



 **Review Sheet**




Last Reviewed
25 Jun '21



Last Amended
25 Jun '21



Next Planned Review in 12 months, or sooner as required.

Business impact	 <p>These changes require action as soon as possible.</p>
Reason for this review	Scheduled review
Were changes made?	Yes
Summary:	This policy has been updated to include further details about the potential implications for the provider if any employee is found to be in breach of the policy. Further details to clarify what amounts to bribery is in 4.6 as well as guidance from the Serious Fraud Office. References have been reviewed and updated.
Relevant legislation:	<ul style="list-style-type: none"> • Fraud Act 2006 • Public Contracts Regulations 2015 • The Bribery Act 2010
Underpinning knowledge - What have we used to ensure that the policy is current:	<ul style="list-style-type: none"> • Author: Ministry of Justice, (2011), <i>The Bribery Act 2010 Guidance</i>. [Online] Available from: https://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf [Accessed: 25/6/2021] • Author: Ministry of Justice, (2011), <i>The Bribery Act 2010 Quick Start Guide</i>. [Online] Available from: https://www.justice.gov.uk/downloads/legislation/bribery-act-2010-quick-start-guide.pdf [Accessed: 25/6/2021]
Suggested action:	<ul style="list-style-type: none"> • Encourage sharing the policy through the use of the QCS App • Establish process to confirm the understanding of relevant staff • Establish training sessions for staff • Widely distribute the 'Key Facts' of the policy • Share content of the policy with all staff
Equality Impact Assessment:	QCS have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.



1. Purpose

1.1 To enable Humbercare Ltd to deliver services in a way that all staff are aware that it is illegal to offer, promise, give, request, agree, receive or accept bribes.

1.2 To support Humbercare Ltd in meeting the following Key Lines of Enquiry:

Key Question

Key Lines of Enquiry

WELL-LED

W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed?

1.3 To meet the legal requirements of the regulated activities that {Humbercare Ltd} is registered to provide:

- | Fraud Act 2006
- | Public Contracts Regulations 2015
- | The Bribery Act 2010



2. Scope

2.1 The following roles may be affected by this policy:

- | Volunteers
- | Officers, agency workers, seconded workers, interns, agents, contractors, external consultants, third-party representatives and business partners, sponsors, and any other person associated with Humbercare Ltd
- | Directors and owners of Humbercare Ltd
- | Staff directly employed by Humbercare Ltd

2.2 The following Service Users may be affected by this policy:

- | Service Users

2.3 The following stakeholders may be affected by this policy:

- | Family
- | Representatives
- | Other organisations and people in contact with the service



3. Objectives

3.1 Humbercare Ltd will ensure that all staff receive appropriate information about bribery and what is meant by bribery as defined by the Bribery Act 2010.

3.2 All staff employed by Humbercare Ltd will sign that they have understood the policy and the implications for them and Humbercare Ltd.

3.3 There are no reported incidents of bribery as defined by the Bribery Act 2010.



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4. Policy

4.1 It is the policy of Humbercare Ltd to conduct all of our business in an honest and ethical manner.

4.2 Humbercare Ltd takes its responsibilities under the Bribery Act 2010 very seriously. If found to be in breach of the Bribery Act 2010, it may result in up to ten years' imprisonment and/or an unlimited fine and considerable reputational damage. In addition, Humbercare Ltd may also be debarred from participation in public tenders. Given the nature of its business, it is absolutely essential that Humbercare Ltd takes a zero-tolerance approach to bribery and corruption.

4.3 Humbercare Ltd requires all staff and volunteers to act honestly and with integrity at all times in order to comply with safeguarding obligations.

4.4 This policy is essential to ensure that Humbercare Ltd can demonstrate it has adequate procedures in place in order to prevent bribery.

4.5 It is the individual person's responsibility to read and be confident that they understand and fully comply with this policy. In any area of doubt, Registered Manager must be approached to provide a further explanation.

4.6 What is Bribery?

A bribe is something that is offered, promised or provided in order to gain any commercial, contractual, regulatory or personal advantage.

An advantage includes money, gifts, loans, fees, hospitality, services, discounts, the award of a contract or anything else of value.

