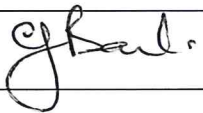


TOWER HAMLETS GP CARE GROUP (THGPCG) CIC COUNTER FRAUD AND CORRUPTION POLICY

Date Issued	1 st December 2017
Date to be reviewed	Periodically or if statutory changes are required
Title	Counter Fraud & Corruption Policy
Supersedes	All previous Policies
This policy will impact on	All staff
Financial Implications	No change
Policy Area	Governance & Finance
Version No	2.1
Issued By	Finance & Performance Committee
Author	Ruth Walters, updated by Zainab Arian
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Approval Record

	Committees / Groups / Individual	Date
Consultation	Clinical Quality, Safety & Governance Committee. Finance & Performance Committee	
Approved by		5/6/2018



INTRODUCTION

One of the basic principles of public sector organisations is the proper use of public funds. The majority of people who work in the NHS are honest and professional and they find that fraud committed by a minority is wholly unacceptable as it ultimately leads to a reduction in the resources available for patient care.

The NHS Counter Fraud Service (NHS CFS) is part of the NHS Counter Fraud and Security Management Service, a business unit of the NHS Business Services Authority. It has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud and corruption and the management of security in the NHS. All instances where fraud is suspected are properly investigated until their conclusion by staff trained by the NHS CFS. Any investigations will be handled in accordance with the NHS Counter Fraud and Corruption Manual.

THGPCG does not tolerate fraud and corruption within the NHS and aims to eliminate fraud and corruption in the NHS, as far as possible.

This document sets out the procedures that apply with regard to reporting of any detected or suspected fraud or other illegal act determined within or outside of the practice.

THGPCG will implement the generic areas of counter fraud action outlined below. A key element in achieving this is the appointment of an LCFS (Local Counter Fraud Specialist)

DEFINITIONS

Fraud

The Fraud Act 2006 represents an entirely new way of investigating fraud. It is no longer necessary to prove that a person has been deceived. The focus is now on the dishonest behavior of the suspect and their intent to make a gain or cause a loss.

The new offence of fraud can be committed in three ways:

- 1) Fraud by false representation - lying about something using any means, e.g. by words or actions.
- 2) Fraud by failing to disclose – not saying something when you have a legal duty to do so.
- 3) Fraud by abuse of a position of Company – abusing a position where there is an expectation to safeguard the financial interests of another person or organisation.

It should be noted that all offences under the Fraud Act 2006 occur where the act or omission is committed dishonestly and with intent to cause gain or loss. The gain or loss does not have to succeed, so long as the intent is there.

Corruption

This can be broadly defined as the offering or acceptance of inducements, gifts, favors, payment or benefit-in-kind which may influence the action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another. It is a common law offence of corruption to bribe the holder of a public office and it is similarly an offence for the office holder to accept a bribe.

Corruption prosecutions tend to be most commonly brought using specific pieces of legislation dealing with corruption, i.e. under the following:

- the Public Bodies Corrupt Practices Act 1889
- the Prevention of Corruption Acts 1889–1916
- the Anti-terrorism, Crime and Security Act 2001

Principles

There are three fundamental principles that govern everyone working in the practice:

1. Accountability – everything done by those who work in the practice must be able to stand the test of public and parliamentary scrutiny and judgements on propriety and professional codes of conduct.
2. Probity – absolute honesty and integrity should be exercised in dealing with suppliers, patients, staff and contracts.
3. Openness – the companies activities will be sufficiently transparent at all times so as to promote confidence between the practice and its providers, staff and patients. All financial records will be available and accessible by more than one person at all times.

It is therefore important that all those who work within the companies are aware of our commitment to the elimination of fraud and other illegal acts involving dishonesty or damage to property. For simplicity, all such offences are referred to as “fraud”, except where the context indicates otherwise.

Codes of Conduct

The code of Business Conduct for the THGPCG set out the key public service values. They state that high standards of corporate and personal conduct, based on the recognition that patients come first, have been a requirement throughout the NHS since its inception. These values are summarized as:

- **Accountability** - Everything done by those who work in the authority must be able to stand the tests of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.



- **Probity** - Absolute honesty and integrity should be exercised in dealing with NHS patients, assets, staff, suppliers and customers.
- **Openness** -The health body's activities should be sufficiently public and transparent to promote confidence between the authority and its staff and the public.
- All staff should be aware of and act in accordance with these values.

