

Livewell Southwest

## **Counter Fraud Policy and Guidance**

Version No 2

Review: July 2019

### **Notice to staff using a paper copy of this guidance**

**The policies and procedures page of Intranet holds the most recent version of this guidance. Staff must ensure they are using the most recent guidance.**

**Author: Director of Finance**

**Asset Number: 95**

## Reader Information

<b>Title</b>	Counter Fraud Policy and Guidance. V2
<b>Asset number</b>	95
<b>Rights of access</b>	Public
<b>Type of paper</b>	Policy and guidance
<b>Category</b>	Corporate
<b>Document purpose/summary</b>	The prevention of fraud and the protection of Livewell Southwest's funds is the responsibility of all staff. This policy outlines the procedures for staff to follow should they suspect fraud.
<b>Author</b>	Director of Finance/Local Counter Fraud Specialist (LCFS)
<b>Ratification date and group</b>	6 <sup>th</sup> July 2016. Policy Ratification Group
<b>Publication date</b>	12 <sup>th</sup> July 2016
<b>Review date and frequency of review</b>	Three years after publication, or earlier if there is a change in evidence.
<b>Disposal date</b>	The Policy Ratification Group will retain an e-signed copy for the archive in accordance with the Retention and Disposal Schedule, all copies must be destroyed when replaced by a new version or withdrawn from circulation.
<b>Job title</b>	Director of Finance
<b>Target audience</b>	All staff
<b>Circulation</b>	Electronic: Livewell Southwest (LSW) intranet and website (if applicable) Written: Upon request to the PRG Secretary on ☎ 01752 435104. Please contact the author if you require this document in an alternative format.
<b>Consultation process</b>	Consultation with the Local Counter Fraud Specialist regarding current legislation and amendments to the original NHS Plymouth Policy to suit LSW and workforce.
<b>Equality analysis checklist completed.</b>	Yes
<b>References/sources of information</b>	Acceptance of Gifts/Hospitality Policy (incorporating Declarations of Interest) Standards of Business Conduct for NHS Staff (HSG (93(5), Code of Conduct for NHS Managers
<b>Associated documentation</b>	N/A
<b>Supersedes document</b>	New Policy
<b>Author contact details</b>	By post: Local Care Centre Mount Gould Hospital, 200 Mount Gould Road, Plymouth, Devon. PL4 7PY. Tel: 0845 155 8085, Fax: 01752 272522 (LCC Reception).

## Document review history

Version no.	Type of change	Date	Originator of change	Description of change
1	New Document	August 2012	Local Counter Fraud Specialist	New Document
1.1	Reviewed	August 2014	Local Counter Fraud Specialist	Formatted and table in 11.1 updated.
2	Reviewed	July 2016	Local Counter Fraud Specialist	Review and update of content including removal of Appendix C. Section 12 added.

<b>Contents</b>		<b>Page</b>
1	Introduction	5
2	Scope	5
3	Policy Statement Organisational Values	5
4	The Definition of Fraud	6
5	The Definition of Bribery and Corruption	6
6	Why Does Livewell Southwest Need To Worry About Fraud?	7
7	Why Is A Counter Fraud Policy Needed?	8
8	Organisational Values	8
9	Roles and Responsibilities	9
10	Local Procedural Documents	10
11	Reporting Fraud	10
12	Investigations	11
Appendix A	Basic Indicators Of Fraud	12
Appendix B	What to do if you suspect fraud, bribery or corruption	14

# Counter Fraud Policy and Guidance

## 1. Introduction

- 1.1 Livewell Southwest (hereafter referred to as the Company) aims to provide prompt high quality treatment and care where it is needed. The Company is committed to ensuring its resources are used appropriately and efficiently, and it follows that any misuse of resources must be identified and stopped.

## 2. Scope

- 2.1 The Company requires all staff to act honestly and with integrity and to safeguard the Company's reputation. It is the responsibility of all staff to read and be familiar with the contents of this Policy and related procedures, and to identify and notify the Director of Finance or the Local Counter Fraud Specialist of any suspected cases of fraud or fraud risk.