4.7 What is Not Acceptable?

It is not acceptable for an individual engaged by Humbercare Ltd (or someone on their behalf) to:

- 1 Give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received or to reward a business advantage already given
- 1 Give, promise to give, or offer a payment, gift or hospitality to a Government official, agent or representative to "facilitate" or expedite a routine procedure
- 1 Accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them
- 1 Accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return
- 1 Threaten or retaliate against another worker who has refused to commit a bribery offence or who has raised concerns under this policy
- 1 Engage in any activity that might lead to a breach of this policy

4.8 Facilitation payments may be experienced where a Service User, relative or other agent offers a payment to obtain a level of service for a Service User that would not normally be provided. We do not make and will not accept facilitation payments or "kickbacks" of any kind. Kickbacks are typically payments made in return for favour or advantage. Our absolute policy is that such payments are not to be accepted and should be reported to Registered Manager.

All workers must avoid any activity that might lead to or suggest that a facilitation payment or kickback will be made or accepted. If staff are asked to make a payment on behalf of Humbercare Ltd, staff must always be mindful of what the payment is for and whether the amount requested is proportionate to the service or goods provided. Staff must always obtain a receipt detailing the reason for the payment.

If staff have any suspicions or concerns, they must raise them directly with the line manager, or where this is not appropriate, any other manager/senior employee.

4.9 During any form of tendering process gifts and hospitality (even if proportionate) must not be accepted, and if offered, should be politely declined and referred to Registered Manager.

4.10 Reasonable and proportionate gifts, as a token of appreciation or as part of facilitating normal business relationships are acceptable; the key is that they must not be an inducement to act improperly. If staff receive a gift they must report it to their line manager and complete the Gift and Hospitality Register, providing details of the gift, its worth, whether it has been accepted (and if so, the reasons for this).

4.11 In the first instance, staff and others for whom this policy is relevant must notify Registered Manager if it is suspected that a breach of this policy has occurred.

4.12 Charitable support and donations are acceptable under law whether of in-kind services, knowledge, time, or direct financial contributions. However, staff of Humbercare Ltd must be careful to ensure that



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charitable contributions are not used as a cover to conceal bribery. Only make charitable donations that are legal and ethical. No donation must be offered or made without the prior approval of Humbercare Ltd.

4.13 Genuine hospitality or other similar business expenditure that is reasonable and proportionate is not prohibited under the Bribery Act 2010. All hospitality must, however, be bona fide. Again, if an offer of hospitality is made, this must be recorded on the Gift and Hospitality Register.

4.14 Any situation should be avoided where personal benefit may arise from decisions taken. If there is any doubt, staff should report to Registered Manager.

4.15 If Registered Manager is suspected of being in breach of the Bribery Act 2010, then the alerter should contact Miss Kelly Allman, or if that is not practical or appropriate, the Police should be contacted.

4.16 In any situation where Registered Manager may be compromised by a conflict of interest or possible personal benefit that may be in conflict with the Bribery Act 2010, the Company Secretary, Owner or equivalent must be informed.

4.17 The Whistleblowing Policy and Procedure is also relevant and will be used to cover situations when Humbercare Ltd may have been alerted of possible breaches of the Bribery Act 2010.

4.18 If an individual is an employee of Humbercare Ltd and is in breach of this policy, then the service may take disciplinary action (including possibly dismissal for Gross Misconduct) against the person concerned.

4.19 If the person is not an employee, the person's contract with Humbercare Ltd may be terminated without notice as appropriate.

4.20 Individuals can also be punished by up to ten years imprisonment and an unlimited fine if found to be in breach of the Bribery Act 2010.

4.21 If a member of staff is offered a bribe by a third party, is asked to make one, or suspects this may happen in the future, they must tell their line manager as soon as possible.

4.22 This policy does not form part of an employee's contract of employment and we may amend it at any time.



5. Procedure

5.1 The relevant key facts from this policy will be shared with professionals and people affected by the service (namely Service Users, and if appropriate their friends, relatives or advocates).

5.2 All staff will sign that they have understood the content of this policy and their responsibilities under the Bribery Act 2010.

5.3 Offering or accepting gifts or hospitality needs caution; staff should follow the Gifts, Donations, Wills and Bequests from Service Users Policy and Procedure to ensure that safeguarding issues do not arise.

5.4 To reduce the possibility of breaching the Bribery Act 2010, all gifts must be declared to Registered Manager and a record will be kept.

