



THE BRIBERY ACT 2010

YORLMC Policy

YOR Local Medical Committee Limited (YORLMC Ltd) is the brand name for Bradford & Airedale and North Yorkshire LMCs. It is the professional voice for all NHS GPs and practice teams across the areas of North Yorkshire & York and Bradford, Airedale, Wharfedale & Craven. YORLMC Ltd is a gateway to pastoral care and provides personal and totally confidential support for GPs and practices in difficulty or experiencing major change. It also provides personal advice and support for practices on a wide range of issues.

1. Introduction

- 1.1. The Bribery Act (The Act) came into force on 1st July 2011. The Act applies to YORLMC, its Directors, Officers, Members, Contractors and Employees.
- 1.2. The existence of the Act requires that the company takes steps to protect itself and its assets.
- 1.3. "There is a full defence if you can show you had adequate procedures in place to prevent bribery".
- 1.4. This policy is designed to meet this criterion.
- 1.5. It is clear that organisations should adopt a "risk based approach" to managing this threat, and actions should be tailored both to the size of the organisation and the risks faced. The Act deals only with bribery and not with other forms of white collar crime, although a breach of the Act may cause a breach of other legislation.

2. Definition

- 2.1. "Bribery 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".
- 2.2. "For the purposes of deciding whether a function or activity has been performed improperly the test of what is expected is a test of what a reasonable person in the UK would expect in relation to the performance of that function or activity"

YOR Local Medical Committee Limited (YORLMC Ltd)

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Registered as a Company limited by Guarantee. Registered in England No. 06349731.

Chief Executive: Mrs Angela Foulston

Medical Secretary: Dr Brian McGregor

3. Policy

- 3.1. YORLMC has adopted a no tolerance Policy (the Policy) which prohibits the acceptance or provision of bribery in any form from or to anyone described herein, including those individuals and organisations with whom it has a business relationship.
- 3.2. The Policy applies to the Directors, Officers, Members, Contractors and Employees of YORLMC and to anyone in receipt of payment from the company. As far as Directors, Officers, Members, Contractors and Employees are concerned, the Policy extends to parties related to these individuals including but not limited to spouses, partners (whether in a business or civil partnership), other relatives and business associates.
- 3.3. The Policy applies to all YORLMC's trading relationships.
- 3.4. The Policy applies to the receipt of any financial or other advantage or the giving of any financial or other advantage whether directly or indirectly. For the sake of clarity, a financial or other advantage means a cash or non-cash transaction or incentive or any benefit in kind.
- 3.5. Any action taken by YORLMC in response to a possible breach of the Act will be based on an assessment of *"what a reasonable person in the UK would expect in relation to the performance of that function or activity"*.
- 3.6. See also Appendix 1 for the Board's Policy on hospitality and gifts.

4. Commitment and Communication

- 4.1. This Policy has been adopted by the Board of YORLMC (the Board)
- 4.2. The Board is responsible for the dissemination of the Policy to those acting on behalf of the YORLMC.
- 4.3. Furthermore, the Board is responsible for ensuring that all organisations with which it enters into a business relationship are aware of this Policy and are bound by it.
- 4.4. The Board is responsible for the enforcement of the Policy.

5. Risk assessment and Mitigation

- 5.1. YORLMC operates in a highly regulated environment within the UK, but one where the boundary between public and private activity is increasingly complex. The risk that influence or financial advantage can be brought to bear on or by those working on behalf of YORLMC is deemed to be low.
- 5.2. Whilst no definitive list of risks can be provided, as far as YORLMC is concerned, the individuals most likely to be approached and the organisations most likely to seek advantage or to influence (actively or passively, whether positively or negatively) are set out below.
- 5.4. Awareness is key and care must be exercised as circumstances will change over time and other risks may present themselves.
- 5.5. Appendix 2 summarises the Company's procedures regarding the selection of suppliers. Agreement to make charitable contributions is reserved to the Board.

