



BRIBERY POLICY

Title:	Bribery Policy		
Author(s):	Mr Paul Nicholson, Assistant Director of Finance		
Ownership:	Finance and IT Directorate		
Date of SEMT Approval:	May 2016	Date of Trust Board Approval:	June 2016
Operational Date:	June 2016	Review Date:	June 2019
Version No:	1	Supercedes:	N/A
Key Words:	Bribery Policy		
Other Relevant Policies/Documents:	Fraud Response Plan Whistleblowing Policy Standing Orders, Standing Financial Instructions and Scheme of Delegation. NIAS HSC Trust Management Statement. Code of Conduct for HPSS Managers Standards of Business Conduct for HPSS Staff Fraud Policy Bribery Response Plan		
Version Control for Drafts:			
(01) April 2016	Evidence Base: Relevant legislation and literature used – The Bribery Act 2010 (This policy is based on the Financial Governance Model Documents issues under HSS(F) 13/2007 and as such does not completely follow the format prescribed in the Trust’s Policy on Development, Approval and Review of Trust Policies Version 1.0 approved in September 2014).		

Circulation List:

This Policy was circulated to the following groups for consultation.

- Trade Unions
- Executive Directors and Senior Managers

Following approval, this policy document was circulated to the following staff and groups of staff.

- All Trust Staff

Trust Internet Site/Intranet Site

1.0 INTRODUCTION

- 1.1 The Bribery Act 2010 (“the Act”) came into effect on 1 July 2011 and introduced a new, clearer regime for tackling bribery. The Act imposes extensive obligations on individuals and all commercial organisations based in or operating in the UK, including those in the healthcare sector. To comply with the Act, organisations must have ‘adequate procedures’ in place to prevent bribery from occurring within their organization
- 1.2 The purpose of this document is to set out the Trust’s position on bribery and thereby set the context for the ensuring that all Trust activities are carried out in an honest and ethical environment. The Trust is committed to maintaining an anti-bribery culture and will adopt a zero-tolerance approach to bribery and corruption where it is discovered.

2.0 DEFINITIONS AND OFFENCES

2.1 Definition of Bribery

- 2.1.1 A bribe is an inducement or reward by means of a financial or other advantage that is offered, promised or provided to a person in order to gain any commercial, contractual, regulatory or personal advantage through the improper performance of a relevant function or activity as a result of the bribe.
- 2.1.2 **“Financial or other advantage”** means payments, gifts, hospitality or anything else that could be reasonably perceived as an “advantage” as understood by its normal, everyday meaning.
- 2.1.3 **“Improper performance”** means performance in breach of an expectation that a person will act in good faith, impartially or in accordance with a position of trust.
- 2.1.4 **“A relevant function or activity”** means any function of a public nature, connected with a business, performed in the course of a person’s

employment or performed by or on behalf of an incorporated or unincorporated body of persons.

2.2 Definition of “Kickbacks” or Facilitation Payments

2.2.1 Facilitation payments are characterised as small, unofficial payments made to secure or expedite a routine action by an official or agency.

2.3 Offences under the Bribery Act 2010

2.3.1 The act lists the following offences for activities in the public or private sector:

- i) **General Offence (active bribery)** – the offering, promising or giving of a bribe. It does not matter whether the person giving the bribe is the same person who will perform the function or activity concerned.
- ii) **General Offence (passive bribery)** – the requesting, agreeing to receive or accept a bribe. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient’s benefit or not.
- iii) **Bribing of foreign public officials** – where a person directly or through a third party offers, promises or gives any financial or other advantage to a Foreign Public Official in an attempt to influence them in their capacity as such and to obtain or retain business, or an advantage in the conduct of business.
- iv) **Corporate liability for failing to prevent bribery** – applies to a commercial organisation where it fails to prevent bribery by those performing services on its behalf.

