



A lifetime of specialist care

Royal Brompton & Harefield **NHS**

NHS Foundation Trust

Royal Brompton & Harefield NHS Foundation Trust

ANTI-BRIBERY POLICY

Author:	Director of Performance and Trust Secretary
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1. INTRODUCTION

- 1.1 Bribery is a damaging practice that affects both private and public bodies.
- 1.2 The Bribery Act 2010 imposes extensive obligations on all commercial organisations, including public bodies in the healthcare sector, to ensure that they have adequate procedures in place to prevent bribery from occurring within their organisation. The Trust is committed to compliance with the Act and this policy explains the steps that the Trust has put in place.

2. POLICY STATEMENT

- 2.1 It is the policy of the Royal Brompton and Harefield NHS Foundation Trust ("the Trust") to conduct all of our business in an honest and ethical manner. The Trust is committed to acting with integrity in all our business dealings and relationships and to implementing effective systems to prevent bribery. Through this approach the Trust aims to build and maintain public confidence in the organisation.
- 2.2 The Trust will uphold all laws relevant to countering bribery and corruption, including the Bribery Act 2010, in every aspect of our conduct including our commercial dealings and the delivery of treatment and care to patients.
- 2.3 The purpose of this policy is to:
 - 2.3.1 set out our responsibilities, and the responsibilities of those working for the Trust, in preventing bribery and corruption; and
 - 2.3.2 provide information and guidance to those working for the Trust on how to recognise and deal with bribery and corruption issues.
- 2.4 Bribery and corruption are punishable for individuals by up to ten years' imprisonment and if the Trust is found to have taken part in corruption it could face an unlimited fine, and damage to its reputation. The Trust therefore takes its legal responsibilities very seriously.
- 2.5 In this policy, "**third party**" means any individual or organisation with whom or which workers or associates (as defined in clause 3.1) come into contact with during the course of their work for the Trust, and includes actual and potential clients, customers, suppliers, distributors, business contacts, agents, advisers, and government and public bodies, including their advisors, representatives and officials, politicians and political parties.
- 2.6 [This Policy has been implemented following consultation with the Trust's recognised trade unions.]
- 2.7 This policy does not form part of any Trust employee's contract of employment and the Trust may amend it at any time.

3. WHO IS COVERED BY THE POLICY?

- 3.1 This policy applies to all individuals working at all levels and grades for the Trust, including senior managers, officers, directors, employees (whether permanent, fixed-term or temporary), consultants, contractors, trainees, seconded staff, homeworkers, casual workers and agency staff, volunteers, interns, agents, sponsors, third party representatives, business partners or any other person associated with the Trust wherever located (collectively referred to as "**workers and/or associates**" in this policy).
- 3.2 For the purposes of this policy, the Trust has designated a member of its management team as "Compliance Officer". The Compliance Officer will be responsible for ensuring that the Trust implements this policy and for carrying out various functions as described in this policy and other associated policies referred to within this policy.

4. WHAT IS BRIBERY AND CORRUPTION?

- 4.1 A Bribe is: "The offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages (taxes, services, donations, etc.)".
- 4.2 Corruption is: "The abuse of entrusted power or position for private gain".

Examples

Offering a bribe:

A bribe would be offered if:

- A payment or other incentive was offered to influence an individual who was responsible for deciding whether the Trust should be selected as the preferred bidder for the provision of services in a procurement process;
- A payment or other incentive was offered to a 3rd party by a contractor instructed by the Trust in order to facilitate quicker service from the 3rd party.

Receiving a bribe:

A bribe would be received if:

- A member of the Trust's staff accepts a payment (or other incentive) from a pharmaceutical company in order to influence their decision making in respect of the selection of a pharmaceutical product to appear on the Trust's drug formulary.
- A member of staff accepts a payment (or other incentive) from a patient to speed up, beyond the usual timeframe, the provision of a particular aspect of their care.

5. GIFTS AND HOSPITALITY

- 5.1 This policy should be read in conjunction with the Trust's, Conflict of Interest Policy, which explains the reporting and approval procedures which have been put in place in this area.

