

# Counter Fraud, Bribery and Corruption Policy

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## VERSION HISTORY

<b>Date</b>	<b>Version</b>	<b>Changes made to previous version</b>	<b>Consulting and Endorsing Stakeholders, Committees / Meetings / Forums etc.</b>
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 references replaced with ICB	

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## 1.0 INTRODUCTION

NHS Coventry and Warwickshire Integrated Care Board (“the ICB”) is committed to the counter fraud, bribery and corruption procedures as laid down in this policy.

The Health and Social Care Act obliges ICBs to ensure that they have:

“... appropriate arrangements in place to ensure they exercise their functions effectively, efficiently and economically and in accordance with any generally accepted principles of good governance that are relevant to it”. The ICB is therefore, committed to;

- The elimination of any form of fraud, bribery or corruption within the ICB;
- An effective counter fraud, bribery and corruption culture throughout the ICB;
- The investigation of any such allegations;
- Taking appropriate sanctions against those individuals when fraud, bribery or corruption is identified, including possible criminal prosecution and;
- Undertaking steps to recover any assets or monies lost as a result fraud, bribery or corruption.

## 2.0 SCOPE OF THE POLICY

This policy applies to all staff employed by the ICB working at all levels including Governing Body, Executive, (including co-opted members), Members, employees (whether permanent, fixed-term, or temporary), contractors, trainees, seconded, casual staff and agency staff, interns and students, agents, sponsors, volunteers or any other person associated with the ICB wherever located (collectively referred to as “staff” in this policy). It will be brought to the attention of all employees and form part of the induction process for new staff.

The ICB will adhere to the NHS Counter Fraud Authority (NHSCFA formally known as NHS Protect) strategic direction of counter fraud work within the NHS, and their guidance to individual health bodies on the prevention, detection and investigation of possible fraud.

The ICB will make every effort to investigate fully any suspicion of fraud, bribery and corruption. It is the policy of the ICB to seek to recover all losses arising from all identified fraud related activities and to take such sanctions as are appropriate.

All investigations into fraud, bribery or corruption against the ICB will be reported to the Chief Finance Officer and NHSCFA.

The ICB shall nominate a suitable person to act as the Counter Fraud Specialist, whose role and responsibilities are set by the NHSCFA.

## 3.0 PURPOSE AND PRINCIPLES OF THE POLICY

The Policy contains the procedure to be followed when employees or members of the public wish to raise concerns in connection with actual or suspected fraud, bribery or corruption.

The ICB wishes to encourage anyone having reasonable suspicions of fraud, bribery or corruption to report them to the nominated Counter Fraud Specialist for the ICB or to NHSCFA.

The ICB will ensure that no employee will suffer in any way as a result of reporting reasonably held suspicions of fraud, bribery or corruption. For these purposes “a reasonably held suspicion” shall mean any suspicion other than those which are raised maliciously.

All suspicions of fraud committed against the ICB will be investigated regardless of whether perpetrated by a member of the public, an employee or a contractor.

The ultimate aim of the policy is to protect the property and finances of the ICB. The ICB will not tolerate any form of bribery, whether direct or indirect by, or of, its staff, agents, consultants, contractors or any persons acting for it or on its behalf. The Governing Body and Senior Management are committed to implementing and enforcing effective systems throughout the organisation to prevent, monitor and eliminate bribery, in accordance with the Act.

The ICB will observe all legislation relevant to countering bribery and corruption. This requirement applies to every aspect of its conduct, including dealings with the public, stakeholders or suppliers and patient service delivery.

The ICB will not conduct business with any service provider, agents or representatives that do not support the organisations anti-bribery objectives. We reserve the right to terminate contractual arrangements with any third parties acting for, or on behalf of the organisation with immediate effect where there is evidence that they have committed acts of bribery.

## 4.0 DEFINITIONS

### 4.0 Fraud

Fraud is defined as “wrongful or criminal deception intended to result in financial or personal gain, causing the loss or risk of loss to another.”

