



FINANCE POLICY & PROCEDURE (FPP No. 2)

ANTI-FRAUD & BRIBERY POLICY RESPONSE PLAN FOR DETECTION AND PREVENTION OF FRAUD & BRIBERY

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SOUTH CENTRAL AMBULANCE SERVICE NHS FOUNDATION TRUST

FINANCE POLICY NO. 2 ANTI-FRAUD & BRIBERY POLICY RESPONSE PLAN FOR DETECTION AND PREVENTION OF FRAUD & BRIBERY

This document should be made available to all staff employed by the South Central Ambulance Service NHS Foundation Trust. It sets out the guidance for all staff on the subject of fraud, bribery and corruption. Guidance and advice on the application of this procedure should be obtained from the Finance Department. **This policy does not include theft or assault. These will be covered in the Trust's Security Policy.**

This document is supplemental and subordinate to the South Central Ambulance Service NHS Foundation Trust Standing Orders and Standing Financial Instructions (SFI) and does not supersede the governance provided by them either in part or in whole.

(SFI 11.5, 26.2.2 & 26.2.3)

Charles Porter
Director of Finance

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ANTI-FRAUD & BRIBERY POLICY & RESPONSE PLAN

1. Introduction

The South Central Ambulance Service NHS Foundation Trust is established under statute as a corporate body. It has assumed responsibility for the ownership and management of its assets and liabilities. To this end, the Trust's assets and interests must be accounted for and be safeguarded from losses arising from fraud, bribery or corruption. Included within this document are extracts from those sections of the criminal law under which charges might be brought and examples and definitions of fraud and bribery.

2. Commitment

2.1 The Trust is therefore committed to ensuring that:-

- a. An anti-fraud and bribery culture, which deters, prevents or detects fraud is maintained
- b. all staff are aware of what fraud, bribery and corruption is in the NHS and that it is their responsibility to prevent fraud, bribery and corruption. It is their duty to bring to the attention of management and the Trust's Local Counter Fraud Specialist (LCFS) any concern or evidence they have relating to this area

and

- c. an opportunity exists for staff to raise such concerns in a discrete and confidential manner.

3 Definitions

3.1 NHS Counter Fraud Authority (NHSCFA)

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

3.2 Fraud

Fraud can be defined as a dishonest act with a view to making a gain or causing a loss (or attempted gain or loss) for themselves or another.

The Fraud Act 2006 gives different ways of committing fraud, the most common ones being:

- Making a false representation
- Failing to disclose information or
- Abusing a position held

All offences include an element of dishonesty and the intention of making a financial gain or causing a financial loss. It does not matter whether any gain or loss actually occurs. Similarly a gain or loss does not always have to be of a financial nature.

3.3 Bribery and corruption

Bribery and corruption involves offering, promising or giving/ requesting, agreeing to receive or accepting a payment or a benefit-in-kind in order to influence others to use their position in an improper way to gain an advantage or as a reward for having done so.

The Bribery Act 2010 is one of the strictest pieces of legislation internationally on bribery. Notably, it introduces a new strict liability offence for organisations and partnerships of failing to prevent bribery.

The Basic Offences

Under the Act a person would be guilty of bribery if they:

- offered
- promised
- gave

a financial or other advantage to another person induce them to perform a function or activity improperly

or

to reward that person or another person for such activity.

A person would be guilty of bribery if they:

- requested
- agreed to receive
- accepted

a financial or other advantage intending that a function or activity should be performed improperly

or

undertakes the activity above as a reward for himself or another for improper performance of a relevant function or activity

or

in anticipation of or in consequence of a person requesting, agreeing to receive or accepting a financial reward or other advantage, a function or activity is performed improperly.

4 Roles and responsibilities

4.1 The Chief Executive

As the organisation's accountable officer, the Chief Executive 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.

4.2 Director of Finance

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

The Director of Finance prepares, documents and maintains detailed financial procedures and systems and that the Trust applies the principles of separation of duties and internal checks to supplement those procedures and systems.

The Director of Finance will ensure that appropriate resources are made available for the Local Counter Fraud Specialist role so that all reported suspicions can be promptly and adequately investigated.

The Director of Finance will agree and monitor the work plan for Anti-Fraud & Bribery work.

In the event of an investigation the Director of Finance and the LCFS will ensure that appropriate consultation with Human Resources is undertaken to enable the effective co-ordination of NHS parallel sanction practices (Criminal, Civil and Disciplinary actions). Where fraud or other criminal act is proven, to ensure that perpetrators are appropriately dealt with; the Trust will also take appropriate steps to recover any assets lost as a result of fraud.

