

Gifts, hospitality and anti-bribery Policy



Tower Hamlets

Clinical Commissioning Group

Number: THCCGCG6

Version: V2

Executive Summary	<ul style="list-style-type: none"> • This policy guides staff on where the boundaries of acceptable conduct lie in the event that they are offered gifts and/or hospitality. • This policy also provides advice to employees in dealing with fraud or suspected fraud. • NHS Tower Hamlets CCG does not tolerate fraud and bribery within the NHS. • As a general rule the CCG believes that gifts or offers of hospitality must be refused if there could be any doubt about the propriety of accepting them. 			
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Is this document fit for the public domain? Y / N	<table border="1"> <tr> <td style="width: 30px;">Y</td> <td style="width: 100px;">If No, why?</td> <td style="width: 30px;">-</td> </tr> </table>	Y	If No, why?	-
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Contents

1	Purpose and scope	3
2	Responsibilities	3
3	Definitions	4
3.1	Gifts	4
3.2	Hospitality	5
4	Guiding documentation	5
4.1	The Bribery Act 2010	5
4.2	Pharmaceutical Companies	5
5	Policy	5
5.1	Introduction	5
5.2	Policy statement	6
5.3	Guide to Gifts and Hospitality – Refusal and Acceptance	7
5.4	Gifts from patients / members of the public	8
5.5	Gifts from Office holders or work colleagues	8
5.6	Guide to other Hospitality/Offers of Hospitality - Refusal and Acceptance	9
6	Gifts and Hospitality Register	10
7	Penalties	10
8	Fraud and Corruption	10
9	Bribery Act - Frequently asked questions	11
9.1	What is the Bribery Act?	11
9.2	When did it come into force?	11
9.3	Why is it relevant to NHS organisations, professionals and staff?	11
9.4	Why is it relevant to the NHS Protect?	11
9.5	What is bribery?	11
9.6	What are the key provisions of the Bribery Act?	11
9.7	Who can be prosecuted under the Bribery Act?	12
9.8	Who will investigate and prosecute these new offences?	12
9.9	What penalties can be imposed?	12
9.10	What can NHS organisations do to comply?	13
9.11	What is meant by 'adequate procedures'?	13
9.12	Is there any guidance on what constitutes adequate procedures?	13
9.13	Will any advice or guidance be issued to directors, Governing Body members or staff on what they should be doing and what their responsibilities are under the Bribery Act?	13
9.14	What must NHS organisations do now?	13
9.15	What should I do if I suspect bribery is occurring?	14
10	Training	14
11	Monitoring, audit and evaluation	14
12	Review	15
13	References	15
14	Associated CCG documentation	15
15	Appendix 1: The Nolan Principles	16
Appendix 2:	Register of Gifts and Hospitality Declaration Form	17
16	Appendix 3: Quick guide to Fraud and Bribery for staff	18

1 Purpose and scope

The purpose of this policy is to provide guidance to staff and office holders on the action that can, or should, be taken in the event that they are offered gifts and/or hospitality, make it clear where the boundaries of acceptable conduct lie and to protect the property and finances of the NHS and of patients in our care.

NHS Tower Hamlets CCG does not tolerate fraud and bribery within the NHS.

This policy applies to all employees of NHS Tower Hamlets Clinical Commissioning Group (THCCG), any staff who are seconded to THCCG, contract and agency staff and any other individual working on THCCG premises. This Policy also applies to THCCG Office Holders, e.g. Members of the Governing Body and it's Committees/Sub-Committees.

2 Responsibilities

Party	Key responsibilities
Deputy Director Quality and Performance	<ul style="list-style-type: none">• Monitor and ensure compliance with this policy.• Advising staff / Office Holders on the contents of this policy.• Providing guidance for staff / Office Holders on refusal or acceptance for gifts or hospitality.• Maintaining a central register of gifts and hospitality.• Receive declarations for inclusion in the Gifts and Hospitality Register.• Ensure that this policy is compliant with pertinent legislation and guidance.
All Managers	<ul style="list-style-type: none">• Ensuring that their staff are aware of, and adhere to, this policy.• Make declarations of receipt of gifts or hospitality where required.• Provide advice and guidance to staff on the receipt of gifts / hospitality in the first instance, and• Consult the Deputy Director Quality and Performance where additional guidance is required.

