



Local Counter Fraud / Human Resources Liaison Policy

Document Reference:	POL083
Document Status:	FINAL
Version:	V4.0

DOCUMENT CHANGE HISTORY

Initiated by	Date	Author (s)
People Services	March 2023	Head of HR Policy, Risk Management and Projects
Version	Date	Comments
V3.1	20 April 2023	Reviewed by LCFS
V3.2	16 June 2023	Policy re-modelled, reviewed by LCFS and Head of ER
V3.3	10 July 2023	Reviewed by HR Policy Sub-Group
V3.4	7 August 2023	Approved at SPF
V4.0	23 August 2023	Approved at CRG

Document Reference	Counter Fraud / People Services
Recommended at Date	SPF 7 August 2023
Approved at Date	CRG 23 August 2023
Valid Until Date	31 August 2026
Equality Analysis	11 August 2023
Linked procedural documents	Anti-Fraud and Bribery Policy Freedom to Speak Up: Raising Concerns Policy Standards of Business Conduct Policy Sponsorship, Joint Working and Partnership Arrangements Policy Disciplinary Policy Counter Fraud and Anti-Bribery Statement / Strategy Standing Financial Instructions NHS Code of Conduct for Managers NHS Counter Fraud Authority guidance
Dissemination requirements	To all Trust employees by intranet
Part of Trust's publication scheme	Yes

The East of England Ambulance Service NHS Trust (EEAST) has made every effort to ensure this policy does not have the effect of unlawful discrimination on the grounds of the protected characteristics of: age, disability, gender reassignment, race, religion/belief, gender, sexual orientation, marriage/civil partnership, pregnancy/maternity. The Trust will not tolerate unfair discrimination on the basis of spent criminal convictions, Trade Union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity between people from different groups and foster good relations between people from different groups.

All Trust policies can be provided in alternative formats.

Contents

Paragraph		Page
1.	Introduction	5
2.	Purpose	5
3.	Scope	5
4.	Duties	5
5.	Procedure	6
6.	Criminal Proceedings	7
7.	Disciplinary Action	8
8.	Civil Actions	9
9.	Policy Review	9

Appendices

Appendix 1	Parallel Sanctions Framework Flowchart	10
Appendix 2	Equality Impact Assessment	11
Appendix 3	Monitoring Table	14

1. Introduction

- 1.1 EEAST is committed to deterring, preventing, and detecting fraud and corruption (including bribery) in the Trust, and has a zero-tolerance approach.
- 1.2 Where fraud or corruption is suspected it will be investigated rigorously. Where it is proven, EEAST will consider criminal prosecution of the individual's involved and seek the maximum reparation possible.

2. Purpose

- 2.1 This policy outlines the procedure and responsibilities to be adopted in situations which require liaison between EEAST's Local Counter Fraud Specialist (LCFS) and the People Services Department (HR).
- 2.2 To facilitate the effectiveness of counter fraud within EEAST, the LCFS and HR will work closely together in accordance with the Parallel Sanctions Framework Flowchart (**Appendix 1**).
- 2.2 This policy should be read in conjunction with other related Trust policies, e.g., Anti-Fraud & Bribery Policy, Disciplinary / linked procedural documents.

3. Scope

- 3.1 The application of this policy is the joint responsibility of HR and the LCFS; however, any EEAST employee, or any individual engaged on behalf of EEAST, may be managed under this policy where applicable.

4. Duties

- 4.1 **The LCFS will:**
 - ensure that HR are fully briefed in counter fraud in the NHS, which will include the delivery of annual training sessions;
 - keep the Head of Employee Relations (ER) informed when it becomes apparent that the suspension of an employee is the likely outcome in an alleged case of fraudulent activity;
 - liaise with HR to obtain their expert input, including information and advice as to the necessary disciplinary process and any employment legislation.

- 4.2 **The Head of ER** will ensure that HR are fully aware and understand the Parallel Sanctions Framework Flowchart (**Appendix 1**).
- 4.3 **The LCFS and HR** will work with the Director of Finance to promote the use of appropriate sanctions, i.e., disciplinary, prosecution, civil action or a combination of these routes taken in tandem.
- 4.4 **HR** will:
- inform the LCFS if they become aware of any instances where fraudulent behaviour may be suspected (see section 3.1);
 - keep the provisions within this policy in line with employment legislation, best practice people management principles and NHS guidelines.
- 4.5 **Managers, HR, and trade union representatives** are responsible for providing advice and guidance to members of staff on the application of this policy and procedure.
- 4.6 **All members of staff** have a responsibility to be alert to the risk of fraud and corruption and to follow procedures correctly, so as to minimise the opportunity for fraud and corruption to occur.

