



## **Dolphin Healthcare Services**

Sheldon Community Centre, Sheldon Heath Road,  
Birmingham, West Midlands, B26 2RU  
Phone: 01212433384

# **Anti - Bribery Policy and Procedure**

## **Purpose**

- To ensure that all employees comply with the Bribery Act 2010 and all its provisions, with special emphasis on (a) not giving bribes; (b) not receiving bribes.
- To clarify our responsibilities as an organisation in preventing bribery within the organisation.
- In particular it is our responsibility, when new employees are recruited, to bring the anti-bribery policy and procedure to their attention and ensure that they sign the anti-bribery declaration. It is our responsibility to explain and ensure that employees understand fully the measures of the law and the organisation's intention to ensure that it is being fully implemented.

## **Scope**

- All directors, employees, contractors, agency staff, volunteers, interns, any agent or other person acting on our specific instructions. If you fall into any one of these descriptions then reference to "you" in this policy refers to you.

## **Policy Background**

- In guidance issued by the Ministry of Justice, a bribe is defined as: "Giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so". It goes on to state that "this could cover seeking to influence a decision-maker by giving some kind of extra benefit to that decision maker rather than by what can legitimately be offered as part of a tender process".
- So it includes:
  - Gifts;
  - Hospitality;
  - Facilitation payments;
  - Contributions to political organisations and charities.
- Our organisation can be liable under the Bribery Act if you commit a bribery offence. This is because your activities can be attributed to the organisation.
- You can also be punished as an individual by up to ten years imprisonment and a fine. If we as an organisation have taken part in corruption we could face an unlimited fine and considerable damage to our reputation. We therefore take our responsibilities very seriously.

## **Your Responsibilities**

- It is your responsibility to read and be confident that you understand and fully comply with this policy. In any area of doubt refer to the Registered Manager.
- You are required to notify the Registered Manager if you suspect a breach of this policy has



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occurred.

- You will not suffer detriment as a result of any matter raised, in good faith, under this policy.
- However if you personally breach this policy then we may take disciplinary action (including possibly dismissal for Gross Misconduct) against you.
- If you are not an employee, we may terminate your contract with or without notice as appropriate.



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### **What constitutes a bribe?**

- If someone seeks to influence you to act so that you breach trust, lack impartiality or perform in bad faith (i.e. act improperly) then you need to be on your guard. If they seek to do so by offering, promising or giving an advantage to you (such as money, a gift, or a legacy) then that is bribery. Bribery also occurs if you request, agree to receive or actually receive such an advantage. Such exchanges are illegal.
- If you pay, or attempt to pay cash or any other favour or consideration in order to secure business (e.g. a new source of service user), retain business or gain a business advantage for us then that is a bribe. It is a specific offence to bribe or attempt to bribe a public official (such as a CQC Inspector) wherever they may be in the world.
- Reasonable and proportionate gifts as a token of appreciation or as part of facilitating normal business relationships are acceptable; the key is that they must not be an inducement to act improperly.
- If you influence or make decisions on our behalf you are more vulnerable and if you are uncomfortable with any form of influence you should report it to the Registered Manager.
- Offering or accepting gift or hospitality needs caution; in particular such offers and acceptance need to be for items of proportionate value.
- Typical examples of gifts of proportionate value as appreciation would be a bottle of wine, flowers, or chocolates either at Christmas or as a genuine "thank you". These are normally acceptable. However if they are a form of facilitation payment (see below), then they are not.
- All gifts should be declared to the Registered Manager and a record will be kept.
- Hospitality is defined as where we are present at the hospitality itself (say a buffet lunch at an exhibition). Where this level of hospitality falls within our normal business relationship this is acceptable. Hospitality which is disproportionate may be seen to be influencing impartiality and is prohibited under this policy. Please refer any such offers or concerns to the Registered Manager.
- Where the company providing the hospitality is not present, for example if a restaurant voucher is given, then this is a gift, not hospitality. If you are in doubt about the proportionality of any gift you should discuss the matter with the Registered Manager.
- If you are involved in any form of tendering process then gifts and hospitality (even if proportionate) must not be accepted and, if offered, should be politely declined and referred to the Registered Manager.
- Facilitation payments may be experienced where a relative or other agent offers a payment to obtain a level of service for a user that would not normally be provided. Our absolute policy is



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that such payments are not to be accepted and should be reported to the Registered Manager.

- Requesting a facilitation payment may be regarded as Gross Misconduct and render you liable to summary dismissal.
- If there is the slightest suggestion that you might receive a legacy from a service user then this should be referred to the Registered Manager immediately. Legal advice will be sought.
- You may not solicit gifts or sponsorship for charitable events from residents.
- No donation to a Charity or Political Party/Candidate may made or offered in the name of the organisation without the prior approval of the Registered Manager.
- You should avoid any situation where you might benefit personally from decisions you take or influence on behalf of us. Where a conflict of interest could arise the relevant decision must be referred to the Registered Manager.