Party	Key responsibilities
All Staff	<ul style="list-style-type: none"> • Ensuring they are aware of, and follow this policy. • Make declarations of receipt of gifts or hospitality where required in consultation with their line manager. • Refuse gifts, inducements or hospitality other than items of modest value. • Staff with authority to commit expenditure must declare any relevant and material interests. • Do not use your official position for private gain. • Respect confidentiality of business information. • Act in accordance with the seven Nolan principles (See Appendix 1) on standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. • Use the agreed procedures to raise any issues which concern you with your line manager or the Deputy Director Quality and Performance
Local Counter Fraud Specialist	<p>The LCFS's role is to ensure that all cases of actual or suspected fraud and bribery are notified to the Chief Financial Officer and reported accordingly.</p> <p>Investigation of the majority cases of alleged fraud within Tower Hamlets CCG</p> <p>The LCFS will regularly report to the Chief Financial Officer on the progress of investigations and when/if referral to the police is required.</p> <p>The LCFS and the Chief Financial Officer, in conjunction with NHS Protect, will decide who will conduct investigations and when/if referral to the police is required.</p>
Office Holders	<ul style="list-style-type: none"> • The THCCG Governing Body has also determined that Office Holders (e.g. members of Committees/Sub-Committees) must comply with this policy.

3 Definitions

3.1 Gifts

Examples of the kind of gifts which might be made/offered include: Stationery items such as pens, notepads, calculators, or carrier bags, food or confectionery, particularly chocolates and biscuits, flowers or plants, ornaments, mugs, wines and spirits, articles of clothing, jewellery or watches, tickets for cultural or sporting events, discounted rates for hire or purchase, free publications and cash.

3.2 Hospitality

Covers a wide spectrum and can include: Free meals, drinks, receptions, meetings sponsored by drug companies, hospitality tents at shows, exhibitions or conferences, music and cultural events, sport and leisure events, particularly golf competitions, use of company facilities, hotel accommodation and holidays.

4 Guiding documentation

The key piece of legislation governing this policy is the Bribery Act 2010. This is summarised below:

4.1 The Bribery Act 2010

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 documentation ([See Associated CCG documentation](#)) when considering whether to offer or accept gifts and hospitality and/or other incentives.

4.2 Pharmaceutical Companies

All private companies must now adhere to the Bribery Act 2010. Where pharmaceutical companies are involved, inducements and hospitality must comply fully with the Medicines (Advertising) Regulations 1994 (regulation 21 'Inducements and hospitality'.

Any person who contravenes regulation 21(1) is guilty of an offence, and liable, on summary conviction to a fine not exceeding £5000, and on conviction on indictment to a fine, or to imprisonment for a term not exceeding two years, or both. Anyone contravening regulation 21(5) is also guilty of an offence and is liable, on summary conviction to a fine not exceeding £5000'. The Medicines Control Agency (MCA) Guidelines on Promotion and Advertising set out the standards to be followed.

If an offer received is contrary to the above, details should be sent to the Deputy Director Quality and Performance who will take up the matter with the company concerned.

5 Policy

5.1 Introduction

THCCG manages a large commissioning budget. It is therefore imperative for office holders to not place themselves in a position where it appears their judgment has been compromised through the acceptance of inappropriate gifts or hospitality.

In some circumstances the acceptance of a gift from an organisation or individual could appear to influence the action of a member of staff and compromise the member of staff's position. This is because a gift is never really a gift; there is always an element of mutuality.

The standards that the public demand from their office holders are high and the great majority of people in public life meet those high standards. However it is imperative that a clear policy outlining where the boundaries of acceptable conduct lie is made available.

This policy sets out some guiding principles covering the acceptance of gifts and hospitality, including references to interests in contracts. It does not provide for every eventuality and, therefore, staff/Office Holders should not hesitate to seek advice from their Line Manager or the Deputy Director Quality and Performance.

