

# COUNTER FRAUD AND CORRUPTION POLICY & RESPONSE PLAN

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## **1.0 Introduction**

- 1.1** One of the basic principles of public sector organisations is the proper use of public funds. The NHS is a public funded organisation and consequently it is important that every employee and associated person acting for, or on behalf of, Castle Point & Rochford CCG is aware of the risk of fraud, corruption and bribery, the rules relating to fraud, corruption and bribery, the process for reporting their suspicions and the enforcement of these rules. The definition of fraud, corruption and bribery is detailed in section 5.
- 1.2** This document sets out the Castle Point & Rochford CCG policy and response plan for detected or suspected fraud, corruption or bribery. It has the endorsement of the Governing Body and Executives. The Castle Point & Rochford CCG Governing Body also endorses the NHS Counter Fraud Strategy as set out under HSC 1998/231.
- 1.3** The policy reflects the Governing Body's wish to embed a culture of best practice in anti-fraud, anti-corruption and anti-bribery measures, and enforcement of the policy will reduce the risk that Castle Point & Rochford CCG or any staff, contractors, or persons working for the organisation will incur any criminal liability or reputational damage.
- 1.4** Castle Point & Rochford CCG already has procedures in place that reduces the likelihood of fraud, corruption and/or bribery occurring. These include the Standing Orders, Standing Financial Instructions, other documented procedures, a system of internal control, and a system of risk assessment. The Governing Body seeks to ensure that a risk awareness culture exists in the organisation (which includes fraud, corruption and bribery awareness), and have complied with the Secretary of State's Directions in nominating a Local Counter Fraud Specialist.
- 1.5** The Local Counter Fraud Specialist conducts preventative and detective works as well as investigations as directed by the NHS Counter Fraud and Corruption Manual, as required by the Secretary of State's Directions.
- 1.6** If any Staff have good reason to suspect a colleague, patient or other person of fraud, corruption and/or bribery, involving Castle Point & Rochford CCG they should report their genuine concerns to the Local Counter Fraud Specialist or Chief Finance Officer immediately.

## **2.0 Purpose**

- 2.1** This document is intended to provide Castle Point & Rochford CCG with a policy for dealing with suspected and actual instances of fraud, corruption, bribery and other illegal acts involving dishonesty or damage to property.

- 2.2** The purpose of this policy is to:
- Set out Castle Point & Rochford CCG responsibilities and of those working for the organisation, in observing and upholding our position on fraud, corruption and bribery.
  - Provide information and guidance to those working for us on how to recognise and deal with fraud, corruption and bribery related issues.
  - Give a framework for a response and advice and information on various aspects and implications of an investigation.
- 2.3** This policy is not intended to provide detailed direction on the prevention of fraud, corruption or bribery in any particular departments or control systems.

### **3.0 Legislative Framework**

- 3.1** The Fraud Act 2006 came into effect on 15 January 2007, and introduced the general offence of fraud. The Act created three key criminal offences as follows: (1) fraud by false representation, (2) fraud by failing to disclose information, and (3) fraud by abuse of position.
- 3.2** Many of the offences referred to as fraud were covered by the Theft Acts of 1968 and 1978 however the new Fraud Act 2006 now means it is no longer necessary to prove a person has been deceived. The focus is now on the dishonest behaviour of the subject and their intent to make a gain or loss. Cases will still be prosecuted under the Theft Acts should the offence have occurred before January 2007.
- 3.3** Under the Fraud Act 2006, a person found guilty of fraud is liable, on summary conviction, to a fine of up to £5000 and/or imprisonment for up to 12 months, or if convicted on indictment, an unlimited fine and/or imprisonment for up to 10 years.
- 3.4** The Bribery Act 2010 came into effect on 1<sup>st</sup> July 2011, and replaces the offences at common law and under the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Act 1906 and the Prevention of Corruption Act 1916 (known collectively as the Prevention of Corruption Acts 1889 to 1916) with a new consolidated scheme of bribery offences.
- 3.5** The Bribery Act 2010 makes the following criminal offences (1) to give, promise or offer a bribe, (2) to request, agree to receive or accept a bribe, (3) bribery a foreign public official, and (4) failure of a commercial organisation to prevent bribery being undertaken on its behalf.
- 3.6** Under the Bribery Act 2010, a person found guilty of fraud is liable, on summary conviction, to a fine of up to £5000 and/or imprisonment for up to 12 months; or if convicted on indictment, an unlimited fine and/or imprisonment for up to 10 years. If Castle Point & Rochford CCG is found to have taken part in bribery, the organisation could face an unlimited fine,

be excluded from tendering for public contracts and face serious damage to our reputation.

- 3.7** The Public Interest Disclosure Act (PIDA) 1998 provides a clear signal that it is safe and acceptable for all staff to raise any specific concerns that they may have. By providing strong protection for those who raise concerns in good faith, the legislation will help ensure that employers address the message and not the messenger. It is a safety net for Castle Point & Rochford CCG, its employees and users of its services. The fundamental principle behind the legislation is to improve governance and accountability within organisations.
- 3.8** A whistleblowing concern is when any member of staff, contractor or person working for Castle Point & Rochford CCG blows the whistle by informing their employer, a regulator, customers, the police or the media about a serious risk, malpractice, or wrongdoing that affects others e.g. concerns about health and safety risks, potential environmental problems, fraud, corruption, deficiencies in the care of vulnerable people, cover-ups and many other problems.
- 3.9** Often it is only through whistleblowing that this information comes to light and can be addressed before real damage is done. Whistleblowing is a valuable activity which can positively influence all of our lives. The Castle Point & Rochford CCG Governing Body fully endorses the provisions of the Public Interest Disclosure Act 1998 and wishes to encourage anyone having reasonable suspicions of fraud, corruption and/or bribery to report them in accordance with the Castle Point & Rochford CCG Whistleblowing Policy.
- 3.10** Please see the **Freedom to Speak Up Raising Concerns (Whistleblowing) Policy** for additional information.

