

TRUST BOARD MEETING – DECEMBER 2013
AUDIT COMMITTEE REPORT TO BOARD

PURPOSE	To present to the Trust Board the report from the Audit Committee (AC) meeting of 2 December 2013
PREVIOUSLY CONSIDERED BY	N/A
Objective(s) to which issue relates *	<input checked="" type="checkbox"/> 1. To continuously improve the quality of our services in order to provide the best care and optimise health outcomes for each and every individual accessing the Trust's services <input type="checkbox"/> 2. To excel at customer service, achieving outstanding levels of communication and patient, carer and GP satisfaction <input type="checkbox"/> 3. To provide and support the best standards of integrated care for the elderly and those with long term conditions by developing key partnerships and services <input type="checkbox"/> 4. To consolidate services and enhance local access to specialist services in order to deliver high quality, safe, seamless, innovative and integrated services which are sustainable <input type="checkbox"/> 5. To support the continued development of the Mount Vernon Cancer Centre and provision of leading local and tertiary cancer services <input type="checkbox"/> 6. To improve our staff engagement and organisational culture to be amongst the best nationally
Risk Issues (Quality, safety, financial, HR, legal issues, equality issues)	Key assurance committee reporting to the Board
Healthcare/ National Policy (includes CQC/Monitor)	In line with Standing Orders and best practice in corporate governance
CRR/Board Assurance Framework *	<input checked="" type="checkbox"/> Corporate Risk Register <input checked="" type="checkbox"/> BAF
ACTION REQUIRED *	
For approval	<input type="checkbox"/>
For discussion	<input checked="" type="checkbox"/>
For decision	<input type="checkbox"/>
For information	<input type="checkbox"/>
DIRECTOR:	CHAIR OF AUDIT COMMITTEE
PRESENTED BY:	CHAIR OF AUDIT COMMITTEE
AUTHOR:	COMPANY SECRETARY
DATE:	December 2013

We put our patients first We work as a team We value everybody We are open and honest
We strive for excellence and continuous improvement

* tick applicable box

AUDIT COMMITTEE – MEETING HELD ON 2 DECEMBER 2013

SUMMARY REPORT TO BOARD – 18 DECEMBER 2013

The following members were present: Alison Bexfield, Julian Nicholls, Bob Niven
Other directors in attendance: Paul Traynor

Decisions made under delegated authority:

The Audit Committee (AC) made the following decisions on behalf of the Trust, under the authority delegated to it within its terms of reference:

- 1. Review of Standing Financial Instructions (SFI's) and Standing Financial Orders (SFO's):** The AC considered a review of the Standing Financial Instructions and Standing Financial Orders which had been undertaken by the Company Secretary, Finance Department and procurement teams, noting the key changes outlined within the report. The AC endorsed the revised SFI's and SFO's subject to minor amendments and recommended final for approval at Board.
- 2. Review of Anti-Bribery Policy:** The AC considered and approved the revised Anti-bribery policy as reviewed by the Local Counter Fraud Specialist and the Company Secretary, which was updated to ensure it gave a clear message of zero tolerance to bribery and corruption and to reflect the role of the Fraud Risk Assessment Group in supporting the implementation of the policy by proactively identifying and reviewing the associated risks and mitigations. The AC approved the policy and recommended for final approval at Board. See Appendix 1.

Outcomes:

- 1. Internal audit progress report 2013/14:** The AC considered this report which provides an update to the Committee on progress against the internal audit plan for the period 1 April 2013 to 31 March 2014. Included with the report was the final draft review of procurement controls report which has a low risk classification and had been issued since the previous AC meeting held in October. The AC had a lengthy debate on procurement governance processes and was pleased overall that the outcome of the report was positive, since no major issues had been discovered, but requested more background be provided in the report.

The AC discussed raising the importance of audits with senior managers and directors to ensure accountability and a more timely response from divisions when audits are carried out and it was suggested lead directors be invited to attend an AC meeting when their report is to be presented to the Committee. This issue will be raised at Board. The AC discussed scoping and management involvement of audits and decided deferrals from plan should be closely monitored.

