Appendix 3

Bribery Act 2010 – Summary
(For the intranet)

Overview
As an employee of Oxford University Hospitals NHS Trust you should be aware of the Bribery Act 2010 and its consequences. You should make yourself aware of the Declarations of Interests, Gifts, Hospitality and Sponsorship Policy to ensure that you are complying with the legal requirements.

Summary of Legislation
The Bribery Act 2010 replaces the existing anti-corruption statute and common law. It covers bribery which takes place in the UK and overseas, by employees and third parties employed by the Trust.

The Act outlines four offences of bribery and introduces a new corporate offence of bribery.

In summary, it provides:
- a general offence of active bribery, which prohibits giving someone a financial or other advantage to induce them to perform their duty improperly;
- a general offence of passive bribery, which prohibits requesting, receiving or accepting a bribe;
- an offence of bribing a foreign public official in order to win business, keep business or gain a business advantage for the organisation;
- an offence relating to failure by a business to prevent a person associated with it from committing the above offences on its behalf in order to win business, keep business or gain a business advantage for the organisation;

According to the Act, a person is guilty of bribery ‘if he offers or gives a financial or other incentive to someone with the intention of getting that person or a third party to perform a function or activity improperly or as a reward for an improper act’. He or she is also guilty if they know or believe that the offer or payment itself constitutes an improper performance of a relevant function or activity.

It should be noted that receiving or providing corporate hospitality is not in itself a breach of the Act. However this should be proportional and appropriate.

Examples
The following are fictitious examples of what you should and should not do in relation to interests, gifts, hospitality and sponsorship.

1. You are a cleaning manager, with purchasing authority, and you accept an offer of a gift or hospitality from a supplier. If you then take a purchasing decision influenced by this gift or hospitality, you are at risk of criminal prosecution, for potentially accepting a bribe.
Instead what you should do is:
• Seek approval from your line manager to accept the gift or hospitality;
• Make a declaration on the relevant form;
• Inform the company that the Trust will not and does not agree to any preferential treatment as a result of receiving the hospitality; and
• Exclude yourself from any current or future purchasing decision involving this company.

2. You are a consultant and own shares in a company which supplies the Trust with anaesthetic sundries. You have not declared this “relevant and material” interest or sought approval from your line manager. If you influence the Trust to purchase products from this company and you make a financial gain from the business they transact, you are in breach of the Trust’s policy and maybe subject to disciplinary proceedings.

Instead what you should do is:
• Notify your line manager that you have an interest;
• Complete a Declaration of Interests form and submit to the Head of Corporate Governance;
• Exclude yourself from any procurement decision, including the provision of advice to the decision making team, relating to this company;

For more information or for guidance on what to declare please contact Eric Sanders, Head of Corporate Governance
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