

Trust Board paper L1

UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST

REPORT BY TRUST BOARD COMMITTEE TO TRUST BOARD

DATE OF TRUST BOARD MEETING: 2 August 2018

COMMITTEE: Audit Committee

CHAIR: Mr R Moore, Non-Executive Director

DATE OF COMMITTEE MEETING: 6 July 2018

RECOMMENDATIONS MADE BY THE COMMITTEE FOR PUBLIC CONSIDERATION BY THE TRUST BOARD:

- **UHL Counter Fraud, Bribery and Corruption Policy (Minute 30/18)**

OTHER KEY ISSUES IDENTIFIED BY THE COMMITTEE FOR CONSIDERATION/ RESOLUTION BY THE TRUST BOARD:

- **None**

DATE OF NEXT COMMITTEE MEETING: 7 September 2018

**Mr R Moore
Non-Executive Director and Audit Committee Chair**

UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST
MINUTES OF A MEETING OF THE AUDIT COMMITTEE HELD ON FRIDAY, 6 JULY 2018
AT 2PM IN THE CJ BOND ROOM, CLINICAL EDUCATION CENTRE, LEICESTER
ROYAL INFIRMARY

Present:

Mr R Moore – Non-Executive Director (Chair)
Col (Ret'd) I Crowe – Non-Executive Director (part)
Mr A Johnson – Non-Executive Director
Mr M Traynor – Non-Executive Director (part)

In Attendance:

Mr C Benham – Director of Operational Finance
Mr J Clarke – Chief Information Officer (for Minutes 34/18/2.1, 37/18/2, 37/18/3 and 39/18/1)
Mr R Manton – Risk and Assurance Manager (for Minute 37/18/1)
Miss E Mayne - Engagement Manager, Grant Thornton (the Trust's External Auditor)
Mr N Mohan – Local Counter-Fraud Specialist, PwC
Mr N Sone – Financial Controller
Mr M Stocks – Partner, Grant Thornton (the Trust's External Auditor)
Mr P Traynor – Chief Financial Officer
Mr S Ward – Director of Corporate and Legal Affairs
Ms C Wood – Senior Manager, PwC (the Trust's Internal Auditor)

RECOMMENDED ITEM

ACTION

30/18 UHL COUNTER-FRAUD, BRIBERY AND CORRUPTION POLICY

The Director of Corporate and Legal Affairs introduced paper O explaining that, following review, the former Prevention of Bribery Policy and Counter-Fraud and Corruption Policy had now been combined into a new, single Counter-Fraud, Bribery and Corruption Policy, a copy of which was appended to paper O.

The Committee noted that the Local Counter-Fraud Specialist had been consulted upon the updated, combined policy and, following consideration of the policy by the Policy and Guidelines Committee, the Committee was invited to recommend the policy for consideration and adoption by the Trust Board.

Recommended – that the Counter-Fraud, Bribery and Corruption Policy (appended to these Minutes) be approved and recommended for adoption by the Trust Board.

DCLA

RESOLVED ITEMS

31/18 MINUTES

Resolved – that the Minutes of the meeting held on 25 May 2018 (paper A) be confirmed as a correct record.

32/18 ACTION LOG

The Committee received the latest version of the action log (paper B) and noted that:

- (a) the Chief Financial Officer would report to the September 2018 meeting of the Committee on the matters identified at Minute 16/18 (f) to (i) of 25th May 2018

CFO

(items 6 – 9 inclusive of the action log),

- (b) the Committee Chair had written to the Chief Executive in respect of the item of business identified at Minute 5/18/1 of 9th March 2018 and, accordingly item 17 of the action log could now be closed, **DCLA**
- (c) it was anticipated that the Head of Capital Projects would report to the Finance and Investment Committee in July, and Audit Committee in September, 2018 on the subject of estates statutory compliance issues (Minute 5/18/3.3 of 9th March 2018 – item 25 of the action log refers), **HoCP**
- (d) it was anticipated that an update on the issue of asset tagging would be made at the September 2018 meeting of the Committee, having first been discussed by the Capital Monitoring and Investment Committee (Minute 8/18/1 – 9th March 2018 and item 29 of the action log refers), **FC**
- (e) the question of who held responsibility for the Trust's security function remained under consideration, pending the establishment of the Estates and Facilities Management subsidiary (Minute 56/17/1(c) of 6th July 2017 and item 43 of the action log refers),
- (f) the Committee had yet to receive a report on the results of its most recent self-assessment (Minute 25/17/4 of 2nd March 2017 and item 45 of the action log refer): following discussion, the Committee agreed to request the Director of Corporate and Legal Affairs to liaise with Internal Audit to arrange for a fresh self-assessment to be undertaken. **DCLA/IA**

Resolved – that paper B, now submitted, be received and updated as appropriate in the light of the Committee's consideration and discussion of a number of entries on the action log at this meeting, as recorded above.

33/18 COUNTER-FRAUD – PROGRESS REPORT JULY 2018

Mr N Mohan, Local Counter-Fraud Specialist, presented paper C which detailed progress in relation to counter-fraud activity under the counter-fraud work plan, and included a summary of progress against the plan, a brief summary of referrals received and details of communication materials shared with the Trust.

Discussion took place upon:

- (a) the work of the Trust's Fraud Risk Group which had held its first meeting in the 2018/19 financial year in June 2018,
- (b) the fact that, to date, only four new cases had been referred to the Local Counter-Fraud Specialist in 2018/19, all of which had been closed: the Local Counter-Fraud Specialist commented that, if the number of case referrals remained relatively low, it would be necessary to give further consideration to how best to raise fraud awareness across the Trust,
- (c) case reference UHL1804: noting that the outcome of this case included a reference to "system weakness", the Local Counter-Fraud Specialist undertook to make clear in his report to be submitted to the September 2018 Committee meeting the follow-up action which had been taken in respect of this case which, it was noted, had been closed.

Resolved – that (A) the Counter-Fraud progress report dated July 2018 (paper C) now submitted be received and noted, and

(B) the Local Counter-Fraud Specialist be requested to update the Committee at its next meeting in September 2018 on the follow-up action undertaken in respect of case reference UHL1804, now closed.