6. Monitoring, Reporting and Review

- 6.1. Whilst the Board has responsibility for monitoring and reviewing the effectiveness of this Policy, and enforcement, it has delegated day-to-day oversight to the Chief Executive.
- 6.2. YORLMC's system of internal controls, including its table of financial authorities and register of gifts, militates against an abuse of hospitality or financial incentives provided by those whose activity is funded by YORLMC, which is also likely to be the position supported by the medical profession's regulator, the GMC.
- 6.3. The risk that remains outside YORLMC's immediate control is the receipt directly or indirectly of a financial or other advantage by an individual (or a party related to them) who is funded by YORLMC. More specifically, that they have not been offered or received any financial or other advantage from a 3rd party seeking to initiate, maintain or extend a business relationship with YORLMC; also, that they and parties related to them have not offered or provided any financial or other advantage to a 3rd party in order to initiate, maintain or extend a business relationship with YORLMC either on behalf of YORLMC or for themselves or others as a result of their position.
- 6.4. On the creation of every new business relationship where the value of the consideration over a twelve month period is likely to exceed £10,000, the Chief Executive will ensure that the other party is appraised of YORLMC's anti-bribery Policy.
- 6.5. The Chief Executive will ensure that those in receipt of funds from YORLMC receive a copy of this Policy.
- 6.6. It is recognised that an organisation's employees are often the first to become aware of breaches of policy and YORLMC will hold harmless the individual if the disclosure is proven and not made with malicious intent.
- 6.7. The Chief Executive will immediately report to the Board any failure to comply with the Policy that could constitute a breach of the Act. He or she will inform the Board of the action proposed to be taken in respect of the matter including, where appropriate, reports to regulatory agencies.
- 6.8. The Chief Executive will provide a formal written report to the Board each year on any matters that they consider are of concern, or if there are none they will make a statement to that effect; the report may include recommendations relating to how the Policy can be developed and refined.
- 6.9. See Appendix 1 regarding Hospitality and Gifts.

7. Education and Training

- 7.1. It is the Chief Executive's responsibility to ensure that all Directors, Officers, Members, Contractors and Employees are familiar with YORLMC's anti-bribery policy, and with the circumstances that could give rise to a breach of the Act.
- 7.2. Matters to be emphasised include the commitment of the Board to its anti-bribery Policy, the control environment, the nature of risk (including transaction and internal risk), and the reporting requirements set down by the Board, and enforcement.

8. Enforcement and offences

- 8.1. Of concern to YORLMC are the principal offences set out in the Act, namely, the active offence of bribing another person and the passive offence of being bribed; there is the corporate offence of failing to prevent bribery and the “consent or connivance” of a senior officer in perpetrating the offence. In this Policy, the term senior officer includes the Directors, Officers and Employees of YORLMC.
- 8.2. As previously stated, the Chief Executive will immediately report to the Board any failure to comply with the Policy that could constitute a breach of the Act. They will be expected to recommend a course of action which will, almost certainly, include notifying YORLMC’s legal advisers to determine what further action and reports may be required to be made to regulators and others.
- 8.3. Any person whose activity is funded by YORLMC and appears to have acted in breach of the Policy and the Act may have payments suspended until the matter has been fully investigated by the Management Team and a report made to the Board; if there is evidence of a breach the person may be excluded permanently from Company business, and a report may be lodged with the appropriate authorities, including the GMC or another regulator or authority, if appropriate.
- 8.4. Reference should be made to the Act for the penalties set out therein. Apart from the statutory penalties, of almost greater concern will be the collateral reputational damage which might be suffered by YORLMC in the eyes of General Practitioners.

9. Review and amendment

- 9.1. The Policy will be reviewed periodically by the Board and consideration will be given to amendments recommended by the Chief Executive.

Hospitality and Gifts

1. Although hospitality, offered and received, is an accepted part of everyday business care must be exercised to ensure that it is not deemed excessive and that it is reasonable and proportionate in the circumstances.
2. Whilst it is not the intention of the Board to restrict the activities of those acting on behalf of YORLMC acceptance of invitations to major corporate hospitality events, such as sports events, dinners and the theatre, should be agreed in advance with the Chief Executive of YORLMC.
3. The Board has determined that where the value of hospitality received or offered to or by an individual on any single occasion exceeds or is believed to exceed £100 per person, the individual is required to report the matter to the Chief Executive.
4. Irrespective of the sum involved the circumstances surrounding hospitality received or provided which involves an employee of any of the Departments of Health, another government or local government department or any management group of the NHS and anyone elected to political office, whether national or local, must be reported to the Chief Executive, and the prior approval of the Chief Executive of YORLMC obtained where possible. Care should be exercised so as not to breach or be seen to breach various Lobbying Acts.
5. In light of the Communications Strategy adopted by YORLMC, a similar reporting obligation will apply to hospitality received from or provided to journalists.
6. If, during a year, hospitality received from or provided to an organisation or an individual exceeds, or is likely to exceed £500 in aggregate the matter must be reported to the Chief Executive; see the Section on Monitoring and Reporting.
7. Hospitality provided by YORLMC will be approved by the Chief Executive.
8. Other than when circumstances have been agreed with the Chief Executive, the receipt or making of a gift of a value in excess of £100 is inappropriate. When such gifts are received they should be declined or with the agreement of the Chief Executive of YORLMC donated (or sold and the cash value realised donated) to a registered charity.
9. Where, without the prior approval of the Chief Executive, an individual seeks to reclaim the cost of making a gift for a value in excess of £100, the request for reimbursement will be declined and the Chief Executive notified.
10. YORLMC's policy on the reimbursement of out-of-pocket expenses is unambiguous and is updated periodically. Inter alia, it describes the type and value of expenses reimbursed to individuals acting for YORLMC and for delegates attending Conferences.

