COUNTERING

FRAUD, BRIBERY & CORRUPTION

IN THE NHS

# The aims of this module are:

* To inform you about the risk of fraud, bribery and corruption that can occur within the Clinical Commissioning Groups and its member practices
* To introduce your Counter Fraud Specialist
* To explain what you should do if you have concerns regarding fraud, bribery or corruption

# Why do you need to know about the NHS Counter Fraud, Bribery & Corruption initiative?

As the Clinical Commissioning Groups (CCG) are responsible for much of NHS spending, it is imperative that all staff are aware of the risks that exist because staff are ideally placed to contribute to the prevention and detection of fraud, bribery & corruption. Fraud has been estimated to cost the NHS around £5billion per year and in comparison, this amount could be used to fund around 250,000 new nursing posts.

Arrangements for tackling fraud in the NHS were established in 1998 when it was recognised that fraud was a major issue for the NHS. NHS fraud is committed by staff, professionals, patients, contractors and managers. But the fact is, no matter who it is committed by, it is damaging the Health Service as funds are being diverted away from patient care. Every NHS Organisation within England and Wales has a nominated Local Counter Fraud Specialist (LCFS) who is dedicated to investigating fraud and implementing the national fraud strategy. To date, their work has found fraud in every area of the NHS and the work that they have undertaken has resulted in hundreds of millions of pounds being recouped and many fraudsters being prosecuted

In recent years, GP practices themselves have also lost significant sums of money through such criminal acts and so an understanding of the risks is also important for their own practice staff.

We are **ALL** responsible for ensuring that fraud, bribery and corruption cannot easily be carried out by correctly following relevant policies and procedures and by promptly reporting any concerns that we have.

# WHAT IS FRAUD?

In the simplest of terms, Fraud is theft with an element of deception involved. The most common offences under the Fraud Act 2006 are:

**Fraud by false representation** – e.g. submission of false timesheets for shifts not worked.

**Fraud by failing to disclose** – e.g. failing to declare criminal convictions when applying for NHS employment.

**Fraud by abuse of position** – e.g. a person in a position of trust using their position to commit Fraud. (Some Fraud offences, committed before 15th January 2007, continue to be prosecuted under the Theft Acts)

# Fraud by False Representation

There are numerous ways in which somebody might falsely represent or falsify information in order to make a gain for themselves or expose another to a loss. Examples of this would include but are not limited to:

* The falsification of staff timesheets or expense claims;
* Pharmacies falsely endorsing prescription forms after dispensing and/or conspiring with wholesalers and overstating the cost of specials;
* Providers inflating the costs attributed to Continuing Care by invoicing for additional costs for services that have not been delivered;
* Patients creating false identities in order to register with multiple GP practices and increasing the amount of medication they are prescribed;
* Criminal gangs purporting to represent existing creditors by using mocked up letters and other documents in order to change creditor bank details to their own.

# Fraud by Failure to Disclose

A Fraud offence is also committed when somebody has a legal duty to disclose information but dishonestly fails to do so, in order to make a gain for themselves or expose another to a loss. Examples of this would include, but are not limited to:

* + Staff failing to report salary overpayments and keeping the money for their own benefit;
  + Staff failing to declare that they are subject to a criminal investigation and/or prosecution where this is a requirement of their employment;
  + Failure to declare all outside interests as they arise, allowing conflicts of interest to occur.

# Fraud by Abuse of Position

Fraud by abuse of position where somebody dishonestly uses their position to make a gain for themselves or expose another to a loss. Examples of this would include but are not limited to:

* + A GP Practice Manager using their position of trust in order to increase their salary, redirect payments to their own bank accounts and/or order goods for personal use;
  + A CCG member or a staff member with outside interests inappropriately using their position to influence CCG decisions, in such a way as to ensure they make a gain and/or another party makes a loss;
  + A staff member using their position to cause payments to be made that would not otherwise be made (for example to a bank account in their name or that of a family member).

# The Bribery Act 2010

Bribery is offering an incentive to someone to do something which they wouldn’t otherwise do. In the context of the Bribery Act 2010, the offence of Bribery refers to both the acceptance and the offer of (whether or not the offer is accepted), a bribe.

Any individual associated with an organisation acting in such a way may be prosecuted under the Act for a primary Bribery offence, or for conspiracy to commit the offence with others.

The Bribery Act 2010 also introduced a new corporate offence, meaning that organisations will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent Bribery.

# Preventing Bribery

Bribery, by its very nature, usually involves secretive and undisclosed activity. It is therefore essential that all

activity and circumstances which might give rise to a conflict of interest, or which might create the opportunity

for Bribery, are disclosed by all employees and recorded in the organisation’s registers for such disclosures.

The existence of policies requiring the declaration of other employment, business interests and gifts and hospitality (both offered and received), demonstrates that the organisation has taken appropriate action to satisfy the requirements for the prevention of Bribery.

Awareness of and compliance with your organisation’s policies regarding such disclosures may also offer protection to employees who might otherwise themselves be accused of Bribery. All employees must therefore ensure that they have read and comply with the organisation’s policies concerning the disclosure of other employment, declarations of interest and gifts and hospitality.

# TAKING ACTION

**Nationally between 1999 and 2013:**

More than **£70 million** was recovered through NHS counter fraud work; and **849** criminal sanctions were applied to perpetrators of fraud against the NHS.

# In 2012/13 alone:

More than **£985,000** was recovered; **128** criminal sanctions were applied; and **435** civil, disciplinary and internal sanctions were applied.

**Can anyone investigate fraud, bribery & corruption?** (such as a line manager or a Human Resources Officer)

**NO**

It is a requirement that only a nominated and professionally accredited Counter Fraud Specialist can undertake investigations of fraud, bribery & corruption for each Health Body, NHS organisation and/or provider of healthcare services to the NHS. This is to ensure that legislation governing criminal investigations (including the Human Rights Act and Data Protection Act) is not breached and as a consequence, that any potential criminal prosecution is not compromised.

