

# Counter Fraud and Response Plan

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# Counter Fraud Response Plan

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# Counter Fraud Response Plan

## Forward

This document confirms BrisDoc's policy and response plan for dealing with suspected fraud and corruption, and other illegal acts involving dishonesty or damage to property.

BrisDoc acts in accordance with the standards and expectations set by the NHS Counter Fraud Authority, a special health authority tasked to lead the fight against fraud, bribery and corruption in the NHS. The Department of Health and Social Care Anti-Fraud Unit provides support and co-ordination in the development and delivery of counter fraud work and holds to account those responsible for actions as set out in the DHSC counter fraud strategy: 2020 to 2023.

The organisation has designated individuals as nominated officers, referred to throughout this document, whom staff/contractors may contact confidentially if they suspect a fraudulent act. The "Nominated Officers" for BrisDoc Healthcare Services are the Managing Director, the Company Chairman, the Corporate Services Director, and the Local Counter Fraud Specialist (LCFS).

### 1.1 Contact Details for Local Counter Fraud Specialist

The Local Counter Fraud Specialist can be contacted on telephone number **0117 342 0838 (07826 908010)**. The team will provide advice. If active support is required it is a chargeable service which will need agreeing with the Managing Director.

Audit South West  
LCF Unit  
Level 3c Whitefriars  
Lewins Mead  
Bristol  
BS1 2NT





Tel: 0117 342 0838  
Fax: 0117 342 0341

BrisDoc's Corporate Services Director plays an important role in assuring the BrisDoc Directors that the activities of the organisation promote safe and effective clinical and managerial practice at service and corporate level and is therefore integral to supporting the management of incidents where fraud is suspected.

## Introduction

One of the basic principles of public sector organisations is the proper use of public funds in accordance with the Functional Standards set by the NHS Counter Fraud Authority for the NHS. BrisDoc recognises its responsibility to adhere to this principle in its role of working exclusively for the NHS. Adherence to this principle supports BrisDoc to achieve its objective of resource care in accordance with its core values.

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<b>Patient Care</b>	<b>Workforce Care</b>	<b>Patient Care</b> Patient focused - understanding our patients needs and ensuring we prioritise the "patients view" in all our everyday activities and actions.
		<b>Workforce Care</b> Teamwork and individual responsibility - every person counts, supporting each other, sharing information, valuing and encouraging.
<b>Quality Care</b>	<b>Resource Care</b>	<b>Quality Care</b> Commitment to do what we say and improve what we do. A commitment to excellence and quality when serving patients and colleagues.
		<b>Resource Care</b> Optimising the use of all resources across the local health economy. Taking care of our working environment and equipment.

There are twelve components to the Functional Standard. <https://cfa.nhs.uk>

Accountable Individual	Counter fraud bribery & corruption strategy	Fraud bribery and corruption risk assessment
Policy and response plan	Annual action plan	Outcome-based metrics
Reporting routes for staff, contractors and members of the public	Report identified loss	Access to trained investigators
Undertake detection activity	Access to and completion of training	Policies and registers for gifts and hospitality and COI

Working to these standards helps deliver the underlying principles of the DHSC counter fraud strategy. The principles include:

- There is always going to be fraud
- Finding fraud is a good thing
- There is no one solution
- Fraud and corruption are ever changing
- Prevention is the most effective way to address fraud and corruption.



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It is important that all those who work for BrisDoc are aware of the risk of and means of enforcing the rules against fraud and other illegal acts involving dishonesty or damage to property. The definition of 'fraud and corruption' is detailed below.

## 2.1 Fraud

Fraud is the intentional deception intending to gain advantage or to damage another individual. Fraud is a crime and a civil tort at common law. Defrauding people or entities of money or valuables is a common purpose of fraud.

The Fraud Act 2006 came into force on the 15 January 2007 and introduced the general offence of fraud. This is broken into three key sections;

- Fraud by false representation
- Fraud by failing, in legal breach of duty, to disclose information
- Fraud by abuse of position

Two basic requirements which must be met before any of the above three can be charged are that:

- The behaviour of the defendant was dishonest; and
- That the defendant's intention was to make gain, or to cause a loss to another.

The Fraud Act also creates new offences of;

- Possession and making or supplying articles for use in fraud
- Fraudulent trading (sole traders)
- Obtaining services dishonestly

## 2.2 Corruption

The Bribery Act 2010 broadly defines the sections below:

- Two general offences of bribery – 1) Offering or giving a bribe to induce someone to behave, or to reward someone for behaving, improperly and 2) requesting or accepting a bribe either in exchange for acting improperly, or where the request or acceptance is itself improper;
- The new corporate offence of negligently failing by a company or limited liability partnership to prevent bribery being given or offered by an employee or agent on behalf of that organisation;
- Bribing a foreign official.