ROLES AND RESPONSIBILITIES

Introduction to Roles and Responsibilities

Through day-to-day work, our staff are in the best position to recognise any specific risks within their own areas of responsibility. We all have a duty to ensure that those risks – however large or small – are identified and eliminated. Where you believe the opportunity for fraud exists, whether because of poor procedures or oversight, you should report it to the direct line management or the NHS Fraud and Corruption Reporting Line.

THGPCG will take all necessary steps to counter fraud and corruption in accordance with this policy, the NHS Counter Fraud and Corruption Manual, the policy statement 'Applying Appropriate Sanctions Consistently' published by the NHS CFS and any other relevant guidance or advice issued by the NHS CFS.

The creation of an anti-fraud culture

THGPCG will use counter fraud publicity material to persuade employees that fraud and corruption is serious and takes away resources from important services. Such activity will demonstrate that fraud and corruption is not acceptable and is being tackled.

Maximum deterrence of fraud

Deterrence is about increasing the expectation that someone will be caught if they attempt to defraud – this is more than just tough sanctions and the Company will introduce such measures to minimise the occurrence of fraud and corruption.

Successful prevention of fraud that cannot be deterred

THGPCG has policies and procedures in place to reduce the likelihood of fraud and corruption occurring. These include a system of internal controls, Standing Financial Instructions and documented procedures, which involve physical and supervisory checks, financial reconciliation's, segregation and rotation of duties, and clear statements of roles and responsibilities. Where fraud and corruption has occurred, the company will ensure that any necessary changes to systems and procedures take place immediately to prevent similar incidents from happening in the future.



Prompt detection of fraud that cannot be prevented

THGPCG will develop and maintain effective controls to prevent fraud and corruption and to ensure that if it does occur, it will be detected promptly and referred to the LCFS for investigation.

Effective sanctions, including appropriate legal action against people committing fraud and corruption

Following the conclusion of an investigation, if there is evidence of fraud, available sanctions will be considered in accordance with the guidance issued by the NHS CFS – 'Applying Appropriate Sanctions Consistently'. This may include criminal prosecution, civil proceedings and disciplinary action, as well as referral to a professional or regulatory body.

Effective methods for seeking redress in respect of money defrauded

Recovery of any losses incurred will also be sought through civil proceedings if appropriate, to ensure losses to THGPCG and the NHS are returned for their proper use.

Role of THGPCG

THGPCG has a duty to ensure that it provides a secure environment in which to work, and one where people are confident to raise concerns without worrying that it will reflect badly on them. This extends to ensuring that staff feel protected when carrying out their official duties and are not placed in a vulnerable position. If staff have concerns about any procedures or processes that they are asked to be involved in, the organisation has a duty to ensure that those concerns are listened to and addressed.

The Clinical Director is liable to be called to account for specific failures in the company system of internal controls. However, responsibility for the operation and maintenance of controls falls directly to line managers and requires the involvement of all employees. The THGPCG has a duty to ensure employees who are involved in or who are managing internal control systems receive adequate training and support in order to carry out their responsibilities. Therefore, the Clinical Director and Chief Executive Officer/ Director of Finance will monitor and ensure compliance with this policy.

Employees

The THGPCG's Standing Financial Instructions, policies and procedures place an obligation on all employees to act in accordance with best practice.

Employees are expected to act in accordance with the standards laid down by their professional institutes, where applicable, and have a personal responsibility to ensure that they are familiar with them. Employees also have a duty to protect the assets of the company, including information, goodwill and property.

In addition, all employees have a responsibility to comply with all applicable laws and regulations relating to ethical business behavior, procurement, personal expenses, conflicts of interest, confidentiality and the acceptance of gifts and hospitality. This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees should always:

- avoid acting in any way that might cause others to allege or suspect them of dishonesty
- behave in a way that would not give cause for others to doubt that the Company's employees deal fairly and impartially with official matters
- be alert to the possibility that others might be attempting to deceive.

All employees have a duty to ensure that public funds are safeguarded, whether or not they are involved with cash or payment systems, receipts or dealing with contractors or suppliers. If an employee suspects that there has been fraud or corruption, or has seen any suspicious acts or events, they must report the matter to the LCFS.

