

ANTI-FRAUD AND ANTI-BRIBERY POLICY

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Related Policies	Policy on the Management of Conflicts of Interest, including the Gifts, Hospitality and Commercial Sponsorship Policy
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Stakeholders	Board of Directors Governors' Council All Staff Audit Committee Consultants Vendors Contractors
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Version	Date	Author	Author's Job Title	Changes
V1				New Policy
V2	October 2014	Sarah Catterall	LCFS	Assimilation of Baker Tilly preferred policy model
V3	2015	Gary Douglas	LCFS	No material changes – regular review
V4	October 2017	Julie McCarthy	For RSM LCFS	Assimilation of NHS Counter Fraud Authority preferred policy model
V5	November 2018	Julie McCarthy	RSM LCFS	Assimilation of NHS Counter Fraud Authority preferred policy model

Summary of the policy

This document sets out The Queen Elizabeth Hospital, King's Lynn NHS Foundation Trust's policy and advice to employees in dealing with suspected fraud, bribery or corruption. This policy details the arrangements made in the organisation for such concerns to be raised by employees or members of the public.

Key words to assist the search engine

Fraud, bribery, corruption

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1. Introduction

1.1 General

The Queen Elizabeth Hospital, Kings Lynn, NHS Foundation Trust (to be referred to as QEH) is committed to reducing the level of fraud and corruption within the NHS to an absolute minimum and keeping it at that level, freeing up public resources for better patient care.

QEH is committed to tackling fraud, bribery and corruption within the NHS and in so doing will take appropriate measures as set out under the NHS Counter Fraud Authority's (NHSCFA) key principles of strategic governance; inform and involve; prevent and deter; and hold to account.

1.2 Aims and objectives

This policy is intended as a guide for all staff within QEH countering fraud, bribery and corruption. It details the organisation's commitment to the proper use of public funds and outlines roles and responsibilities for the prevention of fraud. In addition, it details the arrangements for concerns to be raised by employees or members of the public.

The overall aims of this policy are to:

- Improve the knowledge and understanding of everyone in QEH, irrespective of their position, about the risk of fraud and bribery within the organisation and its unacceptability.
- Assist in promoting a climate of openness and a culture and environment where staff members feel able to raise concerns sensibly and responsibly.
- Set out QEH responsibilities in terms of the deterrence, prevention, detection and investigation of fraud and bribery.
- Ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
 - Criminal prosecution;
 - Civil proceedings; and/or,
 - Internal/external disciplinary action (including professional/regulatory bodies).

1.3 Scope

This policy applies to all employees of QEH, regardless of position held, as well as consultants, vendors, contractors, and/or any other parties who have a business relationship with QEH. It will be brought to the attention of all employees and form part of the induction process for new staff. It is incumbent on all the above to report any concerns they may have concerning fraud and bribery.

In implementing this policy, managers must ensure that all staff members are treated fairly and within the provisions and spirit of QEH Equal Opportunities Policy. Special attention should be paid to ensuring the policy is understood where there may be barriers to understanding caused by the individual's circumstances, where the individual's literacy or use of English is weak, or where the individual has little experience of working life.

2. Definitions

2.1 NHS Counter Fraud Authority (NHSCFA)

The NHSCFA has the responsibility for the detection, investigation and prevention of fraud and economic crime within 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.

A copy of the NHSCFA strategy: Leading the fight against NHS fraud: Organisational strategy 2017-2020 is available at: <https://cfa.nhs.uk/about-nhscfa/corporate-publications>.

2.2 Counter fraud standards¹

A requirement in the NHS standard contract is that a provider of NHS services (that holds a NHS Provider Licence or is an NHS Trust) must take the necessary action to comply with the NHSCFA's counter fraud standards. Others should have due regard to the 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.

2.3 Fraud²

Any person who dishonestly makes a false representation to make a gain for himself or another or dishonestly fails to disclose to another person, information which he is under a legal duty to disclose, or commits fraud by abuse of position, including any offence as defined in the Fraud Act 2006.