- 2.2 This Policy applies to the following:

- All staff engaged by Livewell Southwest.
- Bank and agency staff working for the Company.
- Staff providing services to the Company via a contracted arrangement or Service Level Agreement.
- Staff on honorary contracts whose payroll costs are partially or fully funded by a third party under a formal arrangement.
- Trainee professionals and students hosted by the Company for the provision of work or vocational experience.

## 3. Policy Statement

- 3.1 The Company is committed to maintaining an honest, open and well-intentioned culture. It is committed to the elimination of any fraud within the organisation, and to the rigorous investigation of any such cases.
- 3.2 Systems and procedures used by the Company must be designed so that the opportunity to commit theft or fraud or engage in corrupt practices is kept to a minimum. Some basic indicators of fraud are outlined in Appendix A.
- 3.3 Staff are required to report any suspicions of fraud or corruption they may have to the Director of Finance or the Local Counter Fraud Specialist. Guidance for staff who suspect fraud is outlined in Appendix B.
- 3.4 Any case of alleged fraud or corruption found or reported will be investigated and the findings of that investigation acted upon by LSW.
- 3.5 The Company will seek the application of the most appropriate, effective and extensive sanctions possible where fraud is believed to be present. These include

disciplinary action, civil recovery and criminal proceedings.

- 3.6 No member of staff will be penalised for reporting alleged fraud, bribery or corruption unless it can be proven they made malicious allegations knowing that there was **no** reason to suspect fraud or corruption.

## 4. The Definition Of Fraud

- 4.1 Fraud can be defined as: ***A dishonest act or omission made with the intention of making a financial gain or causing a financial loss.***

- 4.2 It should be noted that the dishonest act does not need to be successful for fraud to be committed, as long as an intention exists. It should also be noted that the financial gain does not have to be personal but can be for the benefit of another.

Some Fraud Act 2006 offences:

- ***Fraud By False Representation (S.2)*** – *lying about something or misrepresenting a fact by any means, e.g. by words or actions.*
- ***Fraud By Failing To Disclose Information (S.3)*** – *not saying something when you have a legal duty to do so e.g. failing to notify an employer of a criminal conviction or a professional sanction.*
- ***Fraud By Abuse Of A Position Of Trust (S.4)*** – *abusing a position where there is an expectation to safeguard the financial interests of another person or organisation, e.g. an employed carer stealing money from patients he is responsible for.*

- 4.3 Examples of fraud can include false qualifications/references; deception or falsification of records such as timesheets and travel claims; charging for goods /services not delivered; misuse of sickness absence and incorrectly claiming reimbursement. .

## 5. The Definition Of Bribery And Corruption

- 5.1 **General bribery offences** - Sections 1 to 5 of the Bribery Act 2010 (which replaces all previous statutory and common law provisions in relation to bribery) sets out the "general bribery offences".

- 5.2 Bribery occurs when a person offers, gives or promises to give a "**financial or other advantage**" to another individual in exchange for "**improperly**" performing a "**relevant function or activity**".

- 5.3 Being bribed, is defined as requesting, accepting or agreeing to accept such an advantage, in exchange for improperly performing such a function or activity.

- 5.4 A "**financial or other advantage**" has a wide meaning and could include holidays or entertainment, contracts, non-monetary gifts and offers of employment etc.

- 5.5 A "**relevant function or activity**" covers "any function of a public nature; any activity connected with a business, trade or profession; any activity performed in the

course of a person's employment; or any activity performed by or on behalf of a body of persons whether corporate or unincorporated".

- 5.6 The conditions attached are that the person performing the function could be expected to perform it in good faith or with impartiality, or that an element of trust attaches to that person's role.
- 5.7 Activity will be considered to be **"improperly"** performed when the expectation of good faith or impartiality has been breached, or when the function has been performed in a way not expected of a person in a position of trust.
- 5.8 The standard in deciding what would be expected is what a reasonable person in the UK might expect of a person in such a position.
- 5.9 All staff must take great care over accepting gifts, hospitality, entertainment and/or sponsorship. To ensure protection against any accusation of compromise then staff must be aware of LSW Acceptance of Gifts/Hospitality Policy (incorporating Declarations of Interest) and the declaration requirements.
- 5.10 Any concerns about bribery must be referred to the Director of Finance or the Local Counter Fraud Specialist.

