

Recruiting Ex-Offenders Policy

February 2015

Authorship:	CSU Transition HR Policy Lead- adapted for local use by North Yorkshire and Humber Commissioning Support Unit on behalf NHS North Lincolnshire CCG.
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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 & Date	Date on Intranet
DRAFT	NLCCG	New policy for CCG	CCG Governing Body [insert date] & JTUPF [insert date]	

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1 INTRODUCTION

- 1.1 NHS North Lincolnshire Clinical Commissioning Group (the CCG) uses the Disclosure service provided by the Disclosure Barring Service (DBS) to assess applicants' suitability for positions of trust. The CCG complies fully with the DBS Code of Practice and undertakes to treat all applicants fairly.
- 1.2 The CCG undertakes not to discriminate unfairly against any subject of a Disclosure on the basis of conviction or other information received. Information on types of disclosures and dealing with disclosures is attached at **Appendix 1**.

2 ENGAGEMENT

- Joint Trade Union Partnership Forum
- NLCCG staff via email

3 IMPACT ANALYSES

3.1 Equality

In applying this policy, the CCG will have due regard to 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.

An Equality Impact Assessment is attached at Appendix 3.

3.2 Sustainability

A Sustainability Impact Assessment has been completed for this policy and is attached at Appendix 4.

3.3 Bribery Act 2010

The Bribery Act is particularly relevant to this policy. Under the Bribery Act 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 other related policies and documentation (as detailed on the CCG intranet) when considering whether to offer or accept gifts and hospitality and/or other incentives.

Anyone with concerns or reasonably held suspicions about potentially fraudulent activity or practice should refer to the Local Anti-Fraud and Corruption Policy and contact the Local Counter Fraud Specialist

4 SCOPE

- 4.1 The policy applies to all appointments to posts which require a Standard or Enhanced DBS Check.

5 POLICY PURPOSE & AIMS

- 5.1 The CCG actively promotes equality of opportunity for all and welcomes applications from a wide range of candidates, including those with criminal records, as we select all candidates for interview based on their skills, qualifications and experience.
- 5.2 Disclosures are only requested after a risk assessment (Appendix 2) has indicated that it is proportionate and relevant to the post concerned. For those posts that require a Disclosure, all adverts and job descriptions and notification of appointment forms will contain a statement indicating what level of Disclosure will be required in the event of an individual being offered a position.
- 5.3 The CCG will only ask for details of 'unspent' convictions as defined in the Rehabilitation of Offenders Act 1974. However, the CCG reserves the right, if necessary, to ask details about an applicant's entire criminal record.
- 5.4 The CCG works with CSU Workforce Representatives who are registered with the DBS as the person authorised to apply for Disclosures.
- 5.5 Experienced Workforce Representatives will advise and guide recruiting managers where a Disclosure has been made. They will identify and assess the circumstances and relevance of the offence to the post being considered to ensure a fair and reasonable decision is made,
- 5.6 The CCG will endeavour to discuss any matter revealed in a Disclosure with the person seeking employment, before withdrawing a conditional offer of employment.
- 5.7 The CCG may conduct an interview to enable an open and measured discussion to take place regarding any offences or other matters that might be relevant to the position. Failure to reveal information that is directly relevant to the position sought, could lead to the withdrawal of an offer of employment.
- 5.8 The CCG complies fully with the DBS Code of Practice. Every person who is subject to a Disclosure will be provided with a copy of the 'applicant's guide to completing the DBS application form' [Click here](#)
- 5.9 Having a criminal record will not necessarily bar a potential employee from working with the CCG. This will depend on the nature of the position and the circumstance and background of the offence(s).

Security, Storage, Handling, Use, Retention, and Disposal of Disclosures And Disclosure Information

- 5.10 The CSU, on behalf of the CCG, complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of Disclosures and Disclosure information.

- 5.11 The CSU, on behalf of the CCG, complies fully with its obligations under the Data Protection Act and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information.

