SECONDMENT POLICY

November 2014

Authorship:	North Yorkshire and Humber CSU Workforce Team adapted locally for use by Harrogate and Rural District Clinical Commissioning Group
Committee Approved:	Senior Management Team and Joint Trade Union Partnership Forum
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The on-line version is the only version that is maintained. Any printed copies should, therefore, be viewed as 'uncontrolled' and as such may not necessarily contain the latest updates and amendments.

POLICY AMENDMENTS

Amendments to the Policy will be issued from time to time. A new amendment history will be issued with each change.

New Version Number	Issued by	Nature of Amendment	Approved by and Date	Date on Intranet
1.0	Harrogate and Rural District Clinical Commissioning Group	New Policy for CCG	JTUPF and CCG Senior Management Team. 05/11/14	06/11/2014

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1 INTRODUCTION

1.1 This policy facilitates the secondment of the CCG's staff both internally within the organisation and externally within the wider NHS and exceptionally with other non NHS Bodies. It is also designed to encourage staff from external organisations to take up a secondment where available within the CCG, for the mutual benefit of both organisations.

1.2 A secondment may be arranged to assist with individual development needs as a result of an appraisal or KSF review or be specifically requested for project work where specific skills or specialist knowledge are required.

2 ENGAGEMENT

2.1 The NHS BSA Secondment Policy for CSU's was used for the basis of this policy. It has been agreed with recognised Trade Unions. This has been adapted locally for CCG use and staff have had the opportunity to contribute to its development prior to approval from the Senior Leadership Team and ratification through the North Yorkshire and Humber Commissioning Support Unit's (NYHCSU) Joint Trade Union Partnership Forum (JTUPF).

3 IMPACT ANALYSES

3.1 Equality

All policies require an assessment for their impact on people with protected characteristics. An Equality Impact Assessment has been undertaken for this policy and no impacts were identified in respect of any characteristics. This screening can be found in Appendix 1.

3.2 In applying this policy, the CCG will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

3.2 Sustainability

All policies require a Sustainability Impact Assessment. Such an assessment has been undertaken for this policy but not specific impacts were identified. This screening can be found in Appendix 2.

3.3 Bribery Act 2010

The relevance of the Bribery Act 2010 must be considered in respect of every policy. It is considered that it is relevant to this policy as it is possible that someone may be bribed into offering or supporting a secondment and therefore the audience of the policy must be respectful of the following information;

Under the Bribery Act 2010, it is a criminal offence to:

- *Bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so; and*
- *Be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so.*

These offences can be committed directly or by and through a third person and, in many cases, it does not matter whether the person knows or believes that the performance of the function or activity is improper.

It is therefore, extremely important that staff adhere to this and other related policies and documentation (as detailed on the CCG's intranet) when considering whether to offer or accept gifts and hospitality and/or other incentives.

4   SCOPE

4.1   This policy applies to all CCG employees. All other workers of the CCG must follow the content of this policy in respect of employees.

5   POLICY PURPOSE AND AIMS

5.1   The purpose of this policy is to provide a framework for managing internal and external secondments.

5.2   This policy will ensure that Secondment requests will be considered in line with business needs and decisions are made on this basis.

6   DEFINITIONS

6.1   Secondment: A secondment is the temporary movement of an employee into a different role within the CCG or another employer for a defined period of time and for a specific purpose. Secondments are usually mutually beneficial and should bring benefits to the organisation(s)/ department(s) involved and the individual being seconded. There are 3 types of secondment covered by this policy;
- Internal Secondment- this is where an individual is seconded into a different role within the CCG;
- External Secondment- this is where an individual is seconded into a role within a different organisation;
- Externally Sourced Secondment- this is where an employee of a different organisation is seconded into a CCG role.

7   ROLES / RESPONSIBILITIES / DUTIES

7.1   Line Managers are responsible for;
- Seeking advice on the application of this policy from their senior managers and the CSU Workforce Team.
- Applying this policy in a fair and equitable manner.

