

Anti-Bribery Policy

Reference No:	P_CoG_14
Version	4
Ratified by:	LCHS Trust Board
Date ratified:	14 January 2020
Name of originator / author:	Head of Corporate Governance
Name of responsible committee / Individual	Audit Committee
Date issued:	January 2020
Review date:	January 2022
Target audience:	All Trust Staff
Distributed via	Website

Anti-Bribery Policy Version Control Sheet

Version	Section / Para / Appendix	Version / Description of Amendments	Date	Author / Amended by
1		New Policy	August 2013	Bev Wormald / Karen Stinson
2		Review of Policy	September 2015	Corporate Assurance Team
3		Review of Policy	August 2017	Corporate Assurance Team
4		Review of Policy	November 2019	Deputy Head of Corporate Governance
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Anti-Bribery Policy

Procedural Document Statement

Background	All staff have a personal responsibility to make sure that they are not placed in a position which risks, or appears to risk, a conflict between their private interests and their NHS duties or allegations of their official position.
Statement	This policy provides all staff and non-executive directors with a framework to enable them to fully comply with the Bribery Act 2010 and to support them to act honestly and with integrity at all times. It is also intended to contribute to maintaining the highest standards of business conduct and ensure compliance with the 7 principles of public life drawn up by the Nolan Committee and other related guidance and statutory legislation on codes of conduct.
Responsibilities	Compliance with this policy is the responsibility of all staff. The policy is intended to assist staff to recognise and accept their responsibilities in respect to acts of bribery being either offered or received.
Training	The Trust maintains a responsibility to raise awareness of the process to all staff and advise staff on access arrangements to view this policy. Should any members of staff have any difficulties in viewing, understanding or complying with this policy due to training issues they should bring this to the attention of their line manager who will address any specific training needs.
Dissemination	Via the Trust website and Team Brief
Resource implication	It is expected that compliance with this policy will be met within existing resources.

1. Introduction

- 1.1 The Bribery Act 2010 (“the Act”) makes it a criminal offence, not just for individuals to engage in acts of bribery, as explained later, but for organisations including NHS bodies to fail to prevent bribery. This failure to prevent bribery is mitigated by having in place a range of predetermined processes, as outlined in section 5 below. In the event that an offence of bribery is committed by an employee in the course of their employment, then the employing organisation can also be prosecuted. This includes potential personal liability for directors and officers, for failing to have adequate preventative measures in place.
- 1.2 Bribery is broadly defined as “requesting, agreeing to receive or accept (either directly or through any other party), a financial or other advantage in connection with the improper performance of a relevant function, that is expected to be performed impartially and in good faith, irrespective of whether the recipient of the bribe is the same as the person who is to perform, or has performed, the relevant function. The act of bribery can be committed in the United Kingdom or abroad”. In simple terms, the ‘relevant function’ is any duties or responsibilities associated with employment.
- 1.3 Bribery does not have to involve cash or an actual payment exchanging hands. It can take many forms such as a gift, lavish treatment during a business trip or tickets to an event, when linked to the improper performance of a relevant function.
- 1.4 The Act includes the corporate crime of failing to prevent bribery, with unlimited fines. In addition to corporate liability, there is potential personal liability for both directors and officers, with unlimited fines and/or imprisonment of up to 10 years.
- 1.5 Lincolnshire Community Health Services (LCHS) is committed to the prevention, deterrence and detection of bribery and has a zero-tolerance towards those responsible for bribery and corruption. The Trust maintains full anti-bribery compliance with the Bribery Act 2010 as part of the NHS business activities. LCHS ensures that the prescribed preventative measures are embedded in its daily activities.
- 1.6 The Bribery Act does create an offence of bribing a foreign public official, but this is not summarised as it is unlikely to impact upon the provision of local healthcare services.

2 Objective of this Policy and Procedure

- 2.1 This policy applies to the categories of individuals below and provides an essential framework to enable LCHS and all employees (*employees* include those permanently employed, Non-Executive Directors, members, consultants, temporary agency staff, contractors, volunteers or others performing any role on behalf of the organization), whether for payment or otherwise to act honestly and with integrity at all times. In addition, all LCHS partner organisations and their employees, will be expected to adhere to the principles of the Bribery Act 2010 at all times.
- 2.2 This policy is also intended to contribute to maintaining the highest standards of business conduct and ensure compliance with the 7 principles of public life drawn up by the Nolan Committee (**see Appendix 1**).

3 Bribery Act 2010

3.1 The Act makes it a criminal offence to:

- offer, promise or give a bribe to another person (Section 1)
- request, agree to receive, or accept a bribe (Section 2)

(A simple example would include a candidate for a job offering the interviewer tickets to an event in order to secure the position. Under the Bribery Act 2010, two offences might be committed; one by the person offering the bribe, and one by the person receiving the bribe.)