On the 15th January 2007, the Fraud Act 2006, became law and introduced a number of offences relating to fraudulent and dishonest actions. The main offences are listed in the following sections of the Fraud Act 2006:-

The sections are;

- **Section 2 (fraud by false representation);**

A person is in breach of this section if they:-

- (i) dishonestly make a false representation and,
- (ii) intends, by making the representation –
  - (a) to make a gain for himself / herself or another or,
  - (b) to cause loss to another or to expose another to a risk of loss.

- **Section 3 (fraud by failing to disclose information);**

A person is in breach of this section if they:-

- (i) dishonestly fails to disclose to another person information which he/she is under a legal duty to disclose, and

- (ii) intends, by making the representation –
  - (a) to make a gain for himself / herself or another or,
  - (b) to cause loss to another or to expose another to a risk of loss.

- **Section 4 (fraud by abuse of position);**

A person is in breach of this section if they:-

- (i) occupy a position in which he / she is expected to safeguard, or not to act against, the financial interests of another person.
- (ii) Dishonestly abuses that position, and
- (iii) intends, by making the representation –
  - (a) to make a gain for himself / herself or another or,
  - (b) to cause loss to another or to expose another to a risk of loss.”

Under the Fraud Act 2006 A person who is guilty of fraud is liable;

- on summary conviction, to imprisonment for a term not exceeding 12 months and/or to a fine not exceeding the statutory maximum.
- on conviction on indictment, to imprisonment for a term not exceeding 10 years and/or to a fine.

## **Examples of NHS Fraud**

There is no one type of fraud – there is in fact an enormous variation in the types of fraud that are committed, as there are in the people who commit them. Among more recurrent frauds are (of which this list is not an exhaustive list):

- Timesheet fraud (egg. staff and professionals claiming money for shifts that they have not worked, claiming for sessions that they have not carried out);
- False expense claims (e.g. falsified travel or subsistence claims);
- Fraudulent job applications (e.g. false qualifications or immigration status);
- Working whilst sick (e.g. usually working for another organisation without informing the ICB);
- Excess study leave;
- Patient fraud (e.g. false travel claims, fraudulently claiming exemptions from pharmaceutical charges);
- Misappropriation of assets (e.g. falsely ordering goods for own use or to sell);
- Procurement Fraud (e.g. the ordering and contracting of goods or services);
- Fraud by professionals (i.e. GPs - such as false claims for treatment, unauthorised use of NHS facilities/equipment).

### **4.1 Bribery and Corruption**

**Bribery** is defined as “The offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties.”

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

On the 1st of July 2011, the Bribery Act 2010, became law and introduced new offences in relation to bribery and corruption. The generic term “corruption” is accommodated into this act. The main offences are listed in the following sections of the Bribery Act 2010:-

A person is guilty of an offence if either of the following applies;

- **Section 1 Offences of bribing another person;**

- (a) Offers, promises or gives a financial or other advantage to another person, and
- (b) Intends the advantage-
  - (i) To induce a person to perform improperly a relevant function or activity, or
  - (ii) To reward a person for the improper performance of such a function or activity
- (c) Knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.”

- **Section 2 Offences relating to being bribed;**

- (a) Request, agrees to receive or accepts a financial or other advantage and intending that, in consequence, a relevant function or activity should be performed improperly (whether by the recipient or another person)”.

A simple example would include a candidate for a job offering the interviewer tickets to an event in order to secure the position. Under the Bribery Act 2010, two offences would be committed; one by the person offering the bribe and one by the person receiving the bribe.

- **Section 7 Failure of commercial organisations to prevent bribery – (The Corporate Offence)**

(1) A relevant commercial organisation (a commercial organisation includes all NHS bodies), is guilty of an offence under this section if a person associated with it bribes another person intending –

- (a) To obtain or retain business for the organisation or
- (b) To obtain or retain an advantage in the conduct of business for the organisation.”

Two simple examples of this would be:

i) Where an act of bribery has occurred, for a director, manager or officer of an organisation to ignore the act or acts of bribery within the organisation. Under the Bribery Act 2010, the corporate offence would have been committed.

ii) Where an act of bribery has occurred, it was subsequently established that the organisation employing the individual failed to have adequate procedures in place to identify and prevent the act of bribery by its employee. Again, under the Bribery Act 2010, the corporate offence would have been committed.