LCFS
/CCSO

34/18 REPORTS FROM INTERNAL AUDIT

34/18/1 Internal Audit Progress Report

Ms C Wood, Senior Manager, introduced paper D which provided an update on the work of Internal Audit since the May 2018 Committee meeting and which specifically highlighted the following:

- (1) the recent publication of the post project review report – Emergency Department front door procurement,
- (2) completion of field-work on two further reviews, as stated in the report,
- (3) that, following discussions with the Chief Financial Officer, Director of Clinical Quality and Acting Chief Nurse, Internal Audit would now undertake a review of the Trust's Central Alerting System, in place of a review of the Trust's plans to improve insulin management at the Trust which, it was noted, had been the subject of extensive review recently by the Care Quality Commission,
- (4) scoping meetings held recently for two further reviews, identified in the report,
- (5) the continuing review of TrAction, the online tracking system to assess implementation of agreed audit actions. As at 21st June 2018, there were twelve actions overdue and outstanding – two high risk, six medium risk and four low risk (Minute 37/18/4 below also refers).

In response to a point raised by the Committee Chair, the Senior Manager confirmed that the Committee would be made aware as soon as possible if any high risk issues were identified through the ongoing review of payroll contract management.

Resolved – that the Internal Audit progress report dated July 2018 (paper D) now submitted be received and noted.

34/18/2 Finalised Internal Audit Reviews

34/18/2.1 Information Governance Toolkit (Medium Risk Rating)

Paper E1 detailed the outcome of the Internal Audit review of the validity of the Trust's self-assessed scores for five requirements of the Information Governance Toolkit submission 2017/18. Internal Audit had commented on whether the evidence available supported the attainment level declared against each individual criteria and, where this was not the case, had made recommendations regarding the additional evidence required.

The Committee noted that Internal Audit had undertaken its review in February 2018, ahead of the Trust's submission of its final self-assessment to NHS Digital in March

2018.

Internal Audit had classified the report as medium risk, reflecting the nature of omissions and actions required by management to rectify the issues identified at the time when the review was carried out.

At the invitation of the Committee Chair, the Chief Information Officer briefed the Committee on the Trust's response to the findings of Internal Audit and reminded the Committee that a new approach was being implemented nationally in 2018/19 under which the Information Governance Toolkit would be superseded by a requirement for all NHS bodies to undertake a self-assessment against a set of data protection and security standards (Minute 37/18/3 below also refers).

The Chief Information Officer also highlighted the fact that the Trust's Information Governance Toolkit self-assessment 2017/18 had subsequently been reviewed and certified by NHS Digital as "satisfactory".

Resolved – that the contents of Internal Audit's Information Governance Toolkit 2017/18 review (paper E1, now submitted) be received and noted.

34/18/2.2 Electronic Patient Record – Plan B (Final Report)

Further to Minute 05/18/3.1 of 9th March 2018, the Committee received for information the final version of the report following the Internal Audit review of the Trust's EPR Plan B.

Resolved – that the final version of Internal Audit's review of EPR Plan B (paper E2) be received and noted.

34/18/2.3 Internal Audit Review

Resolved – that this Minute be classified as confidential and taken in private accordingly.

34/18/3 Revised Internal Audit Annual Plan 2018/19

Further to Minutes 05/18/2 of 9th March 2018 and 18/18 of 25th May 2018, Ms C Wood, Senior Manager presented paper F, the proposed Internal Audit plan for 2018/19. **IA**

The Committee noted the plan now included a further review, namely, a post-project review of the opening of the emergency floor phase 2 project.

Resolved – that the revised Internal Audit annual plan 2018/19 now submitted (paper F) be received and approved.

34/18/4 Internal Audit Charter 2018/19

Ms C Wood, Senior Manager presented paper G, the latest version of the Internal Audit Charter which provided the framework for the conduct of the Internal Audit function at the Trust.

Resolved – that the Internal Audit Charter 2018/19 now submitted (paper G) be received and approved.

34/18/5 Alternative Sources of Assurance

Paper H provided a commentary on the available alternative sources of assurance for those areas of risk which were not being reviewed as part of the 2018/19 Internal Audit plan.

Resolved – that paper H, now submitted, identifying the alternative sources of assurance for those areas of risk which do not form part of the Internal Audit plan 2018/19 be received and noted.

35/18 EXTERNAL AUDIT PROGRESS REPORT AND SECTOR UPDATE

Mr M Stocks, Partner, Grant Thornton introduced paper I which provided the Committee with a report on External Audit's progress in delivering their responsibilities as the Trust's External Auditors, and which also included a summary of emerging national issues and developments.

The Committee noted that the next Grant Thornton NHS Non-Executive Director Network event would be held in Leicester and it was agreed that the Director of Corporate and Legal Affairs would liaise with External Audit to arrange for an e-invite to be issued to Non-Executive Directors in this regard.

DCLA

In response to a question posed by Mr A Johnson, Non-Executive Director External Audit confirmed that they had held an informal discussion with NHS Improvement about the Trust's proposed establishment of a wholly owned subsidiary to deliver estates, facilities, procurement and supplies services.

Resolved – that External Audit's progress report and sector update, now submitted (paper I), be received and noted.

36/18 FINANCE – STRATEGIC AND OPERATIONAL ISSUES

36/18/1 Review of Annual Accounts Process 2017/18

Further to Minute 16/18 (J) of 25th May 2018, the Chief Financial Officer reported orally, commenting on the outcome of his recent discussions with External Audit about the 2017/18 annual accounts process and outlining a revised process which, it was noted, would apply for the 2018/19 financial year.

Mr M Stocks, Engagement Manager, External Audit confirmed External Audit's support of the approach now outlined by the Chief Financial Officer.

The Chief Financial Officer emphasised that a Trust-wide financial recovery plan was in the process of being formulated for 2018/19, and that there would be transparent reporting on performance against that plan to both the Finance and Investment Committee and Audit Committee during 2018/19. The Chief Financial Officer confirmed that both Committees would have full and early sight of any in-year contingency actions which might be required, advising that any such actions would, in addition, also be the subject of appropriate early discussions with External Audit.