2.3.2 The corporate offence applies to corporate bodies either incorporated in or carrying out business or part of a business in the UK, including healthcare bodies. An organisation will have a defence if it can show that it had ‘adequate procedures’ in place to prevent any ‘associated persons’ from

committing an act of bribery, i.e. employees, agents or other third parties acting on the organisation's behalf, including any contractors or suppliers. This defence will not apply where it has been proven that a senior officer of the organisation consented to the offence. In those circumstances, both the organisation and the senior officer will be guilty of an offence.

2.3.3 Bribery and corruption are punishable for individuals by up to ten years imprisonment and an unlimited fine. If the Trust is found to have been party to an act of bribery then it could also face an unlimited fine and suffer significant damage to its reputation.

3.0 TRUST POSITION ON BRIBERY

3.1 It is the policy of the Trust to conduct all of its business in an honest and ethical manner. The Trust is committed to acting with integrity in all of its business dealings and relationships and to implementing effective systems to prevent bribery.

3.2 The Trust will endeavour to uphold all laws, including those relevant to countering bribery and corruption, in every aspect of its dealings with public and private sector organisations and in the delivery of treatment and care to service users.

3.3 "Kickbacks" or facilitation payments are not commonly paid in the UK but Trust officers, staff and agents must be aware that these payments are strictly prohibited. The Trust does not make and will not accept facilitation payments or 'kickbacks' of any kind.

3.4 When asked to make a payment on the Trust's behalf, Trust personnel should always be mindful of the purpose of the payment and whether the amount requested is proportionate to the goods and services provided. Trust personnel must always obtain an invoice or receipt which details the reason for and full amount of the payment. Any suspicions, concerns or queries regarding a payment, should be raised in accordance with paragraph 24 below.

3.5 Kickbacks are typically made in return for a business favour or advantage. All Trust personnel must avoid any activity that might lead to a suggestion that a facilitation payment or kickback will be made or accepted by the Trust.

3.6 The Ministry of Justice (MoJ) in England has developed six principles for organisations to follow to support the development of a culture which seeks to prevent bribery and corruption. The Trust wholeheartedly endorses these principles which are:

- i) *Proportionate Procedures* – procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces.
- ii) *Top-Level Commitment* – the Board of Directors are committed to preventing bribery and foster a culture in which bribery is never acceptable.
- iii) *Risk Assessment* – the organisation should assess the nature and extent of its exposure to potential internal and external risks of bribery; the assessment should be periodic, informed and documented.
- iv) *Due Diligence* – the organisation should apply due diligence procedures which are proportionate and risk-based in respect of all persons who perform services on behalf of the organisation to mitigate identified bribery risks.
- v) *Communication (Training)* – anti-bribery policies and procedures should be embedded and understood throughout the organisation through internal and external communication, including training.
- vi) *Monitoring and Review* – the organisation should monitor and review procedures designed to prevent bribery and should make improvements where necessary.

3.7 The Trust is committed to ensuring that it has adequate policies and procedures in place which are enforced to support these six principles. The Trust affirms its commitment to maintaining an anti-bribery culture and will adopt a zero-tolerance approach to bribery and corruption where it is discovered. It is also Trust policy that there will be a thorough investigation

of all allegations or suspicions of bribery and robust action will be taken where bribery is proven in line with the Trust's Bribery Response Plan.

- 3.8 The Trust Board wishes to encourage anyone having reasonable suspicions of bribery to report them. It is the policy of this Trust, which will be rigorously enforced, that no employee will suffer in any way as a result of reporting reasonably held suspicions of bribery. For these purposes "reasonably held suspicions" shall mean any suspicions other than those that are raised maliciously. Further guidance on the protection afforded to staff is contained in the Trust's policy on Whistle Blowing.
- 3.9 However, the Trust Board will take a serious view of allegations against staff that are malicious in nature and anyone making such an allegation may be subject to disciplinary action.
- 3.10 After proper investigation of any allegation or suspicion of bribery, in line with the Trust's Bribery Response Plan, the Trust will consider the most appropriate action or actions to take. Where an act of bribery involving a Trust employee is proven, the Trust will instigate disciplinary action against the employee which could result in dismissal.
- 3.11 Where an act of bribery is proven, whether involving an employee or an external party, the Director of Finance will ensure that the matter is reported to the Business Services Organisation (BSO) Counter Fraud & Probity Services (CFPS) Team who will liaise with PSNI with a view to pursuing a criminal prosecution. The Trust will also seek to recover all losses resulting from the act, if necessary through civil court proceedings.

