

Counter Fraud, Bribery and Corruption Policy

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Document Information

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Links or overlaps with other policies:			
Gifts and Hospitality Policy			
Standards of Business Conduct Policy			
Conflicts of Interest Policy			
Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy			
Disciplinary Policy			
<p>The Trust is committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): Sexual Orientation; Gender; Age; Gender Reassignment; Pregnancy and Maternity; Disability; Religion or Belief; Race; Marriage and Civil Partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.</p> <p>The Trust is committed to ensuring all services, policies, projects and strategies undergo equality analysis. For more information about equality analysis and Equality Impact Assessments please refer to the Diversity and Inclusion Policy.</p>			

Amendment History

Issue	Status	Date	Reason for Change	Authorised
v0.1	Created	15-Dec-15	New Trust policy post integration	CoSec
v0.2	Draft	Feb-15	Incorporating amendments from Counter Fraud Officer	CoSec
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v1.1	Draft	Sep 17	New legislation	CoSec / Counter Fraud

V3	Draft	March 2019	New guidance issued by NHS England	CoSec/ Counter Fraud
V4	Draft	October 2020	New contact Details and Legislation	Counter Fraud
V5	Draft	March 2022	Updated Policy to reflect NHSCFA Counter Fraud, Bribery and Corruption Policy Template	Director of Corporate Governance and Trust Secretary/LCFS

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1. Introduction

General

This Counter Fraud, Bribery and Corruption Policy is to help all employees who reasonably suspect or become aware of fraud, bribery/corruption or abuse of position (collectively economic crime and which, for simplicity, we refer to below as "fraud"). Torbay and South Devon NHS Foundation Trust ('the Trust') is committed to preventing and reducing fraud, bribery and corruption in the NHS and will seek the appropriate disciplinary, regulatory, civil and criminal sanctions against fraudsters and where possible will attempt to recover losses. This policy is supported and endorsed by senior management.

A basic principle of the Trust is that we act above reproach in the proper use of public funds. NHS fraud, when staff are involved in economic crime, can have a reputational impact on patient care and confidentiality. All fraud is unacceptable and should not be tolerated. It affects the ability of the NHS to improve health outcomes for people in England, as resources are wrongfully diverted and cannot be used for their intended purpose.

All staff must be aware of the Trusts values of maintaining an honest, open and well-intentioned culture that will eliminate any fraud. All employees must be aware of the risk of dishonesty and lead by example to ensure adherence to rules when, for example, claiming travel expenses/hours worked. Staff should know that the Trust will rigorously investigate any suspicions and enforce its rules.

The Trust has systems of internal control, risk assessments and policies and procedures that reduce the likelihood of fraud occurring. These include this policy, Standing Financial Instructions and the Whistleblowing Policy (which has a wider remit covering matters that are not necessarily fraud).

Failure to comply with this policy could result in disciplinary action.

Aims and objectives

The purpose of this policy is to provide a guide for employees in regard to fraud, bribery and corruption and to inform all employees that it is everyone's responsibility to prevent and report it.

Scope

This policy applies to all employees of the Trust including Board members and temporary staff and any other person associated with the Trust, including volunteers, contractors and other internal and external stakeholders. All staff have an implicit duty to protect the assets of the Trust, which include finances, information and goodwill as well as property.

All staff should familiarise themselves with the contents of this policy and be mindful of the counter fraud e-learning provided as part of the corporate induction. The guidance provided in section 4 will enable staff to report any concerns around fraud and bribery.

2. Definitions and Related Policies

NHS Counter Fraud Authority

NHS Counter Fraud Authority (NHSCFA) has responsibility for the prevention, detection and investigation of fraud and economic crime in the NHS. Its aim is to lead the fight against fraud affecting the NHS and wider health service by using intelligence to understand the nature of fraud risks, investigate serious and complex fraud, reduce its impact and drive forward improvements.

