

Reference Number: UHB054	Date of Next Review: 3 December 2022
Version Number: 2	Previous Reference Number: T/129

Counter Fraud and Corruption Procedure

Introduction and Aim

To ensure the Health Board delivers its aims, objectives, responsibilities and legal requirements transparently and consistently, we will be committed to reducing the level of fraud and/or corruption within the NHS to an absolute minimum and keeping it at that level, thereby this will free up public money that can be put to providing better patient care. As one of the basic principles of Public Sector organisations is the proper use of public funds, the Health Board must ensure that its employees act with absolute integrity and honesty as expected and detailed under the various Codes of Conduct.

Objectives

The objective is to ensure that all assets and public funds entrusted to the Health Board are protected against Fraud and/or Loss.

The Counter Fraud and Corruption Procedure describes the mechanisms and process that the Health Board will implement and then use to develop an Anti Fraud Culture in accordance with the NHS Counter Fraud Authority's four (4) required standards of Strategic Governance, Inform and Involve, Prevent and Deter and Hold to Account.

Scope

This procedure applies to all of our staff in all locations including those with honorary contracts

Equality and Health Impact Assessment

An Equality and Health Impact Assessment (EHIA) has been completed and this found there to be no impact. This procedure relies on the generic EHIA for admin type policies.

Documents to read alongside this Procedure

This procedure should be read in conjunction with the UHB Counter Fraud and Corruption Policy, the All Wales Raising Concerns Policy and the All Wales Disciplinary Policy.

Approved by

Audit Committee

Accountable Executive or Clinical Board Director

Executive Director of Finance

Author(s)

Counter Fraud Manager

Disclaimer

If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or the [Governance Directorate](#).

Summary of reviews/amendments			
Version Number	Date of Review Approved	Date Published	Summary of Amendments
1	24 th May 2011	24 th May 2011	None
2	3 rd December 2019	5 th December 2019	Updated document

CONTENTS		Page
1.	OPENING STATEMENT	4
2.	CODES OF CONDUCT	4
3.	INTRODUCTION	5
4.	DEFINITIONS	
	Fraud	6
	Standards	6
	Corruption	7
	Bribery Act 2010	7
	Common types of Fraud	8
5.	COUNTER FRAUD STRATEGY	8
6.	ROLES AND RESPONSIBILITIES	
	Role of Cardiff and Vale University Health Board	9
	Audit Committee	10
	Chief Executive	10
	Director of Finance	11
	Managers	11
	Employees	12
	Nomination of Lead LCFS	13
	Role of the LCFS	13-14
	Operational Fraud Managers (OFMs)	15
	Workforce and OD	15
	Information Technology Security	15
	Internal and External Audit	15
7.	THE RESPONSE PLAN	
	Reporting Fraud or Corruption	15
	Disciplinary Action	16
	Police Involvement	17
	Managing the Investigation	17
	Gathering Evidence	17
8.	THE RECOVERY OF LOSSES TO FRAUD AND CORRUPTION	
	Reporting the results of the investigation	18
	Action to be taken	18
	Timescales	19
	Recording	19
9.	Implementation and Staff Awareness	20
10.	EHIA	20
11.	Resources and Funding	20
12.	Audit of the Procedure	20
13.	Review of the Procedure	21
14.	APPENDICES	
	Desktop guide	22
	Referral Form	23
15.	FURTHER READING	
	Counter Fraud and Corruption Policy	

1. OPENING STATEMENT

The Cardiff and Vale University Health Board (UHB) is committed to reducing the level of fraud and/or corruption within the NHS to an absolute minimum and keeping it at that level, thereby this will free up public money that can be put to providing better patient care. As one of the basic principles of public sector organisations is the proper use of public funds, the UHB must ensure that its employees act with absolute, integrity and honesty as expected and detailed under the various Codes of Conduct.

2. CODES OF CONDUCT

Accountability is one of the crucial public service values, which under-pins the work not only of the UHB, but of the NHS as a whole. The NHS, like all organisations which receive public funds, is required to demonstrate a high standard of conduct in the way it carries out its work. If the UHB is to succeed it needs the co-operation of its Independent Members and Employees. They must ensure that at all times that they have high standards of corporate and personal conduct, based on the recognition that the needs of patients must come first. The fundamental values for working within the Public Sector, including the NHS, are set out in the Nolan Principles and cover codes of conduct for NHS staff and all Public Sector work. These are:

Selflessness

Individuals 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 family, or their friends.

Integrity

Individuals should not place themselves under any financial or other obligation to outside individuals or organisations that might 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 awards or benefits. Individuals should make choices on merit.

Accountability

Individuals are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Individuals should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

Honesty

Individuals 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

Individuals should promote and support these principles by leadership and example.