Under the Bribery Act 2010 A person who is guilty under the Act is liable as follows;

Under Sections 1 and 2 of the Act;

- On summary conviction, to imprisonment for a term not exceeding 12 months and/or to a fine not exceeding the statutory maximum, or to both.
- On conviction on indictment, to imprisonment for a term not exceeding 10 years, or to a fine, or both.

Under Section 7 of the Act;

- On conviction on indictment, to a fine.

## Examples of Bribery

### *Offering a bribe*

- You offer someone linked to the ICB tickets to a major sporting event, with the expectation that in return the ICB will place business with your organisation.

### *Receiving a bribe*

- A supplier gives your nephew a job but makes it clear that in return they expect you to use your influence in the ICB to ensure that it continues to do business with them.
- Someone responsible for awarding an employment contract is offered gifts and/or hospitality by one of the candidates or someone linked to them to ensure they get the job.
- Someone responsible for booking agency staff is offered lavish gifts and/or hospitality, by an agency, to ensure their agency staff are booked by the ICB.
- Someone responsible for choosing suppliers (medical or non-medical) or awarding business contracts is offered gifts and/or hospitality by an existing/new supplier, contractor or business to ensure they are selected as a supplier.
- Someone associated with the purchasing of drugs and/or the selection of approved drugs to the ICB Formulary is offered gifts, hospitality and/or paid expenses by a medical representative or Pharmaceutical Company to ensure their drugs are purchased and/or added to the ICB Formulary for prescribing by the ICB.
- Someone associated with the prescribing of drugs is offered gifts and/or hospitality by a medical representative or Pharmaceutical Company to ensure they prescribe their drugs.
- Someone associated with the provision of training is offered gifts and/or hospitality by an external training company to ensure they are selected to provide training at the ICB.

## 4.2 Third Party

Any individuals or organisations, members of staff or representatives of the ICB who comes into contact during the course of their work. It includes actual and potential clients, other health bodies, health care providers, contractors, distributors, business contacts, agents, advisers, financial institutions and government, public bodies or political parties; including their employees, advisors, representatives and associates or officials, members and non-executive directors.

## 4.3 Financial or other advantage

Means payments, gifts, hospitality or anything else that could be reasonably perceived as an “advantage” or ‘form of benefit’ as understood by its normal, everyday meaning. The ICB’s Managing Conflicts of Interest and Gifts, Hospitality and Sponsorship Policy sets out the ICB’s approach to hospitality, sponsorship and gifts.

## 4.4 Improper performance

Action which is in breach of an expectation that a person will act in good faith, impartially, or in accordance with a position of trust; including proven non-compliance with Standing Financial Instructions (SFI's), Standing Orders (SO's), controls and standards of business or codes of professional conduct.

#### 4.5 Relevant function or activity

Any function of a public nature, connected with a business or service, performed in the course of a person's employment or performed by or on behalf of an incorporated or unincorporated body of persons.

## 5.0 RESPONSIBILITIES AND DUTIES

### 5.1 Accountable Officer

The Accountable Officer (AO) has overall responsibility to ensure all public monies entrusted to the ICB are spent appropriately. They must ensure that there are effective risk management processes within the ICB which meet all statutory requirements and adhere to guidance issued by the Department of Health.

The AO holds each line manager accountable for meeting objectives and to work together towards meeting the objectives approved by the Board.

### 5.2 Governing Body

The Governing Body is committed to maintaining a climate of honesty and openness within the ICB. It is, therefore, also committed to the elimination of fraud, bribery and corruption within or against the ICB.

The Governing Body is wholly supportive of work to prevent, detect, investigate and prosecute cases of fraud, bribery and corruption either within or against the ICB and the wider NHS. In particular, it supports all necessary work linked to;

- The creation of a counter fraud culture by raising staff awareness of 'fraud' issues;
- The prevention and detection of fraud, bribery and corruption;
- The prompt and professional investigation of any suspected fraud, bribery or corruption and;
- The application of effective sanctions, including appropriate legal action against people committing offences, and the recovery of any money lost to fraud, bribery or corruption.