2.4 Bribery and corruption³

Bribery and corruption involves offering, promising or giving a payment of benefit-in-kind to influence others to use their position in an improper way to gain an advantage. Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event. Bribery 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.

3. Roles and responsibilities

3.1 Chief Executive

The Chief Executive (or equivalent) has the overall responsibility for funds entrusted to the organisation as the Accounting Officer. This includes instances of fraud and bribery. The Chief Executive must ensure adequate policies and procedures are in place to protect the organisation and the public funds entrusted to it.

3.2 Board or equivalent body

The board and non-executive directors should provide clear and demonstrable support and strategic direction for counter fraud, bribery and corruption work. The board will review the proactive management, control and the evaluation of counter fraud, bribery and corruption work. The board and non-executive directors will scrutinise NHSCFA assessment reports, where applicable, and ensure that the recommendations are fully actioned.

¹ <https://cfa.nhs.uk/counter-fraud-standards>

² Fraud Act 2006 1-4 <https://www.legislation.gov.uk/ukpga/2006/35/contents> and Bribery Act 2010 <https://www.legislation.gov.uk/ukpga/2010/23/contents>

³ <https://www.legislation.gov.uk/ukpga/2010/23/contents>

3.3 Director of Finance and Resources

The Director of Finance and Resources is provided with powers to approve financial transactions initiated by directorates across QEH. As part of this role, the Director of Finance and Resources is responsible for the maintenance and implementation of detailed financial procedures and systems which incorporate the principles of separation of duties and internal controls and checks.

The Director of Finance and Resources will report annually to the Board and, where applicable, the Governors' Council on the adequacy of internal financial controls and risk management as part of the board's overall responsibility to prepare a statement of internal control for inclusion in the QEH annual report.

The Director of Finance and Resources, in consultation with NHSCFA and the Local Counter Fraud Specialist (LCFS), will decide whether, where there are suspected cases of fraud, bribery or corruption, there is sufficient cause to conduct an investigation, and whether the Police and External Audit need to be informed.

The Director of Finance and Resources or the LCFS will, depending on the outcome of initial investigations, inform appropriate senior management of suspected cases of fraud, bribery and corruption, especially in cases where the loss may be above an agreed limit or where the incident may lead to adverse publicity.

3.5 Audit Committee

The audit committee is responsible for seeking assurance that the Trust has adequate arrangements in place for countering fraud and bribery and compliance with NHSCFA Standards. This will include but is not limited to reports from the Local Counter Fraud Specialist, the annual self-assessment submission to NHSCFA (self-review tool), and from NHSCFA inspection reports. Actions resulting from counter fraud activity including NHSCFA quality assessment reports will be monitored. The committee is also responsible for approving the annual counter fraud work plan and the outcomes of all anti-fraud and bribery work within QEH. Further information on the responsibilities of the audit committee can be found in the NHS Audit Committee Handbook 2018 which can be accessed online via

<https://www.hfma.org.uk/publications?Type=Guide>

3.5 Internal and External Audit

The role of internal and external audit includes reviewing controls and systems and ensuring compliance with financial instructions. While this role does not include uncovering instances of fraud, bribery and corruption, there is a duty for internal and external audit to pass on any suspicions to the LCFS.

3.6 Human Resources

Human Resources (HR) will liaise closely with managers and the LCFS, from the outset, where an employee is suspected of being involved in fraud or bribery in accordance with agreed liaison protocols. HR are responsible for ensuring the appropriate use of QEH disciplinary procedures. HR shall advise those involved in an investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures. Close liaison between the LCFS and HR will be essential to ensure that any parallel sanctions (i.e. criminal and disciplinary) are applied effectively and in a coordinated manner.

HR 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.

3.7 Local Counter Fraud Specialist (LCFS)

The LCFS is responsible for taking forward all anti-fraud work locally in accordance with national standards and reports directly to the Director of Finance and Resources. Adherence to the NHSCFA counter fraud standards is important in ensuring that the organisation has appropriate counter fraud, bribery and corruption arrangements in place.