5. Procedure

- 5.1 When an allegation or suspicion has been made against a member of staff relating to fraud or corruption the matter should be discussed with the nominated LCFS as soon as possible. The LCFS, Head of ER and the Director of Finance will reach an agreement on the approach to be taken by referring to the Parallel Sanctions Framework Flowchart (**Appendix 1**).
- 5.2 This flowchart should be used in all cases where there is a possibility that fraud or corruption is involved, and where EEAST has been notified of an allegation or suspicion which could result in action being initiated under the Disciplinary Policy.
- 5.3 If further action is required one, or more, of the investigation processes below could take place in any order, depending on the circumstances.
- 5.4 It is important that the member of staff should not be informed or made aware that an investigation into the allegations is taking place until

confirmation that it is appropriate to inform them has been received from the LCFS.

- 5.5 The LCFS has sole responsibility for investigating any allegations of fraud or corruption that supports EEAST's obligation under Service Condition 24 of the NHS Standard Contract (NHS Counter Fraud Authority Fraud (NHSCFA) Manual: 'The NHSCFA's approach to sanctions'). Where appropriate the LCFS will disclose evidence which will assist HR in disciplinary action involving fraud and corruption.
- 5.6 The counter fraud led investigation will be continually reviewed until such time as considered appropriate to inform the suspected member of staff.
- 5.7 The NHS Counter Fraud Authority (NHSCFA) provides guidance, in their Fraud Manual, relating to the application of parallel sanctions to ensure a consistent approach is maintained.
- 5.8 There is no universal template that can be applied to the use of sanctions in every fraud case, however, in every individual circumstance, it is necessary to consider the full range of sanctions available at the earliest opportunity.
- 5.9 The LCFS will pass the investigation files to the Director of Finance, and they will decide, in conjunction with the LCFS and the Head of ER, whether the case is suitable for prosecution. If this is the case, the LCFS will provide a technical assessment of the suitability of the case and file for prosecution.

6. Criminal Proceedings

- 6.1 Criminal investigations and prosecutions can proceed at the same time as civil, and employment orientated (i.e., disciplinary and regulatory) sanctions.
- 6.2 There is no general rule that criminal proceedings must take precedence over either civil or disciplinary proceedings taken by an employer, regulatory or professional body relating to fraud.
- 6.3 There is nothing to prevent the Trust conducting a disciplinary investigation in circumstances where a criminal investigation is in progress, or its outcome is awaited, provided the process is conducted

fairly. In such circumstances the member of staff must be given an opportunity to make a full and considered response to the allegations if they wish.

- 6.4 In order to demonstrate that EEAST is acting fairly and reasonably, the Head of ER will arrange for the employee to be informed if it is known that there is an existing or potential criminal investigation. No indication should be given that prosecution will be avoided if the member of staff elects to answer questions.
- 6.5 The LCFS may conduct an interview under caution after the disciplinary interview has taken place. The answers (or silence) in this interview under caution would be used in the criminal proceedings. The disciplinary interview may well be excluded from any trial depending on the facts of the case.
- 6.6 The standard of proof required for criminal prosecution is beyond reasonable doubt whilst the standard of proof for a disciplinary is the balance of probabilities.

7. Disciplinary Action

- 7.1 Disciplinary proceedings will be conducted in accordance with the Trust's Disciplinary Policy. If there is a possibility that fraud or corruption is involved, the relevant HR representative must contact the LCFS at the earliest opportunity to agree a proposed course of action.
- 7.2 The LCFS cannot investigate a disciplinary case; however, the disciplinary investigation can be run separately alongside the Counter Fraud investigation. If the investigations are to run separately, the Counter Fraud led investigation should take place first i.e., the taking of witness statements. Effective communication must take place between both investigators in order to ensure matters are progressed appropriately.
- 7.3 In order to demonstrate that they are acting fairly EEAST will inform the member of staff if they know of any existing or potential criminal investigation or civil sanction. The member of staff should also be given the opportunity to make a full and considered response to allegations if they wish.