The Committee endorsed the approach now outlined by the Chief Financial Officer which, it was noted, would be the subject of a formal written report to its next meeting, in September 2018. Particular support was expressed for the proposal that there be an informal discussion session held between the Chief Financial Officer, Chair and

members of the Audit Committee and External Auditors in early 2019.

Resolved – that the oral report now made by the Chief Financial Officer outlining a revised approach in relation to the 2018/19 financial year be received and it be noted that the approach now outlined will be the subject of a formal written report to the Committee at its next meeting, in September 2018.

CFO

36/18/2 Discretionary Procurement Actions

The Director of Operational Finance presented paper J which detailed each case in which the Trust's regular procurement processes had been waived and, in each case, the reasons for such action.

In response to a question posed by the Committee Chair, the Director of Operational Finance explained the background to the extension of cases 18/A/1147-1150.

Resolved – that paper J, now submitted, detailing discretionary procurement actions undertaken for the period May – June 2018 be received and noted.

36/18/3 Losses and Special Payments

The Financial Controller presented paper K showing (at appendix 1) the value and number of cases paid as either a loss or special payment for 2017/18 (as listed on the losses and special payments register); and (at appendix 2) the value and number of cases paid as either a loss or special payment to date in 2018/19.

The Committee noted a correction to the information made by the Financial Controller at the meeting.

Resolved – that paper K, now submitted, detailing the value and number of cases paid as either a loss or special payment in 2017/18 and also to date in the 2018/19 financial year, be received and noted.

37/18 GOVERNANCE

37/18/1 UHL Risk and Assurance Report incorporating the Board Assurance Framework and Organisational Risk Register

The Risk and Assurance Manager introduced paper L commenting on the development of the Board Assurance Framework 2018/19 and drawing out in particular details of that Framework as at 31st May 2018.

Details of the Trust's organisational risk register as at 31st May 2018, together with the Risk and Assurance Manager's commentary on risk management governance at the Trust, was also included in paper L.

The Risk and Assurance Manager invited the Committee to consider proposals set out in paragraph 2.8 of paper L which would allow for the Audit Committee to a 'deep dive' of each of the principal risks which featured on the Board Assurance Framework 2018/19.

In discussion, the Committee:

- (a) commended the Risk and Assurance Manager on the progress made to develop

the Trust's Board Assurance Framework,

- (b) underlined the importance of risk owners at both Clinical Management Group and Executive Director level recognising their responsibilities for mitigating, reducing and eliminating risks, as well as ensuring that they were appropriately assessed and entered onto the risk register,
- (c) recommended that the Risk and Assurance Manager work with colleagues to improve the Board Assurance Framework so that it more comprehensively captured actions which would be taken to mitigate, reduce and eliminate risk, and state the timescales within which such actions would be progressed and accomplished,
- (d) suggested to the Risk and Assurance Manager that Clinical Management Groups be encouraged to streamline their organisational risk registers and prioritise the treatment of particular risks which, in turn, would help to mitigate, reduce or eliminate other risks which featured on their risk registers,
- (e) noted the comments made by the Risk and Assurance Manager and Chief Financial Officer about the approach of the Clinical Management Groups to the management of their risk registers which, it was noted, continued to be the subject of review by the Executive Team at their monthly meetings with each senior management team at the Clinical Management Group performance review meetings,
- (f) recommended the Risk and Assurance Manager to consider attending a number of the monthly Clinical Management Group performance review meetings over the next couple of months to inform his understanding of how each Clinical Management Group was approaching the management of its risks which, in turn, would help the Risk and Assurance Manager to identify further actions to improve the Trust's management of risks overall.

Resolved – that (A) paper L, now submitted by the Risk and Assurance Manager, updating the Committee on the Trust's risk management and assurance arrangements, incorporating the Board Assurance Framework and organisational risk register, be received and noted,

(B) the Risk and Assurance Manager be requested to take forward the proposed approach to involvement of the Committee in the scrutiny of the Board Assurance Framework as set out in paragraph 2.8 of paper L in discussion with the Committee Chair and Director of Corporate and Legal Affairs, and

RAM

(C) the Risk and Assurance Manager be requested to consider attending Clinical Management Group performance review meetings in order to inform his understanding of the Trust's current risk management arrangements and potential opportunities for improvement, and report on his findings at the next meeting of the Committee to be held in September 2018.

RAM

37/18/2

Progress Report on General Data Protection Regulation (GDPR) Compliance

Further to Minute 04/18/2 of 9th March 2018, the Chief Information Officer introduced paper M updating the Committee on progress and issues in relation to implementation of the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

The Committee noted that the new Trust Head of Privacy, who was also designated as

the Trust's Data Protection Officer, had taken up his post on 2nd July 2018 and had been tasked with developing an action plan to underpin continuing compliance with the GDPR and the Data Protection Act 2018 for the 2018/19 financial year.

Discussion took place on the progress of the Trust's review of its contracts with third parties to ensure that they were in compliance with the GDPR and Data Protection Act 2018. The Chief Information Officer explained the approach taken in relation to contracts held by his Directorate, and more generally (working via the Procurement Team), and undertook to update the Committee at its next meeting on progress in this regard.

At the invitation of the Committee Chair, the Chief Information Officer also updated the Committee on the actions taken in response to the findings of Internal Audit following Internal Audit's review of the Trust's plans for GDPR compliance (Minute 37/18/4 below also refers).

Resolved – that (A) paper M, now submitted by the Chief Information Officer, updating the Committee on the progress of the Trust's work to achieve compliance with the General Data Protection Regulation and Data Protection Act 2018 be received and noted,

(B) the Chief Information Officer be requested to update the Committee at its next meeting on the progress of the work currently underway to review the Trust's contracts (both those held by the IM&T Directorate and more generally) to ensure compliance with the General Data Protection Regulation and Data Protection Act 2018, and

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(C) the oral update now made by the Chief Information Officer in respect of the Trust's response to the recommendations made by Internal Audit following their review of the Trust's compliance with the General Data Protection Regulation be received and noted.

37/18/3 Data Protection and Security Requirements 2018/19

Further to Minute 122/18/3 of the Trust Board meeting held on 3rd May 2018, the Chief Information Officer introduced paper N updating the Committee on the Trust's response to NHS Improvement on its 2017/18 data security and protection questionnaire, a copy of which was appended to the report.