## **6. Why Does Livewell Southwest Need To Worry About Fraud?**

- 6.1 The NHS Standard Contract (Service Condition 24) states that the Provider is required to have appropriate Counter Fraud and Security Management arrangements in place.
- 6.2 Even though the vast majority of people are honest and diligent, the Company cannot afford to be complacent. There is a risk of fraud from various internal and external sources. The main risk groups have been identified nationally as being:
  - Staff working in health and social care.
  - Independent Contractors providing services on behalf of health and social care services.
  - Suppliers providing goods and services to health and social care.
  - Patients/clients using health and social care services.
- 6.3 A number of types of fraud affect health and social care services, the main risks coming from:
  - Staff claiming payment for hours not worked or expenses not incurred.
  - Staff working elsewhere whilst on sick-leave.
  - Independent Contractors claiming for services that have not been provided to patients/clients.
  - Overcharging or duplicate invoicing by suppliers.

- Patients abusing healthcare services e.g. by obtaining drugs or treatment by deception.

6.4 To mitigate these risks, control and monitoring arrangements need regular review and improvement, such as those in:

- Post-payment verification of claims by independent contractors.
- The monitoring of claims history to identify unusual patterns of behaviour.
- Budgetary controls such as comparative expenditure data.
- Authorised signatory controls relating to non-purchase order expenditure.

## 7. Why Is A Counter Fraud Policy Needed?

7.1 The prevention of fraud and the protection of LSW's funds is the responsibility of all staff.

7.2 It is important that **all** staff know:

- **How to identify fraud.**
- **How to prevent fraud.**
- **What to do if they suspect fraud.**

7.3 One of the basic principles of organisations funded by the public sector is to conduct business with probity and to achieve value from public funds. Therefore, it is important that all those who work in LSW are aware of the risk to the Company from fraud and corruption. This document sets out what action should be taken when fraud is detected or suspected.

7.4 The Company already has procedures in place that reduce the likelihood of fraud occurring. These include delegated financial authority, documented procedures, a system of internal control and a system of identifying and assessing risks. In addition, LSW will ensure that a risk and fraud awareness culture exists within the Company. New staff will be made aware of this Policy as part of their Core Induction training.

## 8. Organisational Values

8.1 Livewell Southwest requires high standards of corporate and personal conduct based on recognition that patient/service users come first.

8.2 There are three crucial values which must underpin the work of the Company

**Accountability:** Everything done by those who work in the Company must be able to stand the tests of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.

**Probity:** Absolute honesty and integrity should be exercised in dealing with patients, assets, staff, suppliers and customers.

**Openness:** The Company's activities should be sufficiently public and transparent to promote confidence between the Company and its patients, staff and the public.

8.3 Neither staff nor their families and friends must profit in any way from their employment within the Company apart from their salary. Staff must declare any interests, which may prejudice their requirement to act honestly and fairly at all times (Acceptance of Gifts/Hospitality policy (incorporating Declaration of Interests)).

8.4 Staff must be seen to be honest and incorruptible in their dealings with colleagues, patients / service users, other persons or organisations.

## **9. Roles and Responsibilities**

### **9.1 Director of Finance**

9.1.1 The Director of Finance is responsible for:

- the investigation of any allegations of fraud and corruption and for the delivery of a programme of proactive counter fraud work as detailed in the annual work plan;
- operational matters such as authorising the investigation of alleged fraud, including the arrest, interviewing and prosecution of subjects and for the recovery or write-off of any sums lost to fraud; and
- informing the Chief Executive and the Chair of the Audit Committee in cases where there may be a substantial loss to the Company or where the incident may lead to adverse publicity.

