



**Coventry and
Warwickshire**
Integrated Care Board

Whistleblowing Policy

Reference Number:	This will be applied to all new ICB-wide PPSs by the Governance and Corporate Affairs Team and will be retained throughout its life span.
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Name of author and title:	Predecessor CCG Department
Name of reviewer and title:	Phil Johns, Chief Executive, ICB
Department:	Corporate Office

VERSION HISTORY

Date	Version	Changes made to previous version		Consulting and Endorsing Stakeholders, Committees / Meetings / Forums etc.

Contents

1. POLICY STATEMENT.....	4
2. ROLES & RESPONSIBILITIES.....	5
3. PRINCIPLES.....	5
4. THE PUBLIC INTEREST DISCLOSURE ACT 1998	6
5. THE BRIBERY ACT 2010.....	7
6. BRIBERY, FRAUD AND CORRUPTION.....	7
7. CONFIDENTIALITY	7
8. GUIDANCE FOR REPORTING	8
9. INVESTIGATION PROCESS	9
10. HELP AND ADVICE.....	9
11. EQUALITY STATEMENT.....	10
12. MONITORING AND REVIEW	10
APPENDIX 1 - GUIDANCE TO STAFF.....	10
APPENDIX 2 – FLOWCHART FOR REPORTING.....	12
APPENDIX 3 - KEY PERSONNEL.....	13
APPENDIX 4 - Equality Impact Assessment	15

1. POLICY STATEMENT

1.1 NHS Coventry and Warwickshire Integrated Care Board ('the ICB') is committed to the principle of public accountability. The ICB will investigate genuine and reasonable concerns expressed by employees relating to malpractice within the ICB and will ensure that employees are not discriminated against or suffer a detriment as a result of making such a disclosure, as laid down by the Public Interest Disclosure Act 1998 (PIDA).

1.2 The ICB will strive to create a culture of openness and accountability and encourage employees to raise any concerns about; the conduct of others in the ICB, the way the ICB is run, any malpractice or serious risk as early as possible to mitigate against any potential damage to patients, staff, the wider public and the organisation.

1.3 This policy applies to all Members of the ICB, employees (including ICB Board members) and any agency or contract staff whilst they are working at the ICB and is in accordance with the ICB's Equality and Diversity Policy. In this policy references to 'employees' and 'individuals' include these groups.

1.4 This policy incorporates the requirements of PIDA and the Bribery Act 2010.

1.5 The three fundamental public service values underpinning the NHS and all public sector work, specified by the NHS Code of Conduct for Boards published by the NHS Executive in April 1994 are Accountability, Probity and Openness. All those who work in the public sector should be aware of, and act in accordance with, these values. Acting with honesty and integrity forms a cornerstone of the public sector values.

1.6 The ICB is a public sector body and its employees are required to be honest and impartial in the conduct of their business. All employees of the ICB should be aware of the Standards of Business Conduct documentation which has been circulated to all the ICB's employees and is available from Human Resources upon request. The ICB Board is absolutely committed to maintaining an honest, open and well-intentioned atmosphere within the ICB.

1.7 All employees have a duty to report instances where they witness others failing to demonstrate the expected levels of integrity in their working life. This will include bribery, fraud, corruption or bringing the ICB, the NHS or wider public service in to disrepute.

1.8 This policy aims to:

- encourage employees to feel confident in raising serious concerns regarding the practice of the ICB
- provide avenues for employees to raise those concerns and receive feedback on any action taken
- ensure that employees receive a response to their concerns
- reassure employees that they will be protected from possible reprisals, subsequent discrimination, victimisation or disadvantage if they have a reasonable belief that they have made any disclosure in good faith.

1.9 This policy does not replace any other existing ICB policies such as the Dignity at Work Policy or Counter Fraud and Bribery.

1.10 There may be occasions when concerns raised do not fall within the remit of this policy and advice should be sought from the Chief Transformation Officer or Chair of the ICB Board.

2. ROLES & RESPONSIBILITIES

2.1 Line Manager Responsibilities

- To ensure that employees are aware of the Whistleblowing Policy.
- To ensure staff are aware that they can raise their concerns with any manager within either of the ICB.
- To seek HR advice where any clarification is needed over the policy and its application.
- To ensure that they deal with any concerns raised by employees appropriately and confidentially.