**However, …** The CFS works very closely with Human Resources whenever a member of staff is under investigation.

# What do I do if I think fraud, bribery or corruption is occurring?

**Do** make a note of your suspicions. Sign the note, date it and keep it safe.

**Do** try to secure or copy documents you believe to be suspicious. **Do** immediately contact your Counter Fraud Specialist.

**Don’t** investigate the matter yourself or report it to anyone other than the Counter Fraud Specialist – this may compromise any potential prosecution.

**Don’t** undertake any covert surveillance – this will breach the Human Rights Act.

# Can I report my suspicions anonymously?

Yes, and anonymous referrals will be investigated. You might wish to consider that it can sometimes be useful if

you provide contact details such as a mobile phone number in case further information is required later. Even if

you only give a contact reference and telephone number, this may help with the investigation as initial enquiries

might prove inconclusive. The investigator may therefore need to come back to you to see if you have any further information which might help them progress the investigation fully.

If you do give minimal contact details these will not be used to identify you.

# What if I am wrong?

Never be afraid to raise your suspicions directly with your Counter Fraud Specialist even though you may be

wrong…You could be right!

There will be no ramifications for raising an issue you believe to be fraud, bribery or corruption, regardless of how

the investigation is concluded, as long as your referral was made in good faith.

If you are uncertain whether a referral is needed, you should contact your Counter Fraud Specialist anyway for advice.

The person investigated will not be disadvantaged if the investigation undertaken does not uncover any fraudulent or corrupt activity.

# What if I am right?

Your Counter Fraud Specialist will have validated the suspicions and uncovered evidence.

The person under investigation will have explained their actions at a formal interview under caution. (Whatever is

said can be used in a criminal prosecution).

A decision will be reached regarding appropriate sanctions to be pursued.

Any ongoing loss will be stopped, losses incurred calculated and a decision will be made regarding appropriate

recovery action.

# How do I contact my Counter Fraud Specialist?

You can call the National NHS Fraud and Corruption Reporting Line (open 8am – 6pm) on 0800 028 40 60, or

report online at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk/)

# What action might be taken?

There are four routes by which action can be taken against those who commit fraud, bribery or corruption:

# Civil Recovery

Action will be taken to recover sums obtained. Although this might initially be sought by agreement, the civil courts can be used if required.

# Disciplinary Action

Evidence of fraud, bribery or corruption would lead to disciplinary action and, potentially, the termination

of employment for gross misconduct.

# Professional Disciplinary

Action may be taken by professional bodies such as the NMC, HPC and GMC. This could lead to the end of

an offender’s career.

# Criminal Sanction

This could take the form of a caution for minor offences, or lead to prosecution in more serious cases. Fraud, bribery and corruption can attract significant sentences from the courts.

# Case Study 1

**GP Practice – Practice Manager Fraud**

A GP Practice manager was employed at one practice for 10 years. One of her duties was to oversee payroll. She

abused this position to increase her own pay substantially. At their peak, her earnings hit £17,000 gross per

month. She claimed 220 hours per month in overtime alone, when she was contracted to work 156 hours per month with no overtime. She even claimed overtime whilst away from work on a two-­‐ week holiday.

Over a two-­‐and-­‐a-­‐half-­‐year period she paid herself an extra £108,615.17 in salary plus £159,244.40 in overtime that she was not entitled to.

She was sentenced to 3 years’ imprisonment for the £267k fraud.

# Case Study 2

**Out of Area Treatment—Hyperbaric Pressure Chamber**

Pressure chambers are used by divers who surface too quickly resulting in ‘the bends.’ Specialist facilities are

dotted around the country, usually at diving schools etc. Three men used the personal details of divers who had

never used the pressure chamber or suffered the bends. 37 false patients were created to charge 12 health

bodies for services not provided. £6,500 was claimed each time with false charges occurring over a 4-­‐year period. A total of over £250,000 was defrauded.

Two of the men received prison sentences of 5years 3months and 2years 3months respectively, with an accomplice receiving a 2year suspended sentence.

# Case Study 3

**Charity Fraud—Fraud by Charity Treasurer**

Fraud was committed against a charity funded by 2 PCTs to provide advice on safe sex. The Treasurer obtained a

debit card and began misusing charity funds He began to live an extravagant lifestyle and purchased a Mercedes.

He was found to have misappropriated over £140,000 of the charity’s money.

Following his arrest, the charity went into liquidation with 5 job losses. The Former Treasurer was sentenced to 2 years’ imprisonment.

# Case Study 4

**Continuing Care—NHS Manager fraud**

An NHS Continuing Care Manager invented a care home. 31 invoices were submitted for the care of patients

whose details were taken from a register of real NHS patients receiving continuing care (including palliative care.)

Invoices were checked and verified for payment by the Continuing Care Manager. Payments were made into an accomplice’s bank account. The fraud totaled £117,812.30.

Both the NHS Manager and the accomplice were prosecuted. £46,000 was recovered from the perpetrator’s bank accounts.

# Case Study 5 Pharmacy—Repeat Prescriptions

A patient asked for a repeat prescription from their GP only to find that their repeat prescription had already been obtained by their pharmacy. The prescriptions had been endorsed as dispensed when no drugs had been given to the patient. After investigating repeat prescriptions, it was found that there were multiple patients in the same situation. A Police search at the Pharmacist’s home found £60k+ in sterling, £2k US dollars and a considerable sum of Indian Rupees.

The subject was sentenced to 12 months’ imprisonment and an order was made to confiscate assets to the sum

of £45,000.