- Outlining at the start what their objectives are for the duration of the secondment.
- Managers must conduct performance reviews of secondees into a post.
- Ensuring appropriate records are kept in relation to this policy.

7.2 The Senior Leadership Team are responsible for;
- Ensuring the fair and equitable application of this policy.
- Providing advice in relation to the application of this policy.

7.3 Employees are responsible for;
- Informing managers if they wish to apply for a secondment opportunity as soon as it arises.
- Ensuring appropriate records are kept in relation to this policy.
- Ensuring that information, which may be made available to them as a direct result of the secondment, is treated as confidential.

8   IMPLEMENTATION

8.1 This policy will be communicated to staff through Staff Meetings and Team Brief and will be available to all staff via the CCG's website.

8.2 Any deliberate breaches in the application of this policy and procedure may be investigated and may result in the matter being treated as a disciplinary offence under the CCG's disciplinary procedure.

9   TRAINING AND AWARENESS

9.1 Guidance and support will be provided to all Line Managers in the implementation and application of this policy upon request.

10   MONITORING AND AUDIT

10.1 Records will be kept by the CSU Workforce Team of all secondment agreements made under this policy and any grievances raised in respect of it. This information will be audited on a periodic basis. Records of declined requests will be maintained on personal files and can be audited where there is a specific requirement to do so.

11   POLICY REVIEW

11.1 The policy and procedure will be reviewed every two years by the Senior Leadership Team in conjunction with managers, the CSU Workforce team and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

12   REFERENCES

NHS Agenda for Change Terms and Conditions of Employment.
Recruitment and Selection Policy.

13   ASSOCIATED DOCUMENTATION

Secondment Procedure
Secondment Agreement

SECONDMENT PROCEDURE

1.0   Identifying Secondments

1.1   Requesting and organisation of Internal Secondments within the CCG

1.1.1   Where the CCG identifies that an internal secondment opportunity exists, consideration should be given to the length of the secondment, any training required and the skills set or specialist knowledge required of staff undertaking the secondment.

1.1.2   Depending on the nature of secondment, the vacancy will either be advertised in line with the CCG's recruitment policy, or, a request will be made directly to the relevant department if the secondment requires specialist skills or knowledge.   Any secondment opportunity that exceeds 6 months must be advertised in line with the recruitment and selection policy.

1.1.3   There is no explicit obligation on the manager to release an individual but proper consideration should be given to such a request. Any refusal to allow an individual to uptake a secondment opportunity should be carefully considered and the potential long term benefits to the CCG should not be overlooked. An explanation should be given to the employee if a request is turned down.

1.1.4   Any disputes between managers regarding the release of an individual should be escalated to the Senior Leadership Team to resolve.

1.2   Requesting and organisation of Externally Sourced Secondments

1.2.1   Where the CCG identifies that a secondment opportunity exists which cannot reasonably or practicably be filled from within the CCG, they should seek to fill it from an external source.

1.2.2   In order to minimise risk to the CCG and safeguard the existing employment of an individual, where a short term vacancy arises, the CCG will seek to fill it through a secondment and will only offer a fixed term contract if a secondment is not possible.

1.2.2   Depending on the nature of secondment, the vacancy will either be advertised in line with the CCG's recruitment policy, or, a request will be made directly to the relevant department if the secondment requires specialist skills or knowledge.   Any secondment opportunity that exceeds 6 months must be advertised in line with the recruitment and selection policy.

1.3   Requests for CCG staff to undertake secondments in external organisations

1.3.1   Any requests from an external organisation to release an employee on secondment should be discussed with the Senior Leadership Team. Where an individual has been specifically identified they should be made aware of the request. Where the CCG considers that they can support the request, agreement must be gained from the individual prior to making a final decision.

1.3.2   If an employee wishes to go on secondment to an external organisation they must discuss this with their line manager prior to making an application. The line manager must discuss the secondment with the Senior Leadership team at the earliest opportunity as early planning as to how cover will be provided will increase the possibility of the secondment being possible.