The LCFS works with key colleagues and stakeholders to promote anti-fraud work and effectively respond to system weaknesses and investigate allegations of fraud and bribery. This will include the undertaking of risk assessments to identify fraud and bribery risks at QEH.

The role of the LCFS is to ensure that all cases of actual or suspected fraud and bribery are notified to the Director of Finance and Resources and reported accordingly. Investigation of the majority of cases of alleged fraud within QEH will be the responsibility of the LCFS. NHSCFA will only investigate cases which should not be dealt with by the LCFS. Following receipt of all referrals, NHSCFA will add any known information or intelligence and based on this case acceptance criteria determine if a case should be investigated by NHSCFA.

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

3.8 Managers

Managers are responsible for ensuring that policies, procedures and processes within their local area are adhered to and kept under review. They have a responsibility to ensure that staff are aware of fraud, bribery and corruption and understand the importance of protecting QEH from it. They are also responsible for the enforcement of disciplinary action against staff who do not comply with policies and procedures.

Managers should be alert to the possibility that unusual transactions, particularly those with no obvious commercial rationale, could be symptoms of fraud, bribery and corruption. If they have any doubts, they must seek advice from the LCFS.

Managers must instil and encourage a zero-tolerance culture within their teams with regards to criminal wrongdoing. The LCFS will proactively assist in this endeavour by undertaking work to raise fraud awareness and create deterrents.

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

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, managers need to:

- Ensure that all employees for whom they are accountable are made aware of the requirements of this policy and other key policies such as Standards of Business Conduct, Management of Conflicts of Interest, including Gifts & Hospitality.
- 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, reconciliations and test checks to ensure that control measures continue to operate effectively;
- Identify financially sensitive posts.
- Ensure that related policies and procedures are being complied with.
- Contribute to the assessment of the risks and controls within their business area, which feeds into the QEH overall statements of accountability and internal control.

3.9 All Employees

For the purposes of this policy, 'Employees' includes the QEH staff, Board, Executive and Non-Executive Members (including Co-Opted Members) and Honorary Members to the Board.

Employees are required to comply with QEH policies and procedures and apply best practice to prevent fraud, bribery and corruption (for example in the areas of procurement, personal expenses and ethical business behaviour). Staff should be made aware of their own responsibilities in protecting QEH from these crimes.

Employees who are involved in or manage internal control systems should receive adequate training and support in order to carry out their responsibilities.

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 organisation, including information, goodwill and property. 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 QEH employees deal fairly and impartially with official matters; and
- 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 they are involved with cash or payment systems, receipts or dealing with contractors or suppliers.

All employees should be aware that fraud and bribery (relating to the finances of the NHS or of patients in the Trust's care) will normally, dependent upon the circumstances of the case, be regarded as gross misconduct thus warranting summary dismissal without previous warnings. However, no such action will be taken before an investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.

Employees will not request or receive a bribe from anybody, nor imply that such an act might be considered. This means that employees will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person, as an incentive or reward to perform improperly his or her function or activities.

The Trust's Standing Orders and Standing Financial Instructions place an obligation on all staff and Non-Executive Directors to act in accordance with best practice. In addition, all QEH staff and Non-

Executive Directors must declare and register any interests that might potentially conflict with those of the QEH or the wider NHS.

When an employee suspects that there has been fraud or bribery, they must report the matter to the nominated LCFS and/or NHSCFA.

3.10 Information Management and Technology

The Head of IT will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. This includes inappropriate internet/intranet, e-mail, telephone, PDA use and any offence under the Computer Misuse Act 1990. Human Resources will be informed if there is a suspicion that an employee is involved.

3.11 External parties

Those organisations undertaking work on behalf of QEH are expected to maintain strong anti-fraud principles and have adequate controls in place to prevent fraud when handling public funds and dealing with customers on behalf of the QEH. Contractors and sub-contractors acting on QEH's behalf are responsible through contractual arrangements put in place during the tender process and through contracts, for compliance with the Bribery Act 2010.

