fraud, advice and information on various aspects of fraud and implications of an investigation. It is not intended to provide a comprehensive approach to preventing and detecting fraud, bribery and corruption. The overall aims of this policy are to:

- improve the knowledge and understanding of everyone in North West Ambulance Service NHS Trust, irrespective of their position, about the risk of fraud, bribery and corruption within the organisation and its unacceptability
- assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly
- set out North West Ambulance Service NHS Trust's responsibilities in terms of the deterrence, prevention, detection and investigation of fraud, bribery and corruption
- ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
 - criminal prosecution
 - civil prosecution
 - internal/external disciplinary action.

This policy applies to all employees of North West Ambulance Service NHS Trust, regardless of position held, as well as consultants, vendors, contractors, and/or any other parties who have a business relationship with North West Ambulance Service NHS Trust. It will be brought to the attention of all employees and form part of the induction process for new staff.

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3. Definitions

3.1 Fraud

The Fraud Act 2006 represents an entirely new way of investigating fraud. 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.

The new offence 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) – not saying something when you have a legal duty to do so
- Fraud by abuse of a position of trust (s.4) – abusing a position where there is an expectation to safeguard the financial interests of another person or organisation.

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.

3.2 Corruption

This 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. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.

Corruption prosecutions tend to be most commonly brought using specific pieces of legislation dealing with corruption, i.e. under the following:

- The Anti-terrorism, Crime and Security Act 2001.
- The Bribery Act 2010 (enacted on 1 July 2011).

3.3 Bribery

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

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

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

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

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Corruption is generally considered to be an “umbrella” term covering such various activities as bribery, corrupt preferential treatment, kickbacks, cronyism, graft or embezzlement.

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

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

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 – under the Bribery Act 2010, all parties involved may be prosecuted for a bribery offence.

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, contract or organisation. To this end, the Act also includes **an offence of bribing a foreign public official [section 6].**

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

Finally, under **section 14 of the Act, a senior officer of the organisation (e.g. a Senior Manager, an Executive or Non-Executive Director) would also be liable for prosecution if they consented to or connived in a bribery offence carried out by another.** Under such circumstances, the senior officer may be prosecuted for a parallel offence to that brought against the primary perpetrator. Furthermore, the organisation could also be subject to an unlimited fine because of the senior officer’s consent or connivance.

To re-iterate, the Bribery Act is applicable to NHS organisations including North West Ambulance Service NHS Trust and, consequently, it also applies to (and can be triggered by) everyone “associated” with this Trust who performs services for us, or on our behalf, or who provides us with goods. This includes those who work for and with us, such as employees, Governors, agents, subsidiaries, contractors and suppliers (regardless of whether they are incorporated or not). The term ‘associated persons’ has an intentionally wide interpretation under the Act.

North West Ambulance Service NHS Trust adopts a ‘zero tolerance’ attitude towards bribery and does not, and will not, pay or accept bribes or offers of inducement to or from

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anyone, for any purpose. The Trust is fully committed to the objective of preventing bribery and will ensure that adequate procedures, which are proportionate to our risks, are in place to prevent bribery and which will be regularly reviewed.

3.4 Employees

For the purposes of this policy, 'employees' includes all North West Ambulance Service NHS Trust staff, as well as board, executive and non-executive members (including co-opted members) and honorary members.

3.5 NHS Protect

NHS Protect has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS and any investigations will be handled in accordance with NHS guidance and strategy as set out in the document. *Tackling crime against the NHS: A strategic approach.*

4. Codes of Conduct

4.1 The codes of conduct for NHS boards and NHS managers set out the key public service values. They state that 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. These values are summarised as:

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

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

Openness The health body's activities should be sufficiently public and transparent to promote confidence between the authority and its staff and the public.

All staff should be aware of and act in accordance with these values.

In addition, staff are expected to:

- act impartially in all their work;

- refuse gifts, benefits, hospitality or sponsorship of any kind that might reasonably be seen to compromise their judgement or integrity; and, to avoid seeking to exert influence to obtain preferential consideration. All such gifts should be returned and hospitality refused.