2.0 Administration

2.1 Prior to the secondment taking place the appropriate manager(s) must liaise with the Finance team and the Workforce teams to agree who will be funding the secondment and how the payment arrangements are to be facilitated. Depending on the individual agreements it may be appropriate to submit a 'Variation form' (HR4) or arrange for invoices to be raised.

2.2 Agreement must be reached on how the secondee/placement individual's salary will be paid and which body will be responsible for meeting any additional expenses such as travel and subsistence allowances.

2.3 Once a secondment has been agreed a signed agreement must be put in place to clarify the terms of the secondment. Contact should be made with the CSU Workforce Team who will facilitate the production of the paperwork and advise as to which Payroll forms need completing.

2.4 Staff who enter into secondment agreements will be asked to sign a secondment agreement outlining the terms and parameters of the secondment.

2.5 Where the grade of the secondment post is higher than the grade of the employee's substantive post, the full salary cost will be paid by the CCG and recovered from the host organisation/ department. On return to the substantive post the employee will revert to their substantive grade and salary.

2.6 The duration of a secondment will vary depending on the circumstances. However the minimum is 3 months and a maximum 24 months with exceptions to be arranged with the relevant line manager and with the agreement of the Senior Leadership Team and with advice from the CSU Workforce Team.

3.0 Terms and Conditions

3.1 During the period of the secondment the individual's Terms and Conditions will remain the same and continue to be subject to CCG policies and procedures. Exceptions to this will be agreed in advance between the host organisation and the secondee / CCG and must be recorded in the Secondment Agreement.

3.2 Employees on secondment with an external organisation will retain all of their continuity of service rights with the Organisation

3.3 Secondees are responsible for reporting any reasons for absence directly to both the external organisation and the host organisation in accordance with their own absence management policies. Secondees on internal secondments must report their absences to their host line manager who will record the absence via the administration office.

3.4 Whilst on any secondment employees will continue to accrue annual leave entitlements and be permitted to take annual leave to their entitlement limit with the agreement of the host organisation. Where an employee takes a period of Maternity Leave during the course of the secondment accrual of her annual leave entitlements will continue to apply.

3.5   For the duration of the secondment or work placement the individual will be required to comply with the working/cover arrangements of the department or host employer. Any agreement to exceed/reduce their contractual working hours will be subject to agreement between all parties prior to any change taking place and is subject to the conditions of Working Time Regulations.

4.0   Communication

4.1   When a secondment is confirmed it must be agreed by all parties, that three way communication between the secondee, host organisation and the employer is maintained

4.2   Any secondee should be kept informed of and consulted about any organisational change that takes place during their period of secondment.

5.0   Termination or Extension of Secondment

5.1   A request for an extension of an existing secondment should be considered in accordance with the needs of the service, and be mutually agreed by all parties and confirmed in writing. If an extension is refused, an explanation should be given to the employee.

5.2   The secondment may be terminated by either party in writing with the appropriate or previously agreed notice period.

5.3   Upon the termination of a secondment into another CCG department or external organisation the CCG employee will return to a post that is of the same grade and of a broadly similar function to their substantive post that they held prior to the secondment.

6.0   Secondment Resulting in Permanent Appointment

6.1   Where a full recruitment process was carried out for the secondment, the individual may be offered the post should it become permanent.

6.2   If a full recruitment process was not followed then a recruitment and selection process will need to be carried out.

7.0   Appeal

7.1   An employee may use the Grievance Procedure if they feel that they have been treated unfairly in relation to application of this policy.