## **4.0 Scope**

- 4.1** This document applies to all individuals working at all levels including Governing Body, Executive and Lay Members (Including co-opted members), Honorary Members of the Governing Body, Governors, employees (whether permanent, fixed-term, or temporary), contractors, trainees, seconded, homeworkers, casual staff and agency staff, interns and students, agents, sponsors, volunteers or any other person associated with Castle Point & Rochford CCG wherever located (collectively referred to as "Staff") in this Policy.

## **5.0 Definitions**

### **5.1 Fraud**

There is no specific definition within the Fraud Act 2006 for this term. The Act instead gives a series of separate offences which set out three possible ways in which fraud can be committed:

- Fraud by false representation

- Fraud by failing to disclose information
- Fraud by abuse of position

In all three classes of fraud, there is the requirement that for an offence to have occurred, the person must have acted dishonestly and they had acted with the intent of making a gain for themselves, or anyone else, or inflicting a loss (or a risk of loss) on another.

Other offences of fraud found within the Fraud Act 2006 are:

- Possession of articles for use in fraud
- Making or supplying of articles for use in fraud
- Obtaining services dishonestly

## 5.2 Examples of NHS Fraud

There is no one type of fraud – there is in fact an enormous variation in the types of fraud that are committed, as there are in the people who commit them. Among more recurrent frauds are (of which this list is not an exhaustive list):

- Timesheet fraud (e.g. staff and professionals claiming money for shifts that they have not worked, claiming for sessions that they have not carried out).
- False expense claims (e.g. falsified travel or subsistence claims).
- Fraudulent job applications (e.g. false qualifications or immigration status).
- Working whilst sick (e.g. usually working for another organisation without informing Castle Point & Rochford CCG).
- Excess study leave.
- Advertising scams (e.g. false invoices for placing advertisements in publications).
- Patient fraud (e.g. false travel claims, fraudulently claiming exemptions from pharmaceutical charges).
- Misappropriation of assets (e.g. falsely ordering goods for own use or to sell).
- Procurement Fraud (e.g. the ordering and contracting of goods or services).
- Fraud by professionals (i.e. Pharmacists – constitutes specific types of fraud. such as false claims for treatment, unauthorised use of NHS facilities/equipment).
- Pharmaceutical fraud by companies (e.g. overcharging for drugs, supplying inferior or reduced quantities of drugs etc).

## 5.3 Corruption

Corruption was defined (in the context of the Prevention of Corruption Acts) as the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person. Bribery, a form of corruption, is an act

implying money or gift giving that alters the behaviour of the recipient

The Bribery Act 2010 replaces the fragmented and complex offences at common law and in the Prevention of Corruption Acts 1889-1916.

## 5.4 Bribery

There is no specific definition within the Bribery Act 2010 of this term. The Act however does set out four offences of bribery from which a definition can be inferred as a financial or other type of advantage that is offered or requested intending to induce another person to perform improperly one of their functions in their position of trust or responsibility, or as a reward for improper performance.

In essence, bribery is offering an incentive or reward to someone to do/for doing something that they would not normally do.

There are four offences of bribery within the Bribery Act 2010:

- Two general offences covering the offering, promising or giving of an advantage, and the requesting, agreeing to receive or accepting of an advantage
- A discrete offence of bribery of a foreign public official to obtain or retain business or an advantage in the conduct of business
- A new offence of failure by a commercial organisation to prevent a bribe being paid for or on its behalf

A legal defence within the Bribery Act 2010 requires organisations to demonstrate that they have “adequate procedures” in place to prevent any bribery from occurring: To demonstrate that Castle Point & Rochford CCG has sufficient and adequate procedures in place, and to demonstrate openness and transparency, all individuals working for the organisation are required to comply with the requirements of this policy.

## 5.5 Examples of Bribery

The Bribery Act 2010 outlines the offences of bribery as the receipt or acceptance of a bribe, or the offer to, promise or giving of a bribe, which assists in obtaining/retaining business or financial advantage, or the inducement or reward of someone for the “improper performance” of a relevant function.

There is however no set types of bribery and there is huge variation in the types of scenarios and circumstances where bribery could occur. A non exhaustive list of examples of where bribery could take place is as follows:

### *Offering a bribe*

- You offer a potential client tickets to a major sporting event, but only if they agree to do business with Castle Point & Rochford CCG.

### *Receiving a bribe*

- A supplier gives your nephew a job but makes it clear that in return they expect you to use your influence within Castle Point & Rochford CCG to ensure that it continues to do business with them
- Someone responsible for awarding an employment contract is offered gifts and/or hospitality by one of the candidates or someone linked to them to ensure they get the job
- Someone responsible for booking bank or agency staff is offered lavish gifts and/or hospitality, by an agency, to ensure their agency staff are booked by Castle Point & Rochford CCG
- Someone responsible for choosing suppliers (medical or non-medical) or awarding business contracts is offered gifts and/or hospitality by an existing/new supplier, contractor or business to ensure they are selected as a supplier
- Someone associated with the purchasing of drugs and/or the selection of approved drugs to the Castle Point & Rochford CCG Formulary is offered gifts, hospitality and/or paid expenses by a medical representative or Drugs Firm to ensure their drugs are purchased and/or added to the organisation's Formulary for prescribing by Castle Point & Rochford CCG
- Someone associated with the prescribing of drugs is offered gifts and/or hospitality by a medical representative or Drugs Firms to ensure they prescribe their drugs
- Someone associated with the provision of training is offered gifts and/or hospitality by an external training company to ensure they are selected to provide training at Castle Point & Rochford CCG

## 5.6 Theft

Theft includes the dishonest appropriation of property with the intention of permanently depriving Castle Point & Rochford CCG of such property. It also includes attempted burglary. The CCG's Local Security Management Specialist (LSMS) is responsible for undertaking investigation into theft or damage to Castle Point & Rochford CCG property.