The NHSCFA has also produced its Counter Fraud, Bribery and Corruption Strategy 2020-2023 which sets out its vision and purpose. The NHSCFA Strategy 2020-23 can be found at: <https://cfa.nhs.uk/about-nhscfa/corporate-publications> All work undertaken by the Trust in relation to fraud, bribery and corruption aligns to this strategy.

Counter Fraud Standards

A requirement in the NHS standard contract is that providers of NHS services (that hold a Monitor's Licence or is an NHS Trust) must take the necessary action to comply with the [NHSCFA's counter fraud standards](#).

The contract places a requirement on providers to have policies, procedures and processes in place to combat fraud, corruption and bribery to ensure compliance with the standards. The NHSCFA carries out regular assessments of health organisations in line with the counter fraud standards.

Fraud

Fraud involves dishonestly making a false representation, fraud by failing to disclose information, or fraud by abusing a position held with the intention of making a financial gain or causing a financial loss.

[The Fraud Act 2006](#) is the criminal legislation which deals with offences of Fraud in the UK. The Act creates three main offences, each of which carries a maximum sentence of up to 10 years imprisonment.

Fraud offences are described in more detail in Appendix 1.

Bribery and Corruption

Bribery and corruption involve offering, promising or giving a payment of benefit-in-kind in order to influence others to use their position in an improper way to gain an advantage.

[The Bribery Act 2010](#) is the criminal legislation which deals with criminal offences in relation to Bribery. The Act creates four main offences, each of which carries a maximum sentence of 10 years imprisonment.

The four main offences are:

- 1 Bribing another person
- 2 Being bribed by another person
- 3 Bribery of foreign public officials
- 4 Failure of commercial organisations to prevent bribery

The offences are described in more detail in Appendix 2.

Theft Act 1968

Theft is defined as dishonestly appropriating property belonging to another with the intention of permanently depriving them of it (i.e. stealing). Fraud is distinct from theft because it involves an element of deception – making a false representation.

All instances of theft within the Trust should be reported in accordance with the Trust's Incident Reporting and Procedure system. The Local Security Management Specialist will monitor and review all theft reported incidents. For further guidance refer to the Security Policy.

Computer Misuse Act 1990

The Computer Misuse Act is designed to protect computer users and organisations against intentional misuse, attack and/or theft of information. The Act introduced three main criminal offences:

- Unauthorised access to computer material (Section 1).
- Unauthorised access with intent to commit or facilitate commission of further offences (Section 2).
- Unauthorised modification of computer material (Section 3).

The maximum penalties for computer misuse offences are 10 years' imprisonment and a fine.

Should staff suspect computer misuse the matter must be reported to the Local Organisational Security Management Specialist who will review the circumstances and where appropriate involve the police.

Misleading Information

Section 92 of the Care Act 2014 creates an offence of supplying, publishing or otherwise making available information which is false or misleading. This offence carries a maximum penalty of two years imprisonment. Any alleged offences of this nature are dealt with by the police.

The offence under s92 of the Care Act 2014 is described in more detail in Appendix 3.

Declarations of Interest, Gifts and Hospitality

Separate policies are available regarding declarations of interest and gifts and hospitality:

- [Standards of Business Conduct Policy](#)
- [Gifts and Hospitality Policy](#)
- [Conflicts of Interest Policy](#)

Charitable Funds

Torbay and South Devon Charitable Fund ('Charitable Fund') is a Registered Charity. The receipt of donations, gifts and other monies in relation to the Charitable Funds are governed by section 5 of the Trust's Standing Financial Instructions.

The overall objectives of the financial instructions are to ensure that:

- The procedures in place are designed to safeguard the assets of the Trust or Charitable Fund;
- Transactions are made in compliance with the Standing Orders and Standing Financial Instructions of the Trust and all relevant national guidance and legislation;
- All income to which the Trust or Charitable Fund is entitled is properly and promptly collected;
- All expenditure is in respect of costs necessarily incurred in the business of the Trust or Charitable Fund;
- All transactions are properly approved and recorded.