The action of all CCG staff and Office Holders must not give rise to, or foster the suspicion that they have been, or may have been, influenced by a gift or consideration to show favour or disadvantage to any person or organisation. Staff/Office Holders must not allow their judgement or integrity to be compromised in fact or by reasonable implication.

Tower Hamlets CCG is committed to taking all necessary steps to counter fraud and bribery. To meet its objectives, it has adopted the seven-stage approach developed by NHS Protect:

- The creation of an anti-fraud culture
- maximum deterrence of fraud
- successful prevention of fraud which cannot be deterred
- prompt detection of fraud which cannot be prevented
- professional investigation of detected fraud
- effective sanctions, including appropriate legal action against people committing fraud and bribery, and
- Effective methods of seeking redress in respect of money defrauded.

Tower Hamlets CCG will take all necessary steps to counter fraud and bribery in accordance with this policy, the NHS Anti-Fraud Manual, the policy statement 'Applying Appropriate Sanctions Consistently' published by NHS Protect and any other relevant guidance or advice issued by NHS Protect.

This document sets out Tower Hamlets CCG's policy for dealing with detected or suspected fraud and bribery, incorporated in the NHS Protect Standards for Providers 2013/14 manual.

5.2 Policy statement

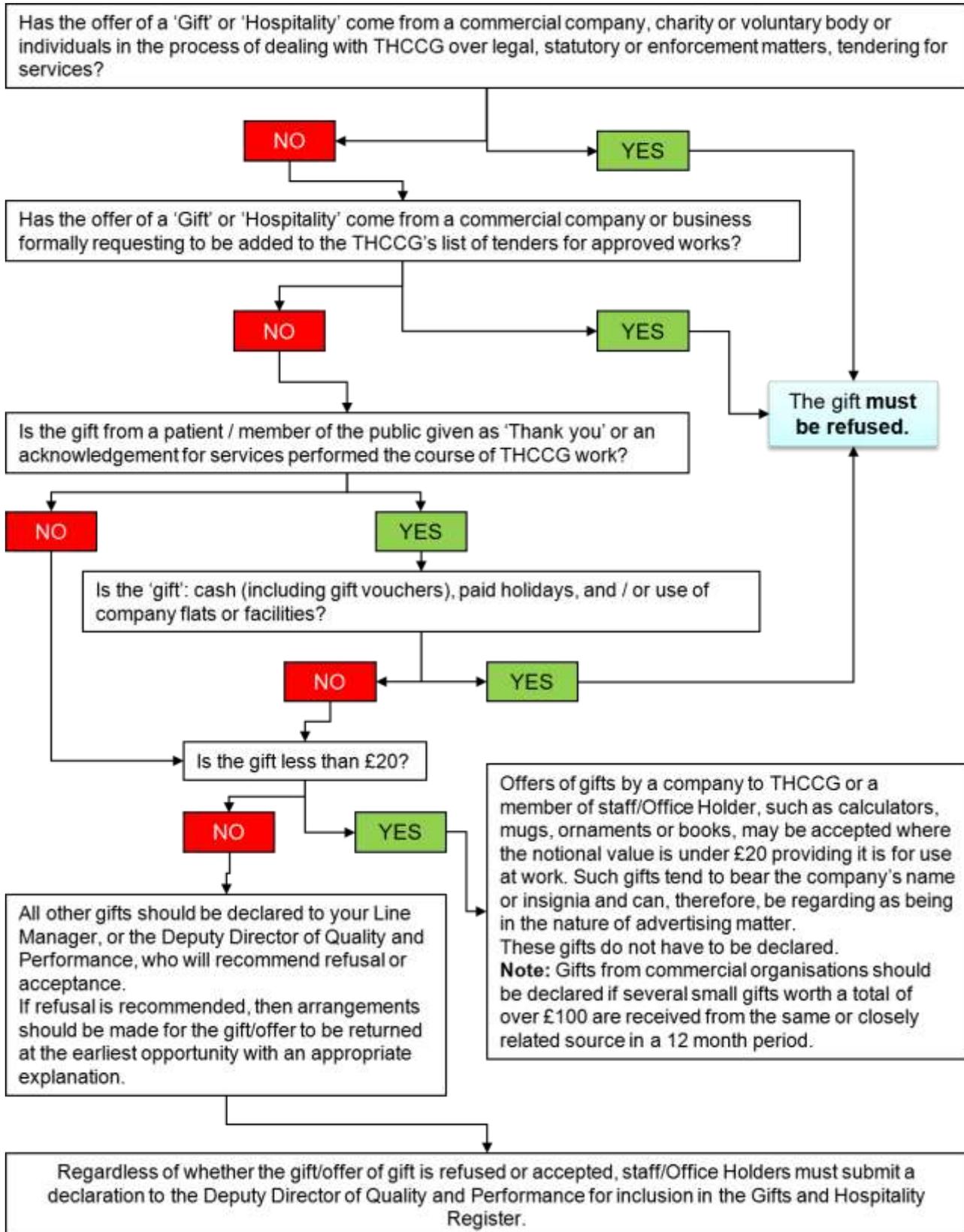
As a general rule the CCG believes that:

Gifts or offers of hospitality must be refused if there could be any doubt about the propriety of accepting them.

If in any doubt at all as to whether or not to accept gifts or hospitality, staff/Office Holders should immediately seek the advice of their Line Manager or the Deputy Director Quality and Performance.

5.3 Guide to Gifts and Hospitality – Refusal and Acceptance

The following flow charts outline the CCG's policy and procedure with regard to gifts and hospitality; including from patients and colleagues.



The CCG document '[THCCGCGO0020 Register of Gifts and Hospitality Declaration Form](#)' is attached as [Appendix 2](#) to this document and is available on request from the [Governance and Risk Manager](#).

If in any doubt at all as to whether or not to accept gifts or hospitality, staff/Office Holders should immediately seek the advice of their Line Manager or the Deputy Director Quality and Performance.

5.4 Gifts from patients / members of the public

Offers of gifts (e.g. flowers, chocolates, etc. but not cash/gift vouchers) by members of the public to staff may be accepted where the notional value is less than £20 when given as acknowledgment for services performed in the course of their work.

Whilst such gifts do not have to be declared, the CCG records them as a means of providing a balance to complaints. They should, therefore, be reported.

If in any doubt at all as to whether or not to accept gifts or hospitality, staff/Office Holders should immediately seek the advice of their Line Manager or the Deputy Director Quality and Performance.

