Guidance on the Bribery Act

The Bribery Act 2010 came into force on 1 July 2011 and is supported by guidance published by the Ministry of Justice. See https://www.gov.uk/government/publications/bribery-act-2010-guidance.

The Bribery Act 2010 modernises the Law on bribery. It is concerned with bribery which very generally is defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so. This could cover seeking to influence a decision-maker by giving some kind of extra benefit to that decision maker.

Community Pharmacy England could be liable if a member of the Committee commits a bribery offence. We could also be liable if an employee or agent, pays a bribe specifically to get business, keep business, or gain a business advantage for Community Pharmacy England.

Prosecutions are possible only with the consent of the Director of Public Prosecutions or the Director of the Serious Fraud Office. There is a defence if an organisation can show it has adequate procedures in place to prevent bribery. The procedures depend on the bribery risks and include:

1 Proportionality: The action should be proportionate to the risks faced and the size of the business. Although we are a small organisation, we negotiate a significant contract.

2 Top Level commitment: It is for all members of Community Pharmacy England but particularly the Chair, Chief Executive and Review and Audit Panel to commit to an anti-bribery culture. We need to show through that top level commitment that all members, and senior staff as well as people who we do business with understand that Community Pharmacy England does not tolerate bribery.

3 Risk Assessment: There is additional guidance on risk assessment, and this involves considering the risks in the different markets that Community Pharmacy England operates. The risks of bribery in are very small.

4 Due Diligence: This involves checking that the members of Community Pharmacy England, members of staff and agents acting on behalf of Community Pharmacy England are trustworthy, especially if they are going to represent Community Pharmacy England during discussions in any areas where there is a risk of bribery.

5 Communication: Communicating policies and procedures to staff and to others who perform services for Community Pharmacy England enhances awareness and helps to deter bribery by making clear the basis on which we do business. Awareness raising (for example through briefings such as this) is a way of setting out the Community Pharmacy England position.

6 Monitoring and Review: The effectiveness of procedures may change over time.

Risk assessment

The Government assesses that organisations will face little or no risk of bribery, especially if their business is undertaken primarily in the UK. The procedures to prevent bribery should be proportionate to the relative risks – for Community Pharmacy England, existing controls such as over Community Pharmacy England expenditure, accounting and commercial or agent contracts for example reflect an anti-bribery culture.

It is important to ensure that 'management' is fully aware and committed to the objective of preventing bribery.

We need to consider doing due diligence checks on persons who will actually perform services for Community Pharmacy England, or on its behalf. In low-risk areas, all that may be required is to satisfy ourselves that people performing services for Community Pharmacy England (for example, an agent) are genuine and someone we can trust to do Community Pharmacy England's business.

The Review and Audit Panel will keep this guidance under review and to confirm whether there are any particular risks, using the Appendix as the starting point – and if so, how to minimise these.

This briefing will also be provided to members of staff who negotiate contracts, and agents or consultants who negotiate on behalf of Community Pharmacy England. Copies will also be

provided to directors of Community Pharmacy England Data Systems Ltd so that they can satisfy themselves about the risks they face.

Appendix – Community Pharmacy England Bribery Act Risk Assessment

The following are areas where it is suggested that there are potential risks. The Review and Audit Panel will keep these under review and amend as required.

Identified areas of risk

The principal areas where a question of bribery might arise include:

- Hospitality, promotional or other business expenditure, such as dinners and agreements with any professional partners.

  It is not intended that genuine hospitality or similar business expenditure that is reasonable and proportionate be caught by the Act, so Community Pharmacy England can continue to provide bona fide hospitality, promotional or other business expenditure. Although key decision makers are invited to working dinners etc. and the intention is to build relationships, the cost of dinners, must be modest and proportionate. Invitations to attend must not be dependent on the invitee agreeing to act improperly in relation to contracts with Community Pharmacy England.

- Community Pharmacy England negotiates with bodies such as NHS England and the Department of Health and Social Care.

  It is suggested that the risk of bribery is negligible.

- Community Pharmacy England maintains close links with the Pharmacy All-Party Parliamentary Group. This group of parliamentarians is clearly very influential in matters relating to pharmacy.

  This link is unlikely to involve bribery – but – because communications consultants are paid by Community Pharmacy England to advise us and the other pharmacy bodies who provide financial support for the APPG, we should ensure that they understand that Community Pharmacy England has a strong anti-bribery policy. We should also request from any communications consultants' details of their anti-bribery policies.