3. INTRODUCTION

The majority of people who work in the NHS are honest and professional and agree that fraud committed by a minority is wholly unacceptable as it ultimately leads to a reduction in the resources available for patient care. It is important, therefore, that all UHB employees are aware of the risk of fraud and the means of enforcing the rules against any acts involving dishonesty (e.g. claiming for hours not worked), theft and/or corruption.

This procedure has been produced by the Nominated Lead Local Counter Fraud Specialist (LCFS) and it is intended as a guide for all employees on the counter fraud work that is undertaken within the UHB. All genuine suspicions of fraud and corruption can be reported to the LCFS on **02921 836265** or through the NHS Fraud and Corruption Reporting Line (FCRL) on Free Phone **0800 028 40 60**.

The NHS Counter Fraud Service (NHS CFS) is part of the NHS Counter Fraud Authority (formerly known as NHS Protect) and was established, in November 2017, as an independent Special Health Authority. It has responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud and corruption. In England, it is also responsible for the management of security. All instances where fraud is suspected are properly investigated until their conclusion by staff who have been trained by the NHS Counter Fraud Authority. Any investigations will be handled in accordance with the *NHS Counter Fraud and Corruption Manual*.

Within each NHS body, there is a Nominated Lead LCFS, who is trained and accredited to investigate all cases of fraud within his/her NHS body and up to a limit of £15,000. Any investigation involving allegations over this amount has to be referred to the relevant Operational Fraud Manager, who works as part of NHS Counter Fraud Authority and whose key objective is to combat fraud and/or corruption in the NHS and will liaise with the UHB LCFS providing ongoing advice and support.

The LCFS can also be supported by other LCFS', who have also been trained by NHS Counter Fraud Authority to undertake investigations into allegations of Fraud and/or Corruption against the NHS and primarily within their own NHS body.

The UHB currently has four (4) LCFS' and is totally committed to the NHS initiative on Countering Fraud and Corruption within the NHS. This includes procedures covering the four (4) Standards for Fraud, Bribery and Corruption as follows:

1. Strategic Governance

This section sets out the standards in relation to the Health Body's Strategic Governance arrangements. The aim is to ensure that anti-crime measures are embedded at all levels across the Health Body.

2. Inform and Involve

This section sets out the requirements in relation to raising awareness of crime risks against the NHS and working with NHS staff, stakeholders and the public to highlight the risks and consequences of crime against the NHS.

3. Prevent and Deter

This section sets out the requirements in relation to discouraging individuals who may be tempted to commit crimes against the NHS and ensuring that opportunities for crime to occur are minimised.

4. Hold to Account

This section sets out the requirements in relation to detecting and investigating crime, prosecuting those who have committed crime and seeking redress.

In relation to these, the Audit Committee will review the adequacy of the UHB policies and procedures for all work related to fraud and corruption as set out in the Secretary of State's Directions on Countering Fraud in the NHS and as required, by the NHS Counter Fraud Authority.

4. DEFINITIONS OF FRAUD AND CORRUPTION

Fraud

“The deliberate alteration of any financial statements or other records by persons, internal and/or external to the organisation, which is carried out in order to conceal the misappropriation of assets or otherwise for gain”

On 15th January 2007, the Fraud Act 2006 was introduced. This Act represents an entirely new way of investigating fraud since it is no longer necessary to prove that a person has been deceived. The focus is now on the dishonest behaviour of the suspect and their intent to make a gain or cause a loss.

The new offence of Fraud can be committed in three (3) separate ways:

- 1) **Fraud by False Representation** (s.2) – lying about something using any means, e.g. by words or actions
- 2) **Fraud by Failing to Disclose** (s.3) – not saying something when you have a legal duty to do so
- 3) **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.

It should be noted that all offences under the Fraud Act 2006 occur where the act or omission is committed dishonestly and with intent to cause gain or loss. The gain or loss does not have to succeed, so long as the intent is there.

Corruption

“The giving, offering, soliciting and/or acceptance of an inducement or reward, which may then influence the action of any person.”

Bribery Act 2010

The Bribery Act 2010 received Royal Assent on 8th April 2010 and became operative on 1st July 2011.

The Bribery Act 2010 abolished all existing UK Anti-Bribery Laws and replaced them with a suite of new offences markedly different to what has gone before. The Bribery Act 2010 makes it a criminal offence to ***“give, promise or offer a bribe and to request, agree to receive or accept a bribe either at home or abroad”***. It will increase the maximum penalty for bribery to 10 years imprisonment, with an unlimited fine.

In addition, the Act introduces a ‘corporate offence’ of failing to prevent bribery by the organisation not having adequate preventative procedures in place. An organisation may avoid conviction if it can show that it had such procedures and protocols in place to prevent bribery. The ‘corporate offence’ is not a stand alone offence, but always follows from a bribery and/or corruption offence committed by an individual associated with the company or organisation in question.

