

Chief Finance Officer Statement on - The new ‘failure to prevent fraud’ offence, which was introduced as part of the Economic Crime and Corporate Transparency Act 2023

Introduction

As the Accountable officer for fraud at the Trust, the statement has been prepared to provide understanding of the new legislation.

Under the legislation ‘Failure to prevent fraud’ offence which takes effect on the 01 September 2025, an organisation will be criminally liable where:

- a fraud offence is committed by an employee, agent or other ‘associated’ person, with the intention of deriving a benefit for the organisation or a related body; and
- the organisation did not have ‘**reasonable**’ fraud prevention procedures in place

It does not need to be shown that company managers ordered or knew about the fraud.

In the event of prosecution, an organisation would have to demonstrate to the court that it had reasonable fraud prevention measures in place at the time that the fraud was committed

How is the offence committed?

The offence of failing to prevent fraud will be committed by a large body corporate where:

- a person associated with it (an employee, an agent or a subsidiary of the relevant body) commits a specified fraud offence; and
 - the person committing the offence did so with the intention of benefitting the relevant body either directly or indirectly; or
 - the person committing the offence did so with the intention of benefitting any entity which the person provides services to on behalf of the relevant body.
- [Section 199(1)]
- By a body corporate (not being a large organisation) where:
 - a specified fraud offence is committed by an associate with the intention of benefitting that body (directly or indirectly);
 - the offence is committed at a time when the relevant body is subsidiary of a body which is a large organisation. [Section 199(2)]

All NHS organisations need to consider the impact of the new legislation carefully and take appropriate action to ensure that “adequate procedures” are in place to prevent this offence occurring in their organisation.

As a result, I can confirm that Bolton NHS Foundation Trust will commit sufficient time and resources to the development and embedding of an appropriate anti-bribery and corruption programme, which will include the application of the legislation.

2. Application of the legislation

As a responsible employer, Bolton NHS Foundation Trust has a duty to ensure that all staff are aware of the risks associated with this new legislation. It is essential that staff are aware of the standards of behavior that is expected of them. These standards are detailed within Trust policies and represent the ethics, professional conduct and probity standards that is required of all employees.

As a Trust and with the assistance of the Counter Fraud Specialist we will work together to ensure that it meets the **Six guiding principles in which counts as “reasonable procedures” for fraud prevention under ECCTA (Economic Crime and Corporate Transparency Act). These are as follows -**

- 1. Top level commitment** - The board and senior management will visibly endorse the procedures, embedding anti-fraud responsibilities into governance.
- 2. Risk assessment** - A Trust-wide risk assessment will be continually assessed and document the organisations exposure to fraud risks posed by employees, agents and other “associated persons”.
- 3. Proportionate, risk-based procedures** –A fraud-prevention plan, with proportionate controls should be in place. These measures should be proportional to the likelihood and impact of each risk and how much control the organisation has over different associated persons (for example, employees versus outsourced contractors).
- 4. Due diligence** - The Trust must perform checks on associated people, especially third parties and include contractual fraud-prevention clauses where necessary, this may include working with our auditors.
- 5. Communication** - Organisation-wide communication and ongoing training are key to a successful fraud prevention framework.
- 6. Monitoring and review** - The Trust will continuously monitor and review their fraud detection and prevention procedures.

Staff should report any suspicions or allegations of fraud, bribery or corruption by one of the following methods:

- Via the Counter Fraud manager. The designated Local Counter Fraud Specialist (LCFS) for Bolton NHS Foundation Trust is Collette Ryan, and her contact number is 07827 835979 or via email on collette.ryan@boltonft.nhs.uk
- Via the NHS Fraud and Corruption Reporting Line on 0800 028 40 60
- Via the online fraud reporting facility <https://cfa.nhs.uk/reportfraud>

Or raise concerns via the Freedom to Speak up managers/champions

Kindest regards



Annette Walker
Chief Finance Officer