1. Equality Impact Analysis	
Policy / Project / Function:	Secondment Policy
Date of Analysis:	24/03/2014
This Equality Impact Analysis was completed by: (Name and Department)	Workforce service
What are the aims and intended effects of this policy, project or function ?	- The purpose of this policy is to provide a framework for managing internal and external secondments. - This policy will ensure that Secondment requests will be considered in line with business needs and decisions are made on this basis.
Please list any other policies that are related to or referred to as part of this analysis?	- NHS Agenda for Change Terms and Conditions of Employment - Recruitment and Selection policy - Grievance Procedure - Disciplinary Procedure
Who does the policy, project or function affect ? Please Tick ✔	Employees ✓ Service Users ☐ Members of the Public ☐ Other (List Below) ☐

	2. **Equality Impact Analysis: Screening**				
	Could this policy have a positive impact on…		Could this policy have a negative impact on…		Is there any evidence which already exists from previous (e.g. from previous engagement) to evidence this impact
	Yes	No	Yes	No	
Race	☐	☒	☐	☒	Para 1.1.2 of the secondment procedure states *'the vacancy will either be advertised in line with the CCG's recruitment policy, or, a request will be made directly to the relevant department if the secondment requires specialist skills or knowledge'*. In accordance with the recruitment policy it is expected that employees will have equal opportunity to apply for secondments and potential discrimination will be monitored under that policy. In addition it is noted that 'any secondment opportunity that exceeds 6 months must be advertised in line with the recruitment and selection policy.
Age	☐	☒	☐	☒	Has been considered and no impact identified
Sexual Orientation	☐	☒	☐	☒	Has been considered and no impact identified
Disabled People	☐	☒	☒	☐	The policy does not specifically mention disabled staff – see full assessment
Gender	☐	☒	☐	☒	Para 1.12 of the secondment procedure states *'the vacancy will either be advertised in line with the CCG's recruitment policy, or, a request will be made directly to the relevant department if the secondment requires specialist skills or knowledge'*. In accordance with the recruitment policy, it is expected that employees will have equal opportunity to apply for secondments and potential discrimination will be monitored under that policy. In addition it is noted that 'any secondment opportunity that exceeds 6 months must be advertised in line with the recruitment and selection policy'
Transgender People	☐	☒	☐	☒	Has been considered and no impact identified

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Pregnancy and Maternity	☐	☒	☐	☒	Has been considered and no impact identified
Marital Status	☐	☒	☐	☒	Has been considered and no impact identified
Religion and Belief	☐	☒	☐	☒	Has been considered and no impact identified
Reasoning	Whilst no positive or negative impact is identified, it will be necessary to ensure fair recruitment processes are followed and monitored in accordance with the recruitment policy (see action plan).				
If there is no positive or negative impact on any of the Nine Protected Characteristics go to Section 7					

3. Equality Impact Analysis: Local Profile Data	
Local Profile/Demography of the Groups affected (population figures)	
General	Total number of employees in the CCG is 22
Age	72.73% are aged 30-55 29.27% of staff are over 55 No employees are under 30
Race	90.9% staff employed in the CCG are White 4.55% staff are Black 4.55% of staff have are not stated/undefined their ethnicity
Sex	54.55% staff employed are male 45.45% staff employed are female
Gender reassignment	No information at this stage
Disability	86.36% of staff employed declared themselves as having no disability 13.64% did not declare /undefined No staff have declared a disability
Sexual Orientation	77.27% of staff described themselves as heterosexual 22.73% did not wish to respond /undefined
Religion, faith and belief	Christianity is the largest religious group declared by staff in the CCG (40.91%) 27.27% declared themselves Atheist 27.27% were undefined or did not wish to declare 4.55% of staff have other beliefs/religious beliefs
Marriage and civil partnership	81.81% of employees are married. No employees are in a civil partnership. The remainder (18.19%) are single/divorced/legally separated or widowed
Pregnancy and maternity	No information yet as the CCG has not been established long enough to build meaningful data