Storage, Access & Disposal

- 5.12 Disclosure information will be securely destroyed as soon as the relevant information has been noted.
- 5.13 No Disclosure information will be kept on personal files and where a Disclosure needs to be kept due to a dispute or because additional information has been supplied, it will be kept separately and securely in a non-portable, lockable storage unit.
- 5.14 Where a Disclosure has been kept, it will be securely destroyed once the dispute is resolved or a decision made regarding employment or at the latest after 6 months.
- 5.15 Access to Disclosure information is strictly controlled and limited to those who are entitled to see it as part of their duties.
- 5.16 The CCG will not keep any photocopy or other image of the Disclosure or any copy or representation of the contents of a Disclosure. However, for record purposes only, the Organisation will keep the following information:
- The name of the subject
 - The level of Disclosure requested
 - The position for which the Disclosure was requested
 - The unique reference number of the Disclosure
 - Details of the recruitment decision taken

Handling

- 5.17 In accordance with section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties.
- 5.18 The CSU Workforce Team, on behalf of the CCG, will maintain a record of all people to whom Disclosures and Disclosure information has been revealed and recognises that is a ***criminal offence*** to pass this information on to anyone who is not entitled to receive it.

Usage

- 5.19 Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- 5.20 The organisation will comply with all recommendations from DBS on the proper use and safekeeping of disclosure information.

6 DEFINITIONS

- 6.1 Disclosure and Barring Service (DBS) – the Body responsible for carrying out criminal records and barring checks to help employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. It replaced the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

7 ROLES / RESPONSIBILITIES / DUTIES

- 7.1 The Recruiting Manager is responsible for:

- Identifying whether a post requires a DBS Check, and ensuring that this is included in the recruitment documentation, indicating the level of disclosure required. Advice and guidance is available from the CSU workforce team.
- Completing the Verification Form to confirm that original identity documents have been seen, and sending this to the CSU Workforce Team with verified copies of the relevant identity documents.

- 7.2 The CSU Workforce Team is responsible for:

- Initiating DBS Checks with the DBS, and tracking progress
- Contacting the applicant to arrange to view the DBS certificate
- Recording details of DBS clearances in accordance with DBS code of practice and this policy

- 7.3 The Applicant is responsible for:

- Completing and returning the Disclosure Application form
- Providing information relating to their DBS certificate to the CSU Workforce Team for clearance.

8 IMPLEMENTATION

- 8.1 This policy will be communicated to staff via team meetings/team brief and will be available for staff on the intranet.

- 8.2 Breaches of this policy may be investigated and may result in the matter being treated as a disciplinary offence under the CCGs disciplinary procedure.

9 TRAINING & AWARENESS

- 9.1 A copy of the policy will be available on the CCG intranet. Training needs will be identified via the appraisal process and training needs analysis.

10 MONITORING & AUDIT

- 10.1 The implementation of this policy will be audited on an annual basis by the CCG and reported to CCG Governing Body.

11 POLICY REVIEW

- 11.1 The policy and procedure will be reviewed after 3 years for the CCG Governing Body in conjunction with Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