### 5.3 Chief Finance Officer (CFO)

The ICB's CFO has responsibility for overseeing the work of the nominated Counter Fraud Specialist for the ICB, and will ensure that all appropriate steps are taken to prevent and detect possible fraud, bribery and corruption are undertaken and that all appropriate sanctions are applied when offences are identified.

The ICB's CFO will liaise when necessary with the NHS Counter Fraud Authority with regard to the counter-fraud, bribery and corruption arrangements and investigations relating to the ICB.

The ICB's CFO will authorise an "**intention to prosecute**", following discussion with the ICB's Counter Fraud Specialist and the NHS Counter Fraud Authority. When investigations

have been referred to the Police or the investigation is in conjunction with the Police, the Crown Prosecution Service will make the decision concerning any prosecution.

The ICB's CFO, whether on an interim or a concluding basis will if deemed appropriate inform the Audit Committee of cases currently under investigation or of significant allegations raised.

#### **5.4 Audit Committee**

The role of the Audit Committee is to review, approve and monitor counter fraud workplans. The committee should receive regular updates from the CFS on counter fraud activity, monitor the implementation of action plans, and provide direct access and liaison with those responsible for counter fraud. The committee should review and approve the CFS's annual report on counter fraud, and discuss NHSCFA quality assessment reports, in line with guidance from the NHS Audit Committee Handbook 2018.

#### **5.5 Internal and External Audit**

Any incident or suspicion that comes to Internal or External Audit's attention must be passed immediately to the CFS.

#### **5.6 Human Resources (HR)**

Close liaison between HR and the CFS is essential to ensure that any parallel sanctions (i.e. criminal and disciplinary) are applied effectively and in a co-ordinated manner.

HR staff should advise the CFS of any issues that they become aware of that may involve possible or actual fraud, bribery or corruption.

Liaise with the CFS to ensure that any internal disciplinary action and / or a referral to a relevant professional / regulatory body is co-ordinated with any on-going criminal investigations into possible fraud, bribery or corruption.

#### **5.7 Counter Fraud Specialist (CFS)**

The ICB will nominate a suitably qualified person(s) to act as its Counter Fraud Specialist.

The CFS is responsible for taking forward all counter fraud, bribery and corruption arrangements at the ICB in accordance with the NHS Counter Fraud Authority Standards for Commissioners (Fraud, Bribery and Corruption), the Secretary of State for Health Directions to NHS ICB in respect of Counter Fraud, and the relevant sections of the NHS Standard Contract.

The CFS will;

- Report directly to the CFO;
- Produce a counter fraud, bribery and corruption work plan with the ICB's CFO, which will be ratified by the ICB's Audit Committee;
- Attend Audit Committee meetings of the ICB, to report progress of the counter fraud, bribery and corruption work undertaken and raise matters of concern;
- Provide a written annual report, to the Audit Committee outlining the counter fraud, bribery and corruption work undertaken across the ICB, and the ICB's adherence to the relevant NHS Counter Fraud Authority Standards;

- Have the right of access to all Audit Committee members, particularly the Audit Committee Chair, and Chief Operating Officers of the ICB;
- Work with key colleagues and stakeholders to actively promote a counter fraud, bribery and corruption culture throughout the ICB;
- Undertake, in agreement with the CFO, Audit Committee or Chief Operating Officer, pro-active work to detect cases of fraud and corruption, particularly where system weaknesses have been identified. This work is carried out to complement the detection of potential fraud and corruption by auditors in the course of routine audits;
- Investigate all cases of fraud, bribery and corruption committed against the ICB, as per the NHS Counter Fraud Authority guidance, criminal and data protection legislation and;
- Liaise with the ICB's Human Resources department to ensure that any on-going criminal investigation is co-ordinated with internal disciplinary action and / or a referral to a relevant professional regulatory body, where possible fraud or bribery has been identified.

## 5.8 Managers

Managers must be vigilant and ensure that procedures to guard against fraud, bribery 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 the ICB's CFS.

Managers should make all members of staff aware of this policy and its contents.