This document sets out the BrisDoc policy and response plan for detected or suspected fraud. BrisDoc has procedures in place that reduce the likelihood of fraud occurring. These include documented procedures, a system of internal control and financial management. In addition, BrisDoc ensures that a risk awareness culture exists across the organisation (that includes fraud), and has complied with the Secretary of State's Directions in nominating a Local Counter Fraud Specialist (LCFS).

This document is intended to provide direction and help to those Managers and Directors who may find themselves in a position of having to manage allegations of fraud or corruption. It provides a framework for a response, and advice and information on various

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aspects and implications of an investigation. This document is not intended to provide detailed direction on the prevention of fraud in any particular departments or control systems.

The LCFS conducts investigations as directed by the NHS Counter Fraud Authority functional standards.

## The Policy

BrisDoc is committed to maintaining an honest, open and well intentioned atmosphere across the organisation. It is committed to the elimination of any fraud and corruption within the organisation, and to the rigorous investigation of any such cases.

BrisDoc wishes to encourage anyone having reasonable suspicions of fraud or corruption to report them. Co-owners have an individual responsibility to report fraud if they suspect it.

It is BrisDoc policy, which will be rigorously enforced, that no employee or independent contractor will suffer in any way through the reporting of reasonably held suspicions. BrisDoc fully endorses the provisions of the Public Interest Disclosure Act (1998) and will offer full and unconditional support to any member of staff/contractors who has a genuine concern to raise, under the provisions of the Act. This is supported by BrisDoc's *Confidentiality Code of Practice* and *Whistleblowing Policy*.

All co-owners can therefore be confident that they will not suffer in any way as a result of reporting reasonably held suspicions of fraud. For these purposes "reasonably held suspicions" shall mean any suspicions other than those which are raised maliciously. Reasonably held can mean groundless, as long as they were not raised maliciously.

## Roles and Responsibilities

Where a referral concerning fraud or corruption has been made to the Managing Director, the Director shall inform the LCFS at the first opportunity if deemed necessary.

The Human Resources Manager shall advise those involved of an investigation in matters of employment law and in other procedural matters, such as disciplinary and complaints procedures, as requested. The Nominated Officers are authorised to receive inquiries from staff /independent contractors confidentially and anonymously.

If a member of staff suspects the Managing Director and, or the Chairman of Fraud, then reference to the Non-executive Directors and HR Manager should be made in order to manage a referral to the LCSF directly as necessary.

BrisDoc fully endorses the provisions of the Public Interest Disclosure Act 1998 and wishes to encourage anyone having reasonable suspicions of fraud to report them. The organisation's Whistleblowing Policy rigorously enforces that no employee should suffer because of reporting reasonably held suspicions under the provisions of the Act.

Awareness of these requirements is promoted in discussion with staff and as part of ongoing emphasis on the Staff Code of Expectations. The policy is made easily accessible to staff at all our sites.

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## The Response Plan

On receiving notification of a possible fraudulent act the Managing Director will decide if the reported incident should be passed to the LCFS. If it is passed to the LCFS they will conduct all investigations in accordance with the NHSCFA functional standards. This will cover all aspects of conducting a professional investigation, including gathering evidence and interviewing.

If the Managing Director feels that it would be more appropriate to investigate the report internally then he should consult with the BrisDoc Chairman and together they will appoint an investigation team.

Under no circumstances should a co-owner/contractor speak to, write to, or email representatives of the press, TV, radio or to another third party about a suspected fraud.

In some cases, e.g. if a major diversion of funds is suspected, speed of response will be crucial to avoid financial loss.

### 5.1 The Nominated Officers

The nominated officers are authorised to treat inquiries confidentially and anonymously if so requested by the co-owner or patient contacting them. The nominated officers should attempt to monitor requests for details of the fraud policy (over and above those issued as a co-owner guide) in case a fraudster attempts to obtain information on how the organisation deals with fraud.

The LCFS is a fully accredited NHS counter fraud officer who has undertaken specialist training and able to respond tactfully and appropriately to concerns raised by co-owners/contractors.

### 5.2 The Process

#### Step 1: Discuss with the Line Manager or a Nominated Officer

- If a co-owner has good reason to suspect a colleague, patient or other person of fraud or corruption, involving the organisation, they should report it to their Line Manager or a Nominated Officer immediately.
- A co-owner should normally discuss his/her concerns or queries, if they believe fraud or corruption is involved, with their Line Manager. If the concerns or queries then appear to indicate possible fraud or corruption, the Line Manager should immediately notify the Managing Director or a Nominated Officer (effectively the LCFS,) of the co-owner's concerns. The employee may also discuss the matter confidentially directly with a Nominated Officer themselves.
- The Nominated Officer will then decide on the next course of action and advise the employee accordingly.
- If a co-owner is unsure how to proceed, then the LCFS can be contacted for advice, in complete confidence, on 0117 342 0838.
- If unable to talk to anyone within the Organisation or the LCFS then co-owner/contractors can contact the National Fraud and Corruption reporting line on 0800 028 4060.