2.2 Employee Responsibilities

- To read the policy and be aware of who they can contact if they have any concerns.

2.3 Human Resources Responsibilities

- To assist managers in the fair and consistent application of the policy
- To provide advice to employees and managers concerning any issues raised over policy content.

3 PRINCIPLES

3.1 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially and the outcome of the investigation reported back to the employee who raised the issue.

3.2 All employees will be made aware of the policy on joining the ICB and will be encouraged to read and understand its process. All existing staff will be made aware of the policy and regular training sessions will be organised for management of staff.

3.3 No employee will be victimised for raising a matter under this procedure where they have raised a concern under this procedure.

3.4 In the event that misconduct is discovered as a result of any investigation under this procedure the ICB's disciplinary procedure will be invoked in addition to any external measures.

3.5 Where it can be demonstrated that an employee knowingly supplied false information when raising a concern, the ICB's disciplinary procedure will be invoked.

3.6 The ICB will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

3.7 This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less credible, but they may be considered at the discretion of the ICB.

In exercising this discretion, the factors to be taken into account will include:

- The seriousness of the issues raised
- The credibility of the concern
- The likelihood of confirming the allegation from attributable sources.

4. THE PUBLIC INTEREST DISCLOSURE ACT 1998

4.1 PIDA provides protection for employees who raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in good faith by an employee who reasonably suspects:

- a criminal offence
- a miscarriage of justice
- an act creating risk to health and safety
- an act causing damage to the environment
- a breach or failure to comply with any legal or professional obligation or regulatory requirement
- bribery
- financial fraud or mismanagement
- unauthorised disclosure of confidential information
- a concealment of any of the above is being or is likely to be committed.

4.2 It is not necessary for the employee to have proof that such an act is being, has been, or is likely to be committed, a reasonable belief is sufficient.

5. THE BRIBERY ACT 2010

5.1 The Bribery Act makes it a criminal offence to give a promise or offer a bribe or request or agree or receive a bribe. It also sets out a corporate offence of failing to prevent bribery of others by not having adequate preventative procedures in place. This includes operating through an “agent/subsidiary of other associated person”.

6. BRIBERY, FRAUD AND CORRUPTION

6.1 The ICB Board is committed to the elimination of any bribery, fraud and corruption within the organisation and to the rigorous investigation of any such cases.

6.2 One of the basic principles of public sector organisations is the proper use of public funds and this would include the assets bought through public funds. It is therefore important that all the ICB’s employees are aware of the rules against any acts involving bribery, dishonesty, corruption or damage to ICB property. For simplicity all such offences are hereafter referred to as “fraud”.

6.3 The ICB Board wish to positively encourage anyone with reasonable suspicions of fraud to report them, whilst ensuring that no employee will suffer in any way as a result of reporting reasonably held suspicions. All such concerns will be treated in confidence, wherever possible, and properly investigated.

6.4 Reference should also be made to the ICB’s Counter Fraud and Bribery Policy.

6.5 Where instances of theft are identified these should be reported immediately to a line manager or in the event of the suspicion falling on that person, the Chief Finance Officer who, where appropriate, will arrange for the matter to be referred to the police for investigation.

7. CONFIDENTIALITY

7.1 Employees raising a concern should be aware of the need to follow this procedure and in particular to maintain confidentiality. Allegations of Breaches in Confidentiality will be dealt with using the appropriate procedures, through the use of the ICB’s Disciplinary Policy.

7.2 The identity of the individual who has raised a concern will be protected on request and will not be disclosed without consent. Whether and how to proceed will be discussed with the whistleblower if the situation arises where the concern cannot be resolved without revealing their identity (for example, because there is an internal investigation or evidence is needed in court).

7.3 Any employee raising a concern must be aware that they may be asked to present evidence to substantiate any allegations made, and/or to provide a written statement.

In addition, they may be asked to explain their allegations during any disciplinary proceedings that may result from them.

7.4 Victimisation of staff who raise concerns reasonably and responsibly is prohibited under PIDA. The ICB will ensure that staff are protected from victimisation in these circumstances.