PART 2 PROCEDURE

- 1.1 When recruiting for a vacancy the Recruiting Manager needs to indicate whether a DBS check is required on the request to advertise, and if so, at what level.
- 1.2 The Recruiting Manager must ensure that the advert for the vacancy includes notification that it is essential that the successful applicant obtains a satisfactory DBS check and at what level that check must be, either standard, enhanced or enhanced with barred list information.
- 1.3 Once a conditional offer of employment has been made the applicant will be sent a Disclosure Application Form and 'Guidance'
- 1.4 The completed form, together with verified identity documentation, must be returned to the Workforce Team. Form HR35 should be completed by the Recruiting Manager to confirm that identify documents have been verified.
- 1.5 The Disclosure Application Form will be verified and countersigned by one of the representatives who are registered with the DBS and sent for processing.
- 1.6 The progress of the Application will be tracked on line to identify when the certificate has been issued to the applicant. The CCG or CSU cannot accept responsibility for any delays in the DBS process.
- 1.7 In certain circumstances, it may be possible for an applicant to commence employment, in a supervised capacity, pending DBS clearance. However, this must always be discussed with the CSU Workforce Team prior to commencement.
- 1.7 Once the certificate has been issued to the applicant, the Workforce Team will contact them to arrange a suitable time for the certificate to be checked. It should be noted that the CCG does not receive a copy of the disclosure certificate. It is essential that the applicant produces the certificate within a reasonable time frame, otherwise the conditional offer may be withdrawn.
- 1.8 The Workforce representative will inform the Recruiting Manager if the Disclosure Application was satisfactory or if it contains any information that may affect the appointment decision.
- 1.9 If the Disclosure Application contains no information, or information that is not relevant to the post, the offer of employment can be confirmed (subject to all other pre-employment checks having been completed).
- 1.10 If the Disclosure Application contains information that may affect the appointment decision, the Workforce representative will discuss this with the Recruiting Manager (in all instances), and the individual concerned, where appropriate.
- 1.11 Where the information contained on the Disclosure Application form significantly impacts on a candidate's ability to undertake the post for which they have been appointed, the offer of employment will be withdrawn.
- 1.12 Any decision to withdraw an offer of employment must be reached by the agreement of the Workforce representative and Recruiting Manager.
- 1.13 The decision to withdraw an offer of employment must be confirmed both verbally and in writing to the candidate concerned.

1.14 The Workforce Team will keep a record of the disclosure number, and the date that it was issued, but will not retain any copies of the Disclosure certificate.

APPENDICES

Appendix 1	Dealing with Disclosures in Recruitment and Selection
Appendix 2	Deciding if a DBS check is required
Appendix 3	Equality Impact Assessment
Appendix 4	Sustainability Impact Assessment
Appendix 5	Bribery Act Guidance

Dealing With Disclosures in Recruitment & Selection

Guidelines for Managers

The CCG uses the Disclosure Service provided by the **Disclosure Barring Service (DBS)** to assess applicants' suitability for positions of trust.

When advertising/recruiting to a vacant post you must decide whether that position requires a DBS check and if so, at what level (see below). You can use the table outlined in **Appendix 2** to assist you in making this assessment.

If you decide that a DBS check needs to be undertaken you must clearly indicate this on the Advertisement Template Form. The Workforce Team will then ensure that the requirement for a check is made clear in the advertisement.

Types of Check Available (extract from NHS Check Standards – Criminal Records and Barring Checks)

There are three levels of check currently available through the Disclosure and Barring Service (DBS). The three levels include:

- Standard check
- Enhanced check without barred list information
- Enhanced check with barred list information – where the position is eligible, and the employer indicates the type of access to vulnerable groups, this will include:
 - an adults barred list check
 - a children's barred list check
 - an adults and children's barred list check

Standard DBS Checks

Standard DBS checks contain details of both current unspent and spent convictions, cautions, reprimands and final warnings, held in England and Wales on the Police National Computer (PNC) that are not subject to the filtering rules which came into force from 29 May 2013. Most of the relevant convictions in Scotland and Northern Ireland may also be included.

While not a legal requirement, employers may carry out standard checks to assess a person's suitability for work listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 i.e. where the type of work enables the person to have '*access to persons in receipt of such services in the course of [their] normal duties*' (paragraph 13 of Schedule 1 of the Exceptions Order specifically refers).

For the purpose of this guidance 'access to persons' does not include positions which only allow limited or 'incidental' contact with patients (i.e. where there is no more opportunity for contact with patients than that of a visitor to the hospital site, or where staff are required to pass through patient areas to get to their normal place of work).

This level of check does not show whether a person is barred from working with children or adults and therefore should not be applied for where the individual will be undertaking regulated activity.