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- If the concern or query involves an Executive Director, the matter should be reported to the BrisDoc Chairman.
- Time may be of the utmost importance to prevent further loss to the organisation.
- Co-owners/contractors should be encouraged to report their first suspicions and not undertake lengthy consideration of alternative explanations. They should be reassured that all initial investigation into their suspicions will be of the highest professional standard.
- There will be equal protection of i) the innocent suspect (there can be “smoke without fire”) from publicity or character assassination, and ii) the well-intentioned, but mistaken, reporter from public ridicule or ostracism.

## Step 2: BrisDoc Managing Director records details immediately in a log

- The log will contain details of all reported suspicions, including those immediately dismissed as minor or otherwise not investigated. It will also contain details of subsequent actions taken and conclusions reached.
- This log will be reviewed by the full BrisDoc Board at least once a year.
- The LCFS will have open access to the log. The log will be a confidential document and accessible only by authorised officers.

## Step 3: BrisDoc Managing Director considers necessary lines of reporting

If a criminal act is suspected, particularly fraud or corruption, it is essential that the earliest possible consultation with the LCFS takes place. Nobody other than the Managing Director or the LCFS may contact any outside agency including the NHS Anti-Fraud Unit or the NHS Counter Fraud Authority.

A criminal offence is an act punishable by law the consequence of which may be punishment through the courts. The act may be harmful to an individual, a community or the state.

If an “error” rather than a fraudulent act is suspected, the Managing Director may determine to investigate this internally before reference to the LCFS.

## Step 4: Diary of Events

The investigating team or LCFS will initiate a Diary of Events (or such record as required by the functional standards) to record the progress of the investigation.

## Step 5: Initial Assessment Stage

- The investigating team or LCFS will conduct an “initial assessment” answering the following question: *Does it appear that either a criminal act has taken place or fraud or corruption may be involved?*
- Where appropriate, this will involve consultation with, and as far as practicable, be a joint approach with the BrisDoc Managing Director.
- The answer to the question obviously determines if there is to be a fraud investigation (or other criminal investigation). In practice, it may not be obvious if a criminal act has taken place. It is at this time that the LCFS will review criminal proceedings with the Managing Director if appropriate.
- The LCFS is required to advise the Anti-Fraud Unit of every case under investigation and the investigation will be undertaken in accordance with the functional standards. Cases outside of the LCFS’s operational responsibilities may nevertheless be “referred back” if the NHS CFS and Managing Director so decide.

## Step 6: Investigate internally



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If it appears a criminal act has not taken place, the next step will be an internal management investigation co-ordinated by the Managing Director and Head of Workforce to determine:-

- i) the full facts,
- ii) what, if any, disciplinary action is needed
- iii) what can be done to recover a loss
- iv) what may need to be done to improve internal control to prevent the event happening again
- v) if the 'Conflict of Interest' or other policies have been breached.

Broadly, where no criminal act has taken place the event will have three outcomes:

- The most serious would be where it is decided there was gross misconduct, this could involve dishonesty but not with a criminal intent. The outcome is likely to be dismissal if a co-owner/contractor is involved.
- Less serious would be if it was decided that there was negligence or an error of judgement that caused the event. This is unlikely to lead to dismissal but might involve disciplinary procedures. (Just as where as a result of an investigation of suspected criminal activity it was considered there was sufficient evidence of gross misconduct to justify dismissal).
- Finally, it may be concluded there is no case for an individual to answer.

When the above situations arise it is essential that guidance is sought from the Head of Workforce.

## **Step 7: Recovering a loss**

Where recovering a loss is likely to require a civil action it will probably be necessary to seek legal advice. When external legal advisors are used, the LCFS must ensure there is co-ordination between the various parties involved.

If the loss may be covered by insurance, the LCFS should inform the Managing Director to contact the insurers.

## **Step 8: Disciplinary/Dismissal Procedures**

The BrisDoc disciplinary policy/procedures will be followed in any disciplinary action taken by the organisation towards an employee (including dismissal). However, in any matters of 'Fraud and Corruption' the LCFS must have previously investigated the matter and a decision reached by the Managing Director to use the Disciplinary Policy. This may involve the LCFS recommending a disciplinary hearing to consider the facts, the results of the investigation (a formal report) and take appropriate action against the co-owner.

## **Step 9: Insurance**

The possibility of recovering a loss through insurance should not be overlooked.

There may be time limits for making a claim and in certain cases; claims may be invalidated if legal action has not been taken.

Reference to Combined Insurance Cover and Insurance Advisors should be considered in discussion with the Managing Director.

