

## FINANCIAL REDRESS POLICY

<b>POLICY NUMBER:</b>	FP13
<b>VERSION NUMBER:</b>	2
<b>PURPOSE:</b>	Policy outlining the roles and responsibilities for financial redress as a result of fraud and bribery within Essex Partnership University NHS Foundation Trust
<b>AUTHOR:</b>	Trust LCFS / Head of Financial Accounts / HR Team
<b>CONSULTATION:</b>	
<b>CROSS REFERENCE WITH:</b>	Fraud and Bribery Policy Standards of Business Conduct Policy
<b>IMPLEMENTATION DATE:</b>	July 2017
<b>AMENDMENT DATE(S):</b>	n/a
<b>LAST REVIEW DATE:</b>	March 2020
<b>NEXT REVIEW DATE:</b>	March 2023
<b>APPROVAL BY AUDIT COMMITTEE:</b>	March 2020
<b>COPYRIGHT</b>	2017

Services	Applicable	Comments
Trustwide	✓	

The Director responsible for monitoring and reviewing this policy is  
Executive Chief Finance Officer

**ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST**

**FINANCIAL REDRESS POLICY**

**CONTENTS**

THIS IS AN INTERACTIVE CONTENTS PAGE, BY CLICKING ON THE TITLES BELOW YOU WILL BE TAKEN TO THE SECTION THAT YOU WANT.

- 1.0 Introduction**
- 2.0 Responsibilities**
- 3.0 Recovery of Losses Incurred to Fraud and Bribery**

SAMPLE - DO NOT USE

**ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST****FINANCIAL REDRESS POLICY****1.0 INTRODUCTION**

- 1.1 Essex Partnership University NHS Foundation Trust aims to limit the amount of fraud within the Trust to ensure the maximum amount of funds are available for patient care and services. The Secretary of State Directions for countering fraud and bribery, require the Trust to ensure resources lost through fraud are recovered wherever possible.
- 1.2 The Trusts approach to financial redress from detected or suspected fraud and bribery, is that where fraud is proven the Trust will always seek to recover these losses where possible. This reinforces the Trust's commitment to ensuring valuable resources are safeguarded and used for the delivery of high quality patient care and services.
- 1.3 It is important to emphasise that whilst this policy provides a framework to apply redress it is not prescriptive. The decision on which method of redress to apply will be made on a case by case basis and take account of any legal or Trust constraints.

**2.0 RESPONSIBILITIES**

- 2.1 The Local Counter Fraud Specialist will:
- Advise the Trust on the evidence available to be able to seek recovery of funds.
  - Ensure that all records are of sufficient quality to be able to support the recovery process.
  - Liaise with the NHS Counter Fraud Authority to obtain guidance and advice as appropriate and inform the Trust.
  - Seek agreement with the Executive Chief Finance Officer on the most appropriate course of action.
  - Liaise with the relevant HR manager to advise them of any deductions to be made from salaries.
  - Monitor and record the progress of recoveries and report progress to the Executive Chief Finance Officer and the Audit Committee.
- 2.2 The Executive Chief Finance Officer will:
- Meet with the LCFS and/or a legal advisor to seek appropriate advice and guidance before deciding on a course of action for recovery.
  - Agree appropriate course of action for recovery.
  - Ensure that the Trust is effective in recovering any losses incurred to fraud and bribery.
  - Civil redress is progressed effectively through the Trust's Finance department.

2.3 The HR Manager will:

- Receive notification of amounts to be deducted from salaries from the LCFS
- Liaise with Payroll to ensure salary deductions are actioned in a timely manner

### **3.0 RECOVERY OF LOSSES INCURRED TO FRAUD AND BRIBERY**

- 3.1 The seeking of financial redress or recovery of losses should always be considered in cases of fraud or bribery that are investigated by either the LCFS or the Trust where a loss is identified. As a general rule, recovery of the loss caused by the perpetrator should always be sought. The decisions must be taken in the light of the particular circumstances of each case.
- 3.2 Redress allows resources that are lost to fraud and bribery to be returned to the NHS for use as intended, for provision of high-quality patient care and services.
- 3.3 In cases of serious fraud and bribery, it is recommended that parallel sanctions are applied. For example: disciplinary action relating to the status of the employee in the NHS; use of civil law to recover lost funds, use of criminal law to apply an appropriate criminal penalty upon the individual(s), and/or a possible referral of information and evidence to external bodies – for example, professional bodies – if appropriate.
- 3.4 The NHS Counter Fraud Authority can also apply to the courts to make a restraining order or confiscation order under the Proceeds of Crime Act 2002 (POCA). This means that a person's money may be taken away from them if it is concluded that the person benefited from the crime. It could also include restraining assets during the course of the investigation.
- 3.5 Actions which may be taken when considering seeking redress include:
- No further action
  - Penalty charges (falsely claiming assistance with NHS Health Charges)
  - Criminal investigation
  - Civil recovery
  - Disciplinary action
  - Confiscation order under POCA
  - Recovery sought from ongoing salary payments or pensions.
- 3.6 In some cases (taking into consideration all the facts of a case), it may be that Essex Partnership University NHS Foundation Trust under guidance from the LCFS and with the approval of the Executive Chief Finance Officer, decides that no further recovery action is taken.

- 3.7 Section 39 of the Health Act 1999 provides for a penalty charge to be imposed where a person fails to pay any amount in respect of NHS charges. The Penalty Charge Regulations came into effect on 1 November 2000. The penalty charge is a civil fine payable by someone who fraudulently obtains help with NHS health charges for themselves or someone else. The penalty payable is five times the amount of the NHS charge owed, up to a maximum of £100, plus the unpaid charge itself. For cases of repeated or persistent fraud of this nature may be considered for criminal action.
- 3.8 Criminal investigations are primarily used for dealing with any criminal activity. The main purpose is to determine if activity was undertaken with criminal intent. Following such an investigation, it may be necessary to bring this activity to the attention of the criminal courts (Magistrates' court and Crown court). Depending on the extent of the loss and the proceedings in the case, it may be suitable for the recovery of losses to be considered under POCA.
- 3.9 The civil recovery route is also available to the Trust if this is cost-effective and/or desirable for deterrence purposes. This could involve a number of options such as applying through the Small Claims Court and/or recovery through debt collection agencies. Each case needs to be discussed with the Executive Chief Finance Officer to determine the most appropriate action.
- 3.10 The appropriate senior manager, in conjunction with the HR department, will be responsible for initiating any necessary disciplinary action in accordance with the Trust's Disciplinary (Conduct) policy. Arrangements may be made to recover losses via payroll if the subject is still employed by the Trust. In all cases, current legislation must be complied with.
- 3.11 Action to recover losses should be commenced as soon as practicable after the loss has been identified. Given the various options open to the Trust, it may be necessary for various departments to liaise about the most appropriate option.
- 3.12 In order to provide assurance that policies were adhered to, the Executive Chief Finance Officer will maintain a record highlighting when recovery action was required and issued and when the action taken. This will be reviewed and updated on a regular basis.

<b>END</b>
------------