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## 5.7 Financial Irregularity

An irregularity may be any significant matter or issue, other than fraud or corruption, which may warrant consideration or investigation. An example may be where a member of staff makes a genuine error or mistake in the course of their duties/responsibilities, but where this error or mistake is subsequently hidden, perhaps to the on-going detriment of Castle Point & Rochford CCG. Additionally, an irregularity may also involve consideration of the possible inappropriate use of NHS funds or asset, which may or may not constitute fraud, theft or corruption.

## 6.0 Public Services Values

- 6.1 Staff must be impartial and honest in the conduct of their business and remain above suspicion whilst carrying out their role within the organisation. A Code of Conduct for NHS Governing Body's was first published, by the NHS Executive, in April 1994 and set out the initial public service values.

This has been superseded by the seven fundamental public service values specified in the Nolan report; otherwise known as the 'Nolan Principals'. A further Code of Conduct was issued in October 2002 titled "Code of Conduct for NHS Managers".

**SELFLESSNESS:** Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their families or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that may influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all their decisions and the actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

Furthermore, staff and those working for Castle Point & Rochford CCG are expected to:

- Ensure that the interest of patients remains paramount at all times.
- Be impartial and honest in the conduct of their official business.
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money.
- Not abuse their official position for personal gain or to benefit their family or friends.
- Not to seek advantage or further private business or other interests in the course of their official duties.

All those who work in the organisation should be aware of, and act in accordance with, these values.

## **7.0 Responsibilities within the Organisation**

### **7.1 Chief Finance Officer**

The Chief Finance Officer has overall responsibility for ensuring compliance with Secretary of State Directions on fraud, corruption and bribery.

Under the Secretary of State Directions the Chief Finance Officer has a legal responsibility to make sure fraud and corruption is prevented, detected and investigated.

Combating fraud and corruption requires an understanding of how and why it happens, the ways in which it can be minimised and how to professionally investigate it. In line with the Secretary of State Directions the Chief Finance Officer has nominated a Local Counter Fraud Specialist to tackle fraud, corruption and bribery within Castle Point & Rochford CCG.

Where a referral concerning fraud or corruption has been made to the Chief Finance Officer, the Executive shall inform the Local Counter Fraud Specialist at the first opportunity and delegate to him/her responsibility for leading any investigation whilst retaining overall responsibility him/herself. A protocol for the referral, acknowledgement, investigation and reporting of allegations forms part of the Castle Point & Rochford CCG Service Level Agreement for the counter fraud service with West Midlands Ambulance Service Internal Audit Team (WMAS). Details of the protocol are available from the Chief Finance Officer.

The Chief Finance Officer shall inform and consult the Accountable Officer in cases where the loss may be above the delegated limit or where the incident may lead to adverse publicity.

### **7.2 Accountable Officer**

The Accountable Officer is responsible for promoting awareness of and ensuring compliance with this policy within their Clinical Commissioning Group.

### **7.3 Local Counter Fraud Specialist**

The Local Counter Fraud Specialist is responsible for managing and delivery of all counter fraud work within Castle Point & Rochford CCG in accordance with an agreed annual workplan. Under the Secretary of State Directions and the Castle Point & Rochford CCG Standing Orders and Standing Financial Instructions, the Local Counter Fraud Specialist is responsible for investigating allegations of fraud and corruption at the organisation. Presently, Castle Point & Rochford CCG has contracted with WMAS to provide a counter fraud service. The nominated lead Local Counter Fraud Specialist is can be contacted as follows

[eleni.gill@nhs.net](mailto:eleni.gill@nhs.net) Mobile Number: 07827 308906

The Local Counter Fraud Specialist is an experienced and accredited (professionally qualified) counter fraud specialist. In essence the role of the Local Counter Fraud Specialist is to respond to and proactively tackle risks and

occurrences of fraud and corruption at Castle Point & Rochford CCG by providing a robust and effective prevention, detection and investigation function.

The Local Counter Fraud Specialist is responsible for ensuring that the organisation achieves the seven specific objectives of the National Counter Fraud strategy:

- The creation of an **anti-fraud culture**
- Maximum **deterrence** of fraud
- Successful **prevention** of fraud which cannot be deterred
- Prompt **detection** of fraud which cannot be prevented
  
- Professional **investigation** of detected fraud
- Effective **sanctions**, including appropriate legal action against people committing fraud
- Effective methods for seeking **redress** in respect of money defrauded

The Local Counter Fraud Specialist reports to the Chief Finance Officer, but any Staff at Castle Point & Rochford CCG can speak to and ask for advice from the Local Counter Fraud Specialist. The Local Counter Fraud Specialist is authorised to receive reports of suspected fraud from anyone, whether an employee of Castle Point & Rochford CCG, independent contractors, patients, service users or other third party. All Staff have a responsibility to raise their genuine concerns.

The Local Counter Fraud Specialist employs a risk-based methodology to enable Castle Point & Rochford CCG to target resources at high risk areas and throughout the year undertakes proactive reviews in these areas which can detect fraud. Such reviews together with Investigations, ensures the Local Counter Fraud Specialist identifies and counters vulnerabilities within the organisation's systems by implementing effective prevention, detection and corrective controls to reduce the likelihood of fraud.

#### **7.4 Commissioning Support Unit (CSU) Director of Human Resources (HR)**

The CSU Director of HR is responsible for advising those involved in the investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures, as requested.

The consideration of 'triple tracking' options, namely criminal, civil and disciplinary sanctions (including Professional Regulatory Body sponsored disciplinary sanctions) shall be taken in conjunction with the Director of HR and the LCFS.

## 7.5 Audit Committee

The purpose of the Audit Committee is to provide an independent check on the financial management of Castle Point & Rochford CCG and other duties as set out in its Terms of Reference. The Audit Committee meets, receives and considers reports by the internal and external auditors on all aspects of financial processes and procedure. Both the Local Counter Fraud Specialist and the Chief Finance Officer attend the Audit Committee and the Local Counter Fraud Specialist presents progress reports on the counter fraud work undertaken at Castle Point & Rochford CCG. The Audit Committee can question and ask for further explanation in relation to any aspect of counter fraud work.