Enhanced DBS Checks

Enhanced checks contain the same information as a standard DBS check but may also include any non-conviction information held by local police, where they consider it to be relevant to the post. Although barred list checks are not appropriate for positions which fall outside of regulated activity, in most cases, the police will have the information which led the DBS to bar a person and so will be able to disclose it on an enhanced certificate, where this is relevant to the position being applied for.

To be eligible for an enhanced level DBS check, the position must be included in both the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and the Police Act 1997 (Criminal Records) Regulations 2002 as amended by the Police Act 1997 (Criminal Records) (Amendment) Regulations 2013. This includes work or volunteering with vulnerable groups.

Enhanced without barred list information

Employers can apply for an enhanced check without barred list information for positions described as work with adults in the Statutory Instrument – The Police Act 1997 (Criminal Records) (Amendment) Regulations 2013. To be eligible, individuals must be involved in providing one of the following activities at least once a week on an on-going basis, more than four days in any 30 day period, or at any time between the hours of 2am and 6am:

- care or supervision
- treatment or therapy
- teaching, training instruction, assistance, advice or guidance on emotional, physical or educational well-being – wholly or mainly for children or adults in receipt of a health care service
- the management of people engaging in any of the above activities on a day to day basis.

It should be noted that where individuals are providing any of the above activities in an 'unsupervised' capacity for children, this would be deemed regulated activity and therefore is eligible for a barred list check – see below. This list is not exhaustive.

Enhanced check with barred list information

Employers have a legislative requirement to request barring checks to be conducted for people in positions defined as 'regulated activity' under the Protection of Freedoms Act 2012 which amended the Safeguarding Vulnerable Groups Act 2006 on 10 September 2012.

Regulated Activity

'Regulated activity' is a term which is used both in the regulation of care services under the Health and Social Care Act, and relates to activities a person who is listed on the DBS barred lists is prohibited from doing under the Safeguarding Vulnerable Groups Act.

Where an individual is engaging, either in paid work or as a volunteer, in a regulated activity employers must request an enhanced DBS check with a check against the appropriate barred list. Where individuals are undertaking activities with both adults and children it would be appropriate to check against both barred lists. It is an offence for any

organisation to 'knowingly' appoint or continue to allow an individual who is barred from working with children and/or adults to engage in a regulated activity with that group. Barring checks are accessed through the process of applying for an enhanced criminal record disclosure.

There are six categories within the new definition of regulated activity, these include where the individual will be providing any one of these activities as part of their role:

- healthcare
- personal care
- social work
- assistance with cash, bills or shopping
- assistance with the conduct of their own affairs
- conveying services

Activities undertaken in a supervised capacity i.e. reasonable day to day supervision under the direction of a healthcare worker, is not regulated activity, therefore employers may wish to consider whether the roles and responsibilities meet the criteria for an enhanced without barred list check or a standard level check.

Where individuals are not providing regulated activity, they may still be considered against eligibility to obtain a standard DBS check.

Risk Assessment-Deciding if a DBS check is required

Will the job holder be required to work with children? As per the access definition above.	Yes	No
Will the job holder be required to work with vulnerable adults? As per the access definition above.	Yes	No
Will the job holder have access to patient information?	Yes	No
Is the job holder required to be a member of the Legal Profession and a recognised member of the Law Society?	Yes	No
Will the job holder be based at a location where they may come in to contact with children or vulnerable adults, such as a hospital or prison? As per the access definition above.	Yes	No
Will the job holder be regularly caring for children or vulnerable adults? As per the access definition above.	Yes	No
Will the job holder be required to be a "named person" for the Authority in respect of gaming, lottery or entertainment licences?	Yes	No

Equality Impact Analysis: Form

September 2012

For support with completion of this documentation, please see the accompanying guidance and/or contact the Equality Lead in the North Yorkshire and Humber Commissioning Support Unit