Further guidance can be found in the link below:

[Charitable Funds](#)

Procurement of Goods and Services

The Bribery Act 2010 requires specific requirements to be placed on potential bidders and suppliers of contracts. If you are responsible for signing Purchase Orders or placing contracts for goods or services you are expected to adhere to professional standards as set out in the Professional ethics of the Chartered Institute of Purchasing and Supply.

3. Roles and Responsibilities

This section outlines the roles and responsibilities of individuals and groups within the Trust that contribute to protecting it by reporting fraud and other irregularities and taking action against it.

Chief Executive

The Chief Executive ensures that adequate policies, procedures and processes are in place to protect the Trust and the public funds it receives.

Chief Finance Officer

The Chief Finance Officer is responsible for the executive oversight and strategic direction of the Trust's counter fraud arrangements. In addition, the CFO reviews and signs off all submissions to the NHSCFA.

Board

The Trust's Board and non-executive directors provide clear support and strategic direction for counter fraud, bribery and corruption work. They review the proactive management, control and the evaluation of counter fraud, bribery and corruption work. The Board and non-executive directors scrutinise NHSCFA assessment

reports and where applicable, ensure that recommendations are fully actioned. The Board has delegated this responsibility to the Audit Committee.

Local Counter Fraud Specialist

The Local Counter Fraud Specialist (LCFS) is responsible for developing and delivering a counter-fraud work plan in compliance with the Government Functional Standard (GoVS013) for countering fraud, bribery and corruption, which covers the NHSCFA Requirements:

1. [Accountable Individual](#) - Have an accountable individual at board level who is responsible for counter fraud, bribery and corruption.
2. [Counter Fraud, Bribery and Corruption Strategy](#) – to ensure the Trust’s Counter Fraud Policy is aligned with the NHS CFA Strategy (NHSCFA/Cabinet Office).
3. [Fraud, Bribery and Corruption Risk Assessment](#) - Have a fraud, bribery and corruption risk assessment that is submitted to the centre (NHSCFA/Cabinet Office).
4. [Policy and Response Plan](#) - Have a policy and response plan for dealing with potential instances of fraud, bribery and corruption.
5. [Annual Action Plan](#) - Have an annual work plan for dealing with potential instances of fraud, bribery and corruption.
6. [Outcome Based Metrics](#) - Have outcome-based metrics summarising what outcomes they are seeking to achieve that year. For organisations with ‘significant investment’ in counter fraud or ‘significant estimated’ fraud loss, these will include metrics with a financial impact.
7. [Reporting Routes for Staff, Contractors and the Public](#) – Have well established and documented reporting routes for staff, contractors and members of the public to report suspicions of fraud, bribery and corruption and a mechanism for recording these referrals and allegations.
8. [Report Identified Loss](#) - Will report identified loss from fraud, bribery, corruption and error and associated recoveries, to the NHS CFA in line with the agreed government definitions.
9. [Access to Trained Investigators](#) - Have agreed access to trained investigators that meet the agreed public sector skill standard.
10. [Undertake Detection Activity](#) - Undertake activity to try and detect fraud in high-risk areas where little or nothing is known of fraud, bribery and corruption levels, including loss measurement activity where suitable.

Where there are reasonably held suspicions of fraud within the Trust, any Trust employee or member of the public should immediately contact the LCFS. They can be approached confidentially and anonymously.

The LCFS is responsible for ensuring all local counter fraud work is conducted in a professional, comprehensive and ethical manner following guidance in the NHS Counter Fraud Manual and any other guidance issued by NHSCFA.

The NHSCFA set national standards for all organisations to implement. The LCFS works with the Trust to ensure the Trust meet these standards and reports directly to the Chief Finance Officer. Additionally, the LCFS will work with key staff members

and stakeholders to promote counter fraud work, apply effective preventative measures and investigate allegations of fraud and corruption.