Managers

Managers must be vigilant and ensure that procedures to guard against fraud and corruption are followed. They should be alert to the possibility that unusual events or transactions could be symptoms of fraud and corruption. If they have any doubts, they must seek advice from the nominated Lead.

Managers must instill and encourage an anti-fraud and -corruption culture within their team and ensure that information on procedures is made available to all employees. The LCFS will proactively assist the encouragement of an anti-fraud culture by undertaking work that will raise fraud awareness.

All instances of actual or suspected fraud or corruption, which come to the attention of a manager, must be reported immediately to the LCFS. It is appreciated that some employees will initially raise concerns with their manager. However, in such cases, managers must not attempt to investigate the allegation themselves; they have the clear responsibility to refer the concerns to the LCFS as soon as possible.

Line managers at all levels have a responsibility to ensure that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively. The responsibility for the prevention and detection of fraud and corruption therefore primarily rests with managers but requires the co-operation of all employees.

As part of that responsibility, line managers need to:

- inform staff of the code of business conduct and counter fraud and corruption policy as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms

- ensure that all employees for whom they are accountable are made aware of the requirements of the policy
- assess the types of risk involved in the operations for which they are responsible
- ensure that adequate control measures are put in place to minimise the risks. This must include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of a key function is not invested in one individual, and regular reviews, reconciliation's and test checks to ensure that control measures continue to operate effectively
- ensure that any use of computers by employees is linked to the performance of their duties.
- be aware of the counter fraud policy and the rules and guidance covering the control of specific items of expenditure and receipts
- identify financially sensitive posts
- ensure that controls are being complied with
- contribute to the assessment of the risks and controls within their practice, which feeds into the THGPCG overall statements of accountability and internal control.

Local Counter Fraud Specialist (LCFS)

The LCFS's role is to ensure that all cases of actual or suspected fraud and corruption are notified to the Director of Finance and reported accordingly.

The LCFS will regularly report to the Finance Committee on the progress of the investigation and when/if referral to the police is required.

The LCFS will:

- ensure that the Director of Finance is informed about all referrals/cases
- be responsible for the day-to-day implementation of the generic areas of counter fraud and corruption activity and, in particular, the investigation of all suspicions of fraud
- investigate all cases of fraud
- in consultation with the Director of Finance, report any case to the police or NHS CFS as agreed and in accordance with the NHS Counter Fraud and Corruption Manual
- report any case and the outcome of the investigation through the NHS CFS's national case management system (CMS)
- ensure that other relevant parties are informed where necessary, e.g. Human Resources (HR) will be informed if an employee is the subject of a referral
- ensure that incident and losses reporting systems are followed
- ensure that any system weaknesses identified as part of an investigation are followed up with management and reported to Internal Audit
- adhere to the Counter Fraud Professional Accreditation Board (CFPAB)'s Principles of Professional Conduct as set out in the NHS Counter Fraud and Corruption Manual



- ensure that the Director of Finance is informed of any investigations, including progress updates.

Director of Finance

The Director of Finance, in conjunction with the LCFS, monitors and ensures compliance with the Department of Health and Monitor directions regarding fraud and corruption.

The Director of Finance will, depending on the outcome of investigations (whether on an interim/ongoing or concluding basis) and/or the potential significance of suspicions that have been raised, inform appropriate senior management accordingly.

The LCFS shall be responsible, in discussion with the Director of Finance, for informing third parties such as external audit or the police at the earliest opportunity, as circumstances dictate.

The Director of Finance will inform and consult the Clinical Director/Deputy Clinical Director in cases where the loss may be above the agreed limit or where the incident may lead to adverse publicity.

The Director of Finance or the LCFS will consult and take advice from the Human Resources team if a member of staff is to be interviewed. The Director of Finance or LCFS will not conduct a disciplinary investigation, but the employee may be the subject of a separate investigation under the company's disciplinary policy and arrangements.

Internal and external audit

Any incident or suspicion that comes to internal or external audit's attention will be passed immediately to the nominated LCFS. The outcome of the investigation may necessitate further work by internal or external audit to review systems.