4.3 Audit Committee

The Audit Committee will monitor the Anti-Fraud & Bribery work plan and ensure the Trust remains committed to the elimination of any fraudulent activity within and to the rigorous investigation of any such cases as required by the NHS Counter Fraud Standards for NHS Providers.

Through the Director of Finance and/or the LCFS, the Audit Committee will:

- be provided with an overview of ongoing activity, subject to sensitivity of legal proceedings;
- receive reasonable assurances that the Trust is complying with the requirements of the NHS Standards for Providers and NHS Contract regarding Anti-Fraud and Bribery work.

4.4 The Board

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

The Board will be liable to be called to account for failing to prevent bribery. The Trust therefore has a duty to ensure employees 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.

4.5 Internal and external audit

The role of internal and external audit includes reviewing controls and systems and ensuring compliance with financial instructions. This includes a duty to pass on any suspicions of fraud, bribery or corruption to the LCFS.

4.6 Human resources

Human resources plays an important role in relation to suspected cases of fraud, bribery and corruption. This includes liaison with the LCFS and Director of Finance and advice in relation to matters of employment law and in other procedural matters, such as disciplinary and complaints procedures, as requested. The consideration of 'triple tracking' options, namely criminal, civil and disciplinary sanctions (including professional regulatory body sponsored disciplinary sanctions) shall be taken in conjunction with HR, Director of Finance and the LCFS.

4.7 Local Counter Fraud Specialist (LCFS)

The LCFS is responsible for taking forward all anti-fraud, bribery and corruption work locally in accordance with national standards and locally agreed work plans. The LCFS reports directly to the Director of Finance.

It is important that the organisation has appropriate anti-fraud, bribery and corruption arrangements in place and that the LCFS will look to achieve the highest standards possible in their work.

The LCFS will work with key colleagues and stakeholders to promote anti-fraud work, apply effective preventative measures and investigate allegations of fraud and corruption.

The LCFS will conduct risk assessments in relation to their work to prevent fraud, bribery and corruption.

Fraud investigations must only be undertaken by an accredited and nominated LCFS. Therefore any cases being investigated, within the Trust, where fraudulent activity is suspected must be referred to the LCFS

4.8 Managers

All managers are responsible for ensuring that policies, procedures and processes within their local area are adhered to and kept under constant review. This includes ensuring that staff are aware of fraud, bribery and corruption and understand the importance of protecting the organisation from it.

Managers must report any instances of actual or suspected fraud, bribery or corruption brought to their attention to the LCFS immediately.

4.9 All employees

Through the normal working day, those providing SCAS services (employees, regardless of position held, as well as Non-Executive Directors, consultants, vendors, contractors, and/or any other parties who have a business relationship with the Trust) are in the best position to recognise any specific risks within their own areas of responsibility. All have a duty to ensure that those risks – however large or small – are identified and eliminated.

Employees must act in accordance with the Trust's Standards of Business Conduct, Gifts and Hospitality and Declaration of Interest policies which include guidance on the receipt of gifts or hospitality.

Employees are required to comply with the Trust's policies and procedures and apply best practice in order to prevent fraud, bribery and corruption (for example in the areas of procurement, personal expenses and ethical business behaviour). Staff should be made aware of their own responsibilities in protecting the organisation from these crimes.

If an employee suspects that fraud, bribery or corruption has taken place, they should ensure it is reported to the LCFS and/or to NHSCFA as explained below.

4.10 Procurement

Procurement policies and processes will be conducted in a fair and transparent manner and not deal with contractors and suppliers known to be paying bribes. Before engaging contractors and suppliers, the Trust will undertake properly documented due diligence. Unless prospective contractors and suppliers have effective anti-bribery programmes in place, the Trust will contractually require them to comply with its Anti-Fraud & Bribery Policy.

Agreements with contractors and suppliers shall, at all times, provide for the necessary contractual mechanisms to enforce compliance with the anti-bribery arrangements. *The Trust*

will monitor performance and, in case of non-compliance, require the correction of deficiencies, apply sanctions, or eventually terminate the agreement.

5 The response plan

5.1 Bribery and corruption

The Trust has considered how bribery and corruption may affect the organisation and proportionate procedures have been put in place to mitigate the risks.

Whilst SCAS recognises that hospitality, gifts and sponsorship may be offered as part of legitimate business relationships, all individuals must refer to the Standards of Business Conduct Policy to ensure they understand what they must do and what is expected of them in such circumstances.

