

The NHS Confederation

Charity number 1090329

Company number 04358614

Anti-Financial Corruption Policy Including Anti-Bribery, Anti-Fraud and Anti-Money Laundering

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Director of People & Governance

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1.0 Purpose

This policy sets out our responsibilities, and the responsibilities of those working for us, in preventing bribery, fraud, money laundering and corruption. It also provides information and guidance on how to recognise and deal with corruption issues.

The Fraud Act 2006 and Bribery Act 2010 imposes extensive obligations on organisations to ensure they have adequate procedures in the place to prevent fraud and bribery from occurring in their organisation.

The laws on anti-money laundering in the UK are set out below. This legislation imposes obligations on organisations to ensure they have adequate procedures in the place to prevent money laundering from occurring in their organisation.

1. the Proceeds of Crime Act 2002 (POCA) (as amended by the Serious Organised Crime and Police Act 2005 (SOCPA)),
2. the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017), and
3. the Terrorism Act 2000 (TA 2000) (as amended by the Anti-Terrorism, Crime and Security Act 2001 (ATCSA 2001) and the Terrorism Act 2006 (TA 2006)

The NHS Confederation is committed to complying with the all legislation and for the prevention of fraud. This policy and guidance notes explain the steps we have put in place.

2.0 Scope

This policy applies to everyone working at or with the NHS Confederation¹. It applies to:

- all staff, including chief executives, directors, senior managers, employees (whether permanent, fixed-term or temporary), seconded staff, homeworkers, agency workers and volunteers
- consultants and contractors
- trustees and committee members.

Any employing or contracting manager must ensure that all temporary staff, consultants, or contractors are aware of this policy.

By the NHS Confederation we mean the NHS Confederation charity, any subsidiary companies and any hosted networked organisation.

The NHS Confederation has designated the Director of People & Governance as the individual who is responsible for ensuring that the NHS Confederation implements this policy.

¹ Collectively referred to as workers in this policy

This policy should be read in conjunction with the organisation's Anti-Fraud Policy, Conflicts of Interest Policy, Whistleblowing Policy and Gifts and Hospitality Policy.

3.0 Roles and Responsibilities

The NHS Confederation Trustees have overall responsibility for ensuring this policy complies with our legal and ethical obligations and that all those under our control comply with it. Trustees are required to complete a declaration of interest form annually or more frequently as appropriate.

The **Director of People & Governance** has primary responsibility for implementing this policy across the NHS Confederation as a whole, and for monitoring its use and effectiveness and dealing with any queries on its interpretation.

Directors are responsible for ensuring that adequate internal control exists within their areas of responsibility, upholding the values of the organisation, this policy and our approach to preventing financial corruption. This includes ensuring staff within their teams are familiar with this policy and the organisation's financial practices. Trustees and Directors are required to complete a declaration of interest form annually or more frequently as appropriate.

All workers must ensure that they read, understand and comply with this policy. All workers are responsible for the prevention and reporting of bribery, fraud, money laundering and corruption. All workers have a duty to remain vigilant for inappropriate financial behaviour. Where it is considered appropriate workers may be required to complete a declaration of interest form.

All Trustees, Directors, and Workers are required to undertake the mandatory training provided by the NHS Confederation which includes a module on Bribery Act and Anti-Fraud Awareness. Completion of the training is required on appointment and every 3 years after that.

4.0 Policy statement

The NHS Confederation's policy is to conduct all of our business in an honest and ethical manner. We are committed to acting with integrity in all our business dealings and relationships and to implementing effective systems to prevent bribery, fraud and money laundering. We will uphold all laws relevant to countering bribery, fraud, money laundering and corruption, in everything that we do. This includes our dealings with our members, stakeholders, partners and public and private sector organisations.

The Home Office and HM Treasury National Risk Assessment (2020) confirms that the charity sector remains a low risk for money laundering and funding of terrorism, particularly for organisations that do not receive cash donations or work close to war zones or countries in crisis.

