

# **WEST HERTS HOSPITALS NHS TRUST**

## **COUNTER FRAUD & CORRUPTION POLICY**

Additionally refer to:  
Whistleblowing Policy  
Standards of Business Conduct  
Disciplinary Policy  
Declaration of Interests  
Standing Financial Instructions

Sponsor: Director of Finance in conjunction with the Director of Workforce

Date agreed by Audit Committee: February 2010  
Date agreed by Board:  
Date of Next Review: February 2013

<b>Section</b>	<b>Page Number</b>
1 Introduction	2
2 Scope	2
3 Policy	2
4 Definitions	3
5 Public Service Values	4
6 Roles and Responsibilities	5
7 Reporting fraud, corruption or other illegal acts	7
8 Disciplinary Action	8
9 Police Involvement	8
Appendix A Action to be taken if you discover or suspect fraudulent activity	

## **1. INTRODUCTION**

- 1.1 This document sets out the Trust's policy and advice to employees in dealing with fraud or suspected fraud. This policy sets out the arrangements made in the Trust for such concerns to be raised by employees or members of the public.
- 1.2 The aim of the policy and procedure is to protect the property and finances of the NHS and of patients in our care.
- 1.3 This document sets out the Trust's policy for dealing with detected or suspected fraud and corruption, incorporated in the Secretary of State for Health's Directions to NHS Bodies on Counter Fraud Measures that were issued in November 2004.

## **2. SCOPE**

- 2.1 This policy applies to all employees and may also be used by locum, agency staff, contractors or suppliers to report any concerns they may have.
- 2.2 In implementing this policy, managers must ensure that all staff are treated fairly and within the provisions and spirit of the Trust's Equal Opportunities Policy. Special attention should be paid to ensuring the policy is understood where there may be barriers to understanding caused by the individual's circumstances, where the individual's literacy or use of English is weak, or where the individual has little experience of working life.

## **3. POLICY**

- 3.1 All employees have a personal responsibility to protect the assets of the Trust, including all buildings, equipment and monies from fraud, theft, corruption or any other irregularity.
- 3.2 The Trust is absolutely committed to maintaining an honest, open and well-intentioned atmosphere within the Trust, so as to best fulfil the objectives of the Trust and of the NHS. It is, therefore, also committed to the elimination of fraud within the Trust and to the rigorous investigation of any such 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 Trust wishes to encourage anyone having reasonable suspicions of fraud to report them. The Trust's policy, which will be rigorously enforced, is that 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 corruption, which they believe to be happening within the Trust employing them. Within this context, 'Reasonably Held' means suspicions other than those which are raised maliciously and are subsequently found to be groundless.
- 3.4 Any unfounded or malicious allegations will be subject to a full investigation and appropriate disciplinary action.

- 3.5 The Trust expects anyone having reasonable suspicions of fraud to report them. It recognises that, while cases of theft are usually obvious, there may initially only be a suspicion regarding potential fraud and, thus, employees must report the matter to their Local Counter Fraud Specialist who will then ensure that the Trust's procedures are followed.
- 3.6 All employees should be aware that fraud (of finances of the NHS or of patients in our care) will normally, dependant upon the circumstances of the case, be regarded as gross misconduct thus warranting summary dismissal 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.
- 3.7 Recovery of any losses will always be sought.

#### **4. DEFINITIONS**

- 4.1 **Fraud** - any deliberate intent to permanently deprive another (i.e. a person or an organisation/legal entity) of money, goods or services by any deception, such as through the falsification of any records or documents.

**Corruption** - where someone is influenced by bribery, payment or benefit-in-kind to unreasonably use their position to give some advantage to another.

**Irregularity** - An irregularity may be any significant matter or issue, other than fraud or corruption, which may warrant consideration or investigation. An example of an irregularity may be where a member of staff makes a genuine error or mistake in the course of their duties/responsibilities, but where this error or mistake is subsequently hidden, perhaps to the on-going detriment to the NHS body. Additionally, an irregularity may also involve consideration of the possible inappropriate use of NHS funds or assets, which may or may not constitute fraud, theft or corruption.

- 4.2 The Trust has procedures in place that reduce the likelihood of fraud occurring. These include Standing Orders, Standing Financial Instructions, documented procedures, a system of internal control (including Internal and External Audit) and a system of risk assessment. In addition, the Trust seeks to ensure that a comprehensive anti fraud and corruption culture exists throughout the Trust via the appointment of a dedicated Local Counter Fraud Specialist, in accordance with the NHS Secretary of State's Directions to NHS Bodies on Counter Fraud Measures that were re-issued in November 2004.
- 4.3 It is expected that Non-Executive Directors and staff at all levels will lead by example in acting with the utmost integrity and ensuring adherence to all relevant regulations, policies and procedures.