1. Equality Impact Analysis

Policy / Project / Function:	Recruiting Ex-Offenders Policy								
Date of Analysis:	17/9/14								
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 CCG actively promotes equality of opportunity for all and welcomes applications from a wide range of candidates, including those with criminal records, as we select all candidates for interview based on their skills, qualifications and experience.								
Please list any other policies that are related to or referred to as part of this analysis?	<ul style="list-style-type: none"> • Disciplinary procedure. • Appraisal process 								
Who does the policy, project or function affect ? Please Tick ✓	<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Employees posts</td> <td style="width: 40%; text-align: right;">✓ staff moving to different posts</td> </tr> <tr> <td>Service Users</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td>Members of the Public</td> <td style="text-align: right;">✓ External Applicants</td> </tr> <tr> <td>Other (List Below)</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> </table>	Employees posts	✓ staff moving to different posts	Service Users	<input type="checkbox"/>	Members of the Public	✓ External Applicants	Other (List Below)	<input type="checkbox"/>
Employees posts	✓ staff moving to different posts								
Service Users	<input type="checkbox"/>								
Members of the Public	✓ External Applicants								
Other (List Below)	<input type="checkbox"/>								

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	<input type="checkbox"/>	✓	<input type="checkbox"/>	✓	The policy makes it clear that the existence of a criminal conviction alone should not prevent an offer of employment being made. It explains what should be taken into account when making decisions. The policy is clear that decisions are taken on merit whilst also risk assessing the process
Age	<input type="checkbox"/>	✓	<input type="checkbox"/>	✓	As above
Sexual Orientation	<input type="checkbox"/>	✓	<input type="checkbox"/>	✓	As above
Disabled People	<input type="checkbox"/>	✓	<input type="checkbox"/>	✓	As above
Gender	<input type="checkbox"/>	✓	<input type="checkbox"/>	✓	As above
Transgender People	<input type="checkbox"/>	✓	<input type="checkbox"/>	✓	As above
Pregnancy and Maternity	<input type="checkbox"/>	✓	<input type="checkbox"/>	✓	As above
Marital Status	<input type="checkbox"/>	✓	<input type="checkbox"/>	✓	As above
Religion and Belief	<input type="checkbox"/>	✓	<input type="checkbox"/>	✓	As above

Reasoning

As yet there has been no evidence of a positive or negative impact. No anticipated detrimental impact on any equality group. Makes all reasonable provision to ensure equity of access to all staff and the public within a legal framework. However any review of the policy should cover how it has been applied and not just its intention

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 as at July 2014

General	Total number of employees in the North Lincs CCG 25
Age	72% of staff are aged 30-55 24% of staff are over 55 4% staff employed are under 30
Race	92% of staff employed in the CCG are White 4% of staff are Black 4% staff have not stated or defined their ethnicity
Sex	56% staff employed are female 44% staff employed are male
Gender reassignment	No information at this stage
Disability	92% did not declare /undefined 8% of staff employed declared themselves as having no disability No staff declared a disability
Sexual Orientation	All staff are recorded as did not wish to respond /undefined
Religion, faith and belief	All staff are recorded as did not wish to respond /undefined
Marriage and civil partnership	84% of employees are married. 16% are single/divorced No employees are in a civil partnership
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

<p>Is any Equality Data available relating to the use or implementation of this policy, project or function?</p> <p>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 <i>Protected Characteristics</i> – referred to hereafter as '<i>Equality Groups</i>'.</p> <p>Examples of <i>Equality Data</i> include: (this list is not definitive)</p> <ol style="list-style-type: none"> 1. Application success rates <i>Equality Groups</i> 2. Complaints by <i>Equality Groups</i> 3. Service usage and withdrawal of services by <i>Equality Groups</i> 4. Grievances or decisions upheld and dismissed by <i>Equality Groups</i> 5. <i>Previous EIAs</i> 	<p>Yes <input checked="" type="checkbox"/> employee data</p> <p>No <input type="checkbox"/></p> <p>Where you have answered yes, please incorporate this data when performing the <i>Equality Impact Assessment Test</i> (the next section of this document).</p>
<p>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</p>	<p>Consultation has taken place nationally and locally with Trade Unions</p>
<p>Promoting Inclusivity How does the project, service or function contribute towards our aims of eliminating discrimination and promoting equality and diversity within our organisation</p>	<p>This Policy provides a framework to ensure no applicant is unfairly treated following the disclosure of a conviction and therefore contributes to the aims of eliminating discrimination</p>