## 5.9 Fraud Champion

The role of Fraud Champion is to work closely alongside the CFS and support them in promoting a zero-tolerance approach to fraud within the ICB. Their role includes:-

- Promoting awareness of fraud, bribery and corruption within the ICB;
- Understand the threat posed by fraud, bribery and corruption and;
- Understand best practice on counter fraud.

## 5.10 All Staff

All staff members are expected to adhere to the policies and procedures of the ICB, to act in accordance with the standards laid down by their Professional Institutes, where applicable and to the Public Service Values (Nolan Principles).

Everyone has a part to play in the fight against fraud and all staff must work together to raise awareness and enforce the message that fraud within the NHS is not acceptable and will not be tolerated.

All staff members have a duty to protect the assets of the ICB and expect anyone having suspicions of fraud, bribery or corruption to report them. This can be done by either contacting the CFS, the CFO, or the NHS Counter Fraud Authority. (See Section 8 below)

All staff members can be confident that their reasonably held suspicions will be taken seriously and no member of staff will suffer in any way as a result of reporting their concerns. This principle is also set out in the ICB's Whistleblowing Policy, which should be consulted for further guidance on this point

**Under no circumstances should staff attempt to investigate any instance of actual or suspected fraud, bribery or corruption nor subject any individual(s) to surveillance of any kind.**

Such actions could compromise any subsequent criminal investigation or possible prosecution. The advice of the ICB's CFS should be sought at the earliest opportunity.

As noted in section 3.0 above, the ICB would always encourage anyone having a reasonable suspicion of fraud, bribery or corruption to report their concerns at the earliest opportunity. However, if there is evidence that any member of staff has deliberately made a malicious allegation against any other person or organisation, in order to cause harm or distress, then action will be taken against that member of staff under the terms of the ICB's Disciplinary Policy.

#### **5.11 Information Technology**

IT Services will contact the CFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. This includes inappropriate internet/intranet, e-mail, telephones and PDA's use.

Human Resources will be informed if there is a suspicion that an employee is involved.

#### **5.12 External Communications**

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 CFO or the AO.

## **6.0 THE RESPONSE PLAN**

### **6.1 Bribery and Corruption**

An organisation will have a defence against prosecution if it can show that it has the following adequate procedures in place to prevent bribery: a Gifts, Hospitality and Sponsorship Policy and a Managing Conflicts of Interest Policy (the ICB has a "Managing Conflicts of Interest and Gifts, Hospitality and Sponsorship Policy").

The Secretary of State has outlined six principles that are expected from commercial organisations to address the risk of bribery occurring within its business activities. These six principles if adopted amount to a defence from prosecution. The six principles are:

#### **Proportionality**

The ICB must have procedures in place to prevent bribery by persons associated with it. These are proportionate to the bribery risks faced by the organisation and to the nature, scale and complexity of the organisation's activities. They are also clear, practical, accessible, effectively implemented and enforced.

#### **Top Level Commitment**

The ICB's AO and its Governing Body should demonstrate that they are committed to preventing bribery by persons associated with the ICB. They will foster a culture within the organisation in which bribery is never acceptable.

## **Risk Assessment**

The organisation has carried out comprehensive risk assessments to identify fraud, bribery and corruption risks, and has counter fraud, bribery and corruption provision that is proportionate to the level of risk identified. Risks will be recorded and managed in line with the ICB's Risk Management Policy and are included on the appropriate risk registers and monitored at a senior level within the ICB and results fed back to the audit.

## **Due Diligence**

The ICB takes a proportionate and risk-based approach, in respect of persons who perform or will perform services for or on its behalf, in order to mitigate identified bribery risks.

## **Communication (including training)**

The ICB seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

## **Monitoring and Review**

The ICB will monitor and review that its procedures designed to prevent bribery by persons associated with the ICB and make improvements to minimise the risk where necessary.

## **6.2 NHS Standard Contract**

The NHS Standard Contract (post 2013) has clauses within it that specifically relate to how NHS organisations and providers of NHS funded services will combat fraud, bribery and corruption. All providers of NHS funded services are required to put in place and maintain appropriate counter fraud bribery and corruption arrangements prior to the commencement and during the contract.