Common types of NHS fraud:

Some of the most common types of fraud which have been seen by the NHS Counter Fraud Service are as follows:

- ❑ Overstated times on timesheets for hours not worked
- ❑ Staff working elsewhere despite having reported to be on sickness absence
- ❑ Non Declaration of previous criminal convictions on CV's or Application Forms
- ❑ Overstated qualifications and previous employment history on Application Forms or CV's
- ❑ Claiming for journeys not undertaken or expenses not incurred (e.g. taxi fares)
- ❑ Using NHS revenue funds to purchase assets for own personal gain
- ❑ Sale of NHS equipment on Internet websites (e.g. Ebay) for own personal gain

5. COUNTER FRAUD STRATEGY

1. Inform and Involve

The UHB will use appropriate counter fraud publicity material that is “in the public domain” to persuade those staff, who work in the UHB, that fraud and/or corruption is serious and takes away resources from important services (e.g. patient care).

In order to do this, any criminal prosecution fraud cases which are reported on and appear in the public domain (i.e. local or national press), will appear on the UHB intranet site.

In addition, regular fraud awareness sessions will also be carried out by the LCFS', with the various staff groups. This is to ensure that the fraud work that is being undertaken within the UHB is made known to staff at all levels, together with examples of any recent NHS fraud investigations. The staff will also be made aware of what to do when there is any suspicion that a fraud is being or has been committed and who to report the matter to.

The LCFS will also produce a quarterly newsletter to be posted on the UHB intranet site, which will include up to date information on the counter fraud work currently being undertaken within the UHB.

2. Prevent and Deter

Deterrence is about increasing the expectation that someone will be caught if they attempt to defraud the NHS and this is more than just tough sanctions. The UHB will introduce such measures to minimise the occurrence of fraud and/or corruption, which will include, as and when required, the “fraud proofing”, in conjunction with Internal Audit, of any policy or procedure to ensure that any apparent system weaknesses are identified and then rectified at an early stage and before the policy or procedure is given final approval.

The LCFS will also ensure, in conjunction with Internal and External Audit, that any areas where “Best Practice” is identified elsewhere within the UHB will be shared with relevant staff to ensure that a consistent approach is taken (e.g. timesheets, time off in lieu, annual leave, staff sickness recording).

The UHB also has policies and procedures in place to reduce the likelihood of fraud and/or corruption occurring. These include regulatory checks, which are periodically carried out by Internal and External Audit to ensure that the UHB has a System of Internal Control, Standing Financial Instructions and documented procedures, which involve physical and supervisory checks, financial reconciliations and segregation of duties are in place and there are clear and well defined statements of individual roles and responsibilities when dealing with such matters. However, where fraud and/or corruption is then subsequently found to have occurred, the UHB will ensure that any necessary changes to its systems and procedures take place immediately, in order to prevent similar incidents from happening in the future.

3. Hold to Account

The UHB will develop and maintain controls to try to prevent fraud and/or corruption from occurring in the first instance and to also ensure that there are systems in place that should a fraud take place, it can be promptly detected and then immediately referred to the Nominated Lead LCFS for further investigation.

The Nominated Lead LCFS and any supporting LCFS' will be professionally trained and accredited to carry out investigations into suspicions of fraud and/or corruption to the highest standards. In liaison with the NHS Counter Fraud Authority, the LCFS' will professionally investigate all suspicions of fraud and/or corruption in order to identify any evidence that would either prove or disprove the allegation.

Following the conclusion of an investigation, if there is sufficient evidence that a fraud against the NHS had been committed, then all available sanctions will be considered in accordance with the guidance issued by the NHS Counter Fraud Authority - 'Applying Appropriate Sanctions Consistently'. This may include criminal prosecution, civil proceedings and/or disciplinary action (e.g. dismissal) being taken as well as a referral being made to the individual's professional or regulatory body.

Recovery of any losses incurred by the NHS will also be sought through civil proceedings, if appropriate, to ensure that any losses suffered by the UHB and/or the NHS are then returned by the perpetrator for their proper use (i.e. patient care).

6. ROLES AND RESPONSIBILITIES

Role of the Cardiff and Vale University Health Board (UHB)

The UHB, like all other Health Bodies in Wales, has to comply with Directions issued to NHS Bodies 2005, by the National Assembly for Wales on Counter Fraud Measures, which came into force in 1st July 2005 and should be read in conjunction with the NHS Counter Fraud and Corruption Manual.

It is the responsibility of the UHB, through the UHB Director of Finance, in conjunction with the Nominated Lead Local Counter Fraud Specialist (LCFS), to ensure the creation of an Anti-Fraud Culture. This must be done by publicising the work of the LCFS and ensuring awareness that fraud and/or corruption will not be tolerated and appropriate action will be taken against those who are found to have perpetrated any deliberate acts of fraud against the NHS.