4. **Equality Impact Analysis: Equality Data Available**	
Is any Equality Data available relating to the use or implementation of this policy, project or function? Equality data is internal or external information that may indicate how the activity being analysed can affect different groups of people who share the nine *Protected Characteristics* – referred to hereafter as *'Equality Groups'*. Examples of *Equality Data* include: (this list is not definitive) 1. Application success rates *Equality Groups* 2. Complaints by *Equality Groups* 3. Service usage and withdrawal of services by *Equality Groups* 4. Grievances or decisions upheld and dismissed by *Equality Groups* 5. *Previous EIAs*	Yes ✓ Employee data No ☐ Where you have answered yes, please incorporate this data when performing the *Equality Impact Assessment Test* (the next section of this document).
List any Consultation e.g. with employees, service users, Unions or members of the public that has taken place in the development or implementation of this policy, project or function	Consultation has taken place nationally and locally with Trade Unions
Promoting Inclusivity **How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation**	This Policy does not directly promote inclusivity, but provides a framework for all staff to take up secondment opportunities

5. Equality Impact Analysis: Assessment Test

What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a *Genuine Determining Reason* exists
Gender (Men and Women)	x			Considered, no impact identified
Race (All Racial Groups)	x			Considered, no impact identified
Disability (Mental and Physical)			✘	The policy does not specifically mention disabled staff. Where a seconded employee with a disability returns to the CCG, they will return to a '*broadly similar function'.* It is important that HR and Occupational Health advice is taken to follow the requirements of the Equality Act and ensure secure management of individuals with disabilities (see action plan) Whilst no employees are currently recorded as having a disability, the CCG recognises in producing policies it should take account of circumstances where staff with disabilities may be appointed.
Religion or Belief	x			Considered, no impact identified
Sexual Orientation (Heterosexual, Homosexual and Bisexual)	x			Considered, no impact identified

What impact will the implementation of this policy, project or function have on employees, service users or other people who share characteristics protected by *The Equality Act 2010* ?

Protected Characteristic:	No Impact:	Positive Impact:	Negative Impact:	Evidence of impact and if applicable, justification where a *Genuine Determining Reason* exists
Pregnancy and Maternity	x			Considered, no impact identified
Transgender	x			Considered, no impact identified
Marital Status	x			Considered, no impact identified
Age	x			Considered, no impact identified

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6. Action Planning

As a result of performing this analysis, what actions are proposed to remove or reduce any risks of adverse outcomes identified on employees, service users or other people who share characteristics protected by *The Equality Act 2010*?

Identified Risk:	Recommended Actions:	Responsible Lead:	Completion Date:	Review Date:

7. Equality Impact Analysis Findings			
Analysis Rating:	☐ Red	☐ Red/Amber	☐ ✓Amber	☐ Green

		Actions	Wording for Policy / Project / Function
Red **Stop and remove the policy**	**Red:** As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share *Protected Characteristics.* It is recommended that the use of the policy be suspended until further work or analysis is performed.	**Remove the policy** Complete the action plan above to identify the areas of discrimination and the work or actions which needs to be carried out to minimise the risk of discrimination.	No wording needed as policy is being removed
Red Amber **Continue the policy**	As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share Protected Characteristics. However, a genuine determining reason may exist that could legitimise or justify the use of this policy and further professional advice should be taken.	**The policy can be published with the EIA** List the justification of the discrimination and source the evidence (i.e. clinical need as advised by NICE). Consider if there are any potential actions which would reduce the risk of discrimination. Another EIA must be completed if the policy is changed, reviewed or if further discrimination is identified at a later date.	As a result of performing the analysis, it is evident that a risk of discrimination exists (direct, indirect, unintentional or otherwise) to one or more of the nine groups of people who share Protected Characteristics. However, a genuine determining reason exists which justifies the use of this policy and further professional advice. [Insert what the discrimination is and the justification of the discrimination plus any actions which could help what reduce the risk]