8. GUIDANCE FOR REPORTING

8.1 This document lays down the procedure for staff to follow if they have genuine concerns about any malpractice connected with the ICB, without fear of adverse repercussions to the individual. The dismissal of any employee for making such a disclosure will be automatically unfair.

8.2 If staff believe they have a concern about risk, malpractice or wrongdoing at work or have reason to suspect a colleague, contractor, patient or other person of fraud, or an offence against the ICB or a serious infringement of the ICB's or NHS rules, they have a responsibility to inform a senior member of staff. Normally staff should inform their line manager but if this is not appropriate (possibly because of the implication of the line manager) then staff should inform either a member of the Human Resources team or Chief Finance Officer. Once a person has raised an issue under this policy with their line manager, they will receive an acknowledgement within 2 working days.

8.3 All instances of fraud should be reported to the Chief Finance Officer or the Local Counter Fraud Specialist (LCFS).

8.4 All whistleblowing cases will be notified to the Chief Finance Officer who will maintain a log and report regularly to the Audit Committee.

8.5 The ICB also has a Freedom to Speak Up Guardian who will support any member of staff in 'speaking up' or whistleblowing about an issue or concern. The Freedom to Speak Up Guardian for the ICB is a Non-Executive Member.

8.6 There may be some instances where staff feel they would rather report the matter externally. If this is the case, they can contact the NHS National Fraud and Corruption Reporting Line on 0800 028 4060 (Monday – Friday 0800 – 1800), or report online at <https://cfa.nhs.uk/reportfraud>

8.7 This procedure is intended to provide employees with an opportunity within the ICB to raise concerns. If, however, they are not satisfied with any action taken and feel it is right to take the matter outside the ICB, they should ensure that they do not disclose information which should properly remain confidential. Employees will need to confirm this with the person or ICB they decide to contact.

8.8 Appendix 1 provides additional guidance to staff and managers.

8.9 Appendix 2 contains a flow chart showing a summary of the reporting process.

8.10 Appendix 3 gives a list of the key personnel in the process.

9. INVESTIGATION PROCESS

9.1 Due to the varied nature of these sorts of complaints, which may involve internal investigators and / or the police, it is not possible to lay down precise timescales for such investigations. The investigating officer should ensure that the investigations are undertaken as quickly as possible without affecting the quality and depth of those investigations. An update on the timescales will be provided within 10 working days of the matter being raised. Where an investigation is scheduled to take longer than 20 working days to complete regular updates on the status of the investigation will be provided.

9.2 Responsibility for investigating fraud has been delegated to the Chief Finance Officer. The Chief Finance Officer will be supported in this role by the LCFS and NHS Protect and reference should be made to the Counter Fraud and Bribery Policy.

9.3 The Human Resources Team will advise those involved in the investigation in matters of employment law and other procedural matters.

9.4 If the whistle-blower is not satisfied that their concern is being properly dealt with by the investigating officer, they have the right to raise it in confidence with the Chief Executive / Chair, or one of the designated persons described in Section 8.

9.5 If the investigation finds the allegations unsubstantiated and all internal procedures have been exhausted, but the whistle-blower is not satisfied with the outcome of the investigation, the ICB recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons (such as the Health and Safety Executive, or the utility regulators), or, where justified, elsewhere.

10. HELP AND ADVICE

10.1 At any point either before raising the concern or at any stage in this procedure an employee may involve a Trade Union or Professional Association Representative who will be able to provide help and advice.

10.2 Free, independent and confidential advice can be obtained from the Whistleblowing Helpline for NHS and Social Care on 08000 724 725.

10.3 Support and advice is available from Protect (Formerly Public Concern at Work) and the NAO Comptroller and Auditor General at the following addresses:

Protect (Formerly; Public Concern at Work) The Green House 244-254 Cambridge Heath Road London E2 9DA Tel: 020 3117 2520 Website: https://protect-advice.org.uk/	The Comptroller and Auditor General National Audit Office 157-197 Buckingham Palace Road London SW1W 9SP Telephone: 020 7798 7264
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11. EQUALITY STATEMENT

11.1 In applying this policy, the ICB will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

11.2 The Equality Impact Assessment is included as Appendix 4.

12. MONITORING AND REVIEW

11.1 The policy and procedure will be reviewed at least annually. Where review is necessary due to legislative change, this will happen immediately.