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

It is important that the Trust achieves compliance with the Government Counter Fraud Functional Standard as they are set to ensure appropriate fraud, bribery and corruption arrangements are in place. The LCFS will look to achieve the highest standards possible in their work.

People Hub

The People Hub is responsible for liaising with the LCFS and advising line managers to instigate the necessary disciplinary investigation/action where it is alleged someone may have failed to comply with the policies, procedures and processes.

Managers

Managers are responsible for:

- Establishing an anti-fraud, bribery and corruption culture within their team and understanding the importance of protecting the organisation from fraud, bribery and corruption.
- Ensuring that the Trusts' policies, procedures and controls to guard against fraud are followed, regularly reviewed and enforce any disciplinary action against staff who do not comply with them.
- Ensuring that staff are aware of fraud, bribery and corruption and understand the importance of protecting the organisation from it.
- Being alert to the possibility that fraud could occur anywhere in the Trust but particularly ensure that any unusual events or transactions could be indicators of fraud.
- Reporting all incidents or suspicions in accordance with Section 4 of this policy including being aware of the additional guidance supplied for managers in that section.
- Conducting risk assessments and mitigating identified risks.
- Checking that declarations of interest have been completed by their staff on an annual basis and reported to the Director of Corporate Governance.

All staff are responsible for:

- Complying with the Trusts' policies, procedures and processes and apply best practice in order to prevent fraud, bribery and corruption.
- Being aware of the Trusts' Standards of Business Conduct Policy and acting in accordance with it, thus, protecting the organisations and themselves from these crimes.
- Protecting the assets of the Trusts, including information and goodwill as well as property.
- Acting in accordance with the standards laid down by their professional bodies where applicable.
- Reporting all incidents or suspicions in accordance with Section 4 of this policy.
- Managing internal control systems (if applicable) and should receive adequate training and support in order to carry out their responsibilities.

Information management and technology

In accordance with the Computer Misuse Act 1990 fraudulent use of information technology will be reported by the head of information security to the LCFS.

Counter Fraud Champion

The NHS CFA introduced the Counter Fraud Champion's role to help form part of the NHS organisation's counter fraud provision and meet the requirements of the Governments Counter Fraud Functional Standard which was introduced across the NHS in 2020-21.

The Counter Fraud Champion is a nominated role and should be held by a person who is senior and directly employed by the organisation and has enough influence to raise awareness of fraud.

Counter Fraud Champions will support and promote the fight against fraud at a strategic level and with other colleagues in their own organisation. Counter Fraud Champions will support the Local Counter Fraud Specialist in the work they already do.

The role and duties of the Counter Fraud Champion include:

- Promote awareness of fraud, bribery and corruption within your organisation
- Understand the threat posed by fraud, bribery and corruption, and
- Understand best practice on counter fraud.

The Trust's Fraud Champion is Sarah Burns sarahj.burns@nhs.net

4. Response Plan

The Trust has conducted risk assessments in line with Ministry of Justice guidance¹ to assess how bribery and corruption may affect the organisation. Proportionate procedures have been put in place to mitigate identified risks.

Reporting Fraud, Bribery and Corruption

Details of a suspected fraud, bribery and corruption should be reported through:

- The NHS Fraud and Corruption Reporting Line on freephone 0800 028 40 60, online at <https://cfa.nhs.uk/reportfraud>
- Local Counter Fraud Specialist: Adele Rilstone 07919868930 a.rilstone@nhs.net

The LCFS and/or NHSCFA will undertake an investigation and seek to apply criminal and civil sanctions, where appropriate. Any investigation would follow set investigative procedures.

¹ <https://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf>

All NHS bodies including private providers, commissioners and trusts should also refer to the Home Office's bribery and corruption assessment template² in order to assess the response to bribery and corruption.

If an employee has concerns that the LCFS or CFO may be implicated in fraud, bribery or corruption, concerns should be reported to the Chief Executive, Chair of the Audit Committee or Board Chair.

Under no circumstances should you begin your own investigation.