The Committee noted that the Trust had declared full compliance against eight of the ten questions.

The Committee explored the position in respect of the two questions against which the Trust had declared partial compliance, namely, business continuity planning; and checking supplier certification.

In respect of the former, the Chief Information Officer explained the work which was underway in liaison with the Trust's Emergency Planning Officer which, it was anticipated, would enable the Trust to declare full compliance in quarter 2 2018/19. In respect of the latter element, the Committee noted that, subject to confirmation that the process of checking all IT systems had been completed at the end of quarter 1 2018/19, the Trust would be in a position to declare that it had "fully implemented" the requirement to check that the suppliers of all its IT systems had appropriate certification in place and could evidence that all suppliers did indeed have such certification.

Resolved – that paper N, now submitted by the Chief Information Officer, updating the Committee on the Trust’s compliance with the data protection and security requirements 2017/18 be received and noted.

37/18/4 Consolidated List of outstanding Audit Recommendations

The Director of Corporate and Legal Affairs introduced paper P identifying the current status of all overdue actions arising from Internal Audit, External Audit and Local Counter-Fraud Specialist reviews.

The Director of Corporate and Legal Affairs briefed the Committee on the Executive Performance Board’s most recent consideration of the outstanding actions at its meeting held on 26th June 2018, and it was noted that action was in hand to close the entry relating to Internal Audit’s Data Quality Review.

Resolved – that paper P, now submitted by the Director of Corporate and Legal Affairs, updating the Committee on the status of all overdue actions arising from Internal Audit, External Audit and Local Counter-Fraud Specialist reviews be received and noted.

38/18 ASSURANCE GAINED FROM COMMITTEES ON KEY RISKS/ISSUES

38/18/1 Quality and Outcomes Committee

Resolved – that the Minutes of the meetings of the Quality and Outcomes Committee held on 22nd February, 29th March, 26th April and 24th May 2018 (papers Q1 – Q4) be received and noted.

38/18/2 People, Process and Performance Committee

Resolved – that the Minutes of the meetings of the People, Process and Performance Committee held on 22nd February, 22nd March, 26th April and 24th May 2018 (papers R1 – R4) be received and noted.

38/18/3 Finance and Investment Committee

Resolved – that the Minutes of the meetings of the Finance and Investment Committee held on 22nd February, 22nd March, 26th April and 24th May 2018 (papers S1 – S4) be received and noted.

38/18/4 Charitable Funds Committee

Resolved – that the Minutes of the meetings of the Charitable Funds Committee held on 12th April and 7th June 2018 (papers T1 and T2) be received and noted.

39/18 ANY OTHER BUSINESS

39/18/1 Report by Chief Information Officer

Resolved – that this Minute be classed as confidential and taken in private accordingly on the grounds of commercial interests.

40/18 IDENTIFICATION OF KEY ISSUES FOR THE ATTENTION OF THE TRUST BOARD

Resolved – that the revised UHL Counter-Fraud, Bribery and Corruption Policy

(appended to these Minutes) be commended to the Trust Board for adoption (Minute 30/18 above refers).

41/18 CONFIDENTIAL ITEM OF BUSINESS

39/18/1 Report by the Chief Financial Officer

Resolved – that this Minute be classed as confidential and taken in private accordingly.

42/18 DATE OF NEXT MEETING

Resolved – that the next Committee meeting be held at 9am on Friday, 7th September 2018 in the Board Room, Victoria Building, Leicester Royal Infirmary.

43/18 DATES OF COMMITTEE MEETINGS 2019

Resolved – that approval be given to the schedule of meetings for the Audit Committee in 2019 as follows:

- (A) 4TH January 2019 – 9am – noon – Board Room, Victoria Building, Leicester Royal Infirmary,
- (B) 8th March 2019 – 9am – noon – Board Room, Victoria Building, Leicester Royal Infirmary,
- (C) 24th May 2019 – 9am – noon – Board Room, Victoria Building, Leicester Royal Infirmary,
- (D) 5th July 2019 - – 9am – noon – Board Room, Victoria Building, Leicester Royal Infirmary,
- (E) 6th September 2019 – 9am – noon – Board Room, Victoria Building, Leicester Royal Infirmary,
- (F) 8th November 2019 – 9am – noon – Board Room, Victoria Building, Leicester Royal Infirmary,

The meeting closed at 5.02pm.

Stephen Ward
Director of Corporate and Legal Affairs

Cumulative Record of Members’ Attendance (2018-19 to date):

Voting Members:

Name	Possible	Actual	% Attendance	Name	Possible	Actual	% Attendance
R Moore	2	2	100%	I Crowe	2	2	100%
A Johnson	2	2	100%	M Traynor	2	2	100%

Non-Voting Members:

Name	Possible	Actual	% Attendance
C Benham	2	2	100%
N Sone	2	2	100%
P Traynor	2	2	100%
S Ward	2	2	100%

Counter Fraud, Bribery and Corruption Policy

Approved By:	Trust Board
Date of Original Approval:	April 2010
Trust Reference:	A1/2010 (replaces A4/2001 and B35/2011)
Version:	3
Supersedes:	Version 2
Trust Lead:	Steve Murray, Assistant Director of Corporate and Legal Affairs (Head of Legal Services)
Board Director Lead:	Paul Traynor, Chief Financial Officer
Date of Latest Approval	
Next Review Date:	

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REVIEW DATES AND DETAILS OF CHANGES MADE DURING THE REVIEW

V3 This policy has merged the Counter Fraud and Corruption Policy and the Prevention of Bribery Policy, reflected new job titles and new LCFS providers.

KEY WORDS

Fraud, bribery, corruption, crime

1 INTRODUCTION AND OVERVIEW

University Hospitals of Leicester NHS Trust has zero tolerance to fraud, bribery and corruption within the organisation.

The Trust Board is committed to the elimination of fraud, bribery and corruption by ensuring there is a strong anti-fraud, bribery and corruption culture, proactive prevention, detection and deterrence through widespread awareness and rigorously investigating any such cases, and where proven, to ensure wrong-doers are appropriately dealt with, which includes taking steps to recover assets lost as a result of fraud, bribery and corruption.