5.2 Reporting fraud, bribery or corruption

All reports of fraud, bribery and corruption are taken seriously and thoroughly investigated. If you suspect or have discovered fraud, bribery or corruption you should:

- Inform the nominated LCFS (**Lorraine Bennett 07779 030925** or **lorraine.bennett@nhs.net**) or SCAS's Director of Finance immediately
- If the Director or Finance or LCFS is implicated, report it to the Chief Executive, who will decide on the action to be taken
- Employees can also call the NHSCFA Fraud and Corruption Reporting Line on **freephone 0800 028 40 60** or **online at <https://cfa.nhs.uk/reportfraud>**. This allows individuals to report their concerns in the strictest confidence
- Anonymous letters, telephone calls, etc. can be used to raise matters of concern. Whilst suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously
- All employees should be assured that there would be no recriminations against staff that report reasonably held suspicions. This and the confidentiality of reporting fraud, bribery or corruption allegations is outlined in more detail in the Trust Whistleblowing Policy HR/C10. Victimising or deterring staff from reporting concerns is a serious disciplinary matter. Any contravention of this policy must be reported to the Chief Executive or Chairman of the Audit Committee. Equally however, abuse of the process by raising malicious allegations could be regarded as a disciplinary matter.
- In some cases, e.g. if a major diversion of funds is suspected, speed of response will be crucial to avoid financial loss in following the processes laid out within this policy

At Appendix 1 to this policy you will find a reminder/summary of the key contacts and a checklist of the actions to take if fraud, bribery or corruption is discovered or suspected.

5.3 Sanctions and Redress

Where an objective investigation has found evidence of fraud, bribery or corruption, the next step is to pursue appropriate sanctions. The Trust is committed to pursuing appropriate sanctions in line with NHSCFA policy "Applying Appropriate Sanctions Consistently". The range

of available sanctions that may be pursued is as follows:

- Criminal prosecution (potentially resulting in fine, imprisonment, community penalty, confiscation and/or compensation order);
- Civil action, including action to freeze assets and recover losses;
- Disciplinary action;
- Regulatory body action.

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). It is important that there is adequate liaison between the LCFS, Director of Finance and HR in these instances.

5.4 Clinical considerations

When investigating suspicions of fraud, bribery or corruption, it is important to consider whether there may be any clinical or health and safety implications which could have an adverse impact on the organisation. An example of this would be an individual who is working with patients or vulnerable people, and is suspected of using a false name/identity. In such cases, the overriding consideration must be one of patient care.

Fraud, bribery and corruption investigations will not compromise clinical issues and/or patient care.

5.5 Reports

At the end of each investigation, the LCFS will submit a concluding report to the Director of Finance which will identify the case, case conclusion, recommended sanctions (if any), and recommend system control enhancements, as appropriate, to avoid any re-occurrence. The Director of Finance will consider a wider circulation of this report remaining mindful of data protection requirements and confidentiality of witnesses and actions to be taken.

Consideration of sanctions will be undertaken in conjunction with the Director of Finance, the Director of Human Resources (if required), the LCFS and the Crown Prosecution Service.

6 Equality Statement

The Trust is committed to promoting positive measures that eliminate all forms of unlawful or unfair discrimination on the grounds of age, marital status, disability, race, nationality, gender, religion, sexual orientation, gender reassignment, ethnic or national origin, beliefs, domestic circumstances, social and employment status, political affiliation or trade union membership, HIV status or any other basis not justified by law or relevant to the requirements of the post.

By committing to a policy encouraging equality of opportunity and diversity, the Trust values differences between members of the community and within its existing workforce, and actively seeks to benefit from their differing skills, knowledge, and experiences in order to provide an exemplary healthcare service. The Trust is committed to promoting equality and diversity best practice both within the workforce and in any other area where it has influence.

The Trust will therefore take every possible step to ensure that this procedure is applied fairly to all employees regardless of race, ethnic or national origin, colour or nationality; gender (including marital status); age; disability; sexual orientation; religion or belief; length of service, whether full or part-time or employed under a permanent or a fixed-term contract or any other irrelevant factor.

Where there are barriers to understanding e.g. an employee has difficulty in reading or writing or where English is not their first language additional support will be put in place wherever necessary to ensure that the process to be followed is understood and that the employee is not disadvantaged at any stage in the procedure. Further information on the support available can be sought from the Human Resource Department.