## 7.6 Staff

All Staff must ensure that they have read, understand and comply with this policy. The prevention, detection and reporting of fraud, bribery and other forms of corruption are the responsibility of all those working for or under the control of Castle Point & Rochford CCG. All Staff are individually responsible for:

- Securing the property of Castle Point & Rochford CCG
- Avoiding loss
- Conforming with the rules and regulations contained in the organisation's policies and procedures
- Seeking clarification on any matter held within this policy on which they are unclear

All Staff are required to follow any Code of Conduct related to their personal professional qualifications. Any conflicts between these Code of Conducts and CCG policies and procedures should be discussed with the Director of HR.

Any gifts or hospitality made to or received from a 'third party' in the course of Castle Point & Rochford CCG duties, and which exceeds the threshold stipulated in the Gifts and Hospitality policy must be formally declared and registered in accordance with this policy.

Where it is anticipated that the gifts or hospitality to be made to or received from a 'third party' may exceed the threshold stipulated within the Castle Point & Rochford CCG Gifts and Hospitality policy then Staff must obtain prior authorisation and approval from their line manager.

All staff must refuse gifts from our provider organisations.

Staff must also refuse all gifts of cash or cash equivalent, such as vouchers or gift cards.

A 'third party' means any individual or organisation who Staff may come into contact with during the course of their work with Castle Point & Rochford CCG and includes actual and potential clients, suppliers, distributors, business contacts, agents, advisors, government and public bodies, including their advisors, representatives and officials, politicians, and political parties.

Staff must declare any possible conflicts of interest which they may have in contracts entered into by Castle Point & Rochford CCG, or which relates to aspects of their work for Castle Point & Rochford CCG (such as business interests or other employment) and these must be noted in a register maintained for that purpose.

All Lay Members are required to declare and register potential conflicts between their duties and personal or professional lives.

Please refer to the Castle Point & Rochford CCG 'Standards of Business Conduct Policy' for more guidance on the standards of business conduct expected of all Staff.

If Staff suspect that there has been fraud, corruption or bribery, they must report the matter to the nominated Local Counter Fraud Specialist. See contact details in section 7.3 and section 8.2 below.

***All Staff are required to avoid any activity that might lead to, or suggest, a breach of this policy. Any Staff found in breach of this policy may be liable to disciplinary, civil or criminal action which includes summary dismissal.***

## **7.7 Internal and External Audit**

Any incident or suspicion of fraud, corruption and/or bribery that comes to Internal or External Audit's attention will be passed immediately to the Local Counter Fraud Specialist.

Audit perform thorough checks on systems which detect any anomalies.

## **7.8 Local Security Management Specialist**

Any incident or suspicion of fraud, corruption and/or bribery that comes to the Local Security Management Specialist's attention will be passed immediately to the Local Counter Fraud Specialist.

The Local Security Management Specialist works within Castle Point & Rochford CCG to minimise safety and security risks (in relation to Castle Point & Rochford CCG property and Staff) and investigate any allegations of theft and abuse of the organisation's property and assets.

## **8.0 Policy**

### **8.1 The response Plan**

Castle Point & Rochford CCG is committed to tackling fraud, corruption and bribery. When fraud is discovered there is a need for clear, prompt and appropriate action. Therefore, having a fraud, corruption and bribery response plan increases the likelihood that the crisis will be managed effectively. The response will be effective and organised and will rely on the principles contained

within this section.

Castle Point & Rochford CCG will be robust in dealing with any fraud, corruption or bribery issues, and can be expected to deal timely and thoroughly with any person who attempts to defraud the organisation or who engages in corrupt practices, whether they are Lay Members, employees, suppliers, patients or unrelated third parties. Appendix A contains further an overview of the fraud response process.

The Local Counter Fraud Specialist will conduct all investigations in accordance with national guidance and in particular in full compliance with the NHS Counter Fraud and Corruption Manual issued the NHS Counter Fraud Authority (previously known as NHS Protect). This will cover all aspects of conducting a professional investigation, including gathering evidence and interviewing.

It should be added that under no circumstances should a member of staff speak, email or write to representatives of the press, TV, radio or to another third party about a suspected fraud, corruption or bribery issue without the express authority of the Accountable Officer, except within the provisions stated in the Castle Point & Rochford CCG Whistleblowing Policy. Care needs to be taken to ensure that nothing is done that could give rise to an action for slander or libel.

In some cases, e.g. if a major diversion of funds is suspected, speed of response will be crucial to avoid financial loss in following the processes laid out within this policy.

## **8.2 Referring a Suspicion of Fraud**

Anyone, whether Staff or a member of the public, can refer such allegations to the Local Counter Fraud Specialist. Upon receipt of a referral, the Local Counter Fraud Specialist must comply with national regulations including the Secretary of State's Directions.

If any Staff have good reason to suspect a colleague, patient or other person of fraud, corruption and/or bribery, involving Castle Point & Rochford CCG they should report their genuine concerns to the Local Counter Fraud Specialist or Chief Finance Officer immediately.

The Local Counter Fraud Specialist will then decide on the next course of action and advise the member of Staff accordingly.

Suspicious of fraud should be reported to any of the following:

1. The Chief Finance Officer
2. Local Counter Fraud Specialist
3. National Fraud and Corruption Reporting Line on **0800 028 4060**
4. Report fraud on-line at **[www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk)**

All referrals will be treated in complete confidence.

If HR or any other member of Castle Point & Rochford CCG staff receives any allegations of fraud, corruption and/or bribery, they should refer them to the Local Counter Fraud Specialist before taking any further action.

Time may be of the utmost importance to prevent further loss to Castle Point & Rochford CCG. Staff should be encouraged to report their first suspicions and not undertake lengthy consideration of alternative explanations. They should be reassured that all initial investigation into their suspicions will be of the highest professional standard. Where during an initial investigation, no evidence of fraud is found, the Local Counter Fraud Specialist will ensure there is equal protection of the innocent suspect, and the well-intentioned reportee.