- declare and register gifts, benefits or sponsorship of any kind, in accordance with time limits agreed locally (provided that they are worth at least £25), whether refused or accepted;

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- declare and record financial, non-financial or personal interest (e.g. company shares, research grant) in any organisation with which they have to deal, and be prepared to withdraw from those dealings if required, thereby ensuring that their professional judgement is not influenced by such considerations;
- make it a matter of policy that offers of sponsorship that could possibly breach the Code be reported to the Board;
- not misuse their official position or information acquired in the course of their official duties, to further their private interests or those of others;
- ensure professional registration (if applicable) and/or status are not used in the promotion of commercial products or services;
- beware of bias generated through sponsorship, where this might impinge on professional judgement or impartiality;
- neither agree to practice under any conditions which compromise professional independence or judgement, nor impose such conditions on other professionals.

All staff are also reminded that every NHS employee, regardless of position or status, must comply with the NHS Standards of Business Conduct [HSG (93)5] which may be accessed at:

http://www.dh.gov.uk/en/PublicationsAndStatistics/LettersAndCirculars/HealthServiceGuidelines/DH_4017845

Relevant personnel are also reminded that their professional bodies will also have codes of conduct or standards of behaviour which they will be expected to adhere to.

5. Roles and Responsibility

5.1 Through our day-to-day work, we are in the best position to recognise any specific risks within our own areas of responsibility. We also have a duty to ensure that those risks – however large or small – are identified and eliminated. Where you believe the opportunity for fraud exists, whether because of poor procedures or oversight, you should report it to the AFS or the NHS Fraud and Corruption Reporting Line and/or online Fraud Reporting Form.

This section states the roles and responsibilities of employees and other relevant parties in reporting fraud or other irregularities.

North West Ambulance Service NHS Trust will take all necessary steps to counter fraud and corruption in accordance with this policy, the *NHS Counter Fraud and Corruption Manual*, the policy statement 'Applying Appropriate Sanctions Consistently' published by NHS Protect and any other relevant guidance or advice issued by NHS Protect.

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North West Ambulance Service NHS Trust will implement anti-fraud work as outlined below. A key element in achieving this is the appointment of an AFS.

5.2 The creation of an anti-fraud culture

North West Ambulance Service NHS Trust will use anti-fraud publicity material to persuade those who work in North West Ambulance Service NHS Trust that fraud, bribery and corruption is serious and takes away resources from important services. Such activity will demonstrate that fraud, bribery and corruption is not acceptable and is being tackled.

5.3 Maximum deterrence of fraud

Deterrence is about increasing the expectation that someone will be caught if they attempt to defraud – this is more than just tough sanctions. North West Ambulance Service NHS Trust will introduce such measures to minimise the occurrence of fraud, bribery and corruption.

5.4 Successful prevention of fraud which cannot be deterred

North West Ambulance Service NHS Trust has policies and procedures in place to reduce the likelihood of fraud, bribery and corruption occurring. These include a system of internal controls, Standing Financial Instructions and documented procedures, which involve physical and supervisory checks, financial reconciliations, segregation and rotation of duties, and clear statements of roles and responsibilities. Where fraud, bribery and corruption has occurred, North West Ambulance Service NHS Trust will ensure that any necessary changes to systems and procedures take place immediately to prevent similar incidents from happening in the future.

5.5 Prompt detection of fraud which cannot be prevented

North West Ambulance Service NHS Trust will develop and maintain effective controls to prevent fraud, bribery and corruption and to ensure that if it does occur, it will be detected promptly and referred to the AFS for investigation.

5.6 Professional investigation of detected fraud

The LCFS will be professionally trained and accredited to carry out investigations into suspicions of fraud, bribery and corruption to the highest standards. In liaison with NHS Protect, the AFS will professionally investigate all suspicions of fraud, bribery and corruption to prove or disprove the allegation.