The UHB has a duty to ensure employees who are involved in or who are managing Internal Control systems receive adequate training and support in order to carry out their responsibilities. However, responsibility for the operation and maintenance of controls falls directly to Line Managers and requires the involvement of all UHB employees.

The UHB also has a duty to ensure that it provides a secure environment in which to work, and one where people are confident to raise concerns without worrying that it will reflect badly on them. This extends to ensuring that staff feel protected when carrying out their official duties and are not placed in a vulnerable position. If staff do have concerns, about any procedures or processes that they are asked to be involved in, the UHB has a duty to ensure that those concerns are listened to and addressed. The individual staff groups will also be regularly updated, via ongoing fraud awareness sessions provided by the LCFS, as to what types of fraud could be perpetrated in the NHS. As part of the training, the staff will be given examples of fraud cases, which are already in the public domain.

Audit Committee

In compliance with the Secretary of State for Health Directions on Countering Fraud in the NHS, members of the Audit Committee have a duty to receive regular progress update reports, which should outline the current standing of any Counter Fraud and/or Corruption work that has been carried out within the Health Body as at the date of the meeting.

It is also the responsibility of the Audit Committee to approve this procedure and subsequent changes and also, once agreed between the UHB Director of Finance and LCFS, to approve the Counter Fraud Annual Work-plan and the Self Risk Tool (SRT) which is required to be submitted annually to NHS Counter Fraud Authority as part of the Quality Assurance process.

Chief Executive

The Chief Executive is liable to be called to account for specific failures in the UHB system of Internal Controls and therefore, all employees, who are involved in or who are managing Internal Control systems, should receive adequate training and support in order to carry out their responsibilities and the Chief Executive must ensure compliance.

Director of Finance

The Director of Finance, in conjunction with the Chief Executive, monitors and ensures compliance with Secretary of State Directions regarding countering fraud and corruption in the NHS.

The Director of Finance will, depending on the outcome of investigations (whether on an interim/ongoing or concluding basis) and/or the potential significance of suspicions that have been raised, inform the relevant senior management accordingly.

The LCFS shall be responsible, in discussion with the Director of Finance, for involving third parties, such as External Audit and/or the police at the earliest opportunity, as circumstances dictate.

The Director of Finance will inform and consult the Chief Executive in cases where the loss may be above the £15k limit or where the incident may lead to adverse publicity.

The Director of Finance will inform the Head of Internal Audit of any possible system weakness at the first opportunity. If an investigation is deemed to be appropriate, the Director of Finance will delegate the responsibility for this to the LCFS to carry out the investigation.

Managers

Managers must be vigilant and ensure that procedures to guard against fraud and/or corruption are followed. They should be alert to the possibility that unusual events or transactions could be symptoms of fraud and/or corruption. If they have any doubts, they must seek advice from the Nominated Lead LCFS.

Managers must instil and try to encourage an Anti-Fraud Culture within their team and ensure that information on UHB procedures and policies is made available to all employees.

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

Line Managers at all levels have a responsibility to ensure that an adequate system of Internal Control exists within their areas of responsibility and that controls operate effectively. The responsibility for the prevention and detection of fraud and/or corruption therefore primarily rests with managers, but still requires the co-operation of all employees.

As part of that responsibility, Line Managers need to:

- inform staff of the standards of behaviour expected, as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms
- ensure that all employees, for whom they are accountable, are made aware of the requirements of UHB policies and procedures and have access to them
- assess the types of risk involved in the operations for which they are responsible
- ensure that adequate control measures are put in place to minimise the risks. This must include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties (wherever possible), so that control of a key function is not vested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively
- ensure that any use of computers by employees is linked to the performance of their duties within the UHB and not for private use other than in accordance with relevant policies
- be aware of the UHB Counter Fraud and Corruption Procedure and the rules and guidance covering the control of specific items of expenditure and receipts
- identify financially sensitive posts
- ensure that controls are being complied with
- contribute to the risk assessment of the risks and controls within their business area, which feeds into the UHB and the Welsh Assembly Government Accounting Officer's overall Statement of Accountability and Internal Control.

Employees

The UHB Standing Orders, Standing Financial Instructions, Policies and Procedures place an obligation on all employees, Honorary contract holders and Independent Members to act in accordance with best practice.

Employees are expected to act in accordance with the standards laid down by their professional institutes, where applicable, and have a personal responsibility to ensure that they are familiar with them.

Employees also have a duty to protect the assets of the UHB, including information, goodwill and property.

In addition, all employees have a responsibility to comply with all applicable laws and regulations relating to ethical business behaviour, procurement, personal expenses, conflicts of interest, confidentiality and the acceptance of gifts, hospitality and sponsorship.