APPENDIX 1 - GUIDANCE TO STAFF

Q - What should you do if you suspect malpractice?

Do make an immediate note of your concerns

Do convey your suspicions to someone with the appropriate authority and experience

Do deal with the matter promptly

Don't do nothing

Don't be afraid of raising your concerns

Don't accuse any individuals directly

Don't try to investigate the matter yourself

Don't tell anyone about your suspicions other than those with the proper authority

GUIDANCE TO MANAGERS

Do be responsive to staff concerns

Do note details

Do try to evaluate the allegation objectively

Do deal with the matter promptly

Do advise the appropriate person:

- Line Manager
- Member of the Human Resources team
- Chief Finance Officer
- Local Counter Fraud Specialist

Don't ridicule suspicions raised by staff

Don't approach or accuse any individuals directly

Don't convey your suspicions to anyone other than those with the proper authority

Don't try to investigate the matter yourself

BRIBERY ACT 2010

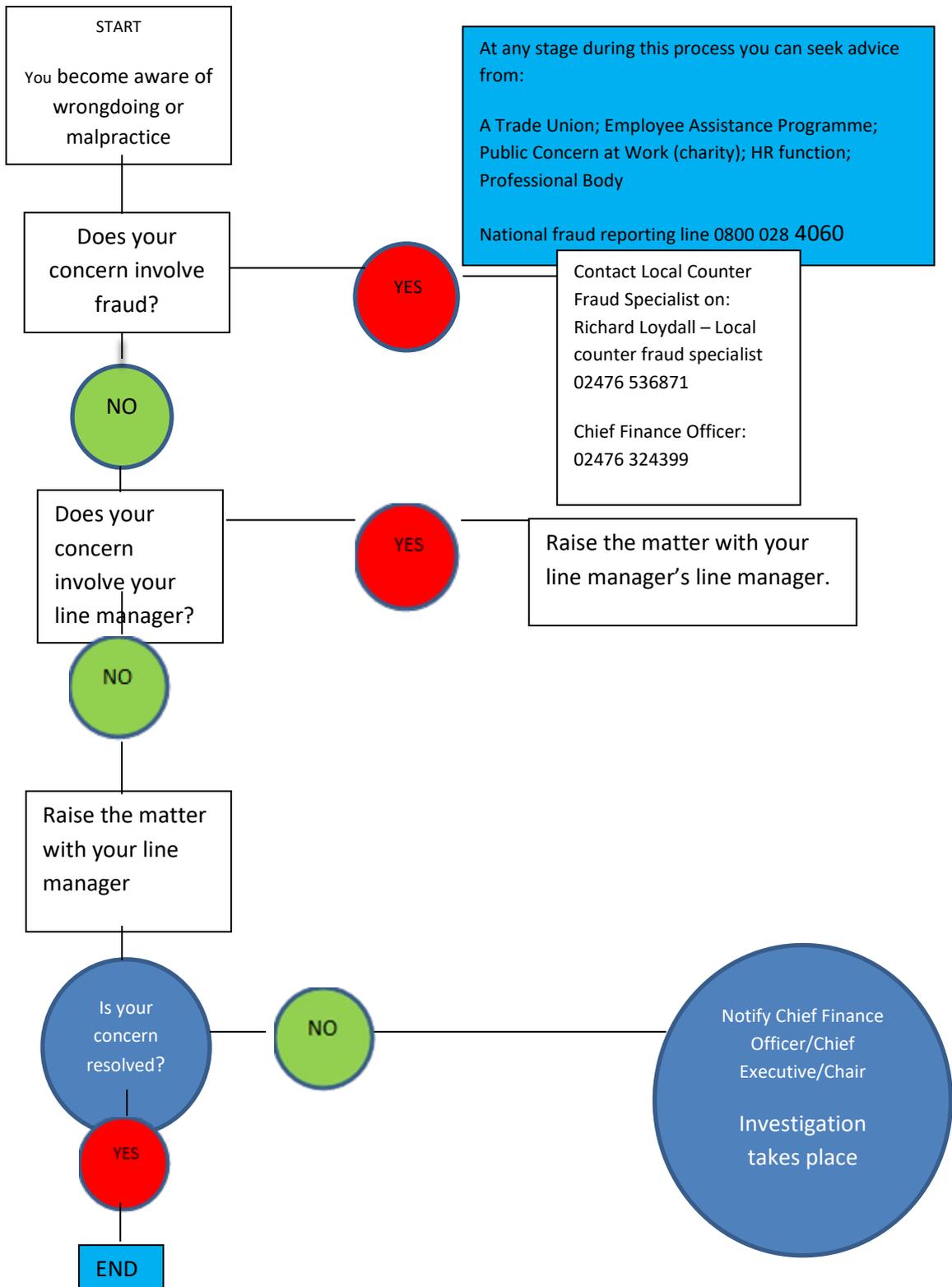
This section is provided for information.