DEFINITIONS

The following are extracts from those sections of the Criminal Law under which charges might be brought arising from fraud investigations. This list is not exhaustive: -

- THEFT** A person is guilty of theft if he/she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it
(S1(1) Theft Act 1968)
Property includes money and all other property, real or personal, including things in action and other intangible property.
(S4(1) Theft Act 1968)
- FRAUD** Can be defined as a dishonest act by a person in order to make a gain or loss (or attempted gain or loss) for themselves or another. A person is guilty of fraud if he is in breach of any of the sections listed in subsection (2) (which provide for different ways of committing the offence;
Section 2 Fraud by false misrepresentation (e.g. false timesheets)
Section 3 Fraud by failing to disclose information (e.g. Not declaring criminal convictions)
Section 4 Fraud by abuse of position (e.g. inappropriate authorisation) Section 6 Possession of articles for use in frauds (e.g. fake qualifications) Section 7 Making or supplying articles for use in frauds (e.g. selling false qualification certificates
Section 11 Obtaining services dishonestly (e.g. Obtaining free NHS treatment)
- FORGERY** A person is guilty of forgery if he/she makes a false instrument
With the intention that he/she or another shall use it to induce someone to accept it as genuine. Also links to section 7 Fraud Act 2006
(S1 Forgery and Counterfeiting Act 1987)
- It is an offence for a person to be in possession or control of an identity document to which he is not entitled, or of apparatus, articles or materials for making false identity documents...
(Identity Cards Act 2006 section 25-30)
- COMPUTER MISUSE** Offences covering:
Section 1 Unauthorised access to computer material
Section 2 Unauthorised access with intent to commit or facilitate commission of further offences
Section 3 Unauthorised modification of computer material
(Computer Misuse Act 1990 [c.18])
These may also constitute a breach of the Trust's IT Policy.
- BRIBERY/
CORRUPTION** **Bribery/Corruption** is defined as the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person.
General Bribery offences:
Bribing another person
Being bribed
Failing to prevent bribery (company/organisation)
(Bribery Act 2010)
- EXAMPLES** Theft – taking £500 cash from a till
Fraud – submitting a fraudulent timesheet to gain remuneration that is not due

Appendix 1

Action to be taken if you discover or suspect THEFT, FRAUD, BRIBERY, CORRUPTION or other IRREGULARITY

THEFT/ASSAULT	Opportunist crime resulting in loss of Trust / patient property. Violence against staff, physical or verbal abuse, Security issues.	If you suspect theft, criminal/illegal act such as physical or verbal assault, violence towards staff or security issues please contact the Trust's Local Security Management Specialist (LSMS) John Dunn In accordance with current guidelines and reporting requirements. (completion of Incident Report 1[IR 1])
FRAUD BRIBERY	A dishonest act with the intention of making a gain or causing a loss either by false representation, failure to disclose or abuse of position. (e.g. submission of false invoices, inflated time records, the use of orders to obtain goods for personal use). Where someone is influenced by bribery, payment or benefit in kind to use his or her position to give some advantage to another.	This needs to be reported IMMEDIATELY to the Trust's Director of Finance or Local Counter Fraud Specialist (LCFS). You therefore should discuss your suspicions or what you have discovered with one of the following: <ul style="list-style-type: none">• The Trust's LCFS directly – Lorraine Bennett 07779 030925;• Or the Director of Finance Issues can also be reported externally to the Trust on the NHS National Fraud Hotline on 0800 028 4060. We would request that this action is only taken if you feel that you cannot raise your concerns within the Trust.
OTHER IRREGULARITY	E.g. Viewing any offensive material on the internet. This includes fraudulently misappropriating Trust time.	Tell your line manager who must liaise with Human Resources and the LCFS. All instances of deliberate viewing of offensive and /or illegal material must be reported to Human Resources and the LCFS IMMEDIATELY. If you cannot inform your line manager for whatever reasons then contact Human Resources or the LCFS directly.

FRAUD DO's & DON'T'S

- If you are suspicious or have concerns **DO** tell someone – confidentiality will be respected.
- DO NOT** be afraid to ring your LCFS for advice.
- DO** be persistent if you cannot get through to your LCFS or Director of Finance first time.
- DO NOT** confront the individual with your suspicions.
- DO NOT** discuss the matter with anyone you think could be involved.
- DO** keep or copy any document that arouses suspicions.
- For Fraud DO NOT** contact the police – notify your LCFS or Director of Finance.
- For Fraud DO NOT** suspend without taking advice from Human Resources/LCFS