The Committee discussed Internal Audit's Plans for 2014/15 and requested Internal Audit attend an Executive meeting in advance of the AC meeting on 13 January 2014 when the plans are to be presented.

- 2. Local Counter Fraud Specialist Progress Report:** The AC received the progress report against the annual Local Counter Fraud Work Plan which was approved in April 2013. The LCFS provided a further update on those referrals on-going from 2012/13 and the Chairman reiterated the importance of having timelines of cases to monitor how long cases take to be resolved.
- 3. Annual Report and Accounts Timeline:** The AC considered the 2013/14 final accounts timetable and noted the very tight submission timeline; audit of the accounts will take place at the same time as the audit of the Charity Trustee Committee accounts and both sets are to be approved at Trust Board on 28 May 2014 alongside the annual reports for both. CTC

members are to be invited to attend the AC meeting on 19 May to review and approve the accounts for submission to Trust Board and the Chairman requested a paper for Board outlining the timetable for submission of the annual accounts.

4. **External Audit:** The Committee reviewed the External Audit progress report and emerging issues and developments as at 23 November 2013 noting that the External Audit Plan for 2013/14 will be presented at the March AC meeting. The Committee also noted the key risk in relation to consolidation of the 2013-14 Charitable Fund accounts owing to the tight timetable, and the requirement that these are signed off in May.
5. **Internal Audit Report Log:** The AC reviewed the log of internal audit reports for 2012/13 and noted that there were 3 finance reports where actions are still to be implemented. The Director of Finance will accelerate their conclusion.
6. **Significant Losses/Special Payments:** The Committee noted and approved this revamped report which has been expanded to include a summary of thefts on Trust property as well as complaint settlements as requested at a previous AC meeting. The Losses and Compensation Committee is being revised and the Deputy Director of Finance will bring back a revised set of policies to the next AC meeting to include a review of the policy relating to relocation expenses. The Deputy Director of Finance will investigate whether the Trust is paid in full for overseas expenses and report back through the FPC and the Director of Finance will investigate the 8 complaint settlements and report back.

Next meeting

The next meeting of the committee will take place on Monday 13 January 2014.

Alison Bexfield
Chairman of Audit Committee

6 December 2013

TRUST BOARD – 18 DECEMBER 2013

Anti-Bribery Policy 2013

PURPOSE	To present the Board the review of the Anti-Bribery Policy for consideration and final approval.
PREVIOUSLY CONSIDERED BY	The Policy was previously approved by the Audit Committee on 2 December 2013.
Objective(s) to which issue relates *	<input type="checkbox"/> 1. To continuously improve the quality of our services in order to provide the best care and optimise health outcomes for each and every individual accessing the Trust's services <input type="checkbox"/> 2. To excel at customer service, achieving outstanding levels of communication and patient, carer and GP satisfaction <input type="checkbox"/> 3. To provide and support the best standards of integrated care for the elderly and those with long term conditions by developing key partnerships and services <input checked="" type="checkbox"/> 4. To consolidate services and enhance local access to specialist services in order to deliver high quality, safe, seamless, innovative and integrated services which are sustainable <input type="checkbox"/> 5. To support the continued development of the Mount Vernon Cancer Centre and provision of leading local and tertiary cancer services <input checked="" type="checkbox"/> 6. To improve our staff engagement and organisational culture to be amongst the best nationally
Risk Issues (Quality, safety, financial, HR, legal issues, equality issues)	Key element of the Trust's governance processes.
Healthcare/ National Policy (includes CQC/Monitor)	Supports compliance with Corporate Governance requirements. In line with best practice and the Bribery Act 2010
CRR/Board Assurance Framework	<input checked="" type="checkbox"/> Corporate Risk Register <input type="checkbox"/> BAF
ACTION REQUIRED	
For approval	<input checked="" type="checkbox"/>
For information	<input type="checkbox"/>
For decision	<input type="checkbox"/>
For discussion	<input type="checkbox"/>
DIRECTOR:	Chief Executive
PRESENTED BY:	Company Secretary
AUTHOR:	Company Secretary/ Local Counter Fraud Specialist
DATE:	December 2013

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REVIEW OF ANTI- BRIBERY POLICY

1. EXECUTIVE SUMMARY

Following the introduction of the Bribery Act 2010, the Audit Committee approved the first Anti-Bribery Policy in 2011. This has now been reviewed by the Local Counter Fraud Specialist and the Company Secretary and updated to provide a clear message to zero tolerance to bribery and corruption and to reflect the role of the Fraud Risk Assessment Group in supporting the implementation of the Policy by proactively identifying and reviewing the associated risks and mitigations.