Staff are not required to categorise any concerns they have but may find it useful to know how the Bribery Act defines bribery. The Act defines three key offences with regard to bribery, which are:

- Active bribery (offering, promising or giving a bribe);
- Passive bribery (requesting, agreeing to receive or accepting a bribe); and
- Bribery of a foreign public official

It is also an offence for a corporate body not to have adequate preventative procedures in place to prevent bribery of others, where the intention of the bribe is to gain advantage for the corporate body. The reporting process outlined in this document should be followed for all genuine suspicions of bribery.

APPENDIX 2 – FLOWCHART FOR REPORTING



APPENDIX 3 - KEY PERSONNEL

Local Counter Fraud Specialist (LCFS)

The LCFS is responsible for maintaining a register of reported suspicions. They may be approached by an employee with suspicions and are responsible for reporting the details to the Chief Finance Officer. They are required to investigate cases in accordance with the Secretary of State Directions and the NHS Fraud and Corruption Manual.

Chief Finance Officer

It is the responsibility of the ICB's Chief Finance Officer to monitor and ensure compliance with the counter fraud arrangements under the Secretary of State's Directions. All instances of fraud must be reported to the Chief Finance Officer

Human Resources Business Partner

The Human Resources Business Partner will be responsible for ensuring that employment law and the ICB's policies and procedures are adhered to throughout the investigation.

The Chief Executive

The Chief Executive will have an overview of the issues involved and will keep the Board informed of the progress of any investigation as necessary.

Audit Committee

The Audit Committee will review the register of reported suspicions on an annual basis. They will also review the LCFS's final reports and consider any necessary improvements to controls.

Director of Integrated Governance will be responsible for liaising with the ICB's solicitors where necessary.

Managers

Suspicions will normally be reported to an employee's line manager. The manager will be responsible for passing the details to the Chief Finance Officer unless it is clear that the suspicions are groundless.

Contact Details

Local Counter Fraud Specialist	Richard.Loydall@nhs.net 02476 536871
Chief Finance Officer	Madi.parmar@nhs.net
Chair of the ICB Board	Danielle Oum Coventry & Warwickshire ICB Danielle.oum@nhs.net
Freedom to Speak Up Guardian	Chief Delivery Officer Alison Cartwright alison.cartwright1@nhs.net
National Whistleblowing Helpline: provides advice for staff on raising concerns and is also available to employers for advice about good policy and governance arrangements.	For free, independent and confidential advice call 08000 724 725 or email: enquiries@wbhelpline.org.uk

Appendix 4 - Equality Impact Assessment

Department: HR

EIA Completed by: Steve Copeland

Date: 11 November 2019

Accountable ICB Lead: Anita Wilson, Associate Director of Governance and Corporate Affairs

Aim of Whistleblowing Policy: To provide a formal system to allow staff to raise concerns appropriately

Who will be affected by this policy: All members of staff;

Single Equality Scheme Strand	Baseline data and research on the population that this piece of work will affect. What is available? E.g. population data, service user data. What does it show? Are there any gaps? Use both quantitative data and qualitative data where possible. Include consultation with service users wherever possible	Is there likely to be a differential impact? Yes, no, unknown.
Gender	No anticipated detrimental impact on any equality group. The policy adheres to the NHS LA Standards, AFC terms and conditions. Makes all reasonable provision to ensure equity of access to all staff. There are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic.	No
Race	As above	No
Disability	As above	No
Religion/ belief	As above	No
Sexual orientation	As above	No
Age	As above	No
Social deprivation	As above	No
Carers	As above	No
Human rights	As above	No