5.7 Effective sanctions, including appropriate legal action against people committing fraud, bribery and corruption

Following the conclusion of an investigation, if there is evidence of fraud, available sanctions will be considered in accordance with the guidance issued by NHS Protect – ‘Applying Appropriate Sanctions Consistently’. This may include criminal

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prosecution, civil proceedings and disciplinary action, as well as referral to a professional or regulatory body.

5.8 Effective methods for seeking redress in respect of money defrauded

Recovery of any losses incurred will also be sought through civil proceedings if appropriate, to ensure losses to North West Ambulance Service NHS Trust and the NHS are returned for their proper use.

5.9 Role of North West Ambulance Service NHS Trust

North West Ambulance Service NHS Trust also has a duty to ensure that it provides a secure environment in which to work, and one where people are confident to raise concerns without worrying that it will reflect badly on them. This extends to ensuring that staff feel protected when carrying out their official duties and are not placed in a vulnerable position. If staff have concerns about any procedures or processes that they are asked to be involved in, North West Ambulance Service NHS Trust has a duty to ensure that those concerns are listened to and addressed.

North West Ambulance Service NHS Trust's Chief Executive is liable to be called to account for specific failures in North West Ambulance Service NHS Trust's system of internal controls. However, responsibility for the operation and maintenance of controls falls directly to line managers and requires the involvement of all of North West Ambulance Service NHS Trust's employees. North West Ambulance Service NHS Trust therefore has a duty to ensure employees who are involved in or who are managing internal control systems receive adequate training and support in order to carry out their responsibilities. Therefore, the Chief Executive and Director of Finance will monitor and ensure compliance with this policy.

5.10 Employees

North West Ambulance Service NHS Trust's Standing Orders, Standing Financial Instructions, Scheme of Delegation and policies and procedures place an obligation on all employees and non-executive directors to act in accordance with best practice.

Employees are expected to act in accordance with the standards laid down by their professional institutes, where applicable, and have a personal responsibility to ensure that they are familiar with them.

Employees also have a duty to protect the assets of North West Ambulance Service NHS Trust, including information, goodwill and property.

In addition, all employees 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 and sponsorship. This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees should always:

- avoid acting in any way that might cause others to allege or suspect them of dishonesty

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- behave in a way that would not give cause for others to doubt that North West Ambulance Service NHS Trust's employees deal fairly and impartially with official matters
- be alert to the possibility that others might be attempting to deceive

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

If an employee suspects that there has been fraud, bribery or corruption, or has seen any suspicious acts or events, they must report the matter to the nominated AFS (see AFS heading).

5.11 Managers

Managers must be vigilant and ensure that procedures to guard against fraud, bribery and corruption are applied and monitored. They should be alert to the possibility that unusual events or transactions could be symptoms of fraud, bribery or corruption. If they have any doubts, they must seek advice from the AFS or Director of Finance.

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. The AFS will proactively assist the embedding of this culture by undertaking work that will raise awareness of the risks of fraud, bribery and corruption.

All instances of actual or suspected fraud, bribery and corruption which come to the attention of a manager must be reported immediately. It is appreciated that some employees will initially raise concerns with their manager.

However, in such cases, managers must not attempt to investigate the allegation themselves; they have the clear responsibility to refer the concerns to the AFS or Director of Finance immediately.

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

As part of that responsibility, line managers need to:

- inform staff of North West Ambulance Service NHS Trust's code of business conduct and anti-fraud, bribery and corruption policy (including Standing Orders and SFIs), as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms
- ensure that all employees for whom they are accountable are made aware of the requirements of the policy

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- 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 is linked to the performance of their duties within North West Ambulance Service NHS Trust
- be aware of North West Ambulance Service NHS Trust'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 North West Ambulance Service NHS Trust's and the Department of Health Accounting Officer's overall statements of accountability and internal control it is the managers responsibility for the enforcement of disciplinary action for those staff who do not comply with policies and procedures.