Whistleblowing

To support the reporting of fraud using the NHSCFA fraud reporting process (as outlined above) all employees should be aware of NHS Improvement and NHS England's: Freedom to speak up: raising concern's (whistleblowing) policy for the NHS, April 2016³ and NHS England's Freedom to speak up in Primary Care: Guidance to primary care providers on supporting whistleblowing in the NHS, November 2017⁴. These form the minimum standard to help normalise the raising of concerns in the NHS for the benefit of all patients in England.

Disciplinary Action

Disciplinary procedures will be initiated where an employee is suspected of being involved in a fraudulent or illegal act, or where their negligent action has led to a fraud being perpetrated. The Trust's Disciplinary Policy can be found on the Trust's ICON page.

Investigation and Sanctions and Redress

The LCFS is responsible for ensuring all counter fraud work is carried out in a professional, comprehensive and ethical manner in accordance with the NHS Standard Contract, Chapter 6 of the NHSCFA Counter-fraud Manual and any other guidance issued by NHSCFA.

LCFS Investigations will be conducted under rules and codes of the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigation Act 1996. In addition, all investigations will be conducted with NHSCFA 'Parallel Criminal and Disciplinary Investigations' guidance in mind.

NHSCFA leads on work to identify and tackle crime across the health service. The aim is to protect NHS staff and resources from activities that would otherwise undermine their effectiveness and their ability to meet the needs of patients and professionals. The LCFS may refer complex cases to the Area Counter-Fraud Specialist, in the NHSCFA Operations Directorate, for support.

² Home Office Bribery and corruption assessment template

<https://www.gov.uk/government/publications/bribery-and-corruption-assessment-template>

³ NHS Improvement and NHS England's Freedom to speak up: raising concern's (whistleblowing) policy for the NHS, April 2016 <https://www.england.nhs.uk/ourwork/whistleblowing/>

⁴ NHS England's Guidance Freedom to speak up in primary care: Guidance to primary care providers on supporting whistleblowing in the NHS, November 2017 <https://www.england.nhs.uk/wp-content/uploads/2016/11/whistleblowing-guidance.pdf>

The LCFS or NHSCFA will seek to consider and recommend the implementation of all appropriate sanctions. The sanctions are:

- **Criminal Prosecution**—the LCFS will work in partnership with NHSCFA, and other agencies such as the local authority, the police and the Crown Prosecution Service to bring a case to court against an alleged offender.
- **Professional Body Disciplinary** – the LCFS may report staff to their professional body as a result of a successful investigation/prosecution.
- **Disciplinary** – the LCFS will work with the Trust’s Human Resources Department and provide assistance in disciplinary procedures where an employee is suspected of being involved in a fraud or bribery.
- **Civil Recovery** – civil court orders can be sought against those who commit fraud, bribery and corruption to recover money and/or assets which have been fraudulently obtained, including interest and costs.

If warranted, staff may be reported to their professional body.

The Trust will seek financial redress whenever possible to recover losses to fraud, bribery and corruption. Redress can take the form of confiscation and compensation orders, a civil order for repayment, or a local agreement between the organisation and the offender to repay monies lost.

- Staff payroll recoveries: deductions may be made from salary payments either as a one-off sum or via a payment plan.
- Post-criminal sanction recoveries: we will recover losses via compensation awarded as part of the trial or via a Proceeds of Crime Act application.
- Civil recoveries: The Trust’s cash management team will pursue the loss identified in civil proceedings to the extent of the law including as appropriate a civil court application.

The LCFS will keep records of all outstanding fraud losses.

5. Equality and Diversity Exceptions

None identified.

6. Review

Monitoring and auditing of policy effectiveness

Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. Arrangements include reviewing system controls on an ongoing basis and identifying weaknesses in processes.⁵

Where weaknesses in controls are identified as a result of monitoring, recommendations and action plans will be developed and recommendations implemented.