### **9.2 Local Counter Fraud Specialist (LCFS)**

9.2.1 The LCFS is responsible for maintaining a register of reported suspicions. The LCFS can be approached confidentially and anonymously by any Company employee or member of the public who has suspicions of fraud within the Organisation.

9.2.2 They are required to investigate cases in accordance with the requirements of the NHS Standard Contract and the NHS Anti-fraud Manual.

### **9.3 Audit Committee**

9.3.1 The Audit Committee is responsible for overseeing and monitoring the Company's counter fraud arrangements, including considering an annual report of counter fraud work presented by the Director of Finance.

## 9.4 Human Resources Department

- 9.4.1 A counter fraud investigation differs from that of a disciplinary matter. However, a disciplinary enquiry can proceed in parallel with a criminal investigation as long as there is close co-operation between Human Resources staff; the Company's investigating officer and the Director of Finance.
- 9.4.2 The Human Resources function shall advise those involved in the disciplinary investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures, as required.
- 9.4.3 In some cases, such as when a major diversion of funds is suspected, speed of response, including the suspension or re-allocation of members of staff involved, may be crucial to avoid financial loss.

## 9.5 All Staff

- 9.5.1 All staff have an implicit duty to protect the assets of the Company. Assets include finances, information and goodwill as well as property. Some guidance on how to recognise fraud and how to prevent it is attached at Appendix A. It is the responsibility of any member of staff who suspects fraud or corruption to report this.
- 9.5.2 Under no circumstances should a member of staff speak or write to representatives of the press, TV, radio, or to another third party, about a suspected fraud. The established lines of reporting to the Director of Finance should be used and staff can be reassured that all allegations will be investigated. Nor should the person or persons about whom an allegation is made be informed of the fact without the permission of the Director of Finance. Care needs to be taken to ensure that nothing is done that could give rise to an action for slander or libel. It is also critical not to jeopardise any future investigations.

## 10. Local Procedural Documents

- 10.1 This Policy should be read in conjunction with LSW's:
- **Whistle-Blowing Policy: How can it work for you?** - Whistle-blowing Policy in accordance with the Public Interest Disclosure Act 1998. Under the terms of this Act, a member of staff who reports their concerns is protected if they act reasonably and responsibly. Further advice can be sought from the charity 'Public Concern at Work' (telephone 0207 404 6609).

## 11. Reporting Fraud

- 11.1 If you believe you have a reason to suspect a colleague, patient, contractor or other person of fraud or an offence against the Company you have a responsibility to report concerns to someone with the appropriate authority and experience:

Title	Name	Location	Contact details
Director of Finance, Deputy Chief Executive.	Dan O'Toole	Local Care Centre Mount Gould	01752 434949

Local Counter Fraud Specialist (LCFS)	Tracy Wheeler	First Floor, Bircham House, William Prance Road, Derriford, Plymouth PL6 5WR	01752 431378 0778 986 8568 tracy.wheeler2@nhs.net
NHS Fraud & Corruption Reporting Line			0800 028 40 60 – Freephone number <a href="http://www.reportnhsfraud.nhs.uk">www.reportnhsfraud.nhs.uk</a>

## 12. Investigations

- 12.1 Once fraud is suspected it is critical that any investigation is conducted in a professional manner aimed at ensuring that the current and future interests of both LSW and the suspected individual(s) are protected. It is important to note that suspicion should not be seen as evidence of guilt. An investigation may be instigated purely to establish the facts.
- 12.2 Investigations are conducted in accordance with the law and must meet the requirements of the NHS Anti Fraud Manual.
- 12.3 If there are grounds for suspicion of a person's involvement in an offence then they may be invited by the LCFS/NHS Protect to attend an interview under caution (in some cases there may be a need for the police to arrest the individual prior to an interview under caution). The interview will be conducted in line with the Criminal Procedure and Investigation Act 1996.
- 12.4 Any person invited to attend an interview is entitled to have a legal representative present in a professional capacity.
- 12.5 Any potential disciplinary matters will be dealt with by the Trust whilst criminal cases will be progressed by the LCFS/NHS Protect.