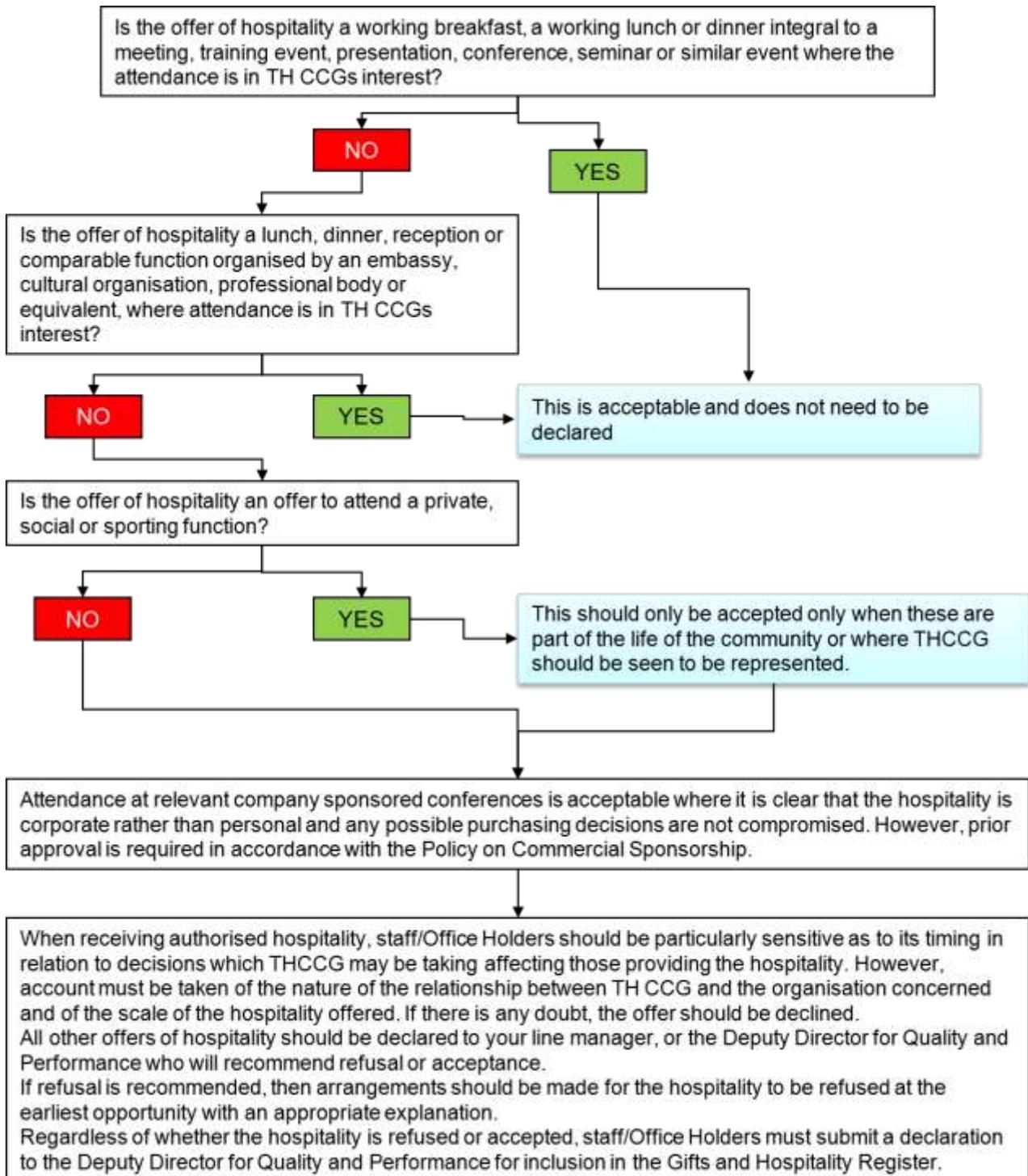
5.5 Gifts from Office holders or work colleagues.

Gifts given by Office Holders/work colleagues to other Office Holders/work colleagues are, of course, acceptable and do not have to be declared.

If in any doubt at all as to whether or not to accept gifts or hospitality, staff/Office Holders should immediately seek the advice of their Line Manager or the Deputy Director Quality and Performance.

5.6 Guide to other Hospitality/Offers of Hospitality - Refusal and Acceptance

The Bribery Act 2010 does not prevent companies from providing hospitality provided it is 'reasonable' and 'proportionate'. The CCG will, therefore, continue to receive offers. The CCG approach to accepting hospitality is summarised below:



6 Gifts and Hospitality Register

The Gifts and Hospitalities Register is maintained by the Governance and Risk Manager. Particular mention should be made if:

- The Gifts/Hospitality were offered to, or received by, staff/Office Holders in any part of a procurement process, and
- The Gifts/Hospitality were offered by companies, or other organisations, with which the CCG has a contractual, grant giving or regulatory relationship, or is actively considering such a relationship.

7 Penalties

This policy describes conduct which staff/Office Holders are expected to observe. Failure to do so could render an individual liable to disciplinary proceedings and may lead to criminal proceedings under the Bribery Act 2010.

8 Fraud and Corruption

If fraud and /or corruption are suspected, the matter must be reported immediately to the CCGs Local Counter Fraud Specialist of the Chief Finance Officer. Contact details for these individuals can be found on the CCG's webpage.

Alternatively, staff may report any suspicions via the Whistleblowing Policy.

9 Bribery Act - Frequently asked questions

9.1 What is the Bribery Act?

The Bribery Act 2010 reforms the criminal law of bribery, making it easier to tackle this offence proactively in the public and private sectors.

It introduces a corporate offence which means that commercial organisations will be exposed to criminal liability, punishable by an unlimited fine, for negligently failing to prevent bribery.