- fail to prevent bribery by persons working on behalf of an organisation (a corporate offence) - (Section 7)

(Two simple examples would be:

- a) Where an act of bribery has occurred within the organisation, for a director, manager or officer of an organisation to ignore the act or acts of bribery. Under the Bribery Act 2010, the corporate offence would have been committed.*
- b) Where an act of bribery has occurred, and it was subsequently established that the organisation employing the individual failed to have adequate compliance with the Ministry of Justice Guidance. Again, under the Bribery Act 2010, the corporate offence would have been committed.*

3.2 It does not matter if the advantage is (or is to be) for the benefit of the individual accepting the bribe or another person.

3.3 The Act applies to all NHS organisations including NHS Foundation Trusts, NHS Clusters, NHS Trusts, Clinical Commissioning Groups and Commissioning Support Service organisations. It also includes independent healthcare contractors working in association with any of the above NHS organisations.

4. Penalties for Failing to Comply with the Act

4.1 The penalties for breaches of the Bribery Act 2010 are potentially severe. There is no upper limit on the level of fines that can be imposed. An individual convicted of an offence will face a prison sentence of up to 10 years. If a bribery offence by a staff member is proved to have been committed with the consent or connivance of a director, manager or other similar person, that person (as well as the organisation) is also guilty of the offence and liable to be prosecuted and fined or imprisoned accordingly.

5 Anti Bribery Procedures

The Secretary of State for Justice has outlined six principles that are expected from organisations to address the risk of bribery occurring within its business activities. These six principles if adopted amount to a defence from prosecution.

The six principles are:

5.1 Proportionality

The Trust must have procedures in place to prevent bribery by persons associated with it. These are proportionate to the bribery risks faced by the Trust and to the nature, scale and complexity of the organisations activities. They are also clear, practical, accessible, effectively implemented and enforced. An assessment of the bribery and corruption risks facing the Trust is considered by the Trust's Fraud Risk Group on an ongoing basis. The Group includes representation from multi-disciplinary senior Trust management and is chaired by the Local Counter Fraud Specialist. The risk assessment is subject to scrutiny by the Audit Committee on an occasional basis. Risk assessments enable the organisation to assess proportionality, and set out what procedures are in place to prevent bribery.

5.2 Top Level Commitment

The Chief Executive, Directors, Members and Senior Managers are committed to preventing bribery by persons associated with the Trust. They foster a culture within the organisation in which bribery is never acceptable. This information is reviewed regularly and regular communications are shared with all of our stakeholders including LCHS staff.

5.3 Risk Assessment

There are periodic and documented assessments undertaken of the nature and extent of the Trust's exposure to potential external and internal risk of bribery as a part of a wider fraud, corruption and bribery risk assessment. This includes financial risks but also other risks such as reputational damage. As a part of assessment proportionate preventative and detective controls should be identified and their efficiency assessed. The Trust holds Fraud Risk Group meetings at least annually where those risks and associated culture and controls are discussed.

5.4 Due Diligence

The Trust takes a proportionate and risk based approach, in respect of persons who perform or will perform services for or on their behalf, in order to mitigate identified bribery risks.

5.5 Communication (Including Training)

The Trust seeks to ensure that its bribery prevention policies and procedures, including Standing Orders, Standing Financial Instructions, Codes of Conduct for Directors and staff, Counter Fraud Policy, Whistle-Blowing Policy, Standards of Business Conduct for Staff, Commercial Sponsorship and Hospitality are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.

Appropriate training is provided to all employees through web-based podcasts and internal communications in order to raise awareness of staff responsibilities and knowledge of the Bribery Act itself. All LCHS staff are given this information at initial induction and in their annual mandatory update.

Communications are available on the LCHS website to ensure that all staff are reminded of their on-going employee and legal responsibilities.

All staff are able to request advice, raise any concerns about bribery, or provide suggestions for improvement of bribery prevention procedures and controls, using a secure, confidential reporting line. Contact details are set out in section 6.2 of this document.

5.6 Monitoring and Review

LCHS will monitor and review its procedures to prevent bribery and make improvements to minimise the risk where necessary. The Policy is reviewed every 3 years. The Audit Committee oversee the control framework.

6 Staff Responsibilities

6.1 All Trust employees and others acting on behalf of the organisations, must apply the following principles:

- Not soliciting, accepting, offering, promising, or paying a bribe, including gifts, hospitality or benefits of any kind from a third party which might be perceived as compromising their personal judgement or integrity;
- Not using their official position to further their private interests or those of others;
- Declare any private interests as required by Policies;
- Base all procurement decisions and negotiations of contracts solely on achieving best value for money for the tax payer;
- Ensure transparency of transactions;
- Avoid conflicts of interest;
- Ensure all recruitment decisions are made in line with the Recruitment Policy;
- Refer to their line manager when faced with a situation for which there is no adequate guidance; and
- If in any doubt, seek advice from the appropriate assistant director or director.

This policy applies to any bribes, including those paid to government officials and commercial parties.