5.12 Anti – Fraud Specialist (AFS)

The Trust's contractual requirements require North West Ambulance Service NHS Trust to appoint and nominate an AFS. The AFS's role is to ensure that all cases of actual or suspected fraud and corruption are notified to the Director of Finance and reported accordingly. The AFS will regularly report to the Director of Finance on the progress of the investigation and when/if referral to the police is required. The AFS reports on the progress of all anti-fraud and corruption activity to the Trust Audit Committee. The AFS liaises with several key stakeholders and key contacts across the Trust and undertakes their duties to the highest possible standards at all times.

The AFS will:

- ensure that the Director of Finance is informed about all referrals/cases
- be responsible for the day-to-day implementation of anti-fraud, bribery and corruption activity and, in particular, the investigation of all suspicions of fraud
- investigate all cases of fraud

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- in consultation with the Director of Finance, report any case to the police or NHS Protect as agreed and in accordance with the *NHS Counter Fraud and Corruption Manual*
- report any case and the outcome of the investigation through NHS Protect's national case management system (FIRST)
- ensure that other relevant parties are informed where necessary, e.g. Human Resources (HR) will be informed if an employee is the subject of a referral
- ensure that North West Ambulance Service NHS Trust's incident and losses reporting systems are followed
- ensure that any system weaknesses identified as part of an investigation are followed up with management and reported to internal audit
- adhere to the Counter Fraud Professional Accreditation Board (CFPAB)'s Principles of Professional Conduct as set out in the *NHS Counter Fraud and Corruption Manual*
- not have responsibility for or be in any way engaged in the management of security for any NHS body
- ensure that the Director of Finance is informed of NHS Protect NIS investigations, including progress updates

5.13 NHS Protect and Area Anti - Fraud Specialist

NHS Protect has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud, bribery and corruption in the NHS and any investigations are handled in accordance with NHS Protect guidance. This guidance forms part of the NHS Protect strategy - *Tackling crime against the NHS: A strategic approach*.

Area Anti-Fraud Specialist (AAFSs) are the frontline face of NHS Protect for all health bodies in their region. The AAFS is responsible for the management and vetting of all local investigation case papers and evidence and witness statements submitted for the consideration of prosecutions.

The AAFSs ensures that local investigations are conducted within operational and legislative requirements to the highest standards for all investigations of fraud in the NHS. They provide help, support, advice and guidance to DOFs, LCFSs, Audit Committees and other stakeholders within their region.

The AAFS allocated supervises and monitors fraud referral and notifications to the LCFS. The AAFS provides support as to the direction of ensuing investigations as required and oversees LCFS performance.

The AAFs ensures that all information and intelligence gained from local investigative work is reported and escalated as appropriate at both local and

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national level so that fraud trends can be mapped and used to fraud-proof future policies and procedures.

5.14 Director of Finance

The Director of Finance (DoF) has powers to approve financial transactions initiated by directorates across the organisation.

The DoF prepares documents and maintains detailed financial procedures and systems and that they apply the principles of separation of duties and internal checks to supplement those procedures and systems.

The DoF will report annually to the Board on the adequacy of internal financial controls and risk management as part of the Board's overall responsibility to prepare a statement of internal control for inclusion in the NHS body's annual report.

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

The Director of Finance, in conjunction with the Chief Executive, monitors and ensures compliance with the Trust's contractual requirements for anti fraud work

The AFS shall be responsible, in discussion with the Director of Finance, for informing third parties such as external audit or the police at the earliest opportunity, as circumstances dictate.

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

The Director of Finance will inform the Head of Internal Audit at the first opportunity.

If an investigation is deemed to be appropriate, the Director of Finance will delegate to North West Ambulance Service NHS Trust's AFS, who has responsibility for leading the investigation, whilst retaining overall responsibility him/herself.

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

5.15 Internal and External Audit

The role of internal and external audit includes reviewing controls and systems and ensuring compliance with financial instructions. Any incident or suspicion of Fraud, Bribery or Corruption that comes to internal or external audit's attention will be passed immediately to the nominated AFS. The outcome of the investigation may necessitate further work by internal or external audit to review systems.