It repeals the UK's existing anti-corruption legislation – the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Acts of 1906 and 1916 and the common law offence of bribery – and provides an updated and extended framework of offences to cover bribery both in the UK and abroad.

A copy of the Act can be found here: <http://www.legislation.gov.uk/ukpga/2010/23/contents>

Accompanying explanatory notes and other publications can also be found on the NHS Protect intranet: <http://www.nhsbsa.nhs.uk/3354.aspx>

9.2 When did it come into force?

The Bribery Act received Royal Assent in April 2010 and came into force on 1 July 2011.

9.3 Why is it relevant to NHS organisations, professionals and staff?

9.3.1 Professionals and staff

For the purposes of the Bribery Act, a 'trade' or 'profession' is considered a business. This means that, whether individually or in partnership, GPs, pharmacists, dental practitioners, opticians, finance professionals, etc. will also be subject to and personally liable under the Bribery Act.

9.4 Why is it relevant to the NHS Protect?

The remit of NHS Protect includes preventing, detecting and investigating fraud and bribery in the health service. It is stated in the Standards for Providers that both offences must be tackled.

9.5 What is bribery?

Bribery is generally 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.

9.6 What are the key provisions of the Bribery Act?

The Bribery Act sets out four offences:

Section 1 - Offering, promising or giving a bribe to another person to perform a relevant 'function or activity' improperly, or to reward a person for the improper performance of such a function or activity. ('Active' bribery)

Under the Bribery Act, a 'relevant function or activity' is any function of a public nature or any activity connected with a business, performed in the course of a person's employment or performed by or on behalf of a body of persons, whether corporate or unincorporated, which meets one or more of the following conditions:

a person performing the function or activity is expected to perform it in good faith

they are expected to perform it impartially

they are in a position of trust by virtue of performing it.

Section 2 - Requesting, agreeing to receive or accepting a bribe to perform a function or activity improperly, irrespective of whether the recipient of the bribe requests or receives it directly or through a third party, and irrespective of whether it is for the recipient's benefit. ('Passive' bribery)

Section 6 - Bribing a foreign public official (thought not to be particularly applicable to NHS organisations/staff).

Section 7 - Failure of a commercial organisation to prevent bribery (the corporate offence). This is a 'strict liability'* offence and an organisation can be found guilty of 'attempted' or 'actual' bribery on the organisation's behalf. It should be noted that Section 1 or section 6 needs to be proven for a section 7 offence to apply.

Section 14 – Offering or receiving a bribe or bribing foreign official. This section applies if an offence under sections 1, 2 or 6 is committed by a body corporate.

* Strict liability offences do not require proof of intention or recklessness – in other words, it is not necessary for the prosecution to show that the company intended to make the bribe in bad faith, or that it was negligent as to whether any bribery activity took place.

9.7 Who can be prosecuted under the Bribery 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.

Likewise, a senior management or Governing Body member who consented to or connived in a section 1 or 6 bribery offence will, together with the organisation, be liable for the section 7 'corporate offence' under the Act.

9.8 Who will investigate and prosecute these new offences?

No proceedings for an offence under the act may be commenced in England and Wales except by or with the personal consent of the Director of Public Prosecutions, the Director of the Serious Fraud Office or the Director of Revenue and Customs Prosecutions.

9.9 What penalties can be imposed?

An offence under section 1 (bribing another person) or section 2 (being bribed):

A person guilty of an offence under these sections is liable, on summary conviction (i.e. if tried in a magistrates' court) to imprisonment for a term not exceeding 12 months (subject to section 11(4)(a)), a fine not exceeding the statutory maximum, or both. On conviction on indictment (i.e. in Crown Court), they are liable to imprisonment for a term not exceeding 10 years, a fine, or both.

Any person associated with the organisation in question (this could be an agent or subsidiary of the organisation as well as an employee) who is guilty of an offence under these sections is liable, on summary conviction, to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

An offence under section 7 (failure of commercial organisations to prevent bribery):

An organisation guilty of an offence under this section is liable, on conviction on indictment, to a fine. (NB: Even if an organisation has delegated the relevant activities a named individual, it remains responsible for them.)