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## **Raising Concerns**

- You should raise any concerns that you have about wrong-doing under the Whistle Blowing policy, following the procedure there.
- Ultimate responsibility for compliance rests with the Company Secretary.

## **Guidance to the Service Provider**

- An organisation can also be found liable where someone who performs services for it, such as an employee or an agent, pays a bribe in order to secure business, retain business or gain a business advantage for the organisation in question. A defence is in place should this happen, but the organisation needs to be able to prove that it has adequate procedures in place in order to prevent bribery.
- What counts as “adequate” within the defence will depend on the bribery risks you face, e.g. the nature of your business, the size of your organisation, complexity of your business etc. If your business is therefore small, then the procedures you will need to have in place will need to be minimal in order to mitigate those risks, but if you are a large organisation then the risks will be exponentially greater and you should therefore have detailed, extensive procedures in place.
- Larger organisations may be wise to assess their risks carefully and to obtain from employees, particularly those who may be in a position to accept or offer bribes, a signed declaration that they have read, understood and accept the above procedure.
- In any event, you should bring the above policy to the attention of employees. For very small organisations it may be sufficient to do this orally.

## **Principles**

The following six principles will help you to decide what needs to be done for your particular organisation:

- **Proportionality**
  - The action which you decide to take must be proportionate to the risk that you might face and to the size of your business. Consequently you may need to do more if your business is large. Most independent care sector organisations will be operating in a market place where the risk of bribery is small, therefore your actions may not need to be extensive.
- **Top Level Commitment**
  - Senior management are in the best position to ensure that the organisation conducts its business without bribery, and should enforce this with a top-down approach. The senior management (especially the Registered Manager and the Registered Provider) will therefore want to actively demonstrate that they have made all staff aware of their intolerance of bribery.



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- **Risk Assessment**

- Think about the people you deal with, especially new business arrangements and public funding bodies, and the inherent risks involved.

- **Due Diligence**

- Knowing exactly who you are dealing with and employing can help to protect the organisation from less trustworthy individuals. It is therefore especially important that the results of DBS checks are thoroughly checked as part of the recruitment procedure, so that risks are taken into account when making employment offers.



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- **Communication**

- Communication to care staff and representatives of your policies and procedures will assist in enhancing the awareness of how you like to conduct business. In most cases it will be sufficient to draw members of staff's attention to your policy as already discussed.

- **Monitoring and Review**

- The risks the organisation faces and the effectiveness of its procedures may change over time. You may therefore want to review the latest anti-bribery steps you have taken, so that they keep pace with any changes in the risks that you may face.

#### Compliance

- It is assumed, within this policy, that employees will seek guidance from the Registered Manager in areas of uncertainty. This is not to suggest that that person will necessarily have the correct answer but responsibility should be placed on him or her or on another specified responsible person to take responsibility for finding the answer or providing appropriate guidance. There is a significant amount of guidance, about proportionality for example, in Government publications on the Internet and in other reliable web sources.
- It is important that one individual takes responsibility for day-to-day compliance. In most cases this would naturally fall to the Registered Manager but ultimate responsibility will fall on the Company Secretary, Owner or an equivalent position.

#### Hospitality

- Genuine hospitality or other similar business expenditure that is **reasonable** and **proportionate**, is not prohibited under the Act. All hospitality must however, be *bona fide*.
- Should hospitality be considered a cover for bribery, then the authorities will look at the value of the hospitality, the level provided, the way in which it was provided and the influence of the person receiving it on a business decision.
- The guidance from the Ministry of Justice does state that a business can continue to provide genuine hospitality, such as taking clients to sporting events, dinners, offering gifts to clients as a reflection of your good relations or paying reasonable travel expenses. For example, it may be acceptable to accompany a potential client to a sports event and to then provide dinner. However to provide them with tickets to go on their own, or with others unconnected to your business, and to then also pay for their dinner and travel expenses could be seen as a gift and, if disproportionate, as a bribe.
- No gifts or hospitality should be given or accepted during a tender process or during contractual negotiations if there is any realistic risk that such gifts or entertainment could influence the outcome of the tender process or contractual negotiations.



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### **Facilitation Payments**

- Facilitation payments, which are payments to induce officials to perform, or speed up the performance of routine functions that they are otherwise obligated to perform, are bribes. An example here would be attempting to bribe a CQC inspector. There is no exemption for such payments under the law.

### **Political Contributions**

- It is unwise to make donations, whether in cash or kind, in support of a political party or candidate, as this can be perceived as an attempt to gain an improper business advantage.

### **Charitable Contributions**

- Charitable support and donations are acceptable under law whether of in-kind services, knowledge, time, or direct financial contributions. However, service providers must be careful to ensure that charitable contributions are not used as a cover to conceal bribery. Only make charitable donations that are legal and ethical.