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5.16 Human Resources

Human Resources will liaise closely with managers and the AFS from the outset if an employee is suspected of being involved in fraud, bribery and/or corruption, in accordance with agreed liaison protocols. HR staff are responsible for ensuring the appropriate use of North West Ambulance Service NHS Trust's disciplinary procedure. The HR department will advise those involved in the investigation on matters of employment law and other procedural matters, such as disciplinary and complaints procedures, as requested. Close liaison between the AFS and HR will be essential to ensure that any parallel sanctions (i.e. criminal, civil and disciplinary sanctions) are applied effectively and in a coordinated manner.

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

5.17 Local Security Management Service (LSMS)

The Trust LSMS will lead on matters concerning Theft. The AFS and LSMS will adhere to the joint working protocol.

5.18 Information Management and Technology

The Head of Information Security (or equivalent) will contact the AFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes particularly in relation to the Computer Misuse Act 1990. HR will also be informed if there is a suspicion that an employee is involved. The Head of Information Security will assist the AFS in securing and facilitating appropriate access to any IT-related data controlled by the organisation (including subject-related data) as part of any anti-fraud or corruption investigation.

5.19 Chief Executive

The Chief Executive as the organisation's accountable officer has the overall responsibility for funds entrusted to it. This includes instances of fraud, bribery and corruption. The Chief Executive must ensure adequate policies and procedures are in place to protect the organisation and the public funds it receives.

6. The Response Plan

The Trust has conducted risk assessments in line with Ministry of Justice guidance to assess how bribery and corruption may affect the organisation. Proportionate procedures have been put in place to mitigate identified risks. This section does include the processes for all stakeholders to take should fraud, bribery or corruption be identified. The Trust has detailed policies and procedures in place in relation to

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declarations of interest, sponsorship and hospitality/gifts, including relevant registers. These can be found on the intranet or from the Trust Corporate Secretary.

6.1 Reporting Fraud, Bribery or Corruption

This section outlines the action to be taken if fraud, bribery or corruption is discovered or suspected.

If an employee has any of the concerns mentioned in this document, they must inform the nominated AFS or North West Ambulance Service NHS Trust's Director of Finance immediately, unless the Director of Finance or AFS is implicated. If that is the case, they should report it to the Chair or Chief Executive, who will then inform the NHS Protect AAFS.

Form 1 provides a reminder of the key contacts and a checklist of the actions to follow if fraud, bribery and corruption, or other illegal acts, are discovered or suspected. Managers are encouraged to copy this to staff and to place it on staff notice boards in their department.

An employee can contact any Executive or Non-Executive director of North West Ambulance Service NHS Trust to discuss their concerns if they feel unable, for any reason, to report the matter to the AFS or Director of Finance.

Employees can also call the NHS Fraud and Corruption Reporting Line on Freephone 0800 028 40 60 or via the Online Fraud Reporting Form www.reportnhsfraud.nhs.uk.

This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting the NHS. It allows NHS staff who are unsure of internal reporting procedures to report their concerns in the strictest confidence. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

Anonymous letters, telephone calls, etc. are occasionally received from individuals who wish to raise matters of concern, but not through official channels. While the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously.

The AFS will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised. If 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 Trust employee, disciplinary action will be instigated.

Staff are encouraged to report reasonably held suspicions directly to the AFS. You can do this by filling in the NHS Fraud and Corruption Referral Form (**form 2**) or by contacting the AFS by telephone or email using the contact details supplied on **form 1**.

North West Ambulance Service NHS Trust wants all employees to feel confident that they can expose any wrongdoing without any risk to themselves. In accordance with the provisions of the Public Interest Disclosure Act 1998, North West Ambulance Service NHS Trust has produced a whistleblowing policy that is

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available on the Trust intranet. This policy is intended to complement North West Ambulance Service NHS Trust's anti-fraud, bribery and corruption policy and code of business conduct and ensures there is full provision for staff to raise any concerns with others if they do not feel able to raise them with their line manager/management chain.