All reported allegations of fraud will be referred to the Chief Finance Officer, including those immediately dismissed as minor or otherwise not investigated. The Local Counter Fraud Specialist will initiate and maintain a Diary of Events (or such record as required by the NHS Counter Fraud and Corruption manual) to record the progress of the investigation.

### **8.3 Responding to an Allegation**

- 8.3.1 Where a referral concerning fraud or corruption has been made to the Chief Finance Officer, the Chief Finance Officer shall inform the Local Counter Fraud Specialist at the first opportunity. There is a protocol for the referral, acknowledgement, investigation and reporting of all allegations.
- 8.3.2 On receipt of a referral/allegation of suspected fraud, the Local Counter Fraud Specialist will assess the allegation to determine a course of action. This may involve making preliminary enquiries such as obtaining information from Castle Point & Rochford CCG systems.
- 8.3.3 After such preliminary enquiries, where appropriate, the Local Counter Fraud Specialist will seek agreement from the Chief Finance Officer to carry out an investigation.
- 8.3.4 If a criminal event is believed to have occurred but fraud, corruption or bribery is not suspected, the Chief Finance Officer must immediately inform the police and the Local Security Management Specialist (LSMS) if theft or arson is involved, and where appropriate the Governing Body and External Auditors, in accordance with Castle Point & Rochford CCG Standing Financial Instructions.
- 8.3.5 The Local Counter Fraud Specialist is responsible for investigating all instances of fraud, corruption and/or bribery within Castle Point & Rochford CCG.
- 8.3.6 The Local Counter Fraud Specialist will regularly report to the Chief Finance Officer on all fraud, corruption and/or bribery cases they investigate, at particular stages of individual investigations. In addition the Local Counter Fraud Specialist will provide the Audit Committee with quarterly updates as to the progress of investigations.
- 8.3.7 Depending upon the nature of the investigation, the Local Counter Fraud

Specialist will normally work closely with management and other agencies such as the Police to ensure that all matters are properly investigated and reported upon. The circumstances of each case will dictate who will be involved and when.

8.3.8 The detailed arrangements for the investigation of any suspected fraud or corruption are contained in the NHS Counter Fraud and Corruption Manual and within Castle Point & Rochford CCG policies e.g. Disciplinary Policy and the Standing Financial Instructions. The Local Counter Fraud Specialist will record the progress of the investigation in accordance with the legal codes of practice (Police and Criminal Evidence Act 1984, Regulation of Investigatory Powers Act 2000, Criminal Procedures and Investigation Act 1996) and other legislative requirements (e.g. Data Protection Act 2018 and the General Data Protection Regulation).

8.3.9 On the conclusion of the investigation the Local Counter Fraud Specialist will report their findings and recommendations to the Chief Finance Officer.

The Chief Finance Officer is the sole person who can determine whether or not any formal action is justified and what form such action takes. However, guidance can be sought from the Accountable Officer and the Local Counter Fraud Specialist.

8.3.10 If the Chief Finance Officer decides that formal action is to be taken against the subject(s) of an investigation, the Local Counter Fraud Specialist will comply with the NHS Counter Fraud Authority 'Applying Appropriate Sanctions Consistently' Policy. This will involve using an appropriate combination of the sanctions described below:

- Disciplinary action: internal and/or Professional Regulatory Body (warning, dismissal);
- Civil remedy: recovery of money, interest and costs;
- Criminal prosecution: may result in imprisonment, community penalty, fine, confiscation or compensation.

8.3.11 The use of parallel sanctions or the 'triple track' approach helps to maximise the recovery of NHS funds and assets whilst minimising duplication of work.

8.3.12 The Castle Point & Rochford CCG Disciplinary Policy will be used where the outcome of the investigation indicates improper behaviour on the part of Staff. The Local Counter Fraud Specialist shall liaise with the Director of HR regarding providing evidence for disciplinary hearings.

8.3.13 Where Castle Point & Rochford CCG has suffered a financial loss from a fraud, the organisation will take action to pursue recovery in all applicable cases, subject to authorisation from the Chief Finance Officer.

8.3.14 The Local Counter Fraud Specialist will seek authorisation from the Chief Finance Officer if a matter is to be reported to the Police. The LCFS will liaise with Police by providing a prosecution file and participating in interviews and searches. The LCFS shall attend court to give evidence and liaise with the Crown

Prosecution Service as required.

- 8.3.15 The Local Counter Fraud Specialist acts on behalf of Castle Point & Rochford CCG in the event of any formal action and must ensure there is coordination between the various parties involved such as where external legal advisers are used.
- 8.3.16 When a fraud, corruption or bribery has occurred at Castle Point & Rochford CCG the Local Counter Fraud Specialist will strengthen the control environment in which the event occurred by identifying system weaknesses and making recommendations to address these weaknesses and reduce the risk of such an event occurring again.
- 8.3.17 The Local Counter Fraud Specialist is required to advise the NHS Counter Fraud Authority of every investigation and refer appropriate matters to the NHS Counter Fraud Authority.
- 8.3.18 The Chief Finance Officer is responsible for the smooth running of this protocol and where clarification is required his, or her, decision will be final.
- 8.3.19 For all alleged cases reported to the Local Counter Fraud Specialist, the Local Counter Fraud Specialist will liaise with the appropriate lead HR manager and subject's line manager, where necessary and appropriate. Communication during an investigation will be limited to relevant witnesses to protect the confidentiality of the investigation.

#### **8.4 Subsequent Action**

- 8.4.1 Following the conclusion of each case a written report will be drafted and resented to the Chief Finance Officer. Consideration will be given to the circumstances in which the fraud occurred, and the need for changes to controls or audit activity to prevent such a fraud occurring again.
- 8.4.2 Castle Point & Rochford CCG may also publicise the outcome of any successful prosecution to support its aim of deterring fraud and creating an anti-fraud culture.