The Audit Committee reviewed and endorsed the changes at its meeting on 2 December. The Board is asked to consider and approve the revised Anti-Bribery Policy.

**TRUST POLICY
FOR
ANTI BRIBERY POLICY**

A policy recommended for use

In: All areas

By: All staff

For: All Staff

Key Words: Bribery, Bribery Act, Corruption, Governance

Written by: Local Counter Fraud Specialist
Company Secretary

Supported by: Board Away day 2011

Approved by: Audit Committee

A Bexfield, Chair of Audit Committee

Signature

2 December 2013 Date

Ratified by: Audit Committee:

A Bexfield, Chair of Audit Committee

Name & Signature

2 December 2013 Date

Policy issued: December 2013

To be reviewed before: November 2016

To be reviewed by: LCFS/ Director of Finance/ Company Secretary

Policy supersedes: Anti Bribery Policy 2011

Location of archived copy: Corporate Development Drive/ Board Secretary / Policies

Corporate Governance Registration No. CG 2011 /01 Version No. 2

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Version	Date	Responsible	Comment
1	July 2011	Company Secretary	New Policy in line with Bribery Act 2010
2	Dec 2013	Company Secretary	Reviewed, updated and includes role of Trust Fraud Risk Group.

1. INTRODUCTION

- 1.1 As a publicly funded organisation the East and North Hertfordshire NHS Trust (“the Trust”) is committed to good governance and seeks to conduct its business in an open, fair and honest manner. As such it has a zero tolerance to corruption in any form, such as bribery or fraud.
- 1.2 The Bribery Act 2010 (“the Act”) came into force on 1 July 2011. The Act introduced a new offence making an organisation liable if a member of its staff, or anyone associated with the organisation, commits a bribery offence on its behalf. Any member of staff found to be offering or receiving bribes will be subject to disciplinary action, according to the Trust’s Disciplinary Policy and is likely to be prosecuted if they have committed an offence under the Act.
- 1.3 If staff are offered hospitality or gifts or are considering offering any to another person they should refer to the Gifts and Hospitality Policy for details of the circumstances in which this would be acceptable and the level which can be given or received; advice can be sought from the Company Secretary if required. Staff are reminded that all hospitality and gifts received or offered should be declared in accordance with the policy.
- 1.4 Staff members having any suspicions that bribery might be taking place should report it to the Director of Finance, Company Secretary or Local Counter Fraud Specialist. Contact details for all can be found within Annex A to this policy.
- 1.5 The Trust expects its suppliers, and those working on its behalf, to adhere to these standards and may seek to terminate contracts with any suppliers found by a court to have been guilty of corruption.
- 1.6 This document sets out the Trust’s policy for dealing with detected or suspected bribery and corruption.

2. SCOPE

- 2.1 This policy relates to all forms of bribery and is intended to provide direction and help to employees who may identify suspected bribery. The overall aims of this policy are to:
 - improve the knowledge and understanding of everyone in the Trust, irrespective of their position, about the risk of bribery within the organisation and its unacceptability
 - assist in promoting a climate of openness and a culture and environment where staff feel able to raise concerns sensibly and responsibly
 - set out the Trust’s responsibilities in terms of the deterrence, prevention, detection and investigation of bribery and corruption
 - ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
 - Criminal prosecution
 - civil prosecution
 - internal/external disciplinary action(including professional/regulatory bodies)
- 2.2 This policy applies to all employees of the Trust, regardless of position held, as well as consultants, vendors, contractors, and/or any other parties who have a business

relationship with the Trust. It will be brought to the attention of all employees and form part of the induction process for new staff. It is incumbent on all of the above to report any concerns they may have concerning bribery.