6. FACILITATION PAYMENTS AND KICKBACKS

- 6.1 The Trust does not make, and will not accept, facilitation payments ("back handers") or "kickbacks" (payments made in return for a business favour or advantage) of any kind. Facilitation payments are typically small, unofficial payments made to secure or expedite a routine or necessary action (i.e. by a government official). These kinds of payments are not commonly paid in the UK, but the Trust's staff must be aware that these types of payments are strictly prohibited.
- 6.2 If any worker and/or associate is asked to make a payment on the Trust's behalf, he/she should always be mindful of what the payment is for and whether the amount requested is proportionate to the goods or services provided. The worker and/or associate should always ask for an invoice or receipt which details the reason for the payment. If you have any suspicions, concerns or queries regarding a payment, you should raise these with the Compliance Officer.
- 6.3 All workers and associates must avoid any activity that might lead to, or suggest, that a facilitation payment or kickback will be made or accepted by the Trust.

7. YOUR RESPONSIBILITIES

- 7.1 You must ensure that you read, understand and comply with this policy.
- 7.2 The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for or in association with the Trust or under its control. All workers are required to avoid any activity that might lead to, or suggest, a breach of this policy.
- 7.3 You must notify your manager or the Compliance Officer as soon as possible if you believe or suspect that this policy or any other has or may be breached. For example, if a third party offers you something to gain a business advantage with the Trust, or asks for a gift or payment to secure their business, this must be reported. Further indicators of bribery or corruption are set out in Appendix 1.
- 7.4 Any Trust employee who breaches this policy will face disciplinary action, which could result in dismissal for gross misconduct.
- 7.5 The Trust may terminate its contractual relationship with other workers and/or associates if they breach this policy.

8. RECORD-KEEPING

- 8.1 The Trust must keep financial records and have appropriate internal controls to ensure and demonstrate proper business reasons for payments to third parties. These controls are set out in the Trust's Standing Financial Instructions. You must refer to the Trust's Conflict of Interest Policy in respect of any hospitality, gift or sponsorship that is accepted or offered by or to the Trust.
- 8.2 All accounts, invoices, memoranda and other documents and records relating to dealings with third parties, such as clients, suppliers and business contacts, should be prepared and maintained with strict accuracy and completeness. No accounts may be kept "off-book" to facilitate or conceal improper payments.

9. WHAT TO DO IF YOU SUSPECT OR ARE AWARE OF BRIBERY OR CORRUPTION OCCURRING

- 9.1 If any worker and/or associate ("the Concerned Party") suspects or knows that an act of bribery which affects or involves the Trust has taken place, or has reason to believe may take place in the future, they should follow the process outlined in this section.
- 9.2 The Concerned Party must initially contact the Trust's Compliance Officer to inform them that they suspect or know that an act of bribery has or may take place.
- 9.3 The Compliance Officer must respond to the Concerned Party within 48 hours, unless there are good reasons for not doing so, and must then arrange a meeting, within 7 days, with the Concerned Party in a confidential location.
- 9.4 The Compliance Officer must give verbal or written reassurance to the Concerned Party upon receipt of their initial concern that all processes in relation to their concern will be secure and confidential, subject to any legal/regulatory or other formal disclosure obligations that may later arise.
- 9.5 The Compliance Officer will consider the details of the concern raised and, if necessary, refer the concern to the Trust's Chief Executive.
- 9.6 If necessary, the Compliance Officer and/or the Trust's Board may refer the concern onto the Serious Fraud Office or seek advice or guidance on dealing with the concern.
- 9.7 The Compliance Officer's contact details are:
Richard Connett
Director of Performance and Trust Secretary
r.connett@rbht.nhs.uk tel. 0207 349 7713
- If for any reason a Concerned Party considers that they cannot raise an issue with the Trust's Compliance Officer they should raise it with a non-executive director of the Trust.

10. PROTECTION

- 10.1 The Trust encourages openness and will support anyone who raises genuine concerns in good faith under this policy, even if they turn out to be mistaken.
- 10.2 Any information disclosed by a Concerned Party during the procedure outlined in paragraph 9 will be kept secure and confidential, subject to any legal/regulatory or other formal disclosure obligations that may later arise.
- 10.3 The Trust is committed to ensuring no one suffers any detrimental treatment as a result of refusing to take part in bribery or corruption, or because of reporting their concerns in good faith. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Compliance Officer immediately.