A 'twin-track' approach can be used to take action against an individual under section 1 and an organisation under section 7 simultaneously.

9.10 What can NHS organisations do to comply?

An organisation will have to show that it has implemented 'adequate procedures' designed to prevent individuals associated with that organisation from engaging in bribery in order to avoid liability.

9.11 What is meant by 'adequate procedures'?

This relates to relevant compliance protocols and procedures that a commercial organisation can put in place to prevent bribery by individuals associated with it. This might include training, briefing or new internal procedures. The adequate procedures will constitute a 'complete defence' for an organisation.

Under the Bribery Act, a person is considered to be associated with a commercial organisation if they perform services for it or on its behalf. This person can be an individual or an incorporated or unincorporated body.

9.12 Is there any guidance on what constitutes adequate procedures?

The Bribery Act requires the Secretary of State for Justice to publish guidance about procedures that relevant commercial organisations can put in place to prevent individuals associated with them from engaging in bribery. The two pieces of guidance were published in April 2011. The full guidance can be found at <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-guidance.pdf> whilst the quick-start version can be found at <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-quick-start-guide.pdf>. NHS Protect has also issued guidance as part of its Bribery Act guidance and training package. These documents are available on the NHS Protect secure extranet.

9.13 Will any advice or guidance be issued to directors, Governing Body members or staff on what they should be doing and what their responsibilities are under the Bribery Act?

NHS Protect will be providing training and issuing guidance to Local Counter Fraud Specialists (LCFSs) to familiarise them with the requirements of the Bribery Act and enable them to offer training to staff in their CCGs. The following materials are available at: <http://www.nhsbsa.nhs.uk/3354.aspx>

- training material to be included in the NHS Protects foundation-level course
- material for LCFSs to use in developing their own presentations
- presentation material to be used in staff induction sessions across the whole of the NHS.

New materials are developed on a regular basis. The CCG will be responsible for ensuring that staff are trained.

9.14 What must NHS organisations do now?

NHS organisations should:

- ensure they are aware of the Bribery Act and its related guidance documents
- carry out an assessment of bribery and corruption risks across the organisation

- put in place adequate procedures to prevent bribery from occurring that are proportionate to the risks identified
- be clear that, as NHS organisations, they are covered by corporate liability for bribery on the part of their employees, contractors and agents.
- take steps to make their employees, contractors and agents aware of the standards of behaviour that are expected of them: this may include training for groups of employees who might be affected – for example, employees with responsibility for procurement
- review their existing governance, procedures, decision-making processes and financial controls, introduce them if not already in place and, where necessary, provide appropriate training on them
- record the fact that these steps have been taken, as they provide the defence against corporate liability under the act.
- as the monitoring and review process is iterative, the process is repeated on a periodic basis
- it is important to note that the Bribery Act will not change the internal disciplinary processes that should be followed to investigate any alleged acts of bribery or corruption before a disciplinary sanction is imposed – NHS organisations should continue to follow their internal procedures in this respect. Care should be taken when a CCG follows its internal procedures to ensure that a possible criminal investigation is not prejudiced.

9.15 What should I do if I suspect bribery is occurring?

Staff should report any suspicions or allegations of bribery immediately to one of the following:

their Local Counter Fraud Specialist

their organisation's whistleblowing function

the relevant regional Area Anti-Fraud Specialist

the NHS Fraud and Corruption Reporting Line (0800 028 40 60) or the online fraud reporting form at www.reportnhsfraud.nhs.uk

10 Training

Tower Hamlets CCG will provide anti-bribery training to all relevant employees on a regular basis to make them aware of our Anti-Fraud and Bribery Policy and guidelines, including possible types of bribery, the risks of engaging in bribery activity, and how employees may report suspicion of bribery.

11 Monitoring, audit and evaluation

What standards / key performance indicators will you use to confirm this document is working / being implemented	Method of monitoring	Monitoring information prepared by	Minimum frequency of monitoring	Monitoring reported to
The number of declarations made by individual covered by	Declaration form	Member of staff making	Annual	Deputy Director Quality and

the Policy.		declarations.		Performance
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12 Review

This Policy will be reviewed within two years from the date of implementation.