Human Resources

Human Resources team will liaise closely with managers and the LCFS from the outset if an employee is suspected of being involved in fraud and/or corruption, in accordance with agreed liaison protocols. Human Resources team are responsible for ensuring the appropriate use of the company's and/or Constituent Practices disciplinary procedure. They will advise those involved in the investigation on matters of employment law and other procedural matters, such as disciplinary and complaints procedures, as requested. Close liaison between the LCFS and Human Resources will be essential to ensure that any parallel sanctions (i.e. criminal, civil and disciplinary sanctions) are applied effectively and in a coordinated manner.

The Human Resources Lead will take steps at the recruitment stage to establish, as far as possible, the previous record of potential employees, as well as the veracity of required qualifications and memberships of professional bodies, in terms of their propriety and integrity. In this regard, temporary and fixed-term contract employees are treated in the same manner as permanent employees.

Information management and technology

The Lead of Information Technology will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. The Human Resources Lead will also be informed if there is a suspicion that an employee is involved.

THE RESPONSE PLAN

Reporting fraud or corruption

This section outlines the action to be taken if fraud or corruption is discovered or suspected. If an employee has any of the concerns mentioned in this document, they must inform the nominated LCFS or the direct Line Manager immediately, unless the Line Manager or LCFS is implicated. If that is the case, they should report it to the Clinical Director or Deputy Clinical Director who will decide on the action to be taken.

An employee can contact the Clinical Director or Deputy Clinical Director to discuss their concerns if they feel unable, for any reason, to report the matter to the LCFS or Director of Finance.

Employees can also call the NHS Fraud and Corruption Reporting Line. This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting the NHS. It allows NHS staff that are unsure of internal reporting procedures to report their concerns in the strictest confidence. Experienced trained staff deal with all calls and any caller who wishes to remain anonymous may do so.

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

The LCFS will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised. If the allegations are found to be malicious, they will also be considered for further investigation to establish their source.

Staff are always encouraged to report reasonably held suspicions directly to the LCFS by telephone, email or post.



The THGPCG and its constituent Practices wants all employees to feel confident that they can expose any wrongdoing without any risk to themselves. In accordance with the provisions of the Public Interest Disclosure Act 1998, the Company/Practices have produced a Whistle Blowing Policy. This also supports and complements the company's counter fraud and corruption policy, and code of business conduct and ensures there is full provision for staff to raise any concerns with others if they do not feel able to raise them with their line manager.

Disciplinary action

The disciplinary procedures THGPCG must be followed if an employee is suspected of being involved in a fraudulent or otherwise illegal act. It should be noted, however, that the duty to follow disciplinary procedures will not override the need for legal action to be taken (e.g. consideration of criminal action). In the event of doubt, legal statute will prevail.

Police involvement

In accordance with the NHS Counter Fraud and Corruption Manual, the Director of Finance, in conjunction with the LCFS, will decide whether or not a case should be referred to the police. Any referral to the police will not prohibit action being taken under the local disciplinary procedures.

Managing the investigation

The LCFS, in consultation with the Director of Finance, will investigate an allegation in accordance with procedures documented in the NHS Counter Fraud and Corruption Manual issued by the NHS CFS.

The LCFS must be aware that any staff under an investigation that may lead to disciplinary action have the right to be represented at all stages. In certain circumstances, evidence may best be protected by the LCFS recommending to the Company that the staff member is suspended from duty. The Company will make a decision based on HR advice on the disciplinary options, which include suspension.

The company and/or Practice will follow its disciplinary procedure if there is evidence that an employee has committed an act of fraud or corruption.

Gathering evidence

The LCFS will control any physical evidence, and record this in accordance with the procedures outlined in the NHS Counter Fraud and Corruption Manual. If evidence consists of several items, such as many documents, LCFS should record each one with a separate reference number corresponding to the written record. Note that in criminal actions, evidence on or obtained from electronic media needs a document confirming its accuracy.

Interviews under caution or to gather evidence will only be carried out by the LCFS, if appropriate, or the investigating police officer in accordance with the Police and Criminal Evidence Act 1984 (PACE). The LCFS will take formal written statements where necessary, under PACE.

All employees have a right to be represented at internal disciplinary interviews by a trade union representative or accompanied by a friend, colleague or any other person of their choice, not acting in a legal capacity in connection with the case.

The application of the counter fraud and corruption policy will at all times be in tandem with all other appropriate policies, e.g. Standing Financial Instructions (SFIs).