⁵ Compliance with NHSCFA counter fraud standards is essential <https://cfa.nhs.uk/counter-fraud-standards>
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Dissemination of the policy

This Policy will be shared with staff via the Trust intranet, ICON. In addition, the Trust has a mandatory counter fraud e-learning module for new members of staff to complete as part of their induction.

Review of the policy

A review of this document will be conducted every three years or following a change to associated legislation or national/local terms and conditions of service and is the responsibility of the Director of Corporate Services.

7 Appendices

1. Fraud Act 2006 Offences
2. Bribery Act 2010 Offences
3. s92 Care Act 2014 offences
4. Investigation Process, Sanctions and Redress
5. Extracts from Trust's Contract of Employment
6. Commercial Sponsorship
7. Torbay & South Devon NHS Foundation Trust LCFS and Wider ASW Assurance Counter Fraud Team

Appendix 1

Fraud Act 2006 Offences

Fraud by False Representation section 2 of the Fraud Act 2006

A person is in breach of this section if he dishonestly makes a false representation, and intends, by making the representation to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss.

A Representation is False if:

It is untrue or misleading, and the person making it knows that it is, or might be, untrue or misleading.

Representation means any representation as to fact or law, including a representation as to the state of mind of the person making the representation, or any other person.

A representation may be expressed or implied.

A representation may be regarded as made if it (or anything implying it) is submitted in any form to any system or device designed to receive, convey or respond to communications (with or without human intervention).

Fraud by Failing to Disclose Information section 3 of the Fraud Act 2006

A person is in breach of this section if he dishonestly fails to disclose to another person information which he is under a legal duty to disclose, and intends, by failing to disclose the information to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss.

Fraud by Abuse of Position section 4 of the Fraud Act 2006

A person is in breach of this section if he occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person, dishonestly abuses that position, and intends, by means of the abuse of that position to make a gain for himself or another, or to cause loss to another or to expose another to a risk of loss.

A person may be regarded as having abused his position even though his conduct consisted of an omission rather than an act.

Appendix 2

The Bribery Act 2010 Offences

Bribing Another Person section 1 of the Bribery Act 2010

A person (P) is guilty of an offence if either of the following cases applies.

Case 1

Where P offers, promises or gives a financial or other advantage to another person, and intends the advantage to induce a person to perform improperly a relevant function or activity, or to reward a person for the improper performance of such a function or activity.

It does not matter whether the person to whom the advantage is offered, promised or given is the same person as the person who is to perform, or has performed, the function or activity concerned.

Case 2

Where P offers, promises or gives a financial or other advantage to another person, and knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity.

In both cases it does not matter whether the advantage is offered, promised or given by P directly or through a third party.

Being Bribed section 2 of the Bribery Act 2010

A person (R) is guilty of an offence if any of the following cases applies.

Case 3

Where R requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by R or another person).

Case 4

Where R requests, agrees to receive or accepts a financial or other advantage, and the request, agreement or acceptance itself constitutes the improper performance by R of a relevant function or activity.

Case 5

Where R requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by R or another person) of a relevant function or activity.

Case 6

Where, in anticipation of or in consequence of R requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly by R, or by another person at R's request or with R's assent or acquiescence.

In cases 3 to 6 it does not matter whether R requests, agrees to receive or accepts (or is to request, agree to receive or accept) the advantage directly or through a third party or whether the advantage is (or is to be) for the benefit of R or another person.

In cases 4 to 6 it does not matter whether R knows or believes that the performance of the function or activity is improper.

In case 6, where a person other than R is performing the function or activity, it also does not matter whether that person knows or believes that the performance of the function or activity is improper.

Bribery of foreign public officials section 6 of the Bribery Act 2010

A person (“P”) who bribes a foreign public official (“F”) is guilty of an offence if P's intention is to influence F in F's capacity as a foreign public official.

P must also intend to obtain or retain business, or an advantage in the conduct of business.