3.12 External communications

Individuals (be they employees, agency staff, locums, contractors or suppliers) must not communicate with any member of the press, media or another third party about a suspected fraud as this may seriously damage the investigation and any subsequent actions to be taken. Anyone who wishes to raise such issues should discuss the matter with either the Director of Finance and Resources or the Chief Executive.

4. The response plan

This section outlines the action to be taken where fraud, bribery or other illegal acts involving dishonesty, inappropriate Internet use, or damage to property are discovered or suspected. For completeness, it also deals with the action to be taken where theft is discovered or suspected.

4.1 Bribery and corruption

QEH will undertake risk assessments in line with Ministry of Justice guidance⁴ to assess how bribery may affect the organisation. This will be undertaken every three years; however, this is not definitive, and circumstances may call for a risk assessment to be undertaken outside this pattern, for example due to changes in legislation or a reported incident of bribery within QEH. The risk assessment will be undertaken by a nominated officer such as the LCFS, who will report directly to the Director of Finance and Resources.

Proportionate procedures in place to mitigate the identified risk include the following:

- all staff must disclose their business interests, prior to commencement of employment with QEH;
- all staff must disclose any new business interests immediately to the Trust Secretary;
- all staff must declare hospitality (other than modest hospitality) received by or offered to them as QEH employees;

⁴ <https://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf>

- all hospitality (other than extremely minor hospitality) provided by QEH staff to third parties must be declared; and
- staff must not solicit personal gifts and must declare all gifts received (as per QEH policy).

Guidance regarding the above requirements can be found in the QEH Policy. Staff must also comply with the Trust's General Code of Conduct.

All staff must be aware of and comply with the Standing Financial Instructions, Scheme of Delegation (SFIs), Standards of Business Conduct, Code of Conduct, and policies on Secondary Employment Policy, Conflicts of Interest (including Gifts and Hospitality) and their related requirements to declare relevant information.

4.2 Reporting fraud or bribery

If any of the concerns mentioned in this document come to the attention of an employee, they must inform the LCFS or the Director of Finance and Resources immediately.

Employees can also call the NHS Fraud and Corruption Reporting Line on Freephone 0800 028 40 60 or by filling in an online form at <https://cfa.nhs.uk/reportfraud>, as an alternative to internal reporting procedures and if staff wish to remain anonymous. All information provided is treated in complete confidence and all calls are dealt with by experienced call handlers.

If it is suspected that the LCFS or a member of the management team is implicated, reports should be made to the Chair of the Audit Committee. Alternatively, you can contact NHSCFA directly.

In circumstances of attempted bribes offered to QEH employees or associated persons, staff must refuse acceptance of the bribe in whatever form and must report this to the LCFS or Director of Finance and Resources, immediately. If in doubt, contact either of the above for advice and for guidance on gifts and hospitality; please refer to the Standards of Business Conduct and Management of Conflicts of Interest Policy.

A flowchart is provided at Appendix A. It shows the key "what to do" steps - as well as contact details - to be taken where fraud or other illegal acts are discovered or suspected. Managers are encouraged to print the flowchart in Appendix A and to display this on staff notice boards in their department.

The LCFS will make enquiries to establish whether there is any foundation to the concern raised. If the allegations are found to be malicious, they will also be considered for further investigation as to their source.

QEH will refer to the Home Office's bribery and corruption assessment template⁵ to assess their response to bribery and corruption.

4.3 Whistleblowing

The QEH wants all employees to feel confident that they can expose any wrongdoing without any risk to themselves. The Trust's Whistleblowing Policy 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/management chain.

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

⁵ Home Office Bribery and corruption assessment template <https://www.gov.uk/government/publications/bribery-and-corruption-assessment-template>

concern's (whistleblowing) policy for the NHS, April 2016⁶ and NHS England's Freedom to speak up in Primary Care: Guidance to primary care providers on supporting whistleblowing in the NHS, November 2017⁷. These all form the minimum standards for raising of concerns in the NHS for the benefit of all patients in England.

4.4 Disciplinary action

The Trust's 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.

