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Signed off by: 	

LOCAL COUNTER FRAUD/HUMAN RESOURCES LIAISON POLICY

1. POLICY STATEMENT

- 1.1 This document outlines the Local Counter Fraud/Human Resources Liaison Policy for the East of England Ambulance Service NHS Trust (the Trust) which sets out the protocol to be adopted in situations which require liaison between the Trusts' Local Counter Fraud Specialist (LCFS) and the Human Resources Department.
- 1.2 To facilitate the effectiveness of counter fraud work within the Trust the LCFS and the Human Resources Department must have an understanding of each other's roles and work closely together in accordance with the Parallel Sanctions Framework Flowchart, as set out within Appendix 1.
- 1.3 The Department of Health's document 'Countering Fraud in the NHS: Applying Appropriate Sanctions Consistently' (2007) provides guidance relating to the application of parallel sanctions to ensure a consistent approach is maintained.
- 1.4 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.

2. SCOPE

- 2.1 The application of this policy is the joint responsibility of the Human Resources Department and the Local Counter Fraud Specialist; however any Trust employee, or any individual engaged on behalf of the Trust, may be managed under this Policy where applicable.

3. ACCESS TO THE PROCEDURE

- 3.1 All employees are entitled to access to this policy which is located in the HR Policies and Procedures Folders and/or on the Trust's Intranet. However, if you require this Policy in any other format please seek guidance from the Human Resources Department, your line management or trade union representative.

- 3.2 Employees and Managers may also wish to consult related Trust policies such as Disciplinary Policy (Managing Staff Conduct and Performance Procedure) and the Department of Health's 'Countering Fraud in the NHS: Applying Appropriate Sanctions Consistently' (2007).

4. ROLES AND RESPONSIBILITIES

- 4.1 The Human Resources Department is responsible for keeping the provisions within this policy in line with employment legislation, best practice people management principles and NHS guidelines.
- 4.2 The Director of Human Resources and Organisational Development or the Human Resources Department will inform the LCFS if they become aware of any instances where fraudulent behaviour may be suspected with regard to employees of the Trust.
- 4.3 The Director of Human Resources and Organisational Development will ensure that the Human Resources Department are fully aware and understand the Parallel Sanctions Framework Flowchart (Appendix 1). This flowchart should be applied in all cases where there is a possibility that fraud or corruption is involved, where the Trust has been notified of an allegation or suspicion of incident/occurrence to the Trust which could result in the Trust's Disciplinary Policy (Managing Staff Conduct and Performance Procedure) being initiated.
- 4.4 The LCFS will ensure that all within the responsible Human Resources Department are fully briefed as to the work of counter fraud in the NHS.
- 4.5 The LCFS will also keep the Director of Human Resources and Organisational Development fully informed in all cases where it becomes apparent that the suspension of an employee of the Trust is the likely outcome in an alleged case of fraudulent activity.
- 4.6 The LCFS and the Human Resources Department will work together with the Finance Director to promote the use of appropriate sanctions using either disciplinary, prosecution, or civil routes or a combination of these routes taken in tandem.
- 4.7 The LCFS will then liaise with the Human Resources Department in order to obtain their expert input, with information and advice as to the necessary disciplinary matters and any employment legislation.
- 4.8 The Human Resources Department understand that the LCFS has sole responsibility for investigating any case of alleged fraud or corruption that may occur within the Trust under the guidelines of the Secretary of State Directions for England (see Appendix 1 of the Department of Health's document 'Countering Fraud in the NHS: Applying Appropriate Sanctions Consistently'). Where appropriate the LCFS will disclose evidence which will assist the Human Resources Department in disciplinary action involving fraud and corruption.
- 4.9 Managers, HR staff and trade union representatives are responsible for providing

advice and guidance to employees on the application of this policy and procedure.

- 4.10 Management and trade union representatives are responsible for bringing any mutually beneficial improvements to this policy to the attention of the Trust.

5. PROTOCOL

5.1 When an allegation or suspicion has been made against an employee of the Trust relating to fraud or corruption the matter should be discussed with the nominated LCFS as soon as possible. The LCFS, Director of Human Resources and Organisational Development and the Finance Director will reach an agreement on the approach in respect of Parallel Sanctions Framework Flowchart (Appendix 1). The Trust should ensure that the suspected employee is not informed or made aware that an investigation is taking place.

5.2 If further action is required one, or more, of the investigation processes as set out below could take place in any order, depending on the circumstances.

5.3 The counter fraud led investigation will be continually reviewed until such time as considered appropriate to inform the suspected employee.