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 <i>Genuine Determining Reason</i> exists
Gender (Men and Women)	✓			
Race (All Racial Groups)	✓			
Disability (Mental and Physical)	✓			
Religion or Belief	✓			
Sexual Orientation (Heterosexual, Homosexual and Bisexual)	✓			

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 <i>Genuine Determining Reason</i> exists
Pregnancy and Maternity	✓			
Transgender	✓			
Marital Status	✓			
Age	✓			

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:	<input type="checkbox"/> Red	<input type="checkbox"/> Red/Amber	<input type="checkbox"/> Amber	<input checked="" type="checkbox"/> Green
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		Actions	Wording for Policy / Project / Function
<p>Red</p> <p>Stop and remove the policy</p>	<p>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 <i>Protected Characteristics</i>. It is recommended that the use of the policy be suspended until further work or analysis is performed.</p>	<p>Remove the policy</p> <p>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.</p>	<p>No wording needed as policy is being removed</p>
<p>Red Amber</p> <p>Continue the policy</p>	<p>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 <i>Protected Characteristics</i>. However, a genuine determining reason may exist that could legitimise or justify the use of this policy and further professional advice should be taken.</p>	<p>The policy can be published with the EIA</p> <p>List the justification of the discrimination and source the evidence (i.e. clinical need as advised by NICE).</p> <p>Consider if there are any potential actions which would reduce the risk of discrimination.</p> <p>Another EIA must be completed if the policy is changed, reviewed or if further discrimination is identified at a later date.</p>	<p>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 <i>Protected Characteristics</i>. However, a genuine determining reason exists which justifies the use of this policy and further professional advice.</p> <p><i>[Insert what the discrimination is and the justification of the discrimination plus any actions which could help what reduce the risk]</i></p>

Equality Impact Findings (continued):

		Actions	Wording for Policy / Project / Function
<p>Amber</p> <p>Adjust the Policy</p>	<p>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 <i>Action Planning</i> section of this document.</p>	<p>The policy can be published with the EIA</p> <p>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.</p> <p>Any changes identified and made to the service/policy/ strategy etc. should be included in the policy.</p> <p>Another EIA must be completed if the policy is changed, reviewed or if further discrimination is identified at a later date.</p>	<p>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 <i>Action Planning</i> section of this document.</p> <p><i>[Insert what the discrimination is and what work will be carried out to reduce/eliminate the risk]</i></p>
<p>Green</p> <p>No major change</p>	<p>As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.</p>	<p>The policy can be published with the EIA</p> <p>Another EIA must be completed if the policy is changed, reviewed or if any discrimination is identified at a later date</p>	<p>As a result of performing the analysis, the policy, project or function does not appear to have any adverse effects on people who share <i>Protected Characteristics</i> and no further actions are recommended at this stage.</p>

Brief Summary/Further comments	
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Approved By		
Job Title:	Name:	Date:

SUSTAINABILITY IMPACT ASSESSMENT

Staff preparing a Policy / Board Report / Committee Report / Service Plan / Project are required to complete a Sustainability Impact Assessment. Sustainability is one of the Trust's key Strategies and the Trust has made a corporate commitment to address the environmental effects of activities across Trust services. The purpose of this Sustainability Impact Assessment is to record any positive or negative impacts that this activity is likely to have on each of the Trust's Sustainability Themes. For assistance with completing the Sustainability Impact Assessment, please refer to the instructions below.