## 9.0 Process for monitoring compliance and effectiveness

### 9.1 Standard/Key Performance Indicators

The following monitoring processes are in place for this policy:

Standard	Monitoring Process
Monitoring arrangements for compliance and effectiveness.	A report will be provided to the approving committee.
Responsibility for conducting the monitoring/audit.	The Local Counter Fraud Specialist will monitor the effectiveness of this policy.
Frequency of the monitoring/audit.	Annual.
Process for reviewing results and ensuring improvements in performance occur.	The Audit Committee will review the results of this audit/report. The discussion and action any action points will be recorded in the minutes and followed up by the Audit Committee.

## 10.0 References

- Human Rights Act 1998. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- NHS Litigation Authority. (2007). An Organisation-wide Policy for the Development and Management of Procedural Documents, Available at: <http://www.nhsla.com/home.htm>
- Race Relations (Amendment) Act 2000. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- The Sex Discrimination (Gender Reassignment) Regulations 1999. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- The Sex Discrimination Act 1975 (Amendment) Regulations 2003. London: Stationery Office. Available at [www.opsi.gov.uk/acts](http://www.opsi.gov.uk/acts)
- NHS Counter Fraud and Corruption Manual – NHS Counter Fraud Authority, London.
- Applying Appropriate Sanctions Consistently. NHS Counter Fraud Authority,

London. Available at [www.nhsbsa.nhs.uk/CounterFraud/Documents/Countering\\_Fraud\\_In\\_NHS\\_Appling\\_App\\_Sanctions.pdf](http://www.nhsbsa.nhs.uk/CounterFraud/Documents/Countering_Fraud_In_NHS_Appling_App_Sanctions.pdf)

- [Fraud Act 2006](#). Available at:

<http://www.legislation.gov.uk/ukpga/2006/35/contents>

- The Bribery Act 2010. Available at: [www.legislation.gov.uk/ukpga/2010/23/data.pdf](http://www.legislation.gov.uk/ukpga/2010/23/data.pdf)

## 11.0 Associated Documentation

The following Castle Point & Rochford CCG policies and standards are linked with this Counter Fraud and Corruption Policy & Response Plan:

- **Disciplinary Policy**. Available on the CCG shared drive and on the CCG website.
- **Whistleblowing Policy**. Available on the CCG shared drive and on the CCG website.
- **Gifts and Hospitality Policy**. Available on the CCG shared drive and on the CCG website.
- **Standards of Business Conduct**. Available on the CCG shared drive and on the CCG website.
- **Conflict of Interest Policy**. - Available on the CCG shared drive and on the CCG website.
- **Serious Incident Reporting Process**: Available on the CCG shared drive and on the CCG website.

## 12.0 List of Stakeholders consulted

Name	Designation
Local Counter Fraud Specialist	Eleni, Gill West Midlands Ambulance Service NHS FT

## 13.0 Equality Quality Impact Assessment

Castle Point & Rochford CCG is committed to carrying out a systematic review of all its existing and proposed policies to determine whether there are any equality implications.

This policy has been assessed using Castle Point & Rochford CCG's Equality Impact Assessment and identified as having the following impact upon equality and diversity issues.

<b>Age</b>	<b>Disability</b>	<b>Gender</b>	<b>Race</b>	<b>Sexuality</b>	<b>Religion</b>	<b>Human Rights</b>	<b>Total Points</b>	<b>Impact</b>
<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>Low</b>