#### **5. PUBLIC SERVICE VALUES**

- 5.1 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:

Accountability	Everything done by those who work in the Trust must be able to stand the tests of parliamentary scrutiny, public judgements on property and professional codes of conduct.
Probity	Absolute honesty and integrity should be exercised in dealing with NHS patients, assets, employees, suppliers and customers.
Openness	The Trust's actions should be sufficiently public and transparent to promote confidence between the Trust and its patients, our employees and the public.

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

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
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
<i>Objectivity</i>	... should, in carrying out public business, (including making public appointments , awarding contracts, or recommending individuals for rewards and benefits), make choices on merit
<i>Accountability</i>	...are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office
<i>Openness</i>	...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
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
Leadership	...should promote and support these principles by leadership and example

- 5.2 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.

## **6. ROLES & RESPONSIBILITIES**

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

### **6.1. Employees**

For the purposes of this policy, 'Employees' includes the Trust's staff, Board, Executive and Non-Executive Members (including Co-Opted Members) and Honorary Members to the Board.

- 6.1.1. Employees must act in accordance with the Trust's Standards of Business Conduct, which include guidance on the receipt of gifts or hospitality.

Employees also have a duty to protect the assets of the Trust, including information and goodwill, as well as property.

- 6.1.2. Employees are expected to act in accordance with the standards laid down by their Professional Institutes, where applicable.

- 6.1.3 The Trust's Standing Orders and Standing Financial Instructions place an obligation on all staff and Non-Executive Directors to act in accordance with best practice. In addition, all Trust staff and Non-Executive Directors must declare and register any interests that might potentially conflict with those of the Trust or the wider NHS.

- 6.1.4. When an employee suspects that there has been fraud or corruption, they must report the matter to the nominated Local Counter Fraud Specialist. See Section 7 below.

### **6.2. Managers**

- 6.2.1. Managers must be vigilant and ensure that procedures to guard against fraud and corruption are followed. They should be alert to the possibility that unusual events or transactions could be symptoms of fraud. Where they have any doubt they must seek advice from their nominated Local Counter Fraud Specialist.

They must establish an anti-fraud and corruption culture within their team and ensure that information on procedures is made available to all staff.

- 6.2.2. All instances of actual or suspected fraud or 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, and they have the clear responsibility to refer the concerns to the Local Counter Fraud Specialist as soon as possible. See Section 7 below.

- 6.2.3 Where staff have access to the Internet, managers need to ensure that any use is linked to the performance of their duties and any private use specifically agreed beforehand. Any instance of deliberate viewing of offensive material (e.g. pornography or hate material) must be reported immediately. See Section 6.7 below.

### **6.3. Local Counter Fraud Specialist**

- 6.3.1 The Directions to NHS Bodies on Counter Fraud Measures 2004 require the Trust to appoint a Local Counter Fraud Specialist (LCFS). This officer's role is to ensure that all cases of actual or suspected fraud are notified to the Trust's Director of Finance and reported to the NHS Counter Fraud and Security Management Service (CFSMS).
- 6.3.2. The LCFS and the Director of Finance, in conjunction with the CFSMS, will decide who will conduct the investigation and when/if referral to the police is required. Cases, for instance, where more than £15,000 or where possible corruption is involved will usually be investigated by CFSMS themselves (though the LCFS may assist); otherwise the investigation will normally be undertaken by the Trust's own LCFS directly.
- 6.3.3. The LCFS will;
- Ensure that the Director of Finance is kept apprised of all referrals/cases.
  - Investigate all cases of fraud, as per 6.3.2 above.
  - In consultation with the Director of Finance and the CFSMS, will report any case to the Police as agreed.
  - Report any case and the outcome of the investigation to the CFSMS and Director of Finance, and provide required reports to CFSMS.
  - Ensure that other relevant parties are informed where necessary e.g. Human Resources will be informed where an employee is a suspect.
  - Ensure that the Trust's incident and losses reporting systems are followed.
  - Ensure that any system weaknesses identified as part of the investigation are followed up with management or Internal Audit.

### **6.4. Director of Finance**

- 6.4.1 The Director of Finance, in conjunction with the Chief Executive, shall monitor and ensure compliance with NHS Secretary of State's Directions on Fraud and Corruption.
- 6.4.2 The Director of Finance, in consultation with CFSMS 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.
- 6.4.3 The Director of Finance will, depending on the outcome of investigations (whether on an interim/ongoing or a concluding basis) and/or the potential significance of suspicions that have been raised, inform the Chair of the Trust and the Chair of the Audit Committee of cases, as may be deemed appropriate or necessary.
- 6.4.4 The Director of Finance is also responsible for informing the Audit Committee of all categories of loss.

### **6.5. Internal and External Audit**

- 6.5.1. Any incident or suspicion that comes to Internal or External Audit's attention will be passed immediately to the Trust's LCFS.