Any apparent fraud, bribery, corruption or financial irregularity will be investigated and disciplinary action, including reference to any relevant professional regulator, will be taken. Cases will be referred for formal investigation where there is prima facie evidence of a criminal offence. Where disciplinary action is taken, this will follow the Trust disciplinary policy (A6/2004).

Criminal and civil prosecutions from individuals found to have committed fraud, bribery or corruption will be pursued.

The seeking of financial redress and recovery of losses will always be considered in cases of fraud, bribery or corruption that are investigated by either the Local Counter Fraud Specialist (LCFS) or the NHS Counter Fraud Authority (NHSCFA).

Recovery of the loss caused by the perpetrator will always be sought.

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

All staff have a duty to protect the assets of the Trust and also to cooperate with any investigation and the Board recommends anyone having suspicions of fraud, bribery or corruption to report them. All reasonably held suspicions will be taken seriously.

We must all work together to be effective in reducing fraud, bribery and corruption to an absolute minimum.

The Trust recognises the potential impact on individuals who have been affected by fraud, bribery or corruption within their working environment, therefore support and advice will be made available by line management and LCFS.

For concerns which relate to fraud, bribery or corruption these should be reported through the provisions within this policy, rather than through the whistleblowing policy. This policy is intended to assist all staff within the Trust on countering fraud, bribery and corruption. It details the Trust's commitment to the proper use of public funds and outlines roles and responsibilities for the prevention of fraud, bribery and corruption within University Hospitals of Leicester NHS Trust, in addition to the approach to be taken regarding matters of suspected fraud, bribery and corruption.

2 POLICY SCOPE –WHO THE POLICY APPLIES TO AND ANY SPECIFIC EXCLUSIONS

2. 1 This policy applies to all Trust Staff whenever they consider that they have, or may have, identified fraud. NHS Trust policies also apply to contractors who are working for the Trust.
2. 2 This policy does not apply to the accepting of gifts or hospitality which does not constitute bribery for which see the Trust's Managing Conflicts of Interest in the NHS Policy (A1/2017).

3 DEFINITIONS AND ABBREVIATIONS

- 3.1 Bribery means** offering, promising or giving a payment or benefit-in-kind in order to influence others to use their position in an improper way to gain an advantage.

There are two general offences of bribery within the Bribery Act 2010:

- **Offering or giving** a bribe to induce someone to behave, or to reward someone for behaving, improperly; and
- **Requesting or accepting** a bribe either in exchange for acting improperly, or where the request or acceptance is itself improper.

- 3.2 Fraud** means dishonestly:

- Making a false representation; or
- Failing to disclose information; or
- Abusing a position held;

with the intention of making a gain for oneself or causing a loss to another.-

See Appendix 1 for common examples.

3.3 Other Fraud-related Offences

The following offences are not contained in the Fraud Act 2006 but may nevertheless be used to prosecute in cases of fraud against University Hospitals of Leicester NHS Trust:

- Conspiracy to defraud
- Forgery & Counterfeiting
- Dishonestly retaining a wrongful credit
- Computer misuse
- The Act also introduced a new corporate offence of negligently failing by a company or limited liability partnership to prevent bribery being given or offered by an employee or agent on behalf of that organisation. University Hospitals of Leicester NHS Trust (in common with other NHS Provider bodies) falls under the definition of a 'company' for the purposes of the Act.

- 3.4 LCFS** means the Local Counter Fraud Specialist

- 3.5 NHSCFA means the NHS Counter Fraud Authority
- 3.6 **Third Party** means any individual or organisation staff come into contact with during the course of your work for the Trust, and includes actual and potential patients (NHS or private), customers for non-clinical supplies made by the Trust, suppliers, distributors, business contacts, agents, advisers, and government and public bodies, including their advisers, representatives and officials, politicians and political parties.

4 ROLES – WHO DOES WHAT

4.1 Chief Executive

As the University Hospitals of Leicester NHS Trust Accountable Officer, the Chief Executive has overall responsibility for funds entrusted to the Trust. The Chief Executive must ensure that adequate policies and procedures are in place to protect the Trust and the funds it receives from fraud, bribery and corruption.

4.2 Chief Financial Officer

The Chief Financial Officer has overall responsibility for ensuring that counter fraud, bribery and corruption arrangements are in place. A key element of these responsibilities is to ensure that there is counter fraud, bribery and corruption awareness across the organisation and that all suspected instances of fraud, bribery and corruption are appropriately investigated.

4.3 Internal and External Audit

The Trust internal and external auditors review and report on the adequacy of Trust controls and systems and ensure compliance with financial instructions. They have a duty to report any suspicions of fraud, bribery or corruption identified during the course of their work to the Trust LCFS.

4.4 Director of People and Organisational Development

The Director of People and Organisational Development has responsibility for the provision of advice, guidance and support to University Hospitals of Leicester NHS Trust managers and officers investigating disciplinary matters. All disciplinary matters which involve suspected fraud, bribery or corruption offences will also be subject to parallel criminal investigation by the Trust Counter Fraud Specialist. The Director of People and Organisational Development shall ensure that a liaison protocol is in place which details arrangements for the conduct of parallel disciplinary and criminal investigations.

4.5 Local Counter Fraud Specialist (LCFS)

The LCFS is responsible for taking forward all counter fraud, bribery and corruption work within the Trust in accordance with NHSCFA Standards for Providers: Fraud, Bribery and Corruption and this policy. The LCFS reports to the Chief Financial Officer and the Trust's Audit Committee.

The LCFS must be professionally trained and accredited to conduct counter fraud, bribery and corruption work. All criminal investigations undertaken by the LCFS are conducted in accordance with relevant legislation. Further Background information is contained in Appendix 2.

4.6 Managers

All University Hospitals of Leicester NHS Trust managers are responsible for ensuring compliance with Trust policies, procedures and processes applicable to their area of work, for applying controls to prevent fraud, bribery and corruption and for identifying and reporting to the LCFS any identified weaknesses which might allow fraud, bribery or corruption to occur. Managers are also responsible for ensuring that staff are aware of what constitutes fraud, bribery and corruption within the NHS and that they understand the importance of protecting the Trust from it.