This means, in addition to maintaining the normal standards of personal honesty and integrity, all employees should always:

- avoid acting in any way that might cause others to allege, or suspect them of, dishonesty
- behave in a way that would not give cause for others to doubt that UHB employees deal fairly and impartially with official matters
- be alert to the possibility that others might be attempting to deceive.

All employees have a duty to ensure that public funds are safeguarded, whether or not they are involved with cash or payment systems, receipts or dealing with contractors or suppliers.

If an employee suspects that there has been a fraud and/or corruption committed, or has seen any suspicious acts or events, they must report the matter to the nominated LCFS (see *LCFS heading below*). Employees should also be aware of the existence of the UHB Raising Concerns Policy, which will ensure that if a genuine concern is raised, staff will not be at risk of losing their job or suffering any form of retribution or detriment as a result.

Notwithstanding this, all employees need to be aware of their professional responsibilities and/or professional codes of conduct. The fact that an employee has raised a matter under the Raising Concerns Policy does not automatically bring exemption from further investigation under the UHB Disciplinary Policy or a simultaneous Counter Fraud investigation, into allegations of potential breaches of professional codes, serious professional misconduct and/or alleged fraudulent acts.

However, the assurance offered by the Raising Concerns Policy will not be extended to someone, who maliciously raises a matter they know to be untrue.

Nomination of Lead Local Counter Fraud Specialist (LCFS)

It is a requirement of the Secretary of State Directions on Countering Fraud in the NHS that each Health Body has to appoint and then nominate an individual LCFS. The LCFS' role is to ensure that all cases of actual or suspected fraud and/or corruption are notified to the Director of Finance and reported accordingly.

Where there is a need to replace an LCFS, then the NHS Counter Fraud Authority and NHS CFS (Wales) shall be notified of a suitable replacement within three (3) months of the replacement being made and in accordance with the nomination process.

Role of the LCFS

The NHS Counter Fraud Manual is provided to both Directors of Finance and the LCFS' and this details how counter fraud work should be delivered in order to comply with the requirements of the Directions.

The LCFS is responsible for the implementation of the National NHS Counter Fraud Strategy at a local level and the LCFS will undertake a range of activities in each of the four (4) Standards for Fraud, Bribery and Corruption (see page 5 of this procedure).

The LCFS will:

- investigate all cases of fraud
- regularly report to the Director of Finance on the progress of any investigation
- ensure that the Director of Finance is informed about all referrals/cases
- be responsible for the day-to-day implementation of the four (4) standards relating to counter fraud and/or corruption activity and, in particular, the investigation of all suspicions of fraud
- in consultation with the Director of Finance, report any case to the relevant Operational Fraud Manager (OFM) based at NHS CFS (Wales) as agreed and in accordance with the *NHS Counter Fraud and Corruption Manual*
- report any case and the outcome of the investigation through the NHS Counter Fraud Authority case management system (FIRST)
- ensure that other relevant parties are informed, where necessary, e.g. Human Resources (HR) will be informed if an employee is the subject of a referral
- ensure that any system weaknesses, identified as part of an investigation, are followed up with management and reported to Internal Audit
- adhere to the Counter Fraud Professional Accreditation Board (CFPAB)'s Principles of Professional Conduct as set out in the *NHS Counter Fraud and Corruption Manual*
- not have responsibility for or be in any way engaged in the management of security for any NHS body
- ensure that the Director of Finance is informed of any NHS CFS (Wales) investigation, that involves the UHB, including any progress updates.
- provide a quarterly update, to the UHB Audit Committee, on any significant case progress and performance against the UHB Annual Counter Fraud Plan.
- provide the UHB Audit Committee with an Annual Report detailing the counter fraud work undertaken during the period in question
- be required to complete a Self Risk Tool (SRT) as part of the Annual Qualitative Assessment process, which can then be used by the NHS Counter Fraud Authority to determine at what level the UHB is performing in relation to its counter fraud work when this is compared to other NHS bodies in England and Wales
- proactively assist the encouragement of an Anti-Fraud Culture by undertaking work to raise fraud awareness amongst staff within the UHB.
- under delegated responsibility from the Director of Finance and in conjunction with the agreed protocol, liaise with the Director of Workforce and Organisational Development or nominated Human Resources (HR) Officer, prior to any member of staff being interviewed under caution and should it be decided that there is a need for the individual to also be subject to a disciplinary investigation. Neither the Director of Finance nor the LCFS will conduct a disciplinary investigation, but this separate investigation is to be managed by the nominated HR officer and regular meetings should then take place between the LCFS and HR to agree a suitable way forward on a case by case basis.

Operational Fraud Managers (OFMs)

Each regionally based Operational Fraud Manager works as part of the NHS Counter Fraud Authority, whose key objective is to combat fraud and/or corruption in the National Health Service.