- 2.3 In implementing this policy, managers must ensure that all staff are treated fairly and within the provisions and spirit of the Equality, Diversity and Human Rights Strategy and Dignity and Respect at Work Policy. Special attention should be paid to ensuring the policy is understood where there may be barriers to understanding caused by the individual's circumstances, where the individual's literacy or use of English is weak, or where the individual has little experience of working life.

3. PUBLIC SERVICE AND TRUST VALUES

- 3.1 High standards of corporate and personal conduct, based on the recognition that patients come first, have been a requirement throughout the NHS since its inception. This policy is a key aspect in applying these values.

- 3.2 The Trust aspires to 'be amongst the best' and is committed to ensuring the culture enables people to identify and respond to risk. This is supported by the Trust Values and this policy is a key aspect in applying these values.

- 3.3 The Trust Values are:

P to put **P**atients First
I to strive for excellence and continually **I**mprove
V to **V**alue everyone
O to be **O**pen and honest
T to work as a **T**eam

4. POLICY

- 4.1 All employees have a personal responsibility to protect East and North Hertfordshire NHS Trust from bribery or corruption.

- 4.2 The Trust procures goods and services ethically and transparently with quality, price and value for money determining the successful supplier/contractor, not by receiving (or offering) improper benefits. The Trust will not engage in any form of bribery, neither in the UK nor abroad. The Trust and all employees, independent of their grade and position, shall at all times comply with the Bribery Act 2010 and with this policy.

- 4.3 East and North Hertfordshire NHS Trust employees must not request or receive a bribe from anybody, nor imply that such an act might be considered. This means that you will not agree to receive or accept a financial or other advantage from a former, current or future client, business partner, contractor or supplier or any other person as an incentive or reward to perform improperly your function or activities.

- 4.4 East and North Hertfordshire NHS Trust could, in certain circumstances, be held responsible for acts of bribery committed by intermediaries acting on its behalf such as subsidiaries, clients, business partners, contractors, suppliers, agents, advisors, consultants or other third parties. The payment of bribes by any person or party on behalf of the Trust is strictly prohibited.

- 4.5 All employees should be aware that bribery will be regarded as gross misconduct thus warranting summary dismissal without previous warnings. However, no such action will be taken before a proper investigation and a disciplinary hearing have taken place. Such actions may be in addition to the possibility of criminal prosecution.

5. GIFTS AND HOSPITALITY

- 5.1 Courtesy gifts and hospitality must not be given or received in return for services provided or to obtain or retain business but shall be handled openly and unconditionally as a gesture of esteem and goodwill only. Gifts and hospitality shall always be of symbolic value, appropriate and proportionate in the circumstances, and consistent with local customs and practices. They shall not be made in cash. Please refer to the Trust's Gifts and Hospitality policy and register for more guidance.

6. POLITICAL & CHARITABLE CONTRIBUTIONS

- 6.1 East and North Hertfordshire NHS Trust does not make any contributions to politicians, political parties or election campaigns.
- 6.2 The Trust might on occasion make charitable donations. These payments must not in any circumstances constitute or imply an inducement to any organisation or individual to perform improperly the function or activities which he or she is expected to perform in good faith, impartially or in a position of trust or to reward that person for the improper performance of such function or activities.
- 6.3 Any donations and contributions must be ethical and transparent. The recipient's identity and planned use of the donation must be clear, and the reason and purpose for the donation must be justifiable and documented. All charitable donations will be publicly disclosed.
- 6.4 Donations to individuals and for-profit organisations and donations paid to private accounts are incompatible with East and North Hertfordshire NHS Trust's ethical standards and are prohibited.