Managers must report any instances of actual or suspected fraud, bribery and corruption (in accordance with section 5.6 of this policy) immediately concerns are identified or brought to their attention and refrain from undertaking any investigations of fraud, bribery and corruption themselves.

4.7 Employees

It is the responsibility of all staff to ensure that they comply with this, and all other Trust policies and procedures relevant to their area of work and to ensure that they recognise fraud, bribery and corruption, which might occur within the organisation.

Fraud, bribery and corruption training is available to all staff through eLearning and face to face presentations. The eLearning module is available via HELM. Face to face presentations can be arranged by contacting the LCFS- see Section 6.

Countering fraud, bribery and corruption is the responsibility of all Trust staff. All individuals within the organisation are responsible for reporting any concerns regarding fraud, bribery and corruption immediately they arise (in accordance with section 5.6 of this policy). To assist employees Common examples of offences occurring within the NHS and 'Red Flag' indicators are contained in Appendices 2 and 4 of this policy.

5. POLICY IMPLEMENTATION AND ASSOCIATED DOCUMENTS –WHAT TO DO AND HOW TO DO IT

In accordance with Ministry of Justice guidance, University Hospitals of Leicester NHS Trust has undertaken a risk assessment to determine the extent to which bribery and corruption may affect the Trust. Proportionate procedures in place to mitigate the identified risk include the following requirements:

5.1 Interaction with the Managing Conflicts of Interest in the NHS Policy (A1/2017).

- All staff must disclose their business interests in accordance with the requirements of the Managing Conflicts of Interest in the NHS Policy (A1/2017).

- All staff must declare hospitality (other than modest hospitality (eg meals under a value of £25) received by or offered to them as University Hospitals of Leicester NHS Trust employees;
- All hospitality (other than extremely minor hospitality) provided by University Hospitals of Leicester NHS Trust staff to third parties must be declared; and
- Staff must not solicit personal gifts.

Guidance regarding the above requirements can be found in the Trust Managing Conflicts of Interest in the NHS Policy (A1/2017).

5.2 Compliance with the NHSCFA Standards for Providers

In compliance with NHSCFA Standards for Providers: Fraud, Bribery and Corruption, University Hospitals of Leicester NHS Trust) will minimise losses to fraud, bribery and corruption through:

5.2.1 Creating a strong counter fraud, bribery and corruption culture

All staff have a responsibility to protect our organisation and its resources. Trust staff, professionals, managers and policy makers, must work together to raise awareness of the Trust zero tolerance approach to fraud, bribery and corruption, to report concerns and enforce the message to any dishonest minority that such matters are not acceptable within the NHS and will be dealt with accordingly.

The most effective deterrent will come from staff within the NHS who value the service provided and disapprove of those who abuse the system through fraud, bribery, corruption and other dishonest acts. In addition, publicity surrounding counter fraud, bribery and corruption work will deter some who perpetrate or consider perpetrating related offences. University Hospitals of Leicester NHS Trust will publicise successful investigation outcomes both internally and externally as appropriate in order to aid the deterrent effect.

5.2.2 Proactively preventing and detecting fraud, bribery and corruption

The Chief Financial Officer will ensure (through 'fraud-proofing') that its systems, policies and processes are sufficiently robust so that the risk of fraud, bribery and corruption is reduced to a minimum. Checks will be conducted in areas identified to be most at risk to fraud, bribery or corruption in order to proactively detect instances that might otherwise be unreported.

All staff must be aware of and comply with University Hospitals of Leicester NHS Trust Standing Financial Instructions (SFIs), Managing Conflicts of Interest in the NHS Policy (A1/2017), Employment Policies, and their related requirements to declare relevant information.

5.3 Conducting professional investigations of all instances of suspected fraud, bribery and corruption

Criminal offences of fraud, bribery or corruption will be investigated in a professional, objective and timely manner by an accredited NHS LCFS. Parallel

If staff suspect fraud, bribery or corruption within the NHS, there are a few simple guidelines that should be followed:

DO

- Note your concerns

Make an immediate note of concerns – note all relevant details, such as the nature of the concerns, names, dates, times and details of conversations and possible witnesses. Time, date and sign notes.

- Retain evidence

Retain any evidence that could be destroyed, or make a note of available evidence and immediately advise the LCFS.

- Report suspicions to the LCFS or NHS Counter Fraud

Deal with the matter promptly – any delay may cause University Hospitals of Leicester NHS Trust to suffer further financial loss.

DON'T

- Confront the suspect or convey concerns to anyone other than the LCFS, Trust Chief Financial Officer or NHS **Counter Fraud Authority**.

- Try to investigate the matter yourself

Never attempt to gather evidence yourself unless it is about to be destroyed or could be tampered with. Gathering evidence must be done in line with legal requirements in order for it to be useful. The LCFS will conduct any investigation in accordance with relevant legislation.

- Be afraid of raising concerns

The Public Interest Disclosure Act 1998 protects employees who have reasonable concerns. Staff will not suffer any recrimination from the Trust as a result of voicing a reasonably held suspicion. The Trust will treat any matter raised with sensitivity and confidentiality.

- Do nothing

5.8 **Associated Documents** –None.

6 EDUCATION AND TRAINING REQUIREMENTS

The LCFS has produced an eLearning module available for completion by all Trust staff which can be found on HELM.

Further eLearning modules are produced for specific staff groups (such as HR and budget holders) to provide role-specific information and these will be distributed to staff as determined by the LCFS and Chief Financial Officer.

Additionally, fraud, bribery and corruption training is available to all staff through completion of workbooks and face to face presentations. Face to face presentations can be arranged by contacting the LCFS on 0116 225 6122.

7 PROCESS FOR MONITORING COMPLIANCE

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements Who or what committee will the completed report go to.
Delivery of Annual Local Counter Fraud Work Plan	LCFS	Audit	Quarterly	Audit Committee
Staff fraud awareness survey'	LCFS	Audit	Annually	Audit Committee
Trust self-review against NHSCFA Standards for Providers	LCFS	Audit	Annually	Audit Committee
Delivery of Annual Local Counter Fraud Work Plan	LCFS	Audit	Quarterly	Audit Committee

8 EQUALITY IMPACT ASSESSMENT

- 8.1 The Trust recognises the diversity of the local community it serves. Our aim therefore is to provide a safe environment free from discrimination and treat all individuals fairly with dignity and appropriately according to their needs.
- 8.2 As part of its development, this policy and its impact on equality have been reviewed and no detriment was identified.