Workforce & OD

Workforce & OD staff will liaise closely with relevant Clinical Board and Departmental Managers and the LCFS from the outset, if an employee is suspected of being involved in fraud and/or corruption, in accordance with agreed liaison protocols. Workforce and OD staff will be responsible for ensuring the appropriate use of the UHB Disciplinary Policy. The HR department will advise those, involved in the investigation on matters of employment law and other procedural matters, such as disciplinary and complaints procedures, as requested. Close liaison between the LCFS and HR staff will be essential to ensure that any parallel sanctions (i.e. criminal, civil and/or disciplinary sanctions) are applied effectively and in a co-ordinated manner.

HR staff will take steps as part of the recruitment process, in conjunction and discussion with Line Managers, to establish, as far as possible, the previous record of potential employees, as well as the veracity of required qualifications and memberships of professional bodies, in terms of their propriety and integrity. In this regard, temporary and/or fixed-term contract employees are treated in the same manner as permanent employees.

Information Technology (IT) Security

The UHB IT Security Manager (or equivalent) will contact the LCFS immediately in all cases where there is suspicion that IT is being used for fraudulent purposes. HR staff will also be informed if there is a suspicion that an employee is involved.

Internal and External Audit

Any incident or suspicion that comes to Internal or External Audit's attention will be passed immediately to the nominated LCFS. The outcome of the investigation may necessitate further work by Internal and/or External Audit to review systems.

7. THE RESPONSE PLAN

Reporting Fraud and/or Corruption

This section outlines the action to be taken if fraud and/or corruption is discovered or suspected.

If an employee has any of the concerns mentioned in this document, they must inform the nominated LCFS and/or the Director of Finance immediately, unless of course, the Director of Finance and/or LCFS is implicated.

If that is the case, they should report the matter to the UHB Chairman or Chief Executive, who will decide on the action to be taken.

Form 1 provides a reminder of the key contacts and a checklist of the actions to follow if fraud and/or corruption, or other illegal acts, are discovered or suspected. Managers are encouraged to copy this to staff and to place it on staff notice boards in their department.

An employee can contact any Executive Director or Independent Member of the UHB to discuss their concerns if they feel unable, for any reason, to report the matter to the LCFS or Director of Finance. Employees can also call the NHS Fraud and Corruption Reporting Line on Free-phone 0800 028 40 60. This provides an easily accessible route for the reporting of genuine suspicions of fraud within or affecting the NHS. It allows NHS staff, who may be unsure of internal reporting procedures, to report their concerns in the strictest confidence. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

Anonymous letters, telephone calls, etc are occasionally received from individuals who wish to raise matters of concern, but not through official channels. While the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously.

The LCFS will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised. If the allegations are found to be malicious, they will also be considered for further investigation to establish their source.

Staff should always be encouraged to report reasonably held suspicions directly to the LCFS. Staff can do this by filling in the appropriate NHS Fraud and Corruption Referral Form (**Form 2**) or by contacting the LCFS by telephone or email using the contact details supplied on **Form 1**.

The UHB wants all its employees to feel confident that they can expose any wrongdoing without any risk to themselves. In accordance with the provisions of the Public Interest Disclosure Act 1998, the UHB has produced a Raising Concerns Policy. This procedure is intended to complement the UHB Counter Fraud and Corruption Policy and Code of Business Conduct and ensures there is full provision for staff to raise any concerns with others if they do not feel able to raise them with their Line Manager.

Disciplinary Action

The UHB Disciplinary Policy must be followed if an employee is suspected of being involved in a fraudulent or otherwise illegal act.

It should be noted, however, that the duty to follow disciplinary procedures will not override the need for legal action to be taken (e.g. consideration of criminal action). In the event of doubt, legal statute will prevail.

Police involvement

In accordance with the *NHS Counter Fraud and Corruption Manual*, the Director of Finance, in conjunction with the LCFS, will decide whether or not a case should be referred to the police. Any referral to the police will not prohibit action being taken under the local disciplinary procedures of the UHB.

Managing the investigation

The LCFS, in consultation with the UHB Director of Finance, will investigate an allegation in accordance with procedures documented in the *NHS Counter Fraud and Corruption Manual* issued by the NHS Counter Fraud Authority.

All employees who are under investigation have a right to be represented at internal disciplinary interviews by a Trade Union Representative or accompanied by a friend, colleague or any other person of their choice, not acting in a legal capacity in connection with the case. Therefore, any members of staff who are under investigation which could lead to disciplinary action, do have the right to be represented at all stages. The UHB will follow its own Disciplinary Policy in association with the procedures documented in the *NHS Counter Fraud and Corruption Manual*.

In certain circumstances, evidence may best be protected if the staff member is placed on suspension. The relevant manager will decide the most appropriate course of action based on HR advice whilst the investigation into the allegation(s) takes place.