5.4 The LCFS will pass the investigation files to the Finance Director as they may be suitable for a prosecution. The Finance Director will decide, in conjunction with the LCFS and the Director of Human Resources and Organisational Development, whether the case is suitable for prosecution, and 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, as long as the process is conducted fairly. In such circumstances the employee 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 the Trust is acting fairly and reasonably the Trust should inform the employee whether there is any known existing or potential criminal investigation. No indication should be given that prosecution will be avoided if the employee 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 Trusts Disciplinary Policy (Managing Staff Conduct and Performance Procedure). If there is a possibility that fraud or corruption is involved, the relevant Human Resources Department must contact the LCFS at the earliest opportunity to agree a proposed course of action.
- 7.2 Disciplinary investigations will be undertaken in line with the Trusts Disciplinary Policy (Managing Staff Conduct and Performance Procedure). The LCFS cannot investigate a disciplinary case; however the disciplinary investigation can be run separately alongside the LCFS enquiries. 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 the Trust should inform the employee if they know of any existing or potential criminal investigation or civil sanction. The employee should also be given the opportunity to make a full and considered response to allegations if they wish.
- 7.4 If the Trust were to dismiss the employee summarily 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.

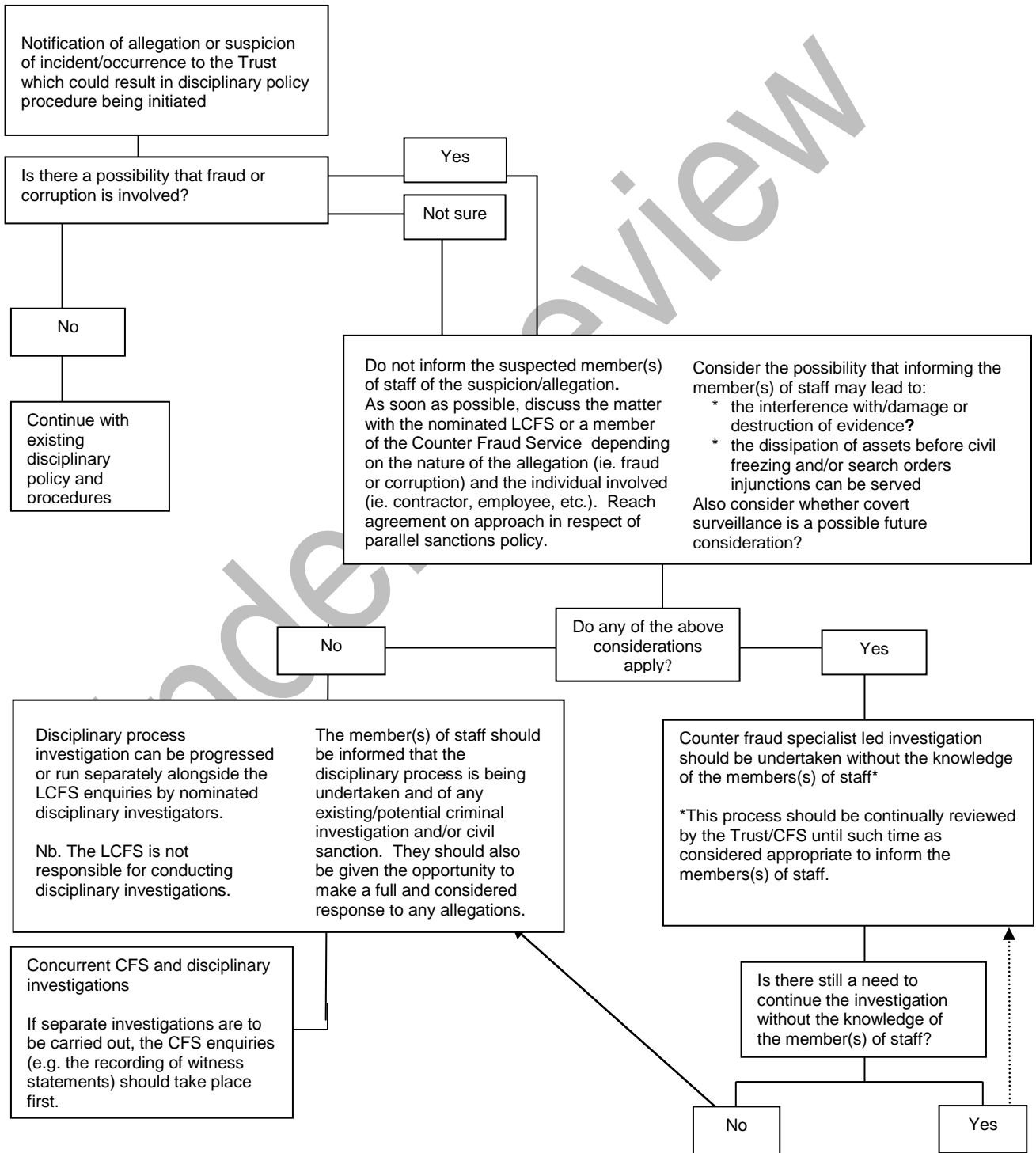
8. CIVIL SANCTIONS

- 8.1 Where there is evidence to show that monies have been fraudulently misappropriated by an employee, 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 two yearly basis or amended in the light of new employment legislation and/or relevant case law.

Parallel Sanctions Framework Flowchart (Full version) (Guidance to Trusts)



Under Review