PROCUREMENT POLICY

1. Purpose

This policy ensures that appropriate controls are in place when procuring goods and services from external sources, including the procedures for purchase invoice authorisation.

Procurement is the process of acquiring goods or services from 3rd third parties, which involves committing YORLMC to external spending, ranging from large value contracts to low value one-off purchases.

In the main, prior approval of YORLMC's Chief Executive is required to source and subsequently to authorise payment for goods and services from 3rd parties, as set out in YORLMC's approved Table of Financial Authorities.

A rigorous procurement policy maintains a strong control environment and mitigates the risk of potential misappropriation of YORLMC assets from fraud or other activities. Failure to adhere to this policy could expose YORLMC to unnecessary financial and reputational risk.

2. Scope

Typically, there are three types of procurement with which YORLMC is involved:

1. **Budgeted** expenditure on **existing** supplies - expenditure on recurring operational expenditure for existing goods or services that has been estimated within the approved annual budget;
2. **Budgeted** expenditure on **new** initiatives - expenditure on a 'new initiative' (a first time expenditure, usually one-off in nature and not pre-existing operational expenditure) that has been estimated within the approved annual budget; and,
3. **Unbudgeted** expenditure on **existing** supplies and **new** initiatives committed to, but **not** included in the previously approved annual budget, and therefore subject to closer scrutiny.

The following are excluded from this procurement policy:

- Salaries, related benefits-in-kind and expenses;
- Members' expenses, if any;

There may be limited circumstances where, for genuine business or operational reasons (but with the prior agreement of the Chief Executive), it is not appropriate to follow all of the procedures in this Policy.

3. Process for Recurring Expenditure and New Initiatives

This section applies to expenditure on recurring operational expenditure on existing goods or services and new initiatives that has been estimated within the approved annual budget.

The process and level of approval required, which varies depending on the value of the expenditure, is as follows:

| Total value of commitment (excl. VAT) | Under £10,000 | £10,000 to £25,000 | Over £25,000 |
|--|--------------------------------|---------------------------|---|
| Process | Minimum of 1 quote | Minimum of 2 quotes | Minimum of 3 quotes, usually supported by ITT; legal advice may be required |
| Approval | Table of Financial Authorities | | |

4. Unbudgeted expenditure

All expenditure committed to (whether recurring or first time expenditure) which was **not** included in the previously approved annual budget is subject to lower authorisation thresholds as set out in the Schedule of Authorities.

Given the nature of the expenditure incurred by YORLMC unbudgeted expenditure is more likely to come to the Director of Finance or Chief Executive's attention when asked to authorise payment. Consequently, it is unlikely that a procurement process involving re-tendering as outlined above can or will be undertaken, but the matter should be noted for subsequent purchases.

5. Invoice authorisation and Payment

Suppliers' invoices are authorised as set out in the Schedule of Authorities, as are payments to suppliers.

The Schedule of Authorities is reviewed and amended as necessary, but no less frequently than annually.

Invoices must be checked by the authorised individual in order to be processed for payment. By checking an invoice the individual is authorising payment. As part of this process the individual is responsible for ensuring that, the invoice:

- Relates to goods or services that have been ordered **and** received
- Was issued by the supplier with whom the order was placed
- Looks genuine and consistent with any previous invoices received
- Is for the right value and is numerically accurate (it adds up to the total shown and the correct VAT is applied)
- Shows the correct date
- Is not a duplicate and has not been paid previously

To ensure good segregation of duties, the person ordering goods or services should ideally be different to the person authorising invoices for payment. However, there are situations when this cannot always be achieved.

6. Specific matters

It is important that those involved in procurement follow a consistent procedure which ensures that YORLMC receives a competitive price for the goods or services which are being purchased and this is best achieved by obtaining competitive quotations or tenders from suppliers. Depending upon the goods or services being purchased careful consideration needs to be given to the supplier's reputation, financial standing and its ability to supply in the quality, quantity and timing of any draft agreement.

Before acceptance of a contract, the Terms & Conditions of supply need to be scrutinised and legal advice sought should that be considered necessary. Thereafter evidence of approval, whether

physically signing a contract/purchase order or sending an authorising email, must be retained to provide an audit trail and evidence of adhering to the policy.

| Date | Author | Document History |
|-------------|---------------------------------------|--------------------------------|
| Nov 2020 | Corporate Affairs Team, YORLMC Ltd | Agreed YORLMC Board – 12.11.20 |
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