Equality Impact Findings (continued):			
		Actions	Wording for Policy / Project / Function
Amber **Adjust the Policy**	As a result of performing the analysis, it is evident that a risk of discrimination (as described above) exists and this risk may be removed or reduced by implementing the actions detailed within the *Action Planning* section of this document.	**The policy can be published with the EIA** The policy can still be published but the Action Plan must be monitored to ensure that work is being carried out to remove or reduce the discrimination. Any changes identified and made to the service/policy/ strategy etc. should be included in the policy. Another EIA must be completed if the policy is changed, reviewed or if further discrimination is identified at a later date.	As a result of performing the analysis, it is evident that a risk of discrimination (as described above) exists and this risk may be removed or reduced by implementing the actions detailed within the Action Planning section of this document. [Insert what the discrimination is and what work will be carried out to reduce/eliminate the risk]
Green **No major change**	As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share Protected Characteristics and no further actions are recommended at this stage.	**The policy can be published with the EIA** Another EIA must be completed if the policy is changed, reviewed or if any discrimination is identified at a later date	As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share Protected Characteristics and no further actions are recommended at this stage.

Brief Summary/Further comments	

Approved By		
Job Title:	Name:	Date:

Sustainability Impact Assessment

Staff preparing a policy, Governing Body (or Sub-Committee) report, service development or project are required to complete a Sustainability Impact Assessment (SIA). The purpose of this SIA is to record any positive or negative impacts that this is likely to have on sustainability.

Title of the document	HaRD 023 - Secondment Policy
What is the main purpose of the document	The purpose of this policy is to provide a framework for managing internal and external secondments
Date completed	29/08/14
Completed by	CSU Workforce Team

Domain	Objectives	Impact of activity Negative = -1 Neutral = 0 Positive = 1 Unknown = ? Not applicable = n/a	Brief description of impact	If negative, how can it be mitigated? If positive, how can it be enhanced?
Travel	Will it provide / improve / promote alternatives to car based transport? Will it support more efficient use of cars (car sharing, low emission vehicles, environmentally friendly fuels and technologies)? Will it reduce 'care miles' (telecare, care closer) to home? Will it promote active travel (cycling, walking)? Will it improve access to opportunities and facilities for all groups?	n/a		
Procurement	Will it specify social, economic and environmental outcomes to be accounted for in procurement and delivery? Will it stimulate innovation among providers of services related to the delivery of the organisations' social, economic and environmental objectives? Will it promote ethical purchasing of goods or services? Will it promote greater efficiency of resource use?	n/a		

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	Will it obtain maximum value from pharmaceuticals and technologies (medicines management, prescribing, and supply chain)? Will it support local or regional supply chains? Will it promote access to local services (care closer to home)? Will it make current activities more efficient or alter service delivery models			
Facilities Management	Will it reduce the amount of waste produced or increase the amount of waste recycled? Will it reduce water consumption?	n/a		
Workforce	Will it provide employment opportunities for local people? Will it promote or support equal employment opportunities? Will it promote healthy working lives (including health and safety at work, work-life/home-life balance and family friendly policies)? Will it offer employment opportunities to disadvantaged groups?	n/a		
Community Engagement	Will it promote health and sustainable development? Have you sought the views of our communities in relation to the impact on sustainable development for this activity?	n/a		
Buildings	Will it improve the resource efficiency of new or refurbished buildings (water, energy, density, use of existing buildings, designing for a longer lifespan)? Will it increase safety and security in new buildings and developments? Will it reduce greenhouse gas emissions from transport (choice of mode of transport, reducing need to travel)? Will it provide sympathetic and appropriate landscaping around new development? Will it improve access to the built environment?	n/a		
Adaptation to Climate Change	Will it support the plan for the likely effects of climate change (e.g. identifying vulnerable groups; contingency planning for flood, heat wave and other weather extremes)?	n/a		

Models of Care	Will it minimising 'care miles' making better use of new technologies such as telecare and telehealth, delivering care in settings closer to people's homes? Will it promote prevention and self-management? Will it provide evidence-based, personalised care that achieves the best possible outcomes with the resources available? Will it deliver integrated care, that co-ordinate different elements of care more effectively and remove duplication and redundancy from care pathways?	n/a		

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Bribery Act 2010 Guidance

Introduction

On July 2011 the Bribery Act 2010 came into force, making it a criminal offence to give, promise, or offer a bribe and to request, agree or receive a bribe. It increased the maximum penalty for bribery to 10 years' imprisonment, with an unlimited fine. Furthermore the act introduces a 'corporate offence' of failing to prevent bribery by the organisation not having adequate preventative procedures in place. An organisation may avoid conviction if it can show that it had such procedures and protocols in place to prevent bribery.