7. SPONSORING

- 7.1 Sponsoring means any contribution in money or in kind by East and North Hertfordshire NHS Trust towards an event organised by a third party in return for the opportunity raise East and North Hertfordshire NHS Trust's profile. All sponsoring contributions must be transparent, pursuant to a written agreement, for legitimate business purposes, and proportionate to the consideration offered by the event host. They may not be made towards events organised by individuals or organisations that have goals incompatible with East and North Hertfordshire NHS Trust's ethical standards or that would damage East and North Hertfordshire NHS Trust's reputation. All sponsorships will be publicly disclosed.
- 7.2 Where commercial sponsorship is used to fund Trust training events, training materials and general meetings, the sponsorship must be transparent, pursuant to a written agreement, for legitimate business purposes, and proportionate to the occasion. Where meetings are sponsored by external sources, that fact must be disclosed in the papers relating to the meeting and in any published minutes/proceedings.
- 7.3 Where sponsorship links to the development of guidelines and advice, this should be carried out in consultation with the Company Secretary in conjunction with the

appropriate Trust working group independent of the sponsors. While it is recognised that consultation with the industry may be necessary when developing a guideline, the overall decision on what is included should lie with the Trust working group.

8. DEFINITIONS

8.1 Definitions for bribery and corruption vary. Some common definitions are:

Bribery - "Inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages". Appendix B is a summary of the Bribery Act 2010.

Corruption - This can be broadly defined as the offering or acceptance of inducements, gifts, favours, payment or benefit-in-kind which may influence the action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.

It is a common law offence of corruption to bribe the holder of a public office and it is similarly an offence for the office holder to accept a bribe.

9 ASSOCIATED CONTROLS AND SAFEGUARDS

9.1 The Trust has procedures in place that reduce the likelihood of bribery occurring. These include Standing Orders, Standing Financial Instructions, documented procedures, a system of internal control (including Internal and External Audit) and a system of risk assessment. In addition, the Trust seeks to ensure that a comprehensive anti-bribery culture exists throughout the Trust via the nomination of the Director of Finance as a dedicated Senior Compliance Officer supported by the role of the Company Secretary.

9.2 The Trust has a Fraud Risk Assessment Group who support the implementation of the Policy by proactively identifying and reviewing the associated risks and mitigations. The membership includes Company Secretary, Local Counter Fraud Specialist and representatives from Finance, Contracting, Human Resources and Divisions.

10. RAISING CONCERNS

10.1 The Trust wishes to encourage anyone having reasonable suspicions of bribery to report them. The Trust's policy, which will be rigorously enforced, is that no individual will suffer any detrimental treatment as a result of reporting reasonably held suspicions. The Public Interest Disclosure Act 1998 came into force in July 1999 and gives statutory protection, within defined parameters, to staff who make disclosures about a range of subjects, including bribery and corruption, which they believe to be happening within the East and North Hertfordshire NHS Trust employing them. Within this context, 'reasonably held' means suspicions other than those which are raised maliciously and are subsequently found to be groundless.

10.2 Any unfounded or malicious allegations will be subject to a full investigation and appropriate disciplinary action.

10.3 The Trust expects anyone having reasonable suspicions of bribery to report them to the Director of Finance, Company Secretary and/or the Local Counter Fraud

Specialist who will then ensure that procedures are followed. Concerns can also be raised through the Trust's Raising Concerns policy (whistleblowing). Refer to key contacts in appendix A.

11. TRAINING

- 11.1 East and North Hertfordshire NHS Trust will provide anti-bribery training to all new employees at induction.
- 11.2 The revised policy will be publicised in the Trust Bulletin, making all employees aware of potential types of bribery, the risks of engaging in bribery, and how employees may report suspicion of bribery.

12. MONITORING EFFECTIVENESS OF THE POLICY.

- 12.1 Compliance with this policy will be reviewed by the Trust's Fraud Risk Group on an annual basis. The outcome of the review will then be reported into the Trust Audit Committee through the LCFS report.

13. RELATED POLICIES

- Gifts and Hospitality policy
- Declaration of Interests policy
- Standing Orders / Standing Financial Instructions (includes tendering and contracting policies and procedures)
- Counter fraud and corruption policy
- Raising Concerns policy (*Whistleblowing*)
- Disciplinary policy
- Standards of Business Conduct (for NHS staff, 1993)

The latest versions of each of these policies is located on the Trust intranet (knowledge centre)

14. EQUALITY IMPACT ASSESSMENT

- 14.1 This document has been reviewed in line with the Trust's Equality Impact Assessment guidance and no detriment was identified. This policy applies to all regardless of protected characteristic - age, sex, disability, gender-re-assignment, race, religion/belief, sexual orientation, marriage/civil partnership and pregnancy and maternity.