The NHS Confederation adopts a risk based approach to anti money laundering and conducting due diligence. Whilst much of our financial activities could be considered very low risk from the prospect of money laundering, all staff need to be vigilant against crime and fraud risks the organisation faces. As such the NHS Confederation assesses risks relevant to our operations and puts in place appropriate processes and procedures that we deem necessary to mitigate these risks

In this policy, "third party" means any individual or organisation you come into contact with during the course of your work for the NHS Confederation and includes actual and potential clients, member organisations, suppliers, distributors, business contacts, agents, advisers, and government and public bodies, including their advisors, representatives and officials, politicians and political parties.

If the NHS Confederation is found to have taken part in any corruption we could incur an unlimited fine, and suffer incalculable damage to our reputation. Any individual found to have been involved in any bribery, fraud, money laundering and/or corruption could also face up to 10-14 years imprisonment. We therefore take our legal responsibilities very seriously.

Senior management will deal promptly, firmly and fairly with suspicions and allegations of inappropriate financial behaviour. Each case will be considered individually, taking all the relevant facts into account and guided by professional advice, as appropriate.

All investigations will be overseen by the Director of People & Governance and incidents will be reported to the authorities as appropriate. In complex cases, the organisation may also bring in experienced individuals to ensure proper support for the investigation. All acts of fraud will be taken very seriously and the organisation takes a zero tolerance approach to dishonesty and fraudulent activity. Cases will normally be reported to the police.

Our zero-tolerance approach to any financial wrong-doing must be communicated to all suppliers, contractors and other third parties with whom the organisation has dealings at the outset of our business relationship with them including a requirement for compliance in all contracts with suppliers.

5.0 Guidance notes

5.1 What is bribery?

A bribe is an inducement or reward of a financial or other advantage that is offered, promised or provided to a person in order to gain any commercial, contractual, or personal advantage through the improper performance as a result of the bribe.

Providing a financial or other advantage: it is an offence for a person to offer or provide a financial or other advantage to another person, where the advantage is intended to induce a person to "perform improperly" or reward them for that improper performance.

“Financial or other advantage” means payments, gifts, hospitality or anything else that could be reasonably perceived as an “advantage” as we would understand it by normal everyday meaning

“Improper performance” means performance in breach of an expectation that a person will act in good faith, impartially, or in accordance with a position of trust

Requesting or accepting a financial or other advantage: it is an offence to request or accept a financial or other advantage, with the intention that, as a consequence, a relevant function or activity should be performed improperly.

Examples of bribes

1) Offering a bribe: a bribe would occur if:

A gift or payment was made by an NHS Confederation worker to an individual who was responsible for deciding on issues of which they had been lobbied by the NHS Confederation and that gift or payment was given with the intention that the individual would make an improper decision about the relevant issue.

2) Receiving a bribe: a bribe would occur if:

An NHS Confederation worker received lavish hospitality from a company that was provided with the intention to induce the employee to improperly advise an NHS Confederation member to do business with the company.

3) Bribing a foreign official: a bribe would occur if:

An NHS Confederation worker gives a gift or lavish hospitality to a foreign official with the intention of influencing the foreign official in making a decision that is favourable to NHS Confederation members.

Scenarios where bribery could occur

The following is a list of possible scenarios which may raise concerns in relation to bribery. The list is not intended to be exhaustive and is for illustrative purposes only.

If you encounter any of these issues while working for us, you must report them promptly to your Line Manager or to the Director of People & Governance using the procedure set out in the organisation's Whistleblowing Policy:

- you become aware or suspect that a colleague or third party engages in, or has been accused of engaging in, improper business practices;
- you learn or suspect that a colleague or third party has a reputation for paying bribes, or requiring that bribes are paid to them;

