



**Coventry and
Warwickshire**
Integrated Care Board

Sanctions and Redress Policy

Version:	1.0
Name of responsible Committee and date approved or recommended to Governing Body:	Audit Committee
Date approved by ICB (if applicable):	1 st July 2022
Next Review Date:	1 April 2024
Expiry Date:	1 October 2024
Name of author and title:	Predecessor CCG Finance Team
Name of reviewer and title:	Programme Management Office Team
Department:	Finance Team

VERSION HISTORY

Date	Version	Changes made to previous version	Consulting and Endorsing Stakeholders, Committees / Meetings / Forums etc.
July 2020	1.0	New policy.	Merger Policy Advisory Group
May 21	1.1	As recommended by predecessor's CCG Merger Policy Advisory Group of predecessor CCGs minor amendments to include further detail regarding possible prosecution where there is evidence to support.	Richard Loydall, NHS Counter Fraud Specialist
Dec 21	1.2	CCG replaced with ICB	

Contents

1. Introduction	4
2. Purpose	4
3. Responsibilities	5
4. Applying Sanctions.....	5
5. Criminal Sanctions	5
6. Disciplinary Sanctions	6
7. Regulatory / Professional Body Sanctions	6
8. Seeking Redress.....	6
9. Criminal Redress	6
10. Civil Redress.....	7
11. Related Documents.....	8
12. Dissemination	8
13. Review and Compliance Monitoring	8

1. Introduction

- 1.1 NHS Coventry and Warwickshire Integrated Care Board ('the ICB') is committed to safeguarding their funds, and the wider NHS resources, and will fully investigate any allegations of fraud, bribery or corruption, or wrong doing committed against the ICB as set out in the ICB's Counter Fraud, Bribery and Corruption Policy.
- 1.2 The ICB has a zero tolerance to fraud, bribery and corruption and will ensure that the appropriate sanctions and redress are considered and applied in response to such financial crimes or similar wrongdoing committed against the ICB.

2. Purpose

- 2.1 To set out the ICB's policy for applying sanctions against individuals who have been identified as committing a financial crime or other wrongdoing against the ICB.
- 2.2 To ensure that any criminal investigation is conducted in such a way that it enables the widest range of sanctions to be available.
- 2.3 To set out the range of available sanctions which may be pursued by the ICB.
- 2.4 Each matter will be considered individually on its own facts and merits. However, applying a consistent and thorough approach in all cases will ensure that:
 - Investigations are undertaken in the most effective manner, including the gathering and assessment of all relevant material which may form evidence of fraud, bribery, corruption or related misconduct
 - The most appropriate sanction or combination of sanctions is sought where fraud, bribery, corruption or related misconduct is identified.
- 2.5 The ultimate aim of the policy is to protect the property and finances of the ICB, to ensure that the appropriate sanctions are applied and any monies lost are recovered.

3. Responsibilities

- 3.1 The ICB's Local Counter Fraud Specialist (LCFS) will investigate any allegations of fraud against the ICB, as per the ICB's Counter Fraud, Bribery and Corruption Policy. Depending on the possible offences identified, the investigation may be transferred to the NHS Counter Fraud Authority's National Investigations Team, the police or other investigatory body if appropriate. For example, all investigations regarding possible bribery offences must be passed over the NHS Counter Fraud Authority.
- 3.2 The ICB's Human Resources team will investigate any allegations of misconduct by ICB employees, as per the ICB's Disciplinary Policy.
- 3.3 Where an investigation has been conducted by the LCFS, and there is evidence to support possible prosecution and / or action to recover identified losses, the ICB's Chief Finance Officer will authorise the submission of a prosecution file to the Crown Prosecution Service and / or financial recovery actions, following advice from the appropriate supporting function (LCFS, Human Resources lead or ICB Solicitor)

4. Applying Sanctions

- 4.1 The outcome of any investigation may result in one or more sanctions being applied. Deciding on which sanction(s) are applied will be dependent on the findings of the investigation undertaken and the extent of any losses to the ICB.
- 4.2 The range of possible sanctions available includes:
 - Criminal prosecution (potentially resulting in a fine, imprisonment, community penalty, confiscation and/or compensation order) or out-of-court disposal.
 - Civil action, including action to preserve assets and recover losses
 - Disciplinary action by the employing body
 - Regulatory action by a relevant professional / regulatory body.

5. Criminal Sanctions

- 5.1 All criminal investigations will be conducted in line with the relevant criminal legislation.
- 5.2 Where evidence of a criminal offence having been committed is found following an investigation by the LCFS they will, in conjunction with the ICB's Chief Finance Officer, make an assessment of the evidence available and the seriousness of the offence(s), and decide whether to submit the case to the Crown Prosecution Service (CPS) for a decision on whether a prosecution should take place.