A copy of the Disciplinary Policy can be accessed on the intranet.

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 shall prevail.

4.5 Sanction and redress

Where an objective investigation has found evidence of fraud, bribery or corruption, the next step is to pursue appropriate sanctions. The range of available sanctions that may be pursued includes:

- Criminal prosecution. The LCFS will work in partnership with NHSCFA, the police and/or the Crown Prosecution Service to bring a case to court. Outcomes can range from a criminal conviction to fines and imprisonment;
- Civil action 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 and action to freeze assets and recover losses;
- Disciplinary action by QEH where an employee is suspected of being involved in a fraudulent or illegal act; and
- Action by a relevant regulatory body, if warranted. Staff may be reported to their professional body as a result of a successful investigation/prosecution.

While multiple sanctions may be pursued at the same time in relation to the same incident, the processes involved should be run separately, to maintain their integrity and ensure that all decision making is impartial and independent. This is because the purposes, rules of evidence, standards of proof and outcomes for different types of sanction differ significantly.

Each case will be considered individually on its own facts and merits; based on applying a consistent and thorough approach in all cases to ensure:

- the most effective investigations are undertaken, including the gathering and assessment of all relevant material, which may form evidence of fraud, bribery, corruption, misconduct and/or unfitness to practise;

⁶ NHS Improvement and NHS England's Freedom to speak up: raising concern's (whistleblowing) policy for the NHS, April 2016 <https://improvement.nhs.uk/resources/freedom-to-speak-up-whistleblowing-policy-for-the-nhs/>

⁷ 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 most appropriate sanction or combination of sanctions is sought where fraud, bribery or corruption or related misconduct is/are identified.

The seeking of financial redress or recovery of losses will always be considered in cases of fraud or bribery that are investigated by the LCFS or NHSCFA, where a loss is identified. 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. The decisions for redress will be taken in the light of the circumstances of each case.

Redress allows resources that are lost to fraud and bribery to be returned to the NHS for use as intended, for provision of high-quality patient care and services. 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 Proceeds of Crime Act 2002 (POCA). This means that a person's money or assets are taken away from them if it is believed that the person benefited from the crime.

It could also include restraining assets during the investigation. When considering seeking redress, recovery may also be sought from on-going salary payments or pensions.

In some cases (taking into consideration all the facts of a case), it may be that the QEH, under guidance from the LCFS and with the approval of Director of Finance and Resources, decides that no further recovery action is taken.

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

5. Monitoring and auditing of policy effectiveness

Monitoring is essential to ensuring that controls are appropriate and robust enough to prevent or reduce fraud. Arrangements might include reviewing system controls on an on-going basis and identifying weaknesses in processes. Where deficiencies are identified as a result of monitoring, QEH will ensure that appropriate recommendations and action plans are developed and progress of the implementation of recommendations is tracked.

As a result of reactive and proactive work completed throughout the financial year, closure reports are prepared and issued by the LCFS. System and procedural weaknesses are identified in each report and suggested recommendations for improvement are highlighted. The Director of Finance and Resources, together with the LCFS will track the recommendations to ensure that they have been implemented.

QEH is required to complete the NHSCFA Self Review Tool and Annual Report and submit these annually to NHSCFA. QEH must mark themselves against each standard in the Standards for Providers/ Commissioners as either Compliant (green), Partially Compliant (Amber) or Non-Compliant (Red). A work-plan is required to address all non-compliant standards, which will be monitored by the Audit Committee. An assessment process may be conducted by NHSCFA Quality and Compliance, which will evaluate QEH's effectiveness in dealing with the fraud, bribery and corruption risks it faces through one of four types of assessment: Full, Focused, Thematic or Triggered.

6. Dissemination of the policy

The policy will be referenced within fraud awareness material, presentations and induction. The policy will be available to all staff via the intranet.