## **6.6. Human Resources**

- 6.6.1 Human Resources will liaise closely with Managers and the LCFS, from the outset, where an employee is suspected of being involved in fraud. Human Resources are responsible for ensuring the appropriate use of the Trust's Disciplinary Procedure. The Human Resources 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.
- 6.6.2 Human Resources 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.

## **6.7. Information Management & Technology**

- 6.7.1. The Head of Information Security (or equivalent) will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. This includes inappropriate Internet or e-mail use as outlined in paragraph 6.2.3. Human Resources will be informed if there is a suspicion that an employee is involved.

## **6.8. External Communications**

- 6.8.1 Individuals (be they employees, agency staff, locums, contractors or suppliers) must not communicate with any member of the press, media or another third party about a suspected fraud as this may seriously damage the investigation and any subsequent actions to be taken. Anyone who wishes to raise such issues should discuss the matter with either the Director of Finance or the Chief Executive.

## **7. REPORTING FRAUD, CORRUPTION OR OTHER ILLEGAL ACTS**

- 7.1. This section outlines the action to be taken where fraud, corruption or other illegal acts involving dishonesty, inappropriate Internet use, or damage to property are discovered or suspected. For completeness, it also deals with the action to be taken where theft is discovered or suspected.
- 7.2. If any of the concerns mentioned in this document come to the attention of an employee, they must **inform the Local Counter Fraud Specialist or the Director of Finance immediately.**

Contact information for the above is listed in Appendix A.

- 7.3. The attached Appendix A is designed to be a reminder of 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 copy this to staff and to place it on staff notice boards in their department.

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

Sufficient enquiries will be made by the LCFS to establish whether or not there is any foundation to the allegations. If the allegations are found to be malicious, they will also be considered for further investigation as to their source.

## **8. DISCIPLINARY ACTION**

- 8.1 The disciplinary procedures of the Trust must be followed where an employee is suspected of being involved in a fraudulent or other illegal act.
- 8.2 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 shall prevail.

## **9. POLICE INVOLVEMENT**

- 9.1. In accordance with the NHS Counter Fraud & Corruption Manual, the Director of Finance, in conjunction with the LCFS and the CFSMS, will decide whether or not a case should be referred to the police. Human Resources and line managers will be involved as necessary. Any referral to the police will not prohibit action being taken under the Trust's disciplinary procedures.

**Any abuse or non compliance with this policy or procedures will be subject to a full investigation and appropriate disciplinary action.**

**This policy will be subject to regular review.**

## WEST HERTS HOSPITALS NHS TRUST

### **ACTION TO BE TAKEN IF YOU DISCOVER OR SUSPECT ANY FRAUDULENT ACTIVITY!**

<b>This includes:</b>	<b>What to do:</b>	<b>DO</b>
<p><b>1.1 Fraud / Theft</b></p> <ul style="list-style-type: none"> <li>Any fraud, theft, misappropriation of assets, stealing, malicious damage, actual or attempted break-in.</li> <li>Any deliberate intent to permanently deprive an employer (i.e. the NHS) of money or goods through the falsification of any records or documents.</li> </ul> <p><b>1.2 Corruption</b></p> <ul style="list-style-type: none"> <li>Where someone is influenced by bribery, payment of benefit-in-kind to unreasonably use their position to give some advantage to another.</li> </ul> <p><b>1.3 Irregularity</b></p> <ul style="list-style-type: none"> <li>For example, viewing offensive material via the Internet and inappropriate use of phones and mobile phones</li> </ul>	<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"> <li><b>The Local Counter Fraud Specialist:</b> <b>Mark Trevallion on 07800 718680</b> <b>Mark.Trevallion@rsmTenon.com</b></li> <li><b>Director of Finance</b> <b>Anna Anderson 01923 831506</b></li> <li><b>The NHS Fraud Reporting Line</b> <b>0800 0284060</b></li> </ul>	<ul style="list-style-type: none"> <li>Tell someone! <ul style="list-style-type: none"> <li>Confidentiality will be respected.</li> <li>Any delay might cause the organisation to suffer further financial loss.</li> </ul> </li> <li>Make a note of your concerns! <ul style="list-style-type: none"> <li>Note all relevant details, what was said, the date time and names of all parties involved.</li> <li>Keep a record or copy any documentation that arouses your suspicion.</li> </ul> </li> </ul>
	<p>Confidentiality will be maintained and all matters will be dealt with in accordance with the NHS Counter Fraud standards.</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>	<div style="text-align: center;"><b>DO NOT</b></div> <ul style="list-style-type: none"> <li>Confront the individual(s) with your suspicions.</li> <li>Try to investigate the matter yourself.</li> <li>Contact the police directly.</li> <li>Convey your suspicions to anyone other than those with the proper authority as listed.</li> <li>Do nothing!</li> </ul>