6.2 Disciplinary Action

The disciplinary procedures of North West Ambulance Service NHS Trust must be followed if an employee is suspected of being involved in a fraudulent or otherwise illegal act. These can be located on the Trust's intranet.

It should be noted, however, that the duty to follow disciplinary procedures will not override the need for legal action to be taken (e.g. consideration of criminal action). In the event of doubt, legal statute will prevail.

6.3 Police Involvement

In accordance with the *NHS Counter Fraud and Corruption Manual*, the Director of Finance, in conjunction with the LCFS and NHS Protect will decide whether or not a case should be referred to the police. Any referral to the police will not prohibit action being taken under the local disciplinary procedures of North West Ambulance Service NHS Trust.

6.4 Managing the Investigation

The LCFS, in consultation with North West Ambulance Service NHS Trust's Director of Finance, will investigate an allegation in accordance with procedures documented in the *NHS Counter Fraud and Corruption Manual*. The LCFS must be aware that staff under an investigation that could lead to disciplinary action have the right to be represented at all stages. In certain circumstances, evidence may best be protected by the LCFS recommending to the Trust that the staff member is excluded from duty. The Trust will make a decision based on HR advice on the disciplinary options, which includes exclusion.

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

6.5 Gathering Evidence

The LCFS will take control of any physical evidence, and record this in accordance with the procedures outlined in the *NHS Counter Fraud and Corruption Manual*. If evidence consists of several items, such as many documents, LCFSs should record each one with a separate reference number corresponding to the written record.

Note that in criminal actions, evidence on or obtained from electronic media needs a document confirming its accuracy.

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Interviews under caution or to gather evidence will only be carried out by the LCFS, if appropriate, or the investigating police officer in accordance with the Police and Criminal Evidence Act 1984 (PACE). The LCFS will take written statements where necessary.

All employees have a right to be represented at internal disciplinary interviews by a trade union representative or accompanied by a friend, colleague or any other person of their choice, not acting in a legal capacity in connection with the case.

The application of the anti-fraud, bribery and corruption policy will at all times be in tandem with all other appropriate North West Ambulance Service NHS Trust policies, e.g. Standing Financial Instructions (SFIs).

7. The Recovery of Losses to Fraud, Bribery and Corruption (Sanction and Redress)

7.1 The seeking of financial redress or recovery of losses should always be considered in cases of fraud, bribery or corruption that are investigated by either the AFS or NHS Protect 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 the light of the particular circumstances of each case.

Redress allows resources that are lost to fraud, bribery and corruption to be returned to the NHS for use as intended, for provision of high-quality patient care and services. The NHS Protect 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 Trust's commitment to take fraud, bribery and corruption seriously and ultimately contributes to the deterrence and prevention of such actions.

The Trust endorses the NHS Protect 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 Protect Anti-Fraud Manual with regard to applying sanctions where fraud, bribery or corruption is proven. The Trust maintains an internal joint-working and data sharing protocol between the AFS and the HR Department which also covers their respective investigative duties.

The types of sanctions which the Trust 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

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addition to any locally agreed voluntary negotiations or repayments. As an organisation, we actively publicise the fact that redress will be sought where applicable to recover monies lost to fraud and corruption, thus creating a further deterrent effect.

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

7.2 Reporting the Results of the Investigation

The investigation process requires the AFS to review the systems in operation to determine whether there are any inherent weaknesses. Any such weaknesses identified should be corrected immediately.

If fraud, bribery or corruption is found to have occurred, the AFS should prepare a report for the Director of Finance and the next North West Ambulance Service NHS Trust Audit Committee meeting, setting out the following details:

- the circumstances
- the investigation process
- the estimated loss
- the steps taken to prevent a recurrence
- The steps taken to recover the loss.

This report should also be available to North West Ambulance Service NHS Trust's Board of Directors.

7.3 Action to be Taken

The *NHS Counter Fraud and Corruption Manual* provide in-depth details of how sanctions can be applied where fraud, bribery 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 North West Ambulance Service NHS Trust or the civil law.