Recovery of losses incurred to fraud and corruption

The seeking of financial redress or recovery of losses should always be considered in cases of fraud or corruption that are investigated by either the LCFS or NHS CFS where a loss is identified. As a general rule, recovery of the loss caused by the perpetrator should always be sought. The decisions must be taken in the light of the particular circumstances of each case.

Redress allows resources that are lost to fraud and corruption to be returned to the NHS for use as intended, for provision of high-quality patient care and services.

Reporting the results of the investigation

The investigation process requires the LCFS to review the systems in operation to determine whether there are any inherent weaknesses. Any such weaknesses identified should be corrected immediately.

If fraud or corruption is found to have occurred, the LCFS should prepare a report for the Director of Finance and the Audit Committee meeting, setting out the following details:

- the circumstances
- the investigation process
- the estimated loss
- the steps taken to prevent a recurrence
- the steps taken to recover the loss.

This report should also be available to the Board of Directors.

Action to be taken

Sections 10 and 11 of the NHS Counter Fraud and Corruption Manual provide in-depth details of how sanctions can be applied where fraud and corruption is proven and how redress can be sought. To summarise, local action can be taken to recover money by using the administrative procedures of the Company or by using civil law.

In cases of serious fraud and corruption, THGPCG will seek to apply parallel sanctions, where possible. For example: disciplinary action relating to the status of the employee in the NHS; use of civil law to recover lost funds; and use of criminal law to apply an appropriate criminal penalty upon the individual(s), and/or a possible referral of information and evidence to external bodies – for example, professional bodies – if appropriate.

The NHS CFS can also apply to the courts to make a restraining order or confiscation order under the Proceeds of Crime Act 2002 (POCA). This means that a person's money is taken away from them if it is believed that the person benefited from the crime. It could also include restraining assets during the course of the investigation.

Actions that may be taken when considering seeking redress include:

- No further action
- Criminal investigation
- Civil recovery
- Disciplinary action
- Confiscation order under POCA
- Recovery sought from ongoing salary payments
- Referral to a debt collection agency

In some cases (taking into consideration all the facts of a case), it may be that the Company, under guidance from the LCFS and with the approval of the Director of Finance, decides that no further recovery action is taken. In this instance the information will about the loss to the Company will be held on file for intelligence purposes for 3 years.

Criminal investigations are primarily used for dealing with any criminal activity. The main purpose is to determine if activity was undertaken with criminal intent. Following such an investigation, it may be necessary to bring this activity to the attention of the criminal courts (magistrates' court and Crown court). Depending on the extent of the loss and the proceedings in the case, it may be suitable for the recovery of losses to be considered under POCA.

The civil recovery route will be considered by the Company if this is cost-effective and desirable for deterrence purposes. This could involve a number of options such as applying through the Small Claims Court and/or recovery through debt collection agencies. Each case needs to be discussed with the Director of Finance to determine the most appropriate action. The appropriate senior manager, in conjunction with the Human Resources Lead, will be responsible for initiating any necessary disciplinary action. Arrangements may be made to recover losses via payroll if the subject is still employed by the Company. In all cases, current legislation must be complied with.



Timescales

Action to recover losses should be commenced as soon as practicable after the loss has been identified. Given the various options open to the Company, it may be necessary for various departments to liaise about the most appropriate option.

Recording

To provide assurance that policies were adhered to, the Director of Finance will maintain a record highlighting when recovery action was required and issued and when the action taken. This will be reviewed and updated on a regular basis.

Monitoring and Effectiveness

Monitoring the effectiveness of this policy will be especially the responsibility of the Local Counter Fraud Specialist, and will be considered in the routine reporting of all matters relating to counter fraud, risk of fraud and actual fraud to the Finance and Audit Committee.

Equality Impact Assessment Tool for this Policy

To be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval

Policy Name:

Name of Assessor:

		Yes/No/Possible/Not Applicable	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	Race		
	Religion or belief		
	Disability – learning disabilities, physical disability, sensory impairment and mental health problems		
	Gender		
	Sexual Orientation		
	Age		
2.	Is there any evidence that some groups are affected differently?		
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?		
4.	Is the impact of the policy/guidance likely to be negative?		

5.	If so can the impact be avoided?		
6.	What alternatives are there to achieving the policy/guidance without the impact?		
7.	Can we reduce the impact by taking different action?		