P bribes F if, and only if directly or through a third party, P offers, promises or gives any financial or other advantage to F, or to another person at F's request or with F's assent or acquiescence, and F is neither permitted nor required by the written law applicable to F to be influenced in F's capacity as a foreign public official by the offer, promise or gift.

References in this section to influencing F in F's capacity as a foreign public official mean influencing F in the performance of F's functions as such an official, which include any omission to exercise those functions, and any use of F's position as such an official, even if not within F's authority.

“Foreign public official” means an individual who holds a legislative, administrative or judicial position of any kind, whether appointed or elected, of a country or territory outside the United Kingdom (or any subdivision of such a country or territory), exercises a public function for or on behalf of a country or territory outside the United Kingdom (or any subdivision of such a country or territory), or for any public agency or public enterprise of that country or territory (or subdivision), or is an official or agent of a public international organisation.

“Public international organisation” means an organisation whose members are any of the following:

- (a) countries or territories,
- (b) governments of countries or territories,
- (c) other public international organisations,
- (d) a mixture of any of the above.

Failure of commercial organisations to prevent bribery section 7 of the Bribery Act 2010

A relevant commercial organisation (“C”) is guilty of an offence under this section if a person (“A”) associated with C bribes another person intending to obtain or retain business for C, or to obtain or retain an advantage in the conduct of business for C.

But it is a defense for C to prove that C had in place adequate procedures designed to prevent persons associated with C from undertaking such conduct.

For the purposes of this section, A bribes another person if, and only if, A is, or would be, guilty of an offence under section 1 or 6 (whether or not A has been prosecuted for such an offence), or would be guilty of such an offence if section 12(2)(c) and (4) were omitted.

In this section —

- “partnership” means a partnership within the Partnership Act 1890, or a limited partnership registered under the Limited Partnerships Act 1907, or a firm or entity of a similar character formed under the law of a country or territory outside the United Kingdom,
- “relevant commercial organisation” means a body which is incorporated under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere), or any other body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the United Kingdom, or a partnership which is formed under the law of any part of the United Kingdom and which carries on a business (whether there or elsewhere), or any other partnership (wherever formed) which carries on a business, or part of a business, in any part of the United Kingdom, and, for the purposes of this section, a trade or profession is a business.

Appendix 3

Section 92 Care Act 2014 Offence

Care provider of a specified description commits an offence if it supplies, publishes or otherwise makes available information of a specified description.

The supply, publication or making available by other means of information of that description is required under an enactment or other legal obligation, and the information is false or misleading in a material respect.

But it is a defense for a care provider to prove that it took all reasonable steps and exercised all due diligence to prevent the provision of false or misleading information.

Care provider means a public body which provides health or adult social care services in England, or a person who provides health or adult social care services in England pursuant to arrangements made with a public body exercising functions in connection with the provision of such services or care, or a person who provides health services or adult social care services in England all or part of the cost of which is paid for by means of a direct payment under section 12A of the National Health Service Act 2006 or under Part 1 of this Act.

Appendix 4

Investigation Process, Sanctions and Redress

All investigations are conducted with NHS CFA 'Approach to sanctions' guidance in mind thereby allowing all appropriate sanctions to be brought to bear including;

- Civil – civil sanctions can be taken against those who commit fraud, bribery and corruption to recover money and/or assets which have been fraudulently obtained, including interest and costs.
- Criminal – the LCFS will work in partnership with NHS CFA, the police and/or the Crown Prosecution Service to bring a case to court against an alleged offender. Outcomes can range from a criminal conviction to fines and imprisonment.
- Disciplinary – the LCFS will work with the Trust's Human Resources Department with a view to disciplinary procedures being initiated where an employee is suspected of being involved in a fraudulent or illegal act. Investigations will be conducted in such a way that people's rights under both criminal and disciplinary processes are both fully observed.
- Professional body disciplinary – if warranted, staff may be reported to their professional body as a result of a successful investigation/prosecution.