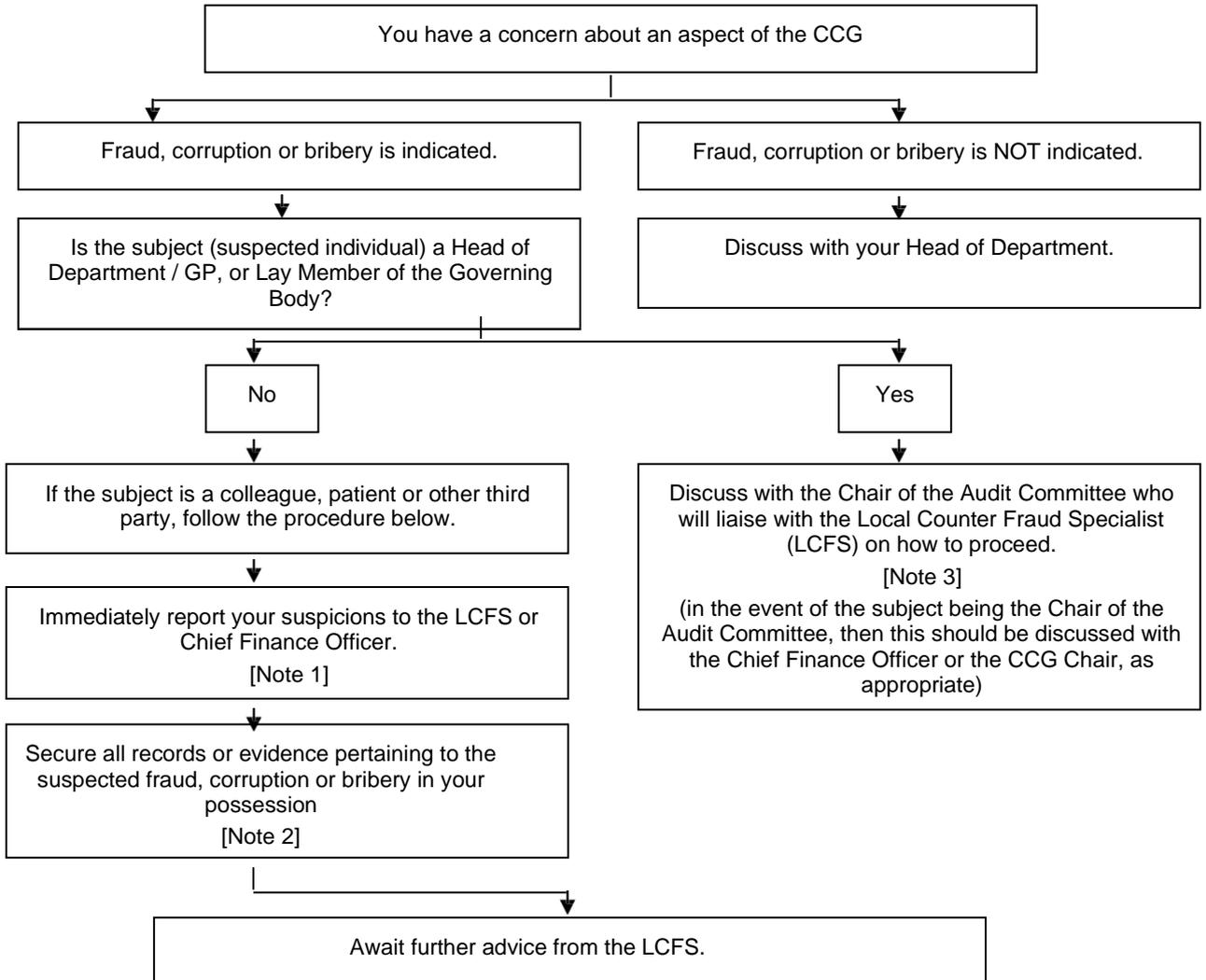
## 14.0 Version Control

Version	Date Issued Date of Review	Author Name and Title	Comments
001	26/09/13	Head of Performance and Corporate Services	
002	11/08/14	Head of Performance and Corporate Services	Local Counter Fraud Specialist contract details amended following transfer of service provision to Mazars.
003	05/10/16	Head of Performance and Corporate Services	Refresh of policy
004	December 2017	Head of Governance and Risk Management of Performance and Corporate	Refresh of policy
005	March 2018	Local Counter Fraud Specialist	Refresh of policy
005	March 2018	Local Counter Fraud Specialist	Refresh of policy

006	November 2018	AD of Assurance	Refresh of policy
007	July 2020	AD of Assurance & West Midlands Ambulance Service NHS FT	Refresh of policy

## APPENDIX 1: Fraud and Corruption Response Plan

### What to do if you suspect fraud, corruption and/or bribery



Note 1	<p>Time may be of the utmost importance to prevent further loss to the Castle Point &amp; Rochford CCG. Staff should report their first suspicions and not undertake lengthy consideration of alternative explanations – be assured that any subsequent investigation will be of the highest professional standard.</p> <p>Everything reported to the LCFS or Chief Finance Officer is treated in the strictest confidence and staff can request to remain anonymous.</p> <p>Well-intentioned staff making a referral will be protected from any unacceptable behaviour from the subject of the referral or anyone else.</p> <p>Contact details for the Chief Finance Officer and the Local Counter Fraud Specialist are published on the CCG’s website and on notice boards within Pearl House.</p>
Note 2	<p>Records or evidence includes (but not limited to): electronic documents, paper documents, statements, copies of healthcare records, interview tapes, photographs, etc</p> <p>Once you have compiled all evidence in your possession it is prudent to catalogue it. A timeline is used to collate information gathered from multiple sources, ordered by the time sequence of events. The information recorded should include:</p> <ul style="list-style-type: none"> <li>• date/time</li> <li>• description of the event</li> <li>• additional information about the event</li> <li>• source of the information</li> <li>• contributory factors</li> </ul>
Note 3	<p>The Chair of the Audit Committee is a Lay Member. Their contact details can be obtained through the AD of Assurance on:</p> <p>Tel: 01268 464526.</p>

## **What not to do if you suspect fraud, corruption and/or bribery**

- Do not confront the 'subject'
- Do not assume only one person involved
- Do not talk about your suspicions, concerns or queries
- Do not contact any external organisation other than the organisations listed below at "Additional Advice" (only the Chief Finance Officer or the LCFS are permitted to make such contact with other organisations).

The reason for the above is two-fold:

- to ensure evidence is secured against loss, destruction and contamination
- to ensure that nothing is done that could give rise to an action for slander or libel

**MOST IMPORTANTLY: Do not worry about being mistaken and doing nothing!**

### **Additional advice National Fraud and Corruption**

#### **Hotline**

If you are unable to talk to the Chief Finance Officer or the LCFS, you can contact the National Fraud and Corruption reporting line by telephoning: **0800 028 4060**

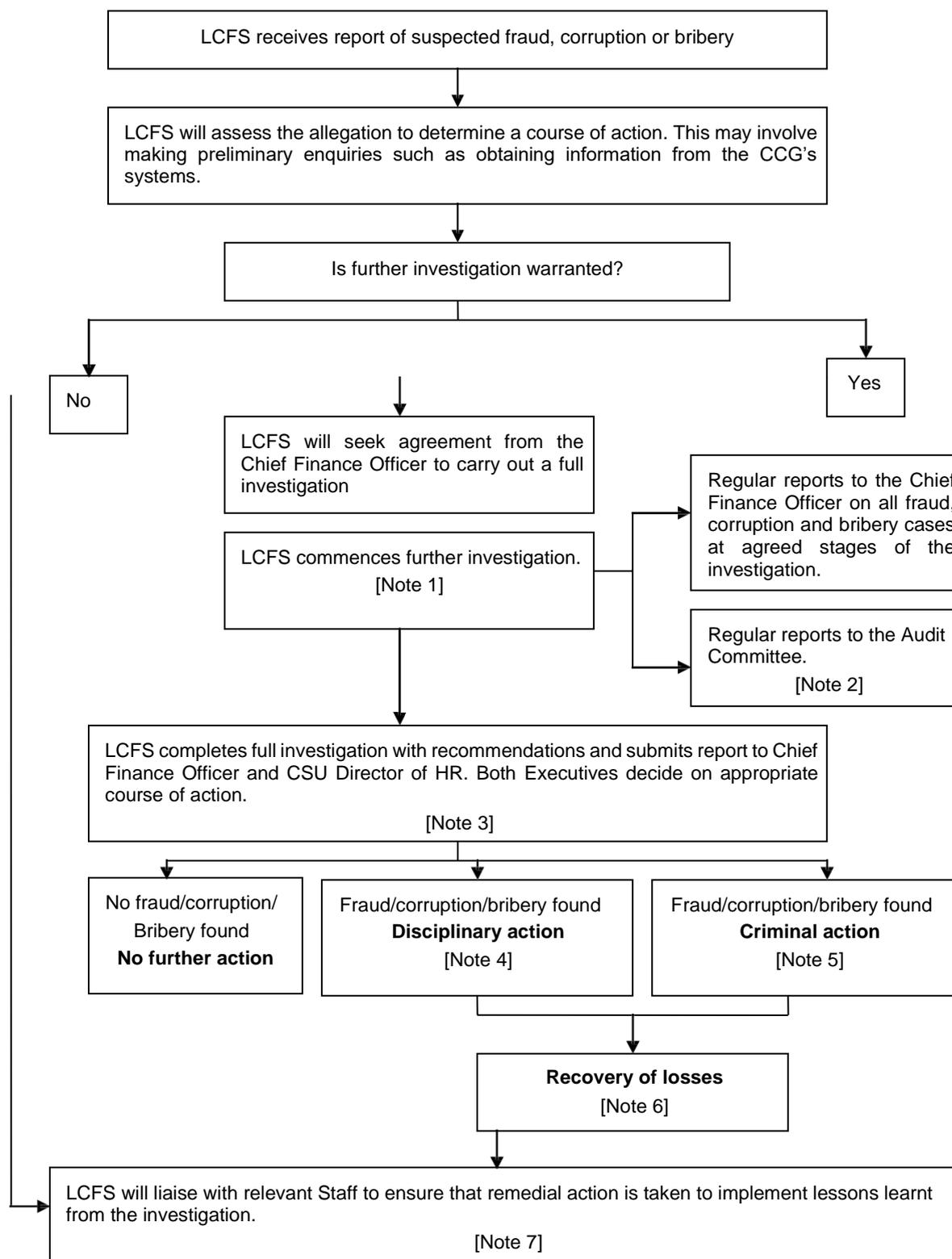
Your call will be treated in confidence and you can remain anonymous.