- 7.4 If the LCFS investigation is concluded while the disciplinary process is ongoing, the LCFS report may be included in the disciplinary investigation process/report and be available to the employee, redacted where necessary in line with the Data Protection Act 2018.
- 7.5 If the employee is summarily dismissed on the grounds of gross misconduct for fraud, consideration may be given to an application for civil orders to secure and preserve the proceeds of the fraud.

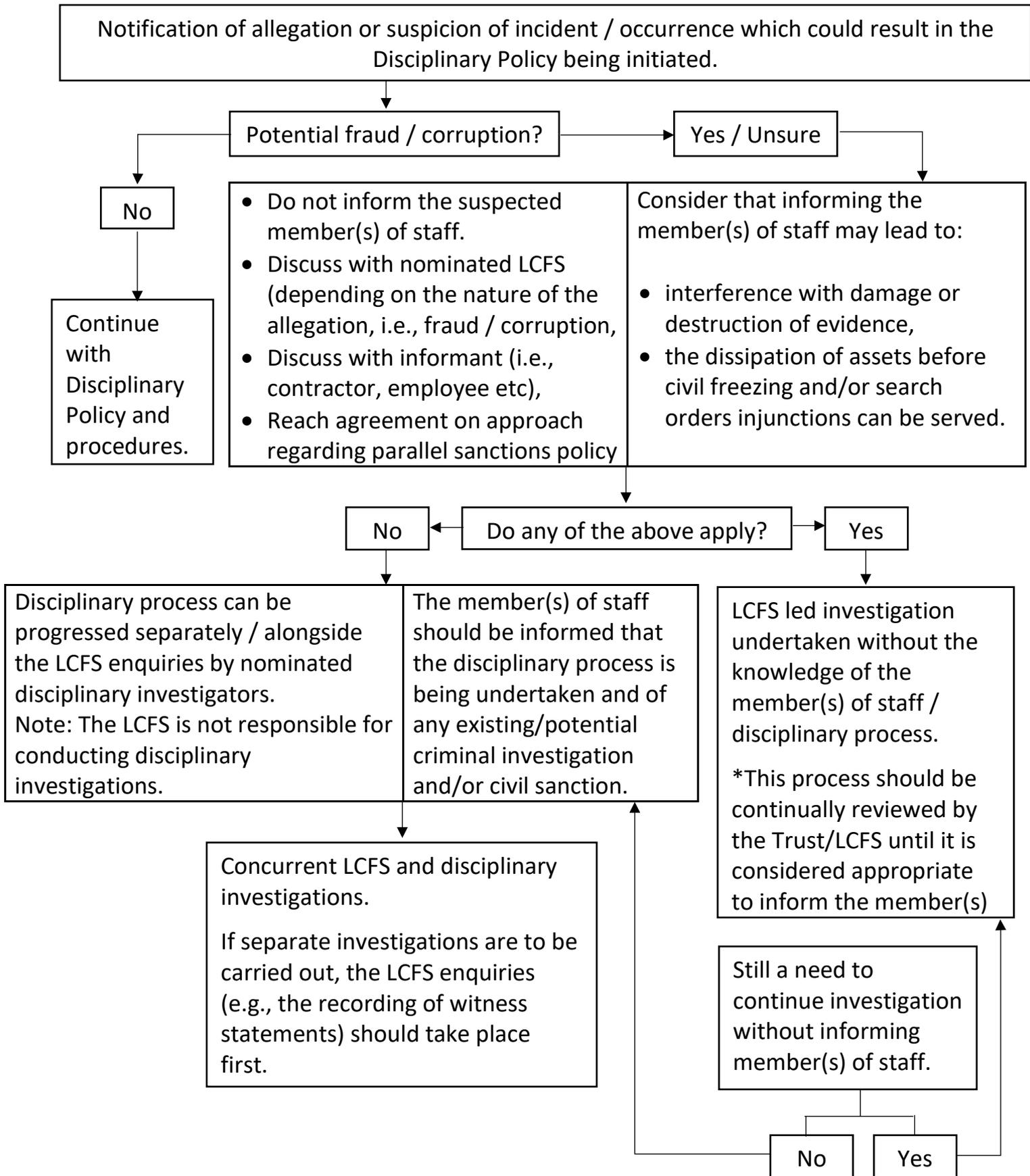
8. Civil Sanctions

- 8.1 Where there is evidence to show that monies have been fraudulently misappropriated by a member of staff, the only way to preserve the proceeds of the fraud may be through civil proceedings for injunctive relief without notice to the fraudster.