**All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.**

**The Lead Director approves this document and any attached appendices. For operational policies this will be the Locality Manager.**

**The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.**

Signed: Director of Finance

Date: 11<sup>th</sup> July 2016

## Appendix A

### A. BASIC INDICATORS OF FRAUD

A.1 All Managers should ensure that controls are in place to prevent and detect fraud and error. However, fraud involves the falsification of records and managers need to be aware of the possibility of fraud when reviewing or being presented with claims and forms. Issues that may give rise to suspicion include:

- documents that have been altered. Tippex used thereon, over-writing or different pens and different handwriting;
- claims that cannot be checked, particularly if prior authorisation was not given;
- strange trends (use comparison and reasonableness);
- confused, illegible text and missing details;
- delays in documentation completion or submission;
- no vouchers or receipts to support claims.

A.2 There are also a number of indications of a staff member being in a situation whereby they could act fraudulently. Managers may need to be concerned where staff are:

- living beyond their means;
- under financial pressure (possibly caused by drinking, gambling or overextended credit);
- exhibiting stress;
- not taking annual leave;
- solely responsible for a "risk" area and/or possible refusal to allow another officer to be involved in their duties.

A3 There may be instances where local knowledge or the "network" leads to suspicions about the behaviour of independent contractors. These could emanate from:

- complaints from patients or members of the public;
- discussions with other organisations' staff.

## **B. HOW TO PREVENT FRAUD**

B.1 Whilst it is impossible to create a 100% fraud-proof system, managers must ensure the systems they operate include a reasonable number of effective controls designed to detect and prevent fraud and error. The actions and controls managers should consider are as follows:

- Document procedures and controls, and train all staff in their use.
- Where Company-wide procedures apply, ensure staff are aware and trained in them. Managers should check compliance to the procedures.
- Separation of duties between staff and staff rotation. Avoid a single employee being solely responsible from initiation through to completion of a transaction.
- Introduce adequate 'internal checks'. Most simply this involves an independent officer checking work, calculations or documents prepared by the initiating officer. For example, a manager could check a travel claim against original work records, e.g. diaries, or 'Auto-route' could be used.
- Expenses to be supported by appropriate receipts.
- Ensure the prior documented approval of expense generating courses, visits etc.
- Cross out the uncompleted part of claim forms, thereby making the addition of further expenses after approval more difficult.
- Minimise cash/stock holdings. Bank cash/cheques regularly, at least weekly, possibly more frequently depending on the value and the risk.
- Review budget statements and other management information, and follow up variances. For example:
  - Why has x dropped by 50%.
  - Why expenditure on travel is exceeding the budget by 50% etc.

## Appendix B

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

A report should be made as soon as there is a suspicion of fraud, bribery or corruption.

You should report your suspicions to the Director of Finance or the Local Counter Fraud Specialist (LCFS) without delay (see section 11.1 for contact details).

Record any details you can remember (names, dates, times, conversations) and retain any evidence in your possession.

Do not alert or confront the individual concerned.

### Under no circumstances should you begin your own investigation.

Do not tell anyone else about your suspicions other than those with the proper authority – Director of Finance or the Local Counter Fraud Specialist.

In all cases the Director of Finance and the LCFS will ensure that the suspicions or concerns raised are investigated strictly in accordance with the Company's policies and the Anti Fraud Manual.

### Anonymity

Unless there are truly exceptional reasons, suspicions of fraud, bribery or corruption should not be reported by an anonymous letter or telephone call, as this can seriously limit the scope of any investigation because often too little information is disclosed. Please consider other options.

However, when requested it **shall be the policy** of LSW to take such steps as can reasonably be expected to protect the identity of the person making the report of suspected fraud, bribery or corruption.

### Confidentiality

You should ensure that you do not discuss your suspicions with anyone else that you work with. This will protect your anonymity (should you wish) and will ensure that evidence is not tampered with.