Humbercare Ltd must declare and keep a written record of all hospitality or gifts given or received, which will be subject to managerial approval.

Staff must submit all expenses claims relating to hospitality, gifts or payments to third parties in accordance with the Business Expenses Policy and Procedure and record the reason for expenditure.

All accounts, invoices, and other records relating to dealings with third parties, including suppliers and customers, should be prepared with strict accuracy and completeness. Accounts must not be kept "off-book" to facilitate or conceal improper payments.

5.5 If there is the slightest suggestion that a member of staff might receive a legacy from a Service User, then this must be referred to Registered Manager immediately and legal advice will be sought.

5.6 The soliciting of gifts or sponsorship for charitable events from Service Users is strictly forbidden.

5.7 No donation to a Charity or Political Party/Candidate may be made or offered in the name of Humbercare Ltd without the prior approval of Registered Manager.

5.8 If staff influence or make decisions on behalf of the service, they are more vulnerable and if staff are uncomfortable with any form of influence, they must report it to Registered Manager.

5.9 Where a conflict of interest could arise, the relevant decision must be referred to Registered Manager.

5.10 It is important that one individual takes responsibility for day-to-day compliance. In most cases this would be Registered Manager, but ultimate responsibility will fall on the Company Secretary, the Owner, Miss Kelly Allman or someone in an equivalent position.



6. Definitions

6.1 Bribery

- | In guidance issued by the Ministry of Justice, a bribe 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". It goes on to state that "this could cover seeking to influence a decision-maker by giving some kind of extra benefit to that decision-maker rather than by what can legitimately be offered as part of a tender process"
- | Bribery can include gifts, hospitality, facilitation payments, and contributions to political organisations and charities

6.2 You

- | All directors, employees, contractors, agency staff, volunteers, interns, any agent or other person acting on our specific instructions. If you fall into any one of these descriptions, then reference to "you" in this policy refers to you

6.3 Facilitation Payments

- | Payments, outside of any agreed contract, where a relative or other agent offers a payment to obtain a level of service for a Service User that would not normally be provided

6.4 Conflict of Interest

- | Is a situation in which a person is in a position to get a personal benefit from actions or decisions made in their official capacity

6.5 Defence

- | A process that the service has in place to show that it has taken reasonable action to prevent bribery. More information can be found in the 'Further Reading' section

6.6 Bona Fide

- | Is a term used in the Bribery Act 2010 and means 'in good faith', which in terms of this policy means that actions can be done if it can be shown that there was no intent of deception or fraud

6.7 Corruption

- | Corruption is the abuse of entrusted power or position for private gain



Key Facts - Professionals

Professionals providing this service should be aware of the following:

- | Bribery can be defined as 'to try to make someone do something for you by giving them money, presents, or something else that they want'
- | Bribery is illegal under the Bribery Act 2010
- | You need to sign that you have read and understood the policy
- | You must report any gifts you have received or given to Registered Manager
- | Knowledge of the key facts for the Whistleblowing Policy and Procedure and the Discipline Policy and Procedure are required



Key Facts - People affected by the service

People affected by this service should be aware of the following:

- | Bribery can be defined as 'to try to make someone do something for you by giving them money, presents, or something else that they want'
- | You need to be aware that offering gifts or other inducements to receive a better service from the organisation is illegal and in breach of the Bribery Act 2010
- | If you are in any doubt as to whether you have been subject to bribery, contact the Registered Manager or, if more appropriate, the Police



Further Reading

As well as the information in the 'underpinning knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

Government Guidance - Anti-Bribery Policy:

<https://www.gov.uk/anti-bribery-policy>

Serious Fraud Office - Anti-Bribery Guidance:

<https://www.sfo.gov.uk/publications/guidance-policy-and-protocols/bribery-act-guidance/>

GOV.Uk - The Bribery Act 2010:

http://www.legislation.gov.uk/ukpga/2010/23/pdfs/ukpga_20100023_en.pdf

Supporting Information about the Meaning and Principles of Bribery:

- | If someone seeks to influence you to act so that you breach trust, lack impartiality or perform in bad faith (i.e. act improperly) then you need to be on your guard. If they seek to do so by offering, promising or giving an advantage to you (such as money, a gift, or a legacy) then that is bribery. Bribery also occurs if you request, agree to receive or actually receive such an advantage. Such exchanges are illegal
- | If you pay or attempt to pay cash or any other favour or consideration in order to secure business (e.g. a new source of Service Users), retain business or gain a business advantage for us then that is a bribe. It is a specific offence to bribe or attempt to bribe a public official (such as an inspector) wherever they may be in the world
- | Hospitality is defined as where we are present at the hospitality itself (say a buffet lunch at an exhibition). Where this level of hospitality falls within our normal business relationship this is acceptable. Hospitality which is disproportionate may be seen to be influencing impartiality and is prohibited under this policy
- | Where the company providing the hospitality is not present, for example, if a restaurant voucher is given, then this is a gift, not hospitality
- | The actions taken by Humbercare Ltd to address bribery should be proportionate to the risk presented, e.g. the nature of its business, the size of the organisation, complexity of its business, etc. Therefore, if your business is small, then the procedures you will need to have in place will need to be minimal in order to mitigate those risks, but if you are a large organisation then the risks will be exponentially greater and you should, therefore, have detailed, extensive procedures in place
- | Larger organisations may be wise to assess their risks carefully and to obtain from employees, particularly those who may be in a position to accept or offer bribes, a signed declaration that they have read, understood and accept the above procedure

The following **Six Principles** (as defined by the Ministry of Justice) will help you to decide what needs to be done for your particular organisation:

- | **Proportionality** - The action which you decide to take must be proportionate to the risk that you might face and to the size of your business. Consequently, you may need to do more if your business is large. Most independent care sector organisations will be operating in a marketplace where the risk of bribery is small and, therefore, your actions may not need to be extensive
- | **Top Level Commitment** - Senior management staff are in the best position to ensure that Humbercare Ltd conducts its business without bribery and should enforce this with a top-down approach. The senior management (especially the Registered Manager and the Registered Provider) will, therefore, want to actively demonstrate that they have made all staff aware of their intolerance of bribery
- | **Risk Assessment** - Think about the people you deal with, especially new business arrangements and public funding bodies, and the inherent risks involved
- | **Due Diligence** - Knowing exactly who you are dealing with and employing can help to protect Humbercare Ltd from less trustworthy individuals. It is therefore especially important that the results of DBS checks are thoroughly checked as part of the recruitment procedure so that risks are taken into account when making employment offers
- | **Communication** - Communication to staff and representatives of your policies and procedures will assist in enhancing the awareness of how you like to conduct business. In most cases, it will be



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sufficient to draw members of staff's attention to your policy as already discussed

- 1 **Monitoring and Review** - The risks that Humbercare Ltd faces and the effectiveness of its procedures may change over time. You may, therefore, want to review the latest anti-bribery steps you have taken so that they keep pace with any changes in the risks that you may face



Outstanding Practice

To be 'outstanding' in this policy area you could provide evidence that:

- 1 Humbercare Ltd has a robust policy on gifts which is cascaded to staff and is adhered to
- 1 Staff at Humbercare Ltd follow this policy and share relevant information that will ensure that they are following best practice. Humbercare Ltd is aware of the implications of the Bribery Act 2010
- 1 The wide understanding of the policy is enabled by proactive use of the QCS App



Forms

The following forms are included as part of this policy:

Title of form	When would the form be used?	Created by
Confirmation of Understanding of the Anti-Bribery Policy and Procedure - AB18	To record staff's confirmation.	QCS
Letter - Approval to offer gift/hospitality - AB18	Letter to use if authorising the use of a gift/hospitality to an external person.	QCS

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I can confirm that I have had the Anti-Bribery Policy explained to me and have understood the implications for me as a person working for the service. I have also received the 'key facts' document.

Name	Role	Signature	Date

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[on headed notepaper of Humbercare Ltd]

[name]

[address]

[Date]

Dear **[name]**

Re: Approval to Offer Gift or Hospitality

I write to confirm that you can proceed with the proposed **[gift/invite to hospitality event]** to **[insert name of recipient]** provided that you do so in line with the following conditions:

[1. Insert condition

2. Insert condition

3. etc.]

For the avoidance of doubt, this approval is only given subject to compliance with the above conditions and will only apply to this given situation. This permission does not extend to any other future situations.

If you have any questions, please do not hesitate to contact me.

Yours sincerely,

[Name]

on behalf of Humbercare Ltd