9. Policy Review

- 9.1 This policy will be reviewed on a three yearly basis or amended in the light of new employment legislation and/or relevant case law.

Appendix 1 – Parallel Sanctions Framework Flowchart



Appendix 2

Equality Impact Assessment

EIA Cover Sheet		
Name of process/policy	Local Counter Fraud HR Liaison Policy	
Is the process new or existing? If existing, state policy reference no.	Existing (POL083)	
Person responsible for process/policy	Director of People Services	
Directorate and department/section	People Services	
Name of assessment lead or EQI assessment team members	Celia Oke, Michele Murray, Caroline Inches	
Has consultation taken place? Was consultation internal or external?(please state below):	Internal Consultation with HR and relevant departments.	
The assessment is being made on:	Guidelines	
	Written policy involving staff and patients	X
	Strategy	
	Changes in practice	
	Department changes	
	Project plan	
	Action plan	
	Other (please state) Training programme.	

Equality Analysis				
What is the aim of the policy/procedure/practice/event? This document outlines EEAST’s Local Counter Fraud/HR Liaison Policy which sets out the protocol to be adopted insituations which require liaison between the Local Counter Fraud Specialist (LCFS) and HR.				
Who does the policy/procedure/practice/event impact on?				
Race	X	Religion / Belief	X	Marriage / Civil Partnership
Gender	X	Disability	X	Sexual Orientation
Age	X	Gender re-assignment	X	Pregnancy / maternity
Who is responsible for monitoring the policy/procedure/practice/event? HR				
What information is currently available on the impact of this policy/procedure/practice/event? Having reviewed the policy and completed a full consultation process, no negative impact was raised, and with the evidence available there is no negative impact.				
Do you need more guidance before you can make an assessment about this policy/procedure/practice/event? No				
Do you have any examples that show that this policy/procedure/practice/event is having a positive impact on any of the following protected characteristics? Yes/No, if yes please provide evidence/examples:				
Race	<input type="checkbox"/>	Religion / Belief	<input type="checkbox"/>	Marriage / Civil Partnership
Gender	<input type="checkbox"/>	Disability	<input type="checkbox"/>	Sexual Orientation
Age	<input type="checkbox"/>	Gender re-assignment	<input type="checkbox"/>	Pregnancy / maternity
Please provide evidence: This policy is designed to have a positive impact for all eligible employees.				
Are there any concerns that this policy/procedure/practice/event could have a negative impact onany of the following characteristics? Yes/No, if so, please provide evidence/examples: No				

Race	<input type="checkbox"/>	Religion / Belief	<input type="checkbox"/>	Marriage / Civil Partnership	<input type="checkbox"/>
Gender	<input type="checkbox"/>	Disability	<input type="checkbox"/>	Sexual Orientation	<input type="checkbox"/>
Age	<input type="checkbox"/>	Gender re-assignment	<input type="checkbox"/>	Pregnancy / maternity	<input type="checkbox"/>
Please provide evidence: N/A					
Action Plan/Plans - SMART					
Specific					
Measurable					
Achievable					
Relevant					
Time Limited					
Evaluation Monitoring Plan/how will this be monitored?					
Who					
How					
By					
Reported to					

Appendix 3: Local Counter Fraud and HR Liaison Policy - Monitoring Table

What	Who	How	Frequency	Evidence	Reporting arrangements	Acting on recommendations	Change in practice and lessons to be shared
The procedure for effective liaison between the LCFS and ER team when any concern or suspicion is raised in respect of fraud and bribery.	Head of ER and the LCFS	Review of any fraud / bribery cases on the ER Tracker, and analysis by the LCFS as required.	On an ongoing basis for all relevant ER cases	ER Tracker report	Reported to and discussed with Head of ER, Director of People Services. Reported to and discussed at People Committee.	The Head of ER / LCFS will address any actions or changes required.	Any change in practice will be identified and, either: <ul style="list-style-type: none"> • incorporated into the annual LCFS training to HR • process updated on the ER tracker • line manager training implemented • policy updated where required