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## Investigation Resource Options

Once a case has been referred to the Nominated officers, it is up to the LCFS to report continuing progress and stages of an investigation directly to the Managing Director. The Managing Director is the sole person who can determine the next steps of an investigation; however, guidance should be sought from the LCFS in such cases.

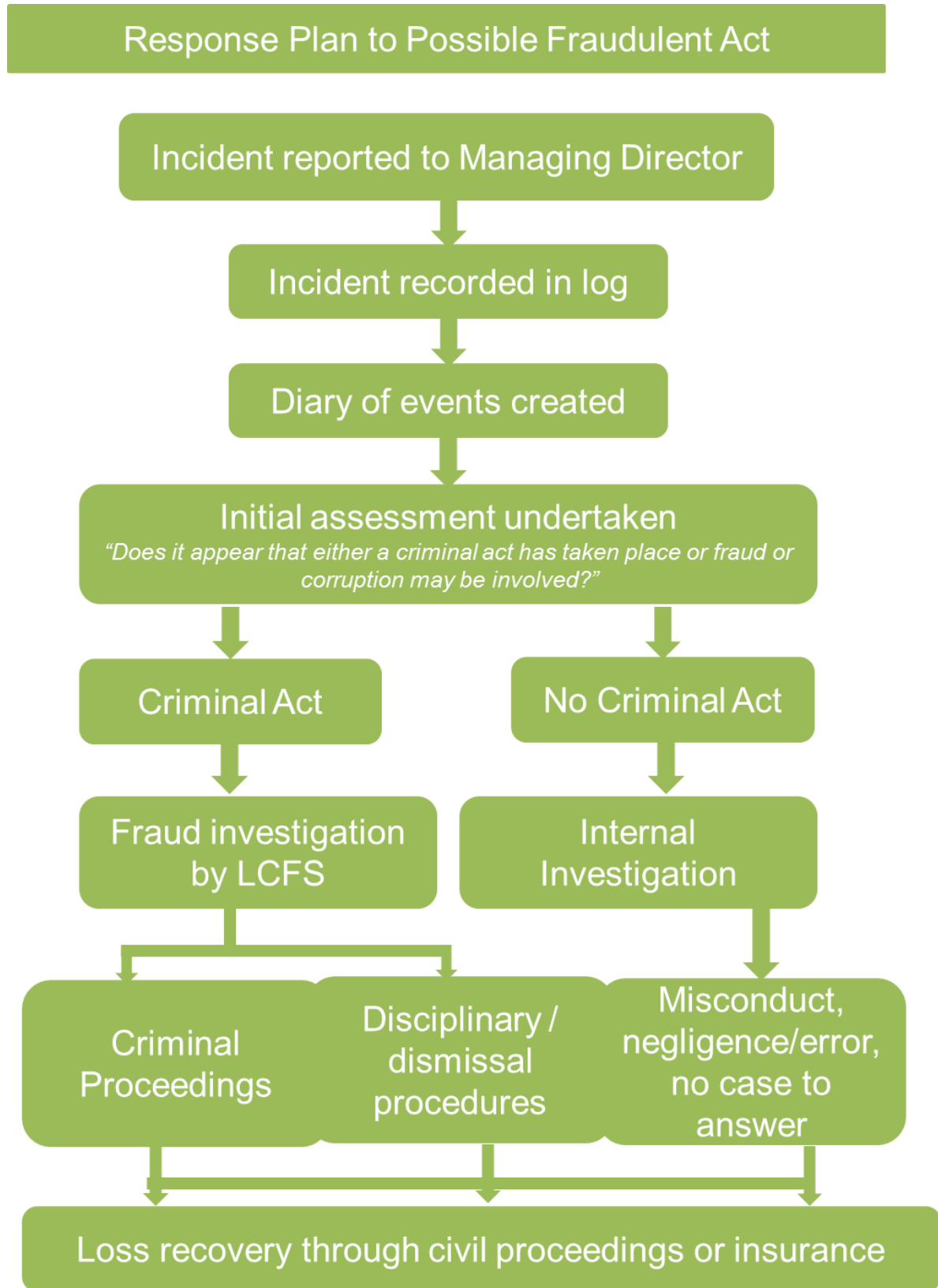
## Related Policies and Procedures

- Disciplinary Policy and Procedure
- Data Protection, Confidentiality & Disclosure Policy
- Whistleblowing Policy and Procedure
- Information Security Policy

## Change Register

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## Appendix 1 Process Flow Chart



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## Change Register

Date	Version	Author	Change Details
24.4.15		CL Nicholls	New contact details for the LCFS and general review/update
7.11.18		CL Nicholls	Update titles, general formatting into new template.
1.1.2022	2.2	CL Nicholls	Change Corporate Services Director to Corporate Services Director. General update language/processes in relation to NHSCFA and change in legislation. Change staff/employee to co-owner.