11. TRAINING AND COMMUNICATION

- 11.1 Training on this policy forms part of the induction process for all new employees and workers and/or associates (as appropriate). All existing workers and associates will receive information about the new policy and about how to comply with the Bribery Act 2010.
- 11.2 The Trust's zero-tolerance approach to bribery and corruption must be communicated by workers and associates to all suppliers, contractors and business partners at the outset of any business relationship and any such relationship should include a requirement for compliance with this policy and the Bribery Act 2010 in all contracts with Suppliers.
- 11.3 If you have any suggestions about how the Trust can improve or develop its anti-bribery prevention procedures and/or you want further advice in relation to bribery prevention, please contact the Compliance Officer at r.connett@rbht.nhs.uk or by telephoning 0207 349 7713.

12. WHO IS RESPONSIBLE FOR THE POLICY?

- 12.1 The Trust board has overall responsibility for ensuring this policy complies with our legal and ethical obligations, and that all workers and associates under our control comply with it.
- 12.2 The Compliance Officer has primary responsibility for implementing this policy across the Trust as a whole, and for monitoring its use and effectiveness and dealing with any queries on its interpretation.
- 12.3 Management at all levels are responsible for ensuring those reporting to them are made aware of and understand this policy and are provided with information about how to ensure compliance with the Bribery Act 2010.

13. MONITORING AND REVIEW

- 13.1 The Compliance Officer will monitor the effectiveness and review the implementation of this policy, regularly considering its suitability, adequacy and effectiveness taking into account legal development and changes in the Trust's governance and business. Any improvements identified will be made as soon as possible. Internal control systems and procedures will be subject to regular audits to provide assurance that they are effective in countering bribery and corruption.
- 13.2 Trust staff are invited to comment on this policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the Compliance Officer.

APPENDIX A

Potential risks (“Red Flags”)

The following is a list of possible matters which may raise concerns under various anti-bribery and anti-corruption laws. The list is not intended to be exhaustive and is provided for illustrative purposes only.

If you encounter any of these issues while working for the Trust, you must report them promptly to the Compliance Officer using the procedure set out above at Paragraph 9:

- 1.1 you become aware or suspect that a colleague or third party engages in, or has been accused of engaging in, improper business practices;
- 1.2 you learn or suspect that a colleague or third party has a reputation for paying bribes, or requiring that bribes are paid to them;
- 1.3 a colleague or third party asks for a commission or fee payment before committing to sign up to a contract with the Trust, or carrying out a government function or process for the Trust;
- 1.4 a colleague or third party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made;
- 1.5 a colleague or third party requests that payment is made to a country or geographic location different from where the colleague or third party resides or conducts business;
- 1.6 A colleague or third party requests that payment or other benefit is provided to a person other than the expected recipient, or to a person other than the expected provider of goods and services (unless part of an open and transparent contractual arrangement such as subcontracting or factoring);
- 1.7 a third party requests an unexpected additional fee or commission to "facilitate" a service;
- 1.8 a third party requests lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;

- 1.9 a third party requests that a payment is made to "overlook" potential legal violations;
- 1.10 a colleague or third party requests that you provide employment or some other advantage to a friend or relative;
- 1.11 you receive an invoice from a colleague or third party that appears to be non-standard or customised;
- 1.12 a colleague or third party insists on the use of side letters or refuses to put terms agreed in writing;
- 1.13 you notice that we have been invoiced for a commission or fee payment that appears large given the service stated to have been provided;
- 1.14 a colleague or third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to us;
- 1.15 you are offered an unusually generous gift or offered lavish hospitality by a third party;
- 1.16 you are asked to conceal the receipt of provision of hospitality or any other form of benefit or payment;
- 1.17 a colleague or third party exerts pressure for payments to be made urgently or ahead of schedule;
- 1.18 colleague or third party conducts private meetings with public contractors or companies hoping to tender for contracts;
- 1.19 a colleague or third party never takes time off even if ill, or holidays, or insists on dealing with specific contractors him/herself;
- 1.20 a colleague or third party makes unexpected or illogical decisions accepting projects or contracts;
- 1.21 a colleague or third party abuses or ignores normal decision processes or delegated powers in specific cases;

- 1.22 a colleague or third party agrees contracts not favourable to the Trust either with terms or time period;
- 1.23 a colleague or third party demonstrates an unexplained preference for certain contractors during a tendering period;
- 1.24 a colleague or third party seeks to avoid independent checks on tendering or contracting processes;
- 1.25 a colleague or third party requests that normal tendering/contracting procedure is bypassed;
- 1.26 a colleague or third party reports missing documents or records regarding meetings or decisions.