In cases of serious fraud, bribery and corruption, it is recommended that parallel sanctions are applied. For example: disciplinary action relating to the status of the

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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.

NHS Protect 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.

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.

In some cases (taking into consideration all the facts of a case), it may be that North West Ambulance Service NHS Trust, under guidance from the AFS and with the approval of the Director of Finance, decides that no further recovery action is taken.

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.

The civil recovery route is also available to North West Ambulance Service NHS Trust 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 and/or recovery through debt collection agencies. Each case needs to be discussed with the Director of Finance to determine the most appropriate action.

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 North West Ambulance Service NHS Trust. In all cases, current legislation must be complied with.

7.4 Timescales

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

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7.5 Recording

In order to provide assurance that policies were adhered to, the Director of Finance will maintain a record highlighting when recovery action was required and issued and when the action taken. This will be reviewed and updated on a regular basis.

8 Review

8.1 Monitoring and auditing of policy effectiveness

Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. System controls are reviewed on an on-going basis and identify any weaknesses in processes.

Where deficiencies in control are identified as a result of monitoring these are reported to the Trust in progress reports and followed up by the AFS.

8.2 Dissemination of the policy

This policy will be disseminated to all staff via the intranet and can be found on the finance section of the intranet, it is important that staff understand and are aware of the policy. Should any member of staff have any questions in regards to the policy the AFS can be contacted for clarification via the phone number in this document

Appendix 1 Desktop Guide provides a reminder of the key contacts and a checklist of the actions to follow if fraud, bribery and corruption, or other illegal acts, are discovered or suspected. Managers are encouraged to copy this document to staff and to place it on staff notice boards.

North West Ambulance Service NHS Trust wants all employees to feel confident that they can expose any wrongdoing without any risk to themselves. In accordance with the provisions of the Public Interest Disclosure Act 1998, North West Ambulance Service NHS Trust has produced a Whistleblowing Policy. This procedure is intended to complement the Trust's Anti-Fraud, Bribery & Corruption Policy, as well as other relevant Trust policies. Corporate policies can be found on the Trust's Intranet site.

8.3 Review of the policy

In accordance with Trust policy this document will be reviewed annually or more frequent should there be significant changes in legalisation or national guidance from NHS Protect.

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Relevant Policies

This policy should be read in conjunction with other relevant Trust policies. This is a non-exhaustive list but may include; Code of Conduct, Standards of Business Conduct, Standing Orders/SFI's, Gifts and Hospitality Policy, Declarations of Interest Policy, Sponsorship Policy, Whistleblowing Policy.

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FORM 1

A desktop guide for North West Ambulance Service NHS Trust

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.

DO

- **note your concerns**

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

- **retain evidence**

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

- **report your suspicion**

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

DO NOT

- **confront the suspect or convey concerns to anyone other than those authorised, as listed below**
Never attempt to question a suspect yourself; this could alert a fraudster or accuse an innocent person.

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

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

- **do not disclose information to anyone other than those authorised**

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 **free phone NHS Fraud and Corruption Reporting Line**, or
- online via the fraud reporting form www.reportnhsfraud.nhs.uk or
- contacting the **Director of Finance**.

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

Your nominated Anti – Fraud Specialist is **Jacqui Procter**, who can be contacted by telephoning **0151 285 4798**, or emailing Jacqui.procter@miaa.nhs.uk . If you would like further information about the NHS Protect, please visit www.nhsbsa.nhs.uk/fraud

Protecting your NHS

Author:	Head of Financial Planning	Version:	2.3
Date of Approval:	October 2014	Status:	Final
Date of Issue:		Date of Review	October 2015

NHS FRAUD, BRIBERY AND CORRUPTION 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 <Delete as appropriate>**

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 **JACQUI PROCTER**, the nominated AFS for North West Ambulance Service NHS Trust, MIAA, Summers Road, Brunswick Business Park, Liverpool, Merseyside L3 4BL. Under no circumstances should this report, which contains personal details, be transmitted electronically.

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