The commissioning body should also review the counter fraud, bribery and corruption arrangements of providers where the ICB is the lead commissioner, the provider holds an NHS Improvement Provider Licence (Monitor Licence) and the NHS Standard Contract is used.

If requested by the co-ordinating commissioner or the NHS Counter Fraud Authority, the provider must allow a person duly authorised to act on behalf of NHS Counter Fraud Authority or on behalf of the co-coordinating commissioner to review, in line with the appropriate standards, the counter fraud arrangements put in place by the provider.

The provider must implement any reasonable modifications to its counter fraud arrangements required by the co-ordinating commissioner or the NHS Counter Fraud Authority in order to meet the appropriate standards within whatever time periods as that person may reasonably require.

## **7.0 PREVENTION ARRANGEMENTS**

Prevention arrangements are a key part of an organisation's defence against fraud, bribery or corruption. Therefore deterring and preventing dishonesty is a key component in combating internal or external fraud, bribery and corruption.

Through measuring the problem of fraud, bribery or corruption and learning from where it is detected and how it is perpetrated, Knowledge can be gained of where it is necessary to build strong preventative systems.

Prevention arrangements include revising and strengthening procedures, administrative processes and providing input for review of policies.

The ICB need to be aware of what system weaknesses have become apparent during an investigation. The nominated CFS and Internal Auditors will advise on the development and procedures to prevent fraud, bribery and corruption when organisational weaknesses have been identified.

## 8.0 INVESTIGATING FRAUD, BRIBERY AND CORRUPTION

### 8.0 Reporting Fraud, Bribery and Corruption

A key aspect of an effective counter fraud, bribery and corruption strategy is the ability to undertake a professional and objective investigation into allegations of fraud, bribery or corruption. Early detection both helps an investigation and will minimise the potential for further loss to the organisation.

Anyone who encounters behaviour, or finds documents that they suspect may constitute fraud, bribery or corruption, should take the following action:-

This can be done in the following ways:-

- **Nominated Counter Fraud Specialist**  
TBC
- **Counter Fraud Team**  
Team Email [antifraudteam@cwaudit.org.uk](mailto:antifraudteam@cwaudit.org.uk)  
Team Telephone **02476 536 880**
- **ICB's Chief Finance Officer**  
TBC

You can also report your suspicions directly to the NHS Counter Fraud Authority.

- **NHS Fraud and Corruption Reporting Line**  
Telephone **0800 028 4060**,  
On-line <https://cfa.nhs.uk/reportfraud>

All referrals received will be treated in confidence. The Public Interest Disclosure Act 1998 came into force in July 1999, this act provides statutory protection, within defined parameters, to staff that make disclosures about a range of concerns, including fraud, bribery or corruption, which they believe to be happening within the organisation employing them. The ICB has a Whistleblowing Policy which can be referred to when referring any suspicions.

**On no account should anyone seek to investigate suspicions of fraud, bribery or corruption, as this may cause difficulties later.**

Please see (Appendix B) for a full list of Do's and Don'ts when suspecting fraud, bribery or corruption.

## 8.1 The Referral Process (See Appendix A for Referral Flowchart)

Process is briefly summarised as:

- Suspicion of fraud, bribery or corruption must be reported to the nominated CFS or the Chief Finance Officer for the ICB.
- The CFS and CFO will then liaise with each other.
- The nominated CFS will log the investigation onto the NHS Counter Fraud Authority Case Management System (currently FIRST).
- The CFS will in consultation with the NHS Counter Fraud Authority, investigate the allegation or refer it to another colleague for investigation as appropriate.
- Once the alleged fraud, bribery or corruption has been established, the CFS will also discuss the situation with the ICB's Chief Finance Officer and agree a course of action (note, in exceptional circumstances the nominated CFS has direct access to Audit Committee Chair).
- If fraud, bribery or corruption is found to exist, appropriate action will be taken in accordance with the relevant law and procedure, NHS Counter Fraud Authority guidance.

## 8.2 Investigating Procedures and Methods At Risk

All investigations will be undertaken in accordance with the criminal legislation and procedure, NHS CFS guidance.