An essential component of the Trust anti-bribery approach is to ensure that **all** staff comply with the governance requirements of LCHS policies and procedures in place to ensure full compliance with the Bribery Act 2010. The policies and procedures, that all staff must make themselves aware of, and comply with are:

- P_CoG_20 – Standing Orders Reservation and Delegation of Powers and Standing Financial Instructions
- P_CoG_03 – Standards of Business Conduct and Conflict of Interests
- P_HR_03 – Whistleblowing Policy
- P_HR_50 – Code of Conduct for Private Practice by Employees of LCHS
- Standards of Business Conduct for NHS Staff (NHS England and NHS Improvement Updated 2019)
- Codes of Conduct for NHS Managers (Department of Health 2002)
- NHS Code of Accountability
- Code of Practice for the Promotion of NHS Funded Services (Department of Health 2008)
- Commercial Sponsorship: Ethical Standards for the NHS (Department of Health 2000)
- Nolan Principles
- EC Treaty which Prohibits Agreements Preventing, Restricting or Distorting Competition
- Competitions Act 1980
- Association of British Pharmaceutical Industry: Code of Practice to the Pharmaceutical Industry

The above list is not exhaustive and may be varied by the Trust as required.

6.2 The prevention, detection and reporting of bribery and other forms of corruption is the responsibility of all those working for the Trust or under its control. All staff are required to comply with the Bribery Act 2010 and report their suspicions or concerns to or through the following means:

- Director of Finance
- The Local Counter Fraud Specialist
- Through the Trust Raising Concerns at Work – Whistle-blowing Policy
- The NHS / Crimestoppers Fraud & Corruption Reporting Line Number **0800 028 40 60**
- Online via the NHS/Crimestoppers reporting website – www.reportnhsfraud.nhs.uk

6.3 All reports of bribery will be investigated in accordance with relevant NHS Anti-Fraud Standards.

6.4 As well as the possibility of civil action and/or criminal prosecution, staff who breach this policy will face disciplinary action in accordance with the Trust Disciplinary Policy, which is likely to result in dismissal for gross misconduct.

7 Monitoring and Review

7.1 The Trust will periodically review compliance with the principles detailed within the Ministry of Justice Guidance.

The Seven Nolan Principles of Public Life (taken from *First Report of the Committee on Standards in Public Life (1995)*)

Selflessness - Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

Integrity - Holders of public office should not place themselves under any financial obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty - Holders of public office have a duty to declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership - Holders of public office should promote and support these principles by leadership and example.

NHSLR Monitoring Template

Minimum requirement to be monitored	Process for monitoring e.g. audit	Responsible individuals/group /committee	Frequency of monitoring /audit	Responsible individuals / group / committee (multidisciplinary) for review of results	Responsible individuals / group / committee for developmen	Responsible individuals / group / committee for monitoring of action plan
Review of all policies and procedures in place to prevent bribery	Review of existing policies and procedures	Local Counter Fraud Specialist	Periodic	Audit Committee	Local Counter Fraud Specialist	Audit Committee
Review Compliance with the principles detailed within the Ministry of Justice Guidance	Ensure existing policies and procedures support compliance	Local Counter Fraud Specialist	Periodic	Audit Committee	Local Counter Fraud Specialist	Audit Committee

Equality Analysis

Name of Policy/Procedure/Function*

Anti-Bribery Policy

Equality Analysis Carried out by:

Karen Stinson

Date:

November 2019

Equality & Human rights Lead:

Rachgel Higgins

Date:

Director\General Manager:

Maz Fosh

Date:

***In this template the term policy\service is used as shorthand for what needs to be analysed. Policy\Service needs to be understood broadly to embrace the full range of policies, practices, activities and decisions: essentially everything we do, whether it is formally written down or whether it is informal custom and practice. This includes existing policies and any new policies under development.**

Section 1 – to be completed for all policies

A.	Briefly give an outline of the key objectives of the policy; what it's intended outcome is and who the intended beneficiaries are expected to be	To maintain full compliance with the Bribery Act 2010 and ensure that the organization and those acting on behalf of the organization, comply with the Act and maintain the highest standards of business conduct.		
B.	Does the policy have an impact on patients, carers or staff, or the wider community that we have links with? Please give details	Yes – the Policy supports the organisations commitment to maintaining the highest standards of business conduct.		
C.	Is there is any evidence that the policy\service relates to an area with known inequalities? Please give details	This Policy relates to all areas		
D.	Will/Does the implementation of the policy\service result in different impacts for protected characteristics?	No		
		Yes	No	
	Disability		X	
	Sexual Orientation		X	
	Sex		X	
	Gender Reassignment		X	
	Race		X	
	Marriage/Civil Partnership		X	
	Maternity/Pregnancy		X	
	Age		X	
	Religion or Belief		X	
	Carers		X	
	If you have answered 'Yes' to any of the questions then you are required to carry out a full Equality Analysis which should be approved by the Equality and Human Rights Lead – please go to section 2			
The above named policy has been considered and does not require a full equality analysis				
Equality Analysis Carried out by:		Karen Stinson		
Date:		November 2019		