Counter Fraud - Audit Committee Master Class

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Aims of Presentation

• Initial Fraud Awareness
• Outline of Current and Future Arrangements
• Counter Fraud Structure
• Role of the LCFS
• LCFS & CCG’s
• Counter Fraud Strategy
• Counter Fraud and the Audit Committee
Current/Future Anti-Fraud Arrangements

– NHS Protect (formerly the NHS Counter Fraud Service) introduced in 1998/99
– Secretary of State Directions –
  All NHS organisations are expected to have effective fraud prevention measures in place
– Local Counter Fraud Specialist in place
– NHS Protect Crime Risk Assessment Toolkit – requires completion within one month of the service starting.
Fraud in the NHS

Fraud in the NHS occurs and is estimated to cost £2 billion per year, the same as benefit fraud!

Remember - The majority of staff, contractors and patients are honest!
What is Fraud?

Fraud Act 2006 (January 2007)

Basic requirements of fraud:

- Dishonest behaviour
- Intention to gain or cause a loss to another
What is Fraud?

Fraud Act 2006: Dishonest behaviour of the subject and intent to make a gain or cause a loss. There are 3 main elements:

- **False Representation**: Lying about something by words or actions e.g. personal identity, qualifications, hours worked, benefit entitlement, etc.
- **Failure to Disclose**: Mandatory information, e.g. convictions / disciplinary action; overpaid salary, interest in a supply contract, etc.
- **Abuse of a Position of Trust**: Where there is a duty to safeguard the financial interests of another person or organisation, e.g. withdrawal of patients’ monies for own use.
Bribery Act

• The Bribery Act 2010 came into effect on 1st July 2011 and replaces the offences and previous legislation.

• The new Act makes and defines the following criminal offences:
  1. To give, promise or offer a bribe
  2. To request, agree to receive or accept a bribe
  3. Bribery of a foreign public official
  4. Failure of a commercial organisation to prevent bribery being undertaken on its behalf
Bribery Act

What is a bribe?

Where the briber offers, promises or gives a financial or other advantage to someone else:

1. To induce or reward someone
2. For improper performance of a relevant function or activity (including in your job)
Gifts & Hospitality

Gifts and Hospitality

Act does not aim to criminalise normal and reasonable hospitality however gifts and hospitality can be used for bribery

Hospitality is unlikely to breach Act if it is:

- Reasonable or proportionate
- Has a bona fide business purpose
- Is not intended to influence

Unduly lavish hospitality could give rise to inference of impropriety

Take care re: timing (e.g. is recipient handling or involved in a pending decision affecting your organisation?)

HAS IT BEEN DECLARED?
Questions to Ask Yourself

**ACTIONS**
Are you being given any gifts or hospitality?
Is this gift or hospitality reasonable and proportionate?
Do you believe this may be to influence you, because of your position?

**DECLARATIONS & REGISTERS**
Have you declared any hospitality you have received or given?
Have you declared any actual or potential conflicts of interest?

If in doubt, DECLARE IT!!
Bribery Act – Risks and Implications for Organisations

Risks and Offences:

- **New Corporate Offence** – Failure by a commercial organisation to prevent a bribe being paid for or on its behalf (by an ‘associated person’) – Includes the NHS
- An ‘associated person’ can be defined as any employee, bank or agency worker, contractors and subcontractors building on the Health Body’s behalf, agents, suppliers, or any other companies or organisations within the Health Body’s structure
- Under this offence, the Health Body may be found guilty even if no one in the Trust knew of the bribe
- Where the Health Body has operations carried out by another individual or entity on its behalf, even in small part, it is important to ensure that the third party is aware of and commits itself to robust anti-bribery policies. (Contract Terms and Conditions?)
Every NHS Trust/PCT/CCG
Nominated, Trained & Accredited
Liaison with AAFS & NHS Protect
Regionally based
National Investigation Team
Support LCFSs
High profile cases
Legal reform
Measurement
Targets
Policy
Training
Strategy
Publicity
Operational arm of NHS Protect
1st point of contact
Every Strategic Health Authority
AAFS
NHS PROTECT
LCFS
NHS Counter Fraud Structure
Role of the LCFS

- Report to Chief Financial Officer
- Annual Report on Counter Fraud
- Attend the Audit Committee
- Review risks including Bribery Act Compliance
- Undertake proactive work
- Liaise with NHS Protect
- Investigate cases of suspected fraud
Local Counter Fraud Specialist & CCG’s

- All providers must have counter fraud provision
- The level of counter fraud input is expected to match the previous PCT provisions
- Bespoke workplans for CCG’s and associated risks are currently being developed
- LCFS meeting with all CFO’s shortly and arranging to deliver fraud awareness sessions for CCG’s
Counter Fraud Strategy

Sanctions

Redress

Detection

Investigation

Anti-Fraud Culture

Deterrence

Prevention
Counter Fraud & Audit Committee

• LCFS reports to the Director of Finance

• LCFS attends the Audit Committee to provide;
  – The annual workplan outlining planned work for the year.
  – An update of service delivered and any fraud weaknesses.
  – Investigation Summary - sensitive document and not for disclosure.
  – Recommendations issued on identified risks.
  – An annual report to summarise actions throughout the previous year.
Counter Fraud & Audit Committee

• Other than the workplan, all information reported to the Audit Committee by the LCFS is for information.

• It is the role of Audit Committee members to promote an Anti Fraud Culture within the organisation.

• To secure effective support for the national strategy locally by management and staff, the Audit Committee must demonstrate support for it and enthuse them to do likewise.
Can you spot the fraudster?

We need your help to reduce fraud in the NHS.

Thank you for your time today.

ANY QUESTIONS?
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