The UHB will continue to follow its own Disciplinary Policy, once it has been proven that there is evidence that an employee has committed an act of fraud and/or corruption.

Gathering evidence

The LCFS will take control of any physical evidence, and record this in accordance with the procedures outlined in the *NHS Counter Fraud and Corruption Manual*. If evidence consists of several items, such as many documents, LCFS' should record each one with a separate reference number corresponding to the written record. Note that in criminal actions, evidence on or obtained from electronic media needs a document confirming its accuracy.

Interviews under caution or to gather evidence will only be carried out by the LCFS and if it is decided, by the LCFS, that such an interview is appropriate, then this will be carried out in accordance with the Police and Criminal Evidence Act 1984 (PACE). The LCFS will also take written statements where necessary.

All employees have a right to be represented at internal disciplinary interviews by a Trade Union Representative or accompanied by a friend, colleague or any other person of their choice, not acting in a legal capacity in connection with the case.

8. Recovery of losses incurred as a result of Fraud and/or Corruption

The seeking of financial redress or recovery of losses should always be considered in cases of fraud and/or corruption that are investigated by either the LCFS or NHS CFS (Wales) where a loss is identified. As a general rule, recovery of the loss caused by the perpetrator should always be sought. The decisions must be taken in the light of the particular circumstances of each case.

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

Reporting the results of the investigation

The investigation process requires the LCFS to review the systems in operation to determine whether there are any inherent weaknesses. Any such weaknesses identified should be corrected immediately.

If fraud and/or corruption is found to have occurred, the LCFS should prepare a report for the Director of Finance and update the UHB Audit Committee, setting out the following details:

- the circumstances
- the investigation process
- the estimated loss
- the steps taken to prevent a recurrence
- the steps taken to recover the loss.

Action to be taken

Sections 10 and 11 of the *NHS Counter Fraud and Corruption Manual* provide in-depth details of how sanctions can be applied where fraud and/or corruption is then subsequently proven and how redress can be sought.

Actions which may be taken when considering seeking redress include:

- no further action
- criminal investigation
- civil recovery
- disciplinary action
- confiscation order under Proceeds of Crime Act (POCA) 2002
- recovery from ongoing salary payments.

To summarise, local action can be taken to recover money by using the administrative procedures of the UHB or the Civil Law.

In cases of serious fraud and/or corruption, it is recommended that parallel sanctions are applied. For example: disciplinary action relating to the status of the employee in the NHS; use of civil law to recover lost funds; and use of criminal law to apply an appropriate criminal penalty upon the individual(s), and/or a possible referral of information and evidence to external bodies – for example, professional bodies – if appropriate.

Criminal investigations are primarily used for dealing with any criminal activity. The main purpose is to determine if activity was undertaken with criminal intent. Following such an investigation, it may be necessary to bring this activity to the attention of the criminal courts (Magistrates' Court and Crown Court). Depending on the extent of the loss and the proceedings in the case, it may be suitable for the recovery of losses to be considered under POCA.

The NHS CFS (Wales) can also apply to the courts, on behalf of the Health Body, to make a restraining order or confiscation order under POCA. This means that a person's money is taken away from them if it is believed that the person benefited from the crime. It could also include restraining assets during the course of the investigation.

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

The civil recovery route is also available to the UHB if this is cost-effective and desirable for deterrence purposes. This could involve a number of options such as applying through the Small Claims Court and/or recovery through debt collection agencies. Each case needs to be discussed with the Director of Finance to determine the most appropriate action.

The appropriate Senior Manager, in conjunction with the HR department, will be responsible for initiating any necessary Disciplinary Action. Arrangements may be made to recover losses via payroll if the subject is still employed by the UHB. In all cases, current legislation must be complied with.

Timescales

Action to recover losses should be commenced as soon as practicable after the loss has been identified. Given the various options open to the Health Body, it may be necessary for various departments to liaise about the most appropriate option.

Recording

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

Implementation and Staff Awareness

Any newly employed UHB member of staff must be made aware, during induction, of the existence of the UHB Fraud and Corruption Procedure and their responsibilities under it, and must also have access to this document. If required, the UHB Counter Fraud staff will provide this information. It is also the Line Manager's role to ensure that all existing UHB staff be made aware that a copy of the procedure is available on the UHB intranet site and that further advice will be also disseminated to existing staff as a result of the UHB Counter Fraud staff providing regular fraud awareness sessions.

Equality Health Impact Assessment (EHIA)

The UHB is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups. We have undertaken an EHIA and received feedback on this procedure and the way it operates. We wanted to know of any possible or actual impact that this procedure may have on any groups in respect of gender (including maternity and pregnancy as well as marriage or civil partnership issues), race, disability, sexual orientation, Welsh language, religion or belief, transgender, age or other protected characteristics.