The Ministry of Justice in its consultation and guidance set out six broad management principles whereby an organisation can demonstrate an effective defence by showing that it had effective bribery prevention measures in place.

Risk Assessment – this is about knowing and keeping up to date with the bribery risks you face in your sector and market;

Top level commitment – this concerns establishing a culture across the organisation in which bribery is unacceptable. If your business is small or medium sized this may not require much sophistication but the theme is making the message clear, unambiguous and regularly made to all staff and business partners;

Due diligence – this is about knowing who you do business with; knowing why, when and to whom you are releasing funds and seeking reciprocal anti-bribery agreements ; and being in a position to feel confident that business relationships are transparent and ethical;

Clear, Practical and Accessible Policies and Procedures – this concerns applying them to everyone you employ and business partners under your effective control and covering all relevant risks such as political and charitable contributions, gifts and hospitality, promotional expenses, and responding to demands for facilitation demands or when an allegation of bribery comes to light.

Effective implementation – this is about going beyond 'paper compliance' to embedding anti-bribery in your organisation's internal controls, recruitment and remuneration policies, operations, communications and training on practical business issues.

Monitoring and review – this relates to auditing and financial controls that are sensitive to bribery and are transparent, considering how regularly you need to review your policies and procedures, and whether external verification would help.

Relevance to the NHS

NHS organisations are included in the Bribery Act's definition of a "relevant commercial organisation". Any senior manager or executive who consents to or connives in any active or passive bribery offence will, together with the organisation, be liable for the corporate offence under the act.

Any individual associated with an organisation who commits acts or omissions forming part of a bribery offence may be liable for a primary bribery offence under the act or for conspiracy to commit the offence with others – including, for example, their employer.

Risks in breaching the Bribery Act

There are a number of risks entailed in breaching the Bribery Act. These include:

- Criminal sanctions against directors, board members and other senior staff as a corporate offence – Section 7 of the Act.
- Convictions of bribery or corruption may also lead to the organisation being precluded from future public sector procurement contracts.
- Damage to the organisation's reputation and negative impact on patient/stakeholder perceptions.
- Potential diversion and/or loss of resources.

What do NHS organisation's need to do?

There are a number of steps NHS organisations can take:

- The Board needs to understand its responsibility in respect of the act.
- Be clear that, as NHS organisations, you are covered by corporate liability for bribery on the part of their employees, contractors and agents.
- Take steps to make your employees, contractors and agents aware of the standards of behaviour that are expected of them: this may include training for employees who might be affected – for example, employees with responsibility for procurement.
- Review existing governance, procedures, decisions-making processes and financial controls, introduce them if not already in place and, where necessary, provide appropriate training for staff.
- Record the fact that these steps have been taken, as they provide the defence against corporate liability under the act.

Areas for Action

- Once risks have been assessed the organisation must put in place procedures that are *proportionate* to bribery risks that are identified.

- The checklist below provides details of areas for actions to assist in ensuring proportionate steps to ensure prevention and defence against corporate liability under the act. The checklist is based on best practice guidance documents issued by NHS Protect in May 2011, Ministry of Justice and other anti-bribery and corruption NGOs.

- Internal Audit and Counter Fraud Teams will provide support to the organisation to help ensure that assurance can be given against the points in the following checklist during 2012/13.