#### **Independent Advice**

Public Concern at Work is an independent charity and legal advice centre which provides free confidential advice to people concerned about wrongdoing in the workplace but who are unsure whether or how to raise the matter. Further information can be found at <http://www.pcaw.co.uk> or telephone 020 7404 6609.

## Investigation of Fraud or Corruption

The investigation of fraud, corruption and/or bribery at Castle Point & Rochford CCG can be summarised in the following diagram.



Note 1	<p>Depending upon the nature of the investigation, the LCFS will normally work closely with management and other agencies such as the Police, to ensure that all matters are properly investigated and reported upon. Basically, the circumstances of each case will dictate who will be involved and when.</p> <p>The detailed arrangements for the investigations of any suspected fraud or corruption are contained in the NHS Counter Fraud and Corruption Manual and within Castle Point &amp; Rochford CCG policies e.g. Disciplinary Policy, Standing Orders and Standing Financial Instructions. The LCFS will record the progress of the investigation and conduct the investigation in accordance with the legal codes of practices (Police and Criminal Evidence Act 1994, Regulation of Investigatory Powers Act 2000, Criminal Procedures and Investigation Act 1996. and other legislative requirements (e.g. Data Protection Act 2018 and the General Data Protection Regulation).</p>
Note 2	<p>The LCFS shall maintain a record to contain:</p> <ul style="list-style-type: none"> <li>• details of all reported suspicions</li> <li>• details of subsequent actions taken and conclusions reached</li> </ul> <p>This record will be reviewed by the Audit Committee at least once a year and any significant matters will be reported to the Castle Point &amp; Rochford CCG Governing Body.</p> <p>The record will be a confidential document and accessible only by authorised officers. The record is subject to the Data Protection Act 2018 and the General Data Protection Regulation, particularly in relation to the retention and destruction of personal data.</p>
Note 3	<p>The Chief Finance Officer is the sole person who can determine whether or not any formal action is justified and what form such action takes; however, guidance can be sought from the LCFS.</p> <p>If the Chief Finance Officer decides that formal action is to be taken against the subject(s) of an investigation, the LCFS will comply with the NHS Counter Fraud Authority ‘Applying Appropriate Sanctions Consistently Policy’. This will involve using an appropriate combination of the sanctions described below:</p> <ul style="list-style-type: none"> <li>• Disciplinary action – the Castle Point &amp; Rochford CCG Disciplinary Policy and/or Professional Regulatory Body (warning, dismissal etc)</li> <li>• Civil remedy – recover money, interest and costs</li> <li>• Criminal prosecution – which may result in imprisonment, community penalty, a fine, confiscation or compensation</li> </ul> <p>The use of parallel sanctions or ‘triple-track’ approach helps to maximise the recovery of NHS funds and assets while minimising duplication of work.</p>

Note 4	<p>The Castle Point &amp; Rochford CCG Disciplinary Procedures will be used where the outcome of the investigation indicates improper behaviour on the part of Staff. The LCFS shall liaise with the CSU Director of HR in providing evidence for Disciplinary Hearings.</p> <p>Where the organisation has suffered a financial loss from a fraud, it will take action to pursue recovery in all applicable cases, subject to authorisation from the Chief Finance Officer.</p>
Note 5	<p>The LCFS will seek authorisation from the Chief Finance Officer if a matter is to be reported to the Police. The LCFS shall liaise with the police by providing a MG (Prosecution) File and participate in interviews, searches etc. The LCFS shall attend court to give evidence and liaise with the Crown Prosecution Service as required.</p> <p>The LCFS acts on behalf of the Castle Point &amp; Rochford CCG in the event of any formal action and must ensure there is co-ordination between the various parties involved such as where external legal advisors are used.</p>
Note 6	<p>Where financial loss has been suffered through fraudulent or corrupt activity, Castle Point &amp; Rochford CCG will pursue the perpetrator for recovery, including taking appropriate legal action. The LCFS shall liaise with legal representatives and attend court as required.</p>
Note 7	<p>When a fraud, corruption or bribery has occurred at the Castle Point &amp; Rochford CCG the LCFS will strengthen the control environment in which the event occurred by identifying and making recommendations to address any system weaknesses in order to reduce the risk of any such an event happening again.</p>