Policy / Report / Service Plan / Project Title:				
Theme (Potential impacts of the activity)	Positive Impact	Negative Impact	No specific impact	What will the impact be? If the impact is negative, how can it be mitigated? (action)
Reduce Carbon Emission from buildings by 12.5% by 2010-11 then 30% by 2020			x	
New builds and refurbishments over £2million (capital costs) comply with BREEAM Healthcare requirements.			x	
Reduce the risk of pollution and avoid any breaches in legislation.			x	
Goods and services are procured more sustainability.			x	
Reduce carbon emissions from road vehicles.			x	
Reduce water consumption by 25% by 2020.			x	
Ensure legal compliance with waste legislation.			x	
Reduce the amount of waste produced by 5% by 2010 and by 25% by 2020			x	
Increase the amount of waste being recycled to 40%.			x	
Sustainability training and communications for employees.			x	
Partnership working with local groups and organisations to support sustainable development.			x	
Financial aspects of sustainable development are considered in line with policy requirements and commitments.			x	

INSTRUCTIONS FOR COMPLETING THE SUSTAINABILITY IMPACT ASSESSMENT

Sustainability is one of the Trust's key Strategies and consequently the Trust has made a corporate commitment to address the environmental effects of its activities across all service areas. The purpose of the Sustainability Impact Assessment is to record any positive or negative impacts that a Policy / Board Report / Committee Report / Service Plan / Project is likely to have on each of the Trust's sustainability themes. The Sustainability Impact Assessment enables any relevant impacts to be identified and potentially managed.

The Sustainability Impact Assessment is based on assessing the impact of the activity against a series of criteria covering environmental sustainability issues. It would be most desirable for activities to score positively in as many areas as possible, although it is likely that some areas will score positively against some themes, and negatively against others.

Using the Sustainability Impact Assessment template

To complete the Sustainability Impact Assessment template, you should consider whether the Policy / Board Report / Committee Report / Service Plan / Project will have a positive or negative impact on each of the themes by placing a mark in the appropriate column. When you think there is likely to be an impact, please provide some annotations regarding the nature of the impact, and any actions that will be taken to address that impact. Users should note that not every theme will be relevant. Where this is the case the 'No Specific Impact' column should be marked. Users should also consider the following tips:

1. Make relative not absolute judgements (e.g. a new energy efficient service would score positively even if it consumes more energy than if no service were provided).
2. Be aware that small positive changes could be outweighed by negative ones (e.g. new energy efficient lighting in the short term may outweigh the benefits of maintaining current lighting).
3. If there are both positive and negative impacts, these need to be recorded in order to give a balanced view. Be objective and unbiased.
4. Concentrate on the most key significant issues - there is the potential to consider the appraisal in a very detailed way. This should be avoided at this stage.
5. Judge a proposal over its whole lifespan and remember that some impacts may change over different timescales.

If you require assistance in completing the Sustainability Impact Assessment please contact the Trust Sustainability Lead (email: mike.mcdermott@erypct.nhs.uk telephone: (67)2120.

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
<p>1. Governance and Top Level Commitment</p>	<p>The Chief Executive should make a statement in support of the anti-bribery initiative and this should be published on the organisation’s website.</p> <p>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.</p>	
<p>2. Due Diligence</p>	<p>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.</p>	
<p>3. Code of conduct</p>	<p>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.</p> <p>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.</p>	

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	<p>The organisation should publicise the NHS Fraud and Corruption Reporting Line (FCRL) and on-line fraud reporting facility.</p> <p>The organisation should publicise the Security Management role (theft and general security issues) and reporting arrangements.</p> <p>The organisation should work with its stakeholders in the public and private sector to help reduce bribery and corruption in the health industry.</p>	
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
<p>15. Monitoring:</p> <ul style="list-style-type: none"> • Overall Responsibility • Financial/Commercial Controls 	<p>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.</p> <p>The organisation should ensure that its financial controls minimise the risk of the organisation committing a corrupt act.</p> <p>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.</p>	