Bribery Act 2010 Guidance and Bribery Prevention Checklist

Areas for action	Expected Action	Evidence of Compliance/Assurance
1. Governance and Top Level Commitment	The Chief Executive should make a statement in support of the anti-bribery initiative and this should be published on the organisation's website. The board of directors should take overall responsibility for the effective design, implementation and operation of the anti-bribery initiatives. The Board should ensure that senior management is aware of and accepts the initiatives and that it is embedded in the corporate culture.	
2. Due Diligence	This is a key element of good corporate governance and involves making an assessment of new business partners prior to engaging them in business. Due diligence procedures are in themselves a form of bribery risk assessment and also a means of mitigating that risk. It is recommended that at the outset of any business dealings, all new business partners should be made aware in writing of the organisation's anti-corruption and bribery policies and code of conduct.	
3. Code of conduct	The organisation should either have an anti-bribery code of conduct or a general code of conduct for staff with an anti-bribery and corruption element. The organisation should revise the Standards of Business Conduct Policy (or equivalent) and Declaration of Interests guidance (see point 4 below) to reflect the introduction of the Bribery Act.	

Areas for action	Expected Action	Evidence of Compliance/Assurance
4. Declaration of Interests/Hospitality	The organisation should have in place a declaration of business interests/gifts and hospitality policy which clearly sets out acceptable limits and also a mechanism to monitor implementation.	
5. Employee employment procedures	Employees should go through the appropriate propriety checks e.g. CRB (Criminal Records Bureau) and/or a combination of other checks before they are employed to ascertain, as far as is reasonable, that they are likely to comply with the organisation's anti-bribery policies.	
6. Detection procedures	The organisation should ensure Internal Audit/Counter Fraud check projects, contracts, procurement processes and any other appropriate systems where there is a risk that acts of bribery could potentially occur.	
7. Internal reporting procedures	The organisation should have internal procedures for staff to report suspicious activities including bribery.	
8. Investigation of Bribery allegations	The organisation should have procedures for staff to report suspicions of bribery to NHS Protect (previously NHS Counter Fraud and Security Management Service) and the organisation's Local Counter Fraud Specialist for investigation/referral to the appropriate authorities.	
9. Risk assessment	MoJ (Ministry of Justice) guidance states"…organisations should adopt a risk-based approach to managing bribery risks…[and] an initial assessment of risk across the organisation is therefore a necessary first step". The organisation should, on a regular basis, assess the risk of bribery and corruption in its business and assess whether its procedures and controls are adequate to minimise those risks.	

Areas for action	Expected Action	Evidence of Compliance/Assurance
10. Record keeping	The organisation should keep reasonably detailed records of its anti-fraud and corruption initiatives, including training given, hospitality given and received and other relevant information.	
11. Internal review	The organisation should carry out an annual internal review of the anti-bribery and corruption programme.	
12. Independent assessment and certification	Proportionate to risks identified, the organisation should commission, at least every three years, an independent assessment and certification of its anti-bribery programme.	
13. Internal and External communications	The organisation should publicise the NHS Fraud and Corruption Reporting Line (FCRL) and on-line fraud reporting facility. The organisation should publicise the Security Management role (theft and general security issues) and reporting arrangements. The organisation should work with its stakeholders in the public and private sector to help reduce bribery and corruption in the health industry.	
14. Awareness and training	The organisation should provide appropriate anti-bribery and corruption awareness sessions and training on a regular basis to all relevant employees.	

Areas for action	Expected Action	Evidence of Compliance/Assurance
15. Monitoring: • Overall Responsibility • Financial/Commercial Controls	A senior manager should be made responsible for ensuring that the organisation has a proportionate and adequate programme of anti-fraud, corruption and bribery initiatives. The organisation should ensure that its financial controls minimise the risk of the organisation committing a corrupt act. The organisation should ensure that its commercial controls minimise the risk of the organisation committing a corrupt act. These controls would include appropriate procurement and supply chain management, and the monitoring of contract execution.	