- a colleague or third party asks for a commission or fee payment before committing to sign up to a contract with us;
- a colleague or third party requests payment in cash and/or refuses to sign a formal contract , or to provide an invoice or receipt for a payment made;
- a colleague or third party requests that payment or other benefit is provided to a person other than the expected recipient, or to a person other than the expected provider of goods and services);
- a third party requests an unexpected additional fee or commission to "facilitate" a service;
- a third party requests lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
- a colleague or third party requests that you provide employment or some other advantage to a friend or relative;
- you receive an invoice from a colleague or third party that appears to be non-standard or customised;
- you notice that we have been invoiced for a commission or fee payment that appears large given the service stated to have been provided;
- you are offered an unusually generous gift or offered lavish hospitality by a third party;
- you are asked to conceal the receipt of provision of hospitality or any other form of benefit or payment;
- a colleague or third party exerts pressure for payments to be made urgently or ahead of schedule;
- a colleague or third party insists on dealing with specific contractors him/herself;
- a colleague or third party makes unexpected or illogical decisions accepting projects or contracts;
- a colleague or third party abuses or ignores normal decision processes or delegated powers in specific cases;
- a colleague or third party agrees contracts not favourable to the NHS Confederation either with terms or time period;
- a colleague or third party demonstrates an unexplained preference for certain contractors during a tendering period;
- a colleague or third party seeks to avoid independent checks on tendering or contracting processes;
- a colleague or third party requests that normal tendering/contracting procedure is bypassed;

5.2 What is fraud?

The term fraud is usually used to describe depriving someone of something by deceit. This might either be straightforward theft, misuse of funds or other resources, or more complicated crimes like false accounting and the supply of false information.

Fraudulent acts include: deception; bribery; forgery; extortion; corruption; theft; conspiracy; embezzlement; misappropriation; concealment of material facts; and collusion.

The Fraud Act 2006 gives a statutory definition of the criminal offence of fraud, defining it in three classes - fraud by false representation; fraud by failing to disclose information;

and fraud by abuse of position. A person found guilty of fraud is liable for a fine or imprisonment.

Fraud is committed by the act of seeking improper benefit. It is a crime to have intention to defraud not just to commit the act.

Examples of fraud

Some examples of fraud and similar irregularities include:

- Forgery or alteration of a payable invoice, expense claim, cheque, letter or contract
- Misappropriation or misuse of funds, supplies or other asset owned by the NHS Confederation
- Any irregularity in the handling or reporting of any transactions
- Misappropriation or misuse of NHS Confederation property, equipment, materials, information or records
- Computer related activity involving the alteration, destruction, forgery or manipulation of data for fraudulent purposes
- Any claim for reimbursement of expenses not incurred completely and exclusively in the performance of official duty or in line with the Travel and Expenses policy.

5.3 What is Money Laundering?

Money laundering is defined in the Proceeds of Crime Act as *“the process by which the proceeds of crime are converted into assets which appear to have a legitimate origin, so that they can be retained permanently or recycled into further criminal enterprises”*.

The following acts are defined as money laundering offences:

- Concealing, disguising, converting, or transferring criminal property or removing criminal property from the UK.
- Entering into, or become concerned in, an arrangement which you know or suspect will assist the acquisition, retention, use or control of criminal property or on behalf of another person.
- Acquiring, using or possessing criminal property.

These are primary money laundering acts. Two secondary offences are also defined which relate to the failure to disclose any of the three primary acts, and tipping off. Tipping off is where someone informs a person or persons involved in, or suspected to be involved in money laundering acts, in such a way as to reduce the likelihood of their being investigated.

In addition, under the Terrorism Act 2000 it is an offence to make funds available to a person you know, or reasonably suspects, will or may use such funds for the purposes of terrorism. If you have such a suspicion this must be raised to the MLRO immediately

For the purpose of the guidance notes, Property and Money Laundering relates to money or money's worth, securities, tangible property and intangible property.

6.0 Raising concerns

Workers must notify their line manager or the Director of People & Governance as soon as possible if they believe or suspect that this policy or any other has or may be breached. If you are unsure whether a particular act constitutes bribery, or if you have any other queries, these should be raised with your line manager or the Director of People & Governance.

7.0 Monitoring and Review

The Director of People & Governance will monitor the effectiveness and review the implementation of this policy, regularly considering its suitability, adequacy and effectiveness, taking into account legal developments and changes in the organisation's business.