The assessment found that there was no adverse impact to the equality groups mentioned. Where appropriate we have taken the necessary actions required to minimise any stated impact to ensure that we meet our responsibilities under the equalities and human rights legislation.

Resources and Funding

There will be no additional costs incurred by the implementation of this procedure, since there is already time accounted for and allocated within the UHB Annual Counter Fraud Work-Plan for such matters which has been agreed between the LCFS and the UHB Finance Director.

A copy of the procedure will be held on the UHB Intranet website and its contents will be brought to the attention of UHB staff as part of regular Fraud Awareness training sessions.

Audit of the Procedure

Compliance with this procedure is to be audited by members of the UHB Counter Fraud Team when undertaking evaluation questionnaires, which are to be completed by those who attend, at the conclusion of individual Fraud Awareness sessions. In addition to this, monitoring the effectiveness of the procedure will be undertaken firstly, by members of the UHB Audit Committee, when monitoring the amount of Counter Fraud work being carried out by means of the regular progress reports submitted by the Nominated Lead LCFS; secondly as part of the Self Review Tool declarations submitted, by the Nominated Lead LCFS to the NHS Counter Fraud Authority as part of the Qualitative Assessment process and finally by the actual number of days of counter fraud work carried out within the UHB being compared, to the total number of days agreed in the UHB Annual Counter Fraud Work-Plan.

Review of the Procedure

It is the responsibility of the Nominated Lead LCFS of the UHB to review and update the procedure taking into account new guidelines, changes in the law, and/or recommendations arising from any subsequent audit and/or the implementation of the procedure. This will occur three (3) years from the date of final approval, but more frequently if needed.

NHS Fraud and Corruption: dos and don'ts
A desktop guide for Cardiff and Vale University Health Board

FRAUD is the deliberate or reckless intent to permanently deprive an employer of money or goods through false representation, failing to disclose information or abuse of position.

CORRUPTION is the deliberate use of bribery or payment of benefit-in-kind to influence an individual to use their position in an unreasonable way to help gain advantage for another.

DO

- **note your concerns**

Record details such as your concerns, names, dates, times, details of conversations and possible witnesses. Time, date and sign your notes.

- **retain evidence**

Retain any evidence that may be destroyed, or make a note and advise your LCFS.

- **report your suspicion** Confidentiality will be respected – delays may lead to further financial loss.

Complete a fraud report and submit in a sealed envelope marked 'Restricted – Management' and 'Confidential' for the personal attention of the LCFS.

If you suspect that fraud against the NHS has taken place, you must report it immediately, by:

- directly contacting the **Local Counter Fraud Specialist**, or
- telephoning the **freephone NHS Fraud and Corruption Reporting Line**, or
- contacting the **Director of Finance**.

DO NOT

- **confront the suspect or convey concerns to anyone other than those authorised, as listed below**

Never attempt to question a suspect yourself; this could alert a fraudster or accuse an innocent person.

- **try to investigate, or contact the police directly**

Never attempt to gather evidence yourself unless it is about to be destroyed; gathering evidence must take into account legal procedures in order for it to be useful. Your LCFS can conduct an investigation in accordance with legislation.

- **be afraid of raising your concerns**

The Public Interest Disclosure Act 1998 protects employees who have reasonable concerns. You will not suffer discrimination or victimisation by following the correct procedures.

Do you have concerns about a fraud taking place in the NHS?

If so, any information can be passed to the
NHS Fraud and Corruption Reporting Line: 0800 028 40 60

All calls will be treated in confidence and investigated
 by professionally trained staff

Your Nominated Lead Local Counter Fraud Specialist is **CRAIG GREENSTOCK**, who can be contacted by telephoning **02921 836265**, or emailing **craig.greenstock@wales.nhs.uk**

If you would like further information about the NHS Counter Fraud Service, please visit **www.nhsbsa.nhs.uk/fraud**

Protecting your NHS

FORM 2

NHS Fraud and Corruption Referral Form

Under no circumstances should this report, which contains personal details, be transmitted electronically.

All referrals will be treated in confidence and investigated by professionally trained staff

Note: Referrals should only be made when you can substantiate your suspicions with one or more reliable pieces of information. Anonymous applications are accepted but may delay any investigation.

1. Date

2. Anonymous application <Delete as appropriate>

Yes (If 'Yes' go to section 6) or No (If 'No' complete sections 3–5)

3. Your name

4. Your organisation/profession

5. Your contact details

6. Suspicion

7. Please provide details including the name, address and date of birth (if known) of the person to whom the allegation relates.

8. Possible useful contacts

9. Please attach any available additional information.

Submit the completed form (in a sealed envelope marked 'Restricted – Management' and 'Confidential') for the personal attention of **CRAIG GREENSTOCK**, the nominated LCFS for **CARDIFF AND VALE UNIVERSITY HEALTH BOARD**.