Appendix A

Contact details

Director of Finance

Paul Traynor
ptraynor@nhs.net
Tel. Lister ext 4648
External 01438 284648

Company Secretary

Jude Archer
jude.archer@nhs.net
Tel: Lister ext 5454
External: 01438 285454
Mobile: 07917 836804

Local Counter Fraud Specialist

Neil Mohan
neil.mohan@nhs.net
Tel: 01509 604029

Appendix B

Offences under the Bribery Act 2010

The following business practices constitute criminal offences under the Bribery Act 2010 and are therefore prohibited:

Offences of bribing another person

Case 1 is where a East and North Hertfordshire NHS Trust employee offers, promises or gives a financial or other advantage to another person *and* intends the advantage (i) to induce that or another person to perform improperly a relevant function or activity, *or* (ii) to reward that or another person for the improper performance of such a function or activity.

Case 2 is where a East and North Hertfordshire NHS Trust employee offers, promises or gives a financial or other advantage to another person *and* knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity by that person.

The bribery must relate to (i) a function of a public nature, (ii) an activity connected with a business, (iii) an activity performed in the course of a person's employment, *or* (iv) an activity performed by or on behalf of a body of persons (whether corporate or unincorporate). The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust. It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector and whether the advantage is offered, promised or given directly by the East and North Hertfordshire NHS Trust employee or through a third party, e.g. an agent or other intermediary.

Offences relating to being bribed

Case 3 is where a East and North Hertfordshire NHS Trust employee requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by him-/herself or another person).

Case 4 is where a East and North Hertfordshire NHS Trust employee requests, agrees to receive or accepts a financial or other advantage, *and* the request, agreement or acceptance itself constitutes the improper performance by him-/herself of a relevant function or activity.

Case 5 is where a East and North Hertfordshire NHS Trust employee requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance (whether by him-/herself or another person) of a relevant function or activity.

Case 6 is where, in anticipation of or in consequence of a East and North Hertfordshire NHS Trust employee requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly (i)

by that East and North Hertfordshire NHS Trust employee, or (ii) by another person at his/her request or with his/her assent or acquiescence.

Again, the bribery must relate to (i) a function of a public nature, (ii) an activity connected with a business, (iii) an activity performed in the course of a person's employment, or (iv) an activity performed by or on behalf of a body of persons (whether corporate or unincorporate). The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust.

It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector, whether the East and North Hertfordshire NHS Trust employee requests, agrees to receive or accepts the advantage directly or through a third party, e.g. an agent or other intermediary, and whether the advantage is for the benefit of a East and North Hertfordshire NHS Trust employee or another person.

In Cases 4 to 6, it does *not* matter whether the East and North Hertfordshire NHS Trust employee knows or believes that the performance of the function or activity is improper.

Bribery of foreign public officials

Case 7 is where a East and North Hertfordshire NHS Trust employee bribes a foreign public official and intends (i) to influence that official in his/her capacity as a foreign public official *and* (ii) to obtain or retain a business or an advantage in the conduct of business. A foreign public official is someone who holds a legislative, administrative or judicial position of any kind or exercises a public function of a country outside the UK, or is an official or agent of a public international organisation.

The following paragraph will apply if any part of the organisation is considered as a 'commercial' one.

Failure of commercial organisations to prevent bribery (applicable only to corporates and partnerships - included for information)

A corporate or partnership is guilty of a corporate bribery offence if an employee, agent, subsidiary or any other person acting on its behalf bribes another person intending to obtain or retain business or an advantage in the conduct of business for the corporate or partnership. For a definition of bribery, please refer to Cases 1, 2 and 7 above.

It should be the policy of a corporate or partnership not to tolerate any bribery on its behalf, even if this might result in a loss of business for it. Criminal liability must be prevented at all times.