7. Review of the policy

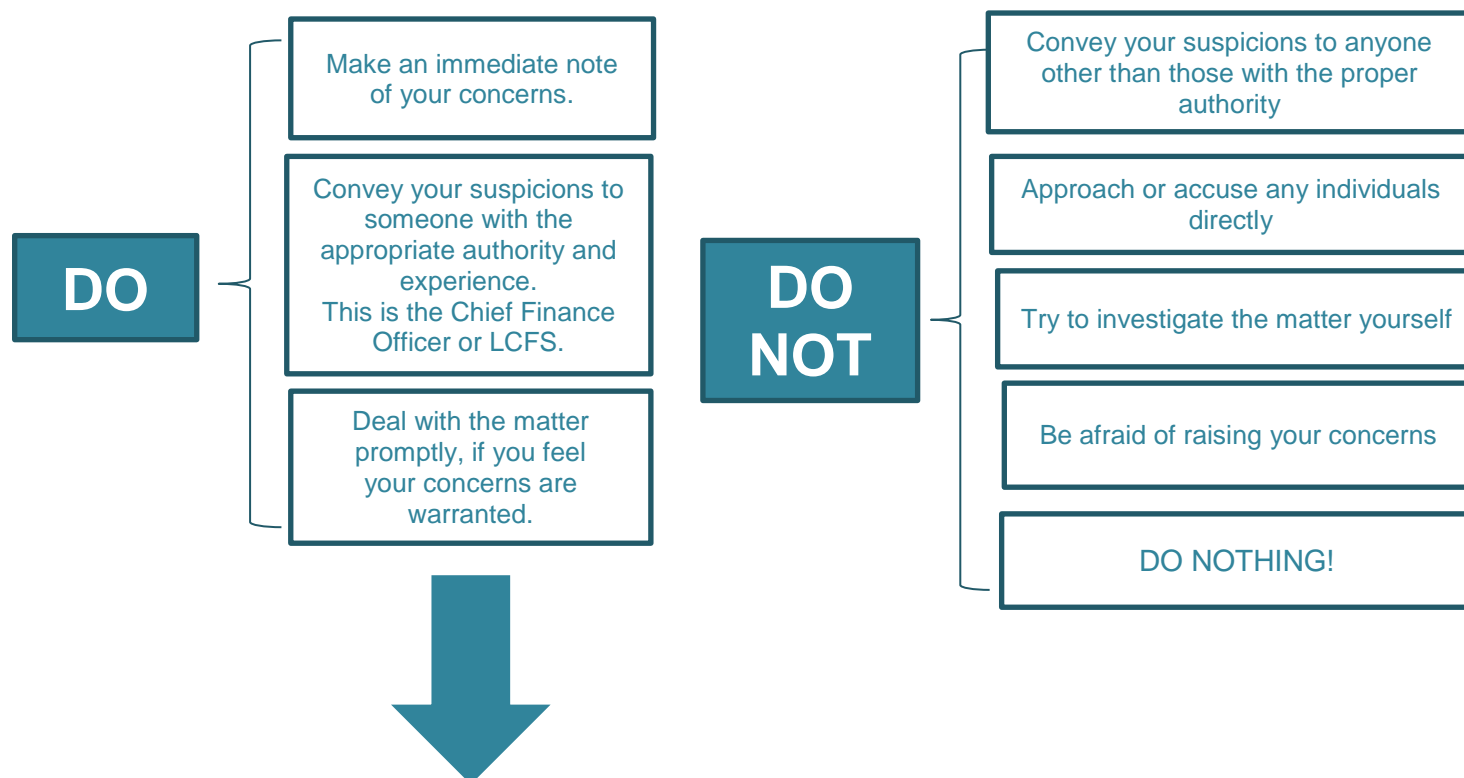
This policy will be reviewed by the LCFS every two years or sooner depending on legislative changes.

8. Additional information

Any abuse or non-compliance with this policy or procedures will be subject to a full investigation and appropriate disciplinary action.

Tackling fraud and bribery

What to do and not do if you suspect or see fraud or bribery taking place



Contact details

Local Counter Fraud Specialist (LCFS) on:
07768 042591

Director of Finance and Resources on 01553 613732 or via email
chris.benham@qehkl.nhs.uk