Minor amendments (such as changes in title) may be made prior to the formal review, details of which will be monitored/approved by the Deputy Director Quality and Performance in consultation with the Director of Workforce and Communications and Trade Union Representative(s) where relevant.

13 References

1	<p>Bribery Act 2010.</p> <p>Available at www.opsi.gov.uk/acts</p>
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14 Associated CCG documentation

NHS Tower Hamlets CCG Constitution

Whistleblowing Policy

15 Appendix 1: The Nolan Principles

The Nolan Committee set out '**Seven Principles of Public Life**' which it believed should apply to all in the public service. These Principles have been adopted by the CCG Governing Body. The principles are:

15.1.1 Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

15.1.2 Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

15.1.3 Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

15.1.4 Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

15.1.5 Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

15.1.6 Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

15.1.7 Leadership

Holders of public office should promote and support these principles by leadership and example.

**Register of Gifts and
Hospitality Declaration
Form**



Number: THCCGCGO0020 Version: V0d1

Appendix 2: Register of Gifts and Hospitality Declaration Form

Please ensure that one of these forms is completed for each and any instance of gifts, hospitality, consultancies, sponsorship, and support for travel, education and training. Please refer to the Policy on gifts and hospitality for guidance on what should be declared.

Declaration

Describe below acceptance of the offer. Include a value if known. Examples may include support from a commercial company for travel to a conference, payment for consultancy advice, or invitations to sporting events or meals. Casual gifts and modest hospitality are regarded as being valued at no more than £20* and declarations for this are not required. *

Declarer signature Date.....

Name and title..... Date.....

Please note that if there is any likelihood of a conflict of interest, you must discuss the issues with your line manager who should co- sign this form before it is sent into the Deputy Director Quality and Performance.

Governance team signatureDate

Name and title.....Date.....

Return the declaration from to: THCCG Governance and Risk, 2nd floor Alderney Building, Mile End Hospital, Bancroft Road, E1 1RD

16 Appendix 3: Quick guide to Fraud and Bribery for staff

This includes:	What to do:	DO
<p>Fraud</p> <ul style="list-style-type: none"> Any deliberate intention to make a gain for themselves or anyone else, or inflicting a loss (or a risk of loss) on another i.e. the NHS.This could be through the falsification of any records or documents or obtaining any service(s) and/or failing to disclose information. <p>Bribery</p> <ul style="list-style-type: none"> Anything that induces or intends to induce improper performance. This covers offering, promising or giving a bribe, requesting, agreeing to receive or accepting a bribe, and failing to prevent bribery. Where someone is influenced by bribery, payment of benefit-in-kind to unreasonably use their position to give some advantage to another. 	<p>If any of these concerns come to light you must immediately report your suspicions and what you have discovered to one of the following:</p> <ul style="list-style-type: none"> The Local Counter Fraud Specialist: Susanna Compton – 0797 200 4201 susanna.compton@rsmtenon.com Chief Financial Officer Henry Black – 0203 688 2529 The NHS Fraud Reporting Line 0800 0284060 <p>Or online www.reportnhsfraud.nhs.uk</p> <p>Confidentiality will be maintained and all matters will be dealt with in accordance with the NHS Counter Fraud standards.</p> <p>You will not suffer any recriminations as a result of raising concerns – You have protection under The Public Interest Disclosure Act 1998.</p>	<ul style="list-style-type: none"> ✓ Tell someone! <p><i>Confidentiality will be respected.</i></p> <p><i>Any delay might cause the organisation to suffer further financial loss.</i></p> <ul style="list-style-type: none"> ✓ Make a note of your concerns! <p><i>Note all relevant details, what was said, the date time and names of all parties involved.</i></p> <ul style="list-style-type: none"> ✓ Keep a record or copy any documentation that arouses your suspicion. <p>DO NOT</p> <ul style="list-style-type: none"> ✗ Confront the individual(s) with your suspicions. ✗ Try to investigate the matter yourself. ✗ Contact the police directly. ✗ Convey your suspicions to anyone other than those with the proper authority as listed. ✗ Do nothing!

End