The CFS for the ICB, under this policy will be allowed access to all the ICB's Employees, Governing Body, Contractors, and Providers, as well as to systems, processes, records, data and information, as is necessary, in order to progress any investigation. All information requests will be made in accordance with the relevant sections of the Data Protection Act 1998.

During the course of an investigation all other legal consideration will have to be taken into account, for example:

Police and Criminal Evidence Act 1984  
Criminal Procedures and investigations Act 1996  
Regulation of Investigatory Powers Act 2000  
Data Protection Act 2018  
Codes of Confidentiality  
Civil law

## 9 SANCTIONS AND REDRESS

### 9.0 Disciplinary Sanction

All disciplinary sanctions will be undertaken in accordance with the ICB's Disciplinary Policy. There will be instances when it is appropriate to pursue more than one course of action at the same time e.g. a criminal investigation and a disciplinary investigation. In such instances close liaison must exist between those investigating criminal and disciplinary matters.

In situations where an investigation impacts on another the matter should be referred to the ICB's CFO to consider the advice from each investigator and agree which investigation takes priority.

## 9.1 Redress

The ICB will seek to recover any monies, property or assets lost as a result of any fraud, bribery or corruption committed against the ICB as per the Sanctions and Redress Policy.

## 10 MONITORING AND IMPLEMENTATION

The CFS will ensure that the key processes set out in this document are audited in line with guidance issued by the NHS Counter Fraud Authority. The results will be fed back to the ICB's Chief Finance Officer and the Audit Committee.

The CFS will provide regular progress reports presented to the ICB's Audit Committee, as per the committee's business cycle. Progress against investigations will be monitored by the Audit Committee.

## 11 EQUALITY IMPACT ASSESSMENT

All ICB policies are required to have a preliminary Equality Impact assessment (EIA) performed on them in order to establish whether any group of people will be impacted on unfairly by the document. An EIA has been performed on this document and the outcome is that there is little chance of a Human Rights or Privacy breach, so there was no requirement to carry out a Stage 2 assessment.