9 SUPPORTING REFERENCES, EVIDENCE BASE AND RELATED POLICIES

Managing Conflicts of Interest in the NHS Policy (A1/2017).
Disciplinary Policy (A6/2004)

The Trust Lead and Director Lead are responsible for review and updating of the document.

The updated version of the Policy will then be uploaded and available through the Policy and Guideline Library (PAGL) and the Trust's externally-accessible Freedom of Information publication scheme. It will be archived through the Trusts PAGL system

This is not an exhaustive list; for other types of fraud, bribery or corruption offences please contact the LCFS for advice.

Employment: Presenting forged certificates of qualification to obtain employment; claiming for overtime or shifts not worked; taking sick leave and undertaking unauthorised work for another organisation whilst in receipt of sick pay; claiming expenses (such as travel) when it has not been incurred; falsification of references for a job application; claiming time for college/training but not actually attending; knowingly failing to report and retaining salary or other payments not entitled to; non declaration of criminal convictions.

Patients Monies: Falsifying patients' monies records to obtain cash and property.

Pharmaceuticals: Presentation of forged prescriptions; falsely presenting oneself as another to receive prescription items; receiving free prescriptions through fraudulently claiming entitlement to exemptions from a charge; Pharmacists substituting an expensive drug with a cheaper alternative and making claims for the more expensive one; writing prescriptions for own use.

Procurement: Price fixing or price hiking by suppliers; invoicing for products not supplied; over invoicing; supplying unsolicited goods or products.

NHS Trust Equipment: Obtaining or misuse of equipment or goods for private purposes.

Bribery: Kickbacks to staff responsible for procurement if they purchase from a particular supplier. Patients making informal payments to healthcare practitioners in order to receive treatment more quickly.

Health Tourism: A foreign national receiving free NHS healthcare treatment to which they know they are not entitled.

NHS Counter Fraud Authority

The NHS Counter Fraud Authority (NHSCFA) is a special health authority charged with identifying, investigating and preventing fraud and other economic crime within the NHS and the wider health group. As a special health authority focused entirely on counter fraud work, the NHSCFA is independent from other NHS bodies and directly accountable to the Department of Health (DH).

NHSCFA's mission is to lead the fight against fraud affecting the NHS and wider health service, and protect vital resources intended for patient care. Their vision is for an NHS which can protect its valuable resources from fraud and their purpose is to lead the NHS in protecting its resources by using intelligence to understand the nature of fraud risks, investigate serious and complex fraud, reduce its impact and drive improvements.

NHSCFA Key Principles

The NHSCFA, working in partnership and collaborating with the NHS and other stakeholders, adopts four key principles to guide the work to minimise the incidence of fraud and to deal effectively with those who commit fraud against the NHS. The overall requirement underpinning these principles is effective strategic governance, strong leadership and a demonstrable level of commitment to tackling fraud from senior management within the Trust.

The four key principles are to;

Inform and involve: raise awareness of fraud against the NHS, and work with over 1.3m NHS staff, with stakeholders and the public to highlight those risks and the consequences of fraud against the NHS.

Prevent and deter: provide solutions to identified fraud risk, discourage individuals who may be tempted to commit fraud against the NHS and ensure that opportunities for fraud to occur are minimised.

Investigate and sanction: investigate allegations of fraud thoroughly and to the highest professional standards, and where appropriate seek the full range of civil, criminal and disciplinary sanctions.

Continuously review and hold to account: fraud is constantly evolving and continuous re-evaluation and improvement is needed to ensure that we keep ahead of the problem. Where this does not take place, or where there is a reluctance to do so, then the Trust must be held to account for their inaction.

Local Counter Fraud Specialist

NHSCFA produces a range of guidance and information to LCFs and the Trust on tackling fraud, bribery and corruption. LCFs are typically accountable to the organisation's Chief Financial Officer.

Following successful completion of the professional accredited training, an individual can undertake the role and functions of the LCFs, which means they are responsible for the delivery of counter fraud work within their nominated health body.

The LCFs role incorporates a range of activities to ensure that the Trust is meeting the NHSCFA Standards for Providers. The LCFs is required to work and act in accordance

with NHSCFA published guidance and documentation. Key LCFS functions include (this list is not exhaustive):

- Develop and maintain close working relationships with relevant stakeholders, including NHSCFA.
- Create an anti-crime culture through fraud awareness communications and delivery across the Trust, professional groups and stakeholders.
- Deliver professional, comprehensive and ethical counter fraud provision.
- Produce counter fraud workplans and annual reports in line with NHSCFA Standards.
- Conduct investigations into referrals of fraud, bribery and corruption (having regard to the NHSCFA published case acceptance criteria).
- Apply a range of sanctions against those responsible for committing fraud against NHS resources.

1. The **giving** of gifts and hospitality is permitted provided that the gift or hospitality:
 - a. is not made with the intention of influencing a third party to obtain or retain business or a business advantage, or to reward the provision or retention of business or a business advantage, or in explicit or implicit exchange for favours or benefits;
 - b. complies with local law;
 - c. given in our name, not in your name;
 - d. does not include cash or a cash equivalent (such as gift certificates or vouchers);
 - e. is appropriate in the circumstances and your Line Manager approves.
 - f. taking into account the reason for the gift, is of an appropriate type and value and given at an appropriate time;
 - g. is given openly, not secretly; and
 - h. complies with the Trust's requirements on gifts and hospitality as detailed in the Managing Conflicts of Interest in the NHS Policy (A1/2017).
 - i. Gifts should not be offered to NHS staff, government officials or representatives, or politicians or political parties, without the prior approval of your manager **and** the Chief Financial Officer.