Appendix 5

Extracts from Trust's Contract of Employment

1. Outside Employment and Financial Interests

If you work for an external Agency which provides services to the Trust, you are restricted from working for the Agency on a Trust assignment. If you are offered additional work via an agency for the Trust please contact the Trust Temporary Staffing Department who will arrange additional work through the Trust Bank.

Your employment with the Trust is also covered by the provisions set out in the Standards of Business Conduct for NHS Staff (HSG(93)5) which details guidance in maintaining ethical standards in the conduct of NHS Business. The guidance set out in the document, which can be obtained from the Trust intranet, is accepted by the Trust as its own policy. It is important that all staff understand the rules regarding declaring conflicts of interest, accepting gifts and hospitality etc and related important instructions which have been issued by the Department of Health.

2. Acceptance of Gifts

You must not accept any gift and/or favour of whatever kind from any person or supplier/prospective supplier of the Employer, without the consent of your Line Manager. Failure to obtain such consent will be treated as an act of gross misconduct under the Trust's Disciplinary Procedure.

3. Intellectual Property (IP)

The Trust encourages employees to participate in the generation and exploitation of IP as part of its commitment to delivering the best possible patient care. In the course of employment an employee may generate IP which may have value in the delivery of better patient care. This IP can be in the form of inventions, discoveries, surgical techniques or methods, developments, processes, schemes, formulae, specifications, or any other improvements, which give rise to certain Intellectual Property Rights. Where such IP is created then under UK law it will generally belong to the Trust, unless agreed otherwise in writing. Research outputs and resulting IP often represent a considerable investment by the Trust and are potentially of significant value to the Trust. You should treat IP as confidential and not disclose to any third party any research results or other information of a confidential nature. The full Department of Health national 'Framework and Guidance on IP' can be found [here](#).

The Trust's Innovation and Intellectual Policy can be found via the ICON intranet.

Appendix 6








Commercial Sponsorship

Before entering into any sponsorship agreement, the Trust should:

- Satisfy itself, with reference to information available, that there are no potential irregularities that may affect a company's ability to meet the conditions of the agreement or impact on it in any way e.g. checking financial standing by referring to company accounts.
- Assess the costs and benefits in relation to alternative options where applicable, and to ensure that the decision-making process is transparent and defensible.
- Ensure that legal and ethical restrictions on the disclosure of confidential patient information, or data derived from such information, are complied with. Additionally, disclosure for research purposes should not take place without the approval of the appropriate research ethics committee.
- Determine how clinical and financial outcomes will be monitored.
- Ensure that sponsorship agreements have break clauses built in to enable the Trust to terminate the agreement if it becomes clear that it is not providing expected value for money or clinical outcomes.

Appendix 7

Torbay and South Devon NHS Foundation Trust LCFS and Wider ASW Counter Fraud Team

	<p>Gareth Cottrell Counter Fraud Manager 01872 258057/07814 002364</p>		
	<p>Tracy Wheeler 01752 431378/07789 868568 tracy.wheeler2@nhs.net University Hospitals Plymouth NHS Trust Devon Partnership NHS Trust Livewell Southwest</p>		<p>Eli Hayes 0117 34 20828/07920 284239 elias.hayes@nhs.net University Hospitals Bristol and Weston NHS Foundation Bristol, North Somerset and South Gloucestershire CCG</p>
	<p>Adele Rilstone 07919868930 a.rilstone@nhs.net Torbay and South Devon NHS Foundation Trust</p>		<p>Alice Lee 01803 656440/07813 540022 alicelee1@nhs.net Devon CCG Out of Hours Service Providers</p>
	<p>Byron Kevern 07775 417508 byron.kevern@nhs.net Royal Cornwall Hospitals NHS Trust, Cornwall Partnership NHS Foundation Trust and Cornwall Care</p>		<p>Steve White stephen.white19@nhs.net Fraud Risk Assessment Specialist</p>
	<p>Sarah Smith Trainee Counter Fraud Specialist Sarah.Smith337@nhs.net 07467 685609</p>		