## 12 REFERENCES

Bribery Act 2010

Fraud Act 2006

Public Interest Disclosure Act 1998

## 13 ASSOCIATED DOCUMENTS

Standards of Business Conduct policy

Whistleblowing Policy

Disciplinary Policy

Managing Conflicts of Interest and Gifts, Hospitality and Sponsorship Policy

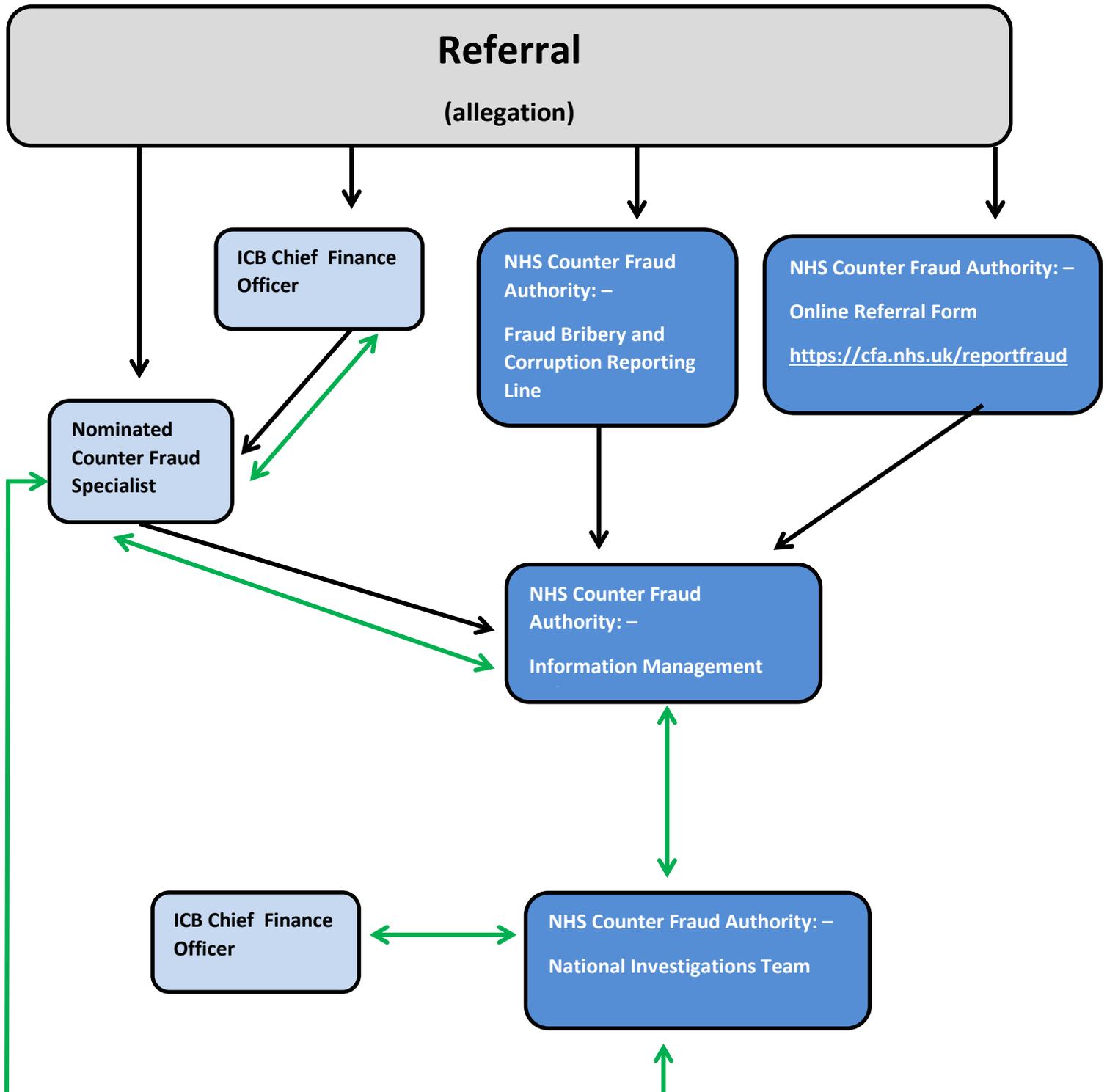
Sanctions and Redress Policy

## 14 APPENDICES

Appendix 1: Referral Flowchart

Appendix 2: Do's and Don'ts when suspecting fraud, bribery and corruption

## Appendix 1: Referral Flowchart



## Appendix 2: Do's and Don'ts when suspecting fraud, bribery and corruption

**FRAUD** is the 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.

**BRIBERY & CORRUPTION** is the deliberate use of payment or 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 the nature of 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 nominated Counter Fraud Specialist.

- **Report your suspicions**

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 lead to an innocent person being unjustly accused.

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

Never attempt to gather evidence yourself unless it is about to be destroyed; gathering evidence must be done in line with legal requirements in order for it to be useful. Your nominated Counter Fraud Specialist can conduct an investigation in accordance with legislation.

- **Be afraid of raising your concerns**

The Public Interest Disclosure Act 1998 protects employees who have reasonable concerns. You will not suffer discrimination or victimisation by following the correct procedures.

- **Do nothing!**

If you suspect that fraud against the NHS has taken place, you must report it immediately, by:

- directly contacting the nominated **Counter Fraud Specialist**, or
- telephoning the **freephone** NHS Fraud and Corruption Reporting Line (see details on the right), or
- contacting the **Chief Finance Officer**.

**Do you have concerns about a fraud taking place in the NHS?**

NHS Fraud, Bribery and Corruption Reporting Line: **0800 028 40 60**

calls will be treated in confidence and investigated by professionally trained staff.

Online: <https://cfa.nhs.uk/reportfraud>

Your Nominated Counter Fraud Specialist is, **Fiona Dwyer**  
who can be contacted by telephoning **07552 290964** or emailing [antifraudteam@cwaudit.org.uk](mailto:antifraudteam@cwaudit.org.uk) or [FDwyer@nhs.net](mailto:FDwyer@nhs.net)

If you would like further information about NHS Counter Fraud Authority, please visit <http://cfa.nhs.uk/home>

*Tackling fraud, bribery and corruption*