

Counter Fraud



—BELMATT—
HEALTHCARE TRAINING

Aims and Learning Outcomes

This session aims to highlight types of potential fraud offences in the NHS and healthcare in the UK

This session will develop your understanding of:

The Fraud Act and how to identify different types of fraud

Understand key points of the Code of Conduct



Think about what
constitutes Fraud

Fraud can be described as:

- An offence has occurred if the person acted dishonestly with the intent of making a gain for themselves or anyone else, or inflicting a loss (or a risk of loss) on another.
- The person knows that his actions would be viewed as dishonest.

As you can see, simply the risk of a loss or gain is enough for an offence to be classed as fraud. In other words, the actual loss or gain does not have to have taken place

What is Fraud

- Fraud can be deception carried out for personal gain, usually for money. Fraud can also involve the abuse of a position of trust
- For example, imagine if you work for an NHS organisation and make false claims for travel expenses. Your role involves frequent travel by car and each month you submit a form detailing your expenses, which the organisation then pays into your account. One day you decide to start inflating your expenses, claiming for more miles than you actually travelled in order to get more money. This is an example of fraud (specifically, fraud by false representation)

Fraud Act 2006

- A person is guilty of fraud if he is in breach of any of the sections listed in subsection (2) (which provide for different ways of committing the offence).
- (a)section 2 (fraud by false representation),
- (b)section 3 (fraud by failing to disclose information), and
- (c)section 4 (fraud by abuse of position).
- A person who is guilty of fraud is liable—
 - ***on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or to both);
 - ***on conviction on indictment, to imprisonment for a term not exceeding 10 years or to a fine

Offences below require the element of dishonestly to be established



Abuse of
position

Failure to
disclose

False
representation

Reporting Fraud

When we think of reporting fraud, quite often individuals think to report their suspicions to the police or to their line manager. The issues with this are that the police have to prioritise their resource and NHS fraud may not necessarily be high on their agenda, and a line manager could potentially be implicated in the fraud.

The person you should report your concerns to is the Local Counter Fraud Specialist (LCFS) who is appropriately trained to manage and investigate concerns of fraud, or to your Director of Finance or Chief Financial Officer.

It is important that any potential fraud allegation is investigated by the LCFS as there is clear guidance as to how a criminal investigation must be conducted and any breach of this can lead to it not being deemed appropriate for prosecution.

Role of Local Counter Fraud Specialist (LCFS)

The LCFS is nominated to the organisation/trust or CCG. There are three main areas to the role:

- inform and involve
- prevent and deter; and
- hold to account

Penalties

The penalties for committing an offence under the Bribery Act 2010 are severe:

- individuals can receive a maximum of 10 years imprisonment, this includes directors who give, receive or fail to prevent a bribe
- unlimited fine for both individuals and corporations
- potential risk of disbarment from EU tendering
- directors struck off
- massive reputational damage to individuals and to the corporations implicated

Examples of Fraud



Bribery

Declarations of interest

Gifts and Hospitality

Code of Conduct

Every organization has a code of conduct

The Code of Conduct is generally formed of a number of policies including the Bribery policy, the Whistleblowing policy, and the Gifts and Hospitality policy to name a few.

This ensures that the organisation is impartial and honest in the conduct of its business.

The policies contained within the Code of Conduct explain what is expected of individuals and external companies who work with the organisation in terms of standards of behaviour when conducting business.

It also sets out the requirements that each individual member of staff that falls within its scope must comply with to ensure they are not placed in a position that raises a conflict between their private interests and their NHS duties

All staff must ensure they


Staff must declare conflicts that may arise between their NHS work and their personal interests as soon as the interest arises

Abide by the rules regarding the acceptance of gifts, hospitality and sponsorship

Inform a manager if they suspect they have been offered a gift or hospitality with intent that is questionable

Conflicts of Interest

Staff who have an interest in an external company or individual with which the organisation has a business relationship may be vulnerable to allegations of impropriety



Staff should exercise caution in areas where an interest might arise



If their dealings or interests might influence, or be seen by others to influence the organisation's business relationships with that external company or individual, the interest **must be declared**



If a staff member has no interests to declare, a declaration form must still be completed to reflect this fact. This is called a 'nil return' or 'nil declaration'

Gifts and Hospitality

The receipt of goods, hospitality, loans, benefits in circumstances and sponsorship that provide no direct benefit to the organisation is not acceptable and should generally be refused and declared. This includes but is not limited to:



Goods or services for private use e.g. maintenance work



Payment by business contacts to subsidise social events



Tickets to cultural or sporting events



Use of a flat or other accommodation



The offer of a holiday or other similar inducement

Offer of gifts, free travel or cash

You refuse any offer of money whether in the form of cash, cheque or as vouchers for the purchase of goods.

It is possible for gifts of money or vouchers to be donated to one of the organisation's charities, for further information please see your Gifts and Hospitality Policy.

Offers to pay travel, subsistence and related costs to visit premises or attend events organised by a third party (eg a contractor or supplier) should be refused unless there is a clear benefit. For example, if someone was asked to speak at a conference, their organisation may have set rules in relation to what gifts and hospitality the individual may receive, and as such they should be referred to the policy for clarification surrounding this.

Where staff believe an organisation has offered gifts or hospitality in expectation of something in return this could be considered an inducement under the Bribery Act 2010.

Payroll fraud: Guidance on prevention, detection and investigation

:

- Misrepresentation of qualifications/skills or experience
- Time-sheet fraud
- Working while off sick
- Expenses and allowances fraud

Please see more detailed guidance in this document

https://cfa.nhs.uk/resources/downloads/guidance/fraud-awareness/Payroll_fraud_-_Guidance_on_prevention_detection_and_investigation.pdf

Reporting Fraud

- Speak to practice partner, your manager, fraud unit at your organisation
- through the NHS Fraud and Corruption Reporting Line **0800 028 4060** (available 24/7)
- online at **<https://cfa.nhs.uk/reportfraud>**.
- All reports are treated in confidence and there is the option to report anonymously.

Conclusion

Stay	Stay diligent
Don't fall	Don't fall foul of the law.
Speak	If in doubt, speak to a senior colleague, union rep or the organization to which you are registered such as NMC, HCPC, GMC.