- 5.3 The CPS will make charging decisions in respect of all cases referred to it in accordance with the Code for Crown Prosecutors.
- 5.4 The CPS will prosecute any matters on behalf of the ICB and seek the most appropriate sanction from the courts.

6. Disciplinary Sanctions

- 6.1 All disciplinary investigations will be conducted in line with the ICB's Disciplinary Policy. Where appropriate and permitted by law, the LCFS will share relevant information with the Human Resources team to inform their investigative processes
- 6.2 When disciplinary proceedings are brought against ICB employees, the appointed Disciplinary Panel will apply the appropriate sanctions as set out in Disciplinary Policy.

7. Regulatory / Professional Body Sanctions

- 7.1 When the subject of any investigation (criminal or disciplinary) is a member of a regulatory or professional body, the ICB will consider if it is appropriate to also notify their regulatory / professional body of the matter.
- 7.2 When appropriate, the ICB and / or the LCFS will provide information to the regulatory / professional body so that they can conduct their own investigation. The ICB will adhere to data protection legislation when sharing information.
- 7.3 In addition, the ICB may also report any investigation or proceedings (criminal, civil or disciplinary) concerning any doctor, dentist, pharmacist or optician to NHS England, where it is necessary for the protection of a member of the public or is otherwise in the public interest.

8. Seeking Redress

- 8.1 In addition to any criminal and disciplinary sanctions applied, the ICB is committed to fully recovering any losses identified as a result of criminal activity or wrongdoing committed against it.

9. Criminal Redress

- 9.1 If, during an investigation, there is evidence that property is being accumulated as a result of fraud or similar criminal activity, the ICB will consider applying for a Restraint Order under the Proceeds of Crime Act 2002, to secure this property prior to a final decision on prosecution.
- 9.2 Where a prosecution is being undertaken, an order for the recovery of identified losses and any

related investigation cost will always be sought as part of the criminal prosecution process.

- 9.3 When necessary following any successful prosecution the ICB will seek to obtain a Confiscation Order under the Proceeds of Crime Act 2002, for any property identified to have been obtained via criminal activity affecting the ICB.

10. Civil Redress

- 10.1 If a criminal case is not being pursued for whatever reason, or an order for recovery of losses is not made by a court following a criminal conviction, or if the ICB is not fully compensated following a criminal conviction, the ICB will seek to recover any outstanding losses through civil action wherever possible and appropriate. The ICB's Chief Finance Officer will make an assessment of the finding of the investigation and decide whether to undertake civil recovery proceedings.
- 10.2 Consideration will first be given as to the appropriateness of seeking voluntary repayment to recover the loss prior to formal legal proceedings being undertaken.
- 10.3 Where a ICB employee is involved, the ICB will consider the following options.
- Recovery via salary deductions until the debt is met.
 - For employees who have been dismissed or have resigned, recovery via a deduction from any final salary payment due.
 - When the employee or ex-employee is a member of the NHS Pension Scheme, consideration will be given to obtaining recovery of losses from the employee's pension fund; via NHS Pension Scheme regulations that relate to the recovery of losses caused by a scheme member's fraudulent acts.
- 10.4 Before undertaking a voluntary recovery of the losses, the ICB will obtain a written agreement from the individual agreeing the terms of the recovery method and the period of repayment.
- 10.5 For external bodies or contractors, recovery should be effected by formal written agreement. An invoice will be issued and a repayment plan agreed.
- 10.6 If formal civil recovery proceedings are deemed to be necessary, the following points will be considered before consulting the ICB's Solicitors:
- Value of provable loss.
 - The known value of any assets of the individual(s) or organization(s) from which recovery would be sought, including any NHS pension scheme membership.
 - The likelihood of successful recovery action.
 - The likely costs of recovery action, especially if any claim is disputed by the subject(s) of the claim, and a civil action is necessary to obtain a court judgement against the relevant subject(s).
 - The deterrent effect of successful recovery actions.

10.7 The ICB will instruct its solicitors and seek to obtain recovery using the most appropriate route, as advised by its solicitors.

11. Related Documents

11.1 The following documents contain information that relates to this policy:

- Counter Fraud, Bribery and Corruption Policy
- Disciplinary Policy
- NHS Counter Fraud Authority (NHSCFA) “Applying appropriate sanctions consistently – Policy Statement”
- NHSCFA Document “Parallel criminal and disciplinary investigations – Guidance for Local Counter Fraud Specialists”

12. Dissemination

12.1 This policy will be disseminated by the following methods:

- Publication on the ICB website

13. Review and Compliance Monitoring

13.1 The Audit Committee will require assurance annually on compliance with the policy as part of its assurance programme.