4.0 MITIGATION OF BRIBERY RISKS

- 4.1 The Trust has implemented a range of policies and procedures that are designed to ensure probity, business integrity and mitigate the risk of bribery. The Trust has an appointed Fraud Liaison Officer who takes the lead role for the Trust in all matters pertaining to bribery prevention, detection and investigation.

4.2 The Trust has also put in place a robust Internal Audit service that is actively involved in the review of the adequacy and effectiveness of control systems thereby further deterring the commissioning of an act of bribery.

5.0 AVENUES FOR REPORTING

5.1 The Trust has available a number of avenues by which staff can raise suspicions of bribery. These are detailed in the Trust's Bribery Response Plan and Whistle Blowing Policy. Concerns should be raised initially with the appropriate line manager. However, staff can raise their concerns directly with their Director, the Director of Finance or the Head of Internal Audit if they so wish. Staff should also be aware that they can avail of the DHSSPS fraud reporting hotline to highlight concerns in confidence and anonymously if preferred. The telephone number for the Hotline is **08000 963396**. Staff can also report suspicions directly to the PSNI at Strandtown by telephoning 02890 650222.

5.2 The Trust has a number of avenues by which staff can raise suspicions of fraud. These are detailed below and also in the Trust's Bribery Response Plan, Fraud Policy, Fraud Response Plan and Whistle Blowing Policy. Concerns should be raised initially with the appropriate line manager. However, staff can raise their concerns directly with their Director, the Director of Finance or the Head of Internal Audit if they so wish. Staff should also be aware that DHSSPS has in place a fraud reporting hotline that can be used to highlight concerns in confidence and anonymously if preferred. Alternatively, the Trust has a Policy & Procedure relating to Public Interest Disclosures ('Whistleblowing') which complements the Trusts Fraud Policy and Fraud Response Plan. Within this policy, the Trust has appointed a Delegated Person as the initial point of contact for complaints under the formal procedure. The Designated Person will usually be a Non Executive Director of the Trust. If the complaint is of a financial nature (for example concerns regarding the improper use of public funds) then the Designated Person will have direct access to the chair of the Trust's Audit Committee. All

information will be treated in the strictest confidence. The relevant contact details are as follows:

Director of Finance	028 9040 0751
Head of Internal Audit	0300 5550115
DHSSPS Fraud Hotline	0800 0963396
Designated Person (Whistleblowing)	028 9040 0713

5.3 If staff are unsure whether or how to raise a concern or want confidential advice at any stage, they may contact their union. They may also contact the independent charity Public Concern at Work on 020 7404 6609 or by email at helpline@pcaw.co.uk. Their legal team can talk staff through their options and help them to raise a concern about malpractice at work. For more information, visit the website at www.pcaw.co.uk.

6.0 **CONCLUSION**

6.1 Whilst the individual circumstances surrounding each instance of bribery will vary, the Trust takes all cases very seriously and adopts a zero-tolerance approach. All reported suspicions will be fully investigated and robust action will be taken where the case can be proven.

7.0 **EQUALITY STATEMENT**

7.1 In line with duties under Section 75 of the Northern Ireland Act 1998; Targeting Social Need Initiative; Disability Discrimination Act 1995 and the Human Rights Act 1998, an initial screening exercise, to ascertain if this policy should be subject to a full impact assessment, has been carried out.

7.2 The outcome of the screening exercise for this policy is:

Major impact
Minor impact
No impact.

8.0 SIGNATORIES

_____ **Date:** _____
Lead Author

_____ **Date:** _____
Lead Director

Review of Policy

This policy will be reviewed every three years or at times considered necessary as a result of operational changes, legislative changes or risk assessments have occurred.

Date of Issue: June 2016

Date for Review: June 2019