2. The **receipt** of gifts and hospitality is permitted provided that the gift or hospitality:
 - a. is not made with the intention of influencing you to obtain or retain business or a business advantage for a third party, or to reward the provision or retention of business or a business advantage, or in explicit or implicit exchange for favours or benefits;and

- b. does not include cash or a cash equivalent (such as gift certificates or vouchers) where cash has been received and it is not possible to return or refuse it then it must be donated to charitable funds, and,
- c. is appropriate in the circumstances; and
- d. taking into account the reason for the gift, is of an appropriate type and value and given at an appropriate time; and
- e. is given openly, not secretly; and
- f. complies with the Trust's requirements on gifts and hospitality as detailed in Managing Conflicts of Interest in the NHS Policy (A1/2017).
- g. Registerable Gifts should not be accepted from NHS staff, government officials or representatives, or politicians or political parties, without the prior approval of your manager and declaration on the Trust Register (MES Declare) by the recipient- for further details see the Managing Conflicts of Interest in the NHS Policy (A1/2017).

The Trust appreciates that the practice of giving business gifts varies between countries and regions and what may be normal and acceptable in one region may not be in another. The test to be applied is whether in all the circumstances the gift or hospitality is reasonable and justifiable. The intention behind the gift should always be considered.

3. What is not acceptable?

It is not acceptable for staff (or someone on their behalf) to:

- a. give, promise to give, or offer, a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- b. give, promise to give, or offer, a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- c. accept payment from a third party that they know or suspect is offered with the expectation that it will obtain a business advantage for them;
- d. accept a gift or hospitality from a third party if they know or suspect that it is offered or provided with an expectation that a business advantage will be provided by the Trust in return;

- e. threaten or retaliate against another worker who has refused to commit a bribery offence or who has raised concerns under this policy; or
- f. engage in any activity that might lead to a breach of this policy.

4. Facilitation payments and kickbacks

All Staff must not make, and must not accept, facilitation payments or “kickbacks” of any kind. Facilitation payments are typically small, unofficial payments made to secure or expedite a routine government action by a government official. They are not commonly paid in the UK, but are common in some other jurisdictions.

If staff are asked to make a payment on behalf of the Trust, staff should always be mindful of what the payment is for and whether the amount requested is proportionate to the goods or services provided. Staff should always ask for a receipt which details the reason for the payment. If staff have any suspicions, concerns or queries regarding a payment, you should raise these with the LCFS or the Chief Financial Officer.

Kickbacks are typically payments made in return for a business favour or advantage. All staff must avoid any activity that might lead to, or suggest, that a facilitation payment or kickback will be made or accepted by the Trust.

5. Donations

UHL funds must not be used to fund contributions to political parties. Save for Donations to the Trusts Charitable Funds no donation to charity must be offered or made without the prior approval of the Chief Financial Officer.

6. Record-keeping

Through the Finance Department the Trust will keep financial records and have appropriate internal controls in place which will evidence the business reason for making payments to third parties.

Except for nominal items all instances of hospitality or gifts accepted or offered (which do not raise concerns of Bribery), must be reported on the centrally held publicly available register via the MES system. Line Manager approval is required in some cases. For further details please see the Managing Conflicts of Interest Policy (Trust Ref A1/2017).

All accounts, invoices, memoranda and other documents and records relating to dealings with third parties, such as clients, suppliers and business contacts, should be

prepared and maintained with strict accuracy and completeness. No accounts must be kept “off-book” to facilitate or conceal improper payments.

7. Protection

Staff who refuse to accept or offer a bribe, or those who raise concerns or report another’s wrongdoing, are sometimes worried about possible repercussions. We aim to encourage openness and will support anyone who raises genuine concerns in good faith under this policy, even if they turn out to be mistaken.

The Trust is committed to ensuring no one suffers any detrimental treatment as a result of refusing to take part in bribery or corruption, or because of reporting in good faith their suspicion that an actual or potential bribery or other corruption offence has taken place, or may take place in the future. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Chief Financial Officer immediately. If the matter is not remedied, and you are an employee, you should raise it formally using our Dignity at Work Policy, A1/2003.

The Trust has identified that the following, in particular, a potential risks for our business:

- a. inducements offered to staff to take particular care of specific patients;
- b. inducements offered by suppliers to secure business from the Trust or improve the terms offered by the Trust;
- c. inducements offered by commissioners to reach agreement on terms beneficial to the commissioner;
- d. inducements offered to clinicians and pharmacists to secure their influence in prescribing or purchasing medical supplies.
- e. to address those risks the Trust has issued this policy to staff to clarify, and remind them of, their obligations;

The following is a list of possible red flags that may arise during the course of staff working for the Trust and which may raise concerns under various anti-bribery and anti-corruption laws. The list is not intended to be exhaustive and is for illustrative purposes only.

If staff encounter any of these red flags while working for the Trust they must report them promptly as per paragraph 5.6 of this policy:

- 1.1 staff become aware that a third party engages in, or has been accused of engaging in, improper business practices;
- 1.2 staff learn that a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having a “special relationship” with foreign government officials;
- 1.3 a third party insists on receiving a commission or fee payment before committing to sign up to a contract with the Trust, or carrying out a government function or process for the Trust;
- 1.4 a third party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made;
- 1.5 a third party requests that payment is made to a country or geographic location different from where the third party resides or conducts business;
- 1.6 a third party requests an unexpected additional fee or commission to “facilitate” a service;
- 1.7 a third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
- 1.8 a third party requests that a payment is made to “overlook” potential legal violations;

- 1.9 a third party requests that the Trust provides employment or some other advantage to a friend or relative;
- 1.10 staff receive an invoice from a third party that appears to be non-standard or customised;
- 1.11 a third party insists on the use of side letters or refuses to put agreed terms in writing;
- 1.12 Staff notice that the Trust has been invoiced for a commission or fee payment that appears large given the service stated to have been provided;
- 1.13 a third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to the Trust;
- 1.14 staff are offered an unusually generous gift or offered lavish hospitality by a third party;
- 1.15 someone asks a staff member to sign something to confirm that a proposed gift or other benefit is not a bribe, prohibited by the Trust's policies or unlawful; or
- 1.16 Staff are offered a gift or hospitality that contravenes the Trust's Managing Conflicts of Interest in the NHS Policy (A1/2017).