Humber Teaching
NHS Foundation Trust

# Conflicts of Interest, Managing Interests and Standards of Business Conduct for NHS Staff (C-002)

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*Policies should be accessed via the Trust intranet to ensure the current version is used*

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## 1. INTRODUCTION

NHS England (NHSE) has provided guidance to NHS Bodies regarding "*Managing Conflicts of Interest in the NHS*", (

Humber Teaching NHS Foundation Trust (the 'organisation'), and the people who work with and for us, collaborate closely with other organisations, delivering high quality care for our patients.

These partnerships have many benefits and should help ensure that public money is spent efficiently and wisely. But there is a risk that conflicts of interest may arise.

Providing best value for taxpayers and ensuring that decisions are taken transparently and clearly, are both key principles in the NHS Constitution. We are committed to maximising our resources for the benefit of the whole community. As an organisation and as individuals, we have a duty to ensure that all our dealings are conducted to the highest standards of integrity and that NHS monies are used wisely so that we are using our finite resources in the best interests of patients.

## 2. SCOPE

This policy will help our staff manage conflicts of interest risks effectively. It:

- Introduces consistent principles and rules
- Provides simple advice about what to do in common situations.
- Supports good judgement about how to approach and manage interests

This policy should be considered alongside other organisational policies listed at the end of the document.

## 3. POLICY STATEMENT

The policy has been produced to assist staff in maintaining strict ethical standards in the conduct of NHS business. The following information and guidance must be noted and adhered to by all staff. Recognising that statements of this nature cannot allude to every possible contingency, it is assumed that all staff are able to distinguish between acceptable and unacceptable behaviour in the conduct of their duties. If, however, staff are uncertain about the correctness or propriety of any proposed business transactions, or in relation to hospitality, declaration of interests and commercial sponsorship then they must seek guidance from their line manager in the first instance.

It is a long established principle that public sector bodies, including the NHS, must be impartial and honest in the conduct of their business and their employees should remain beyond suspicion. It is also an offence under the Bribery Act 2010 for an employee corruptly, to accept any inducement or reward for doing or refraining from doing anything in her/his official capacity. A breach of the provisions of these Acts renders employees liable to prosecution and may also lead to loss of their employment and pension rights in the NHS.

This policy is applicable to all employees, including new starters. Managers will be responsible for ensuring that the contents are brought to the attention of all staff on a regular basis.

## 4. DUTIES AND RESPONSIBILITIES

Some staff are more likely than others to have a decision making influence on the use of taxpayers' money, because of the requirements of their role. For the purposes of this guidance these people are referred to as 'decision making staff'.

Decision making staff in this organisation **include, but not limited to**:

- Executive and Non-executive directors (or equivalent roles) who have decision making roles which involve the spending of taxpayers' money
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services
- Those at Agenda for Change band 8d and above
- Administrative and clinical staff who have the power to enter into contracts on behalf of their organisation
- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions

**Trust Board**
The Trust Board has responsibility for setting the strategic context in which organisational process documents are developed, and for establishing a scheme of governance for the formal review and approval of such documents.

**Chief Executive**
The chief executive has overall responsibility for the strategic direction and operational management, including ensuring that Trust process documents comply with all legal, statutory and good practice guidance requirements.

**Director of Workforce and Organisational Development**
The Workforce and Organisational Development team maintains the register of secondary employment in relation to the Working Time Directive.

**Head of Corporate Affairs**
The Head of Corporate Affairs is responsible for ensuring that:

- The document is drafted, approved and disseminated in accordance with the Trust policy.
- The necessary communication methods required to implement this policy are identified and resourced or built into the delivery planning process.
- Mechanisms are in place for the regular evaluation of the implementation and effectiveness of this policy.

**Line Managers**
Line managers must ensure their staff adhere to this policy and in particular follow the procedures for declarations of interests, gifts and hospitality, sponsorship and secondary employment.

**Employees**
At Humber Teaching NHS Foundation Trust, we use the skills of many different people, all of whom are vital to our work. This includes people on differing employment terms, who for the purposes of this policy we refer to as 'staff' and are listed below:

- All salaried employees
- All prospective employees – who are part-way through recruitment
- Contractors and sub-contractors
- Agency staff; and
- Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the organisation)

All staff are responsible for:

- Compliance with relevant process documents. Failure to comply may result in disciplinary action being taken.

- Co-operating with the development and implementation of policies and procedures as part of their normal duties and responsibilities.
- Identifying training needs in respect of policies and procedures and bringing them to the attention of their line manager.
- Attending training/awareness sessions when provided.

## 5. PROCEDURES

All staff should declare any interests they have:

- When staff move to a new role or their responsibilities change significantly.
- At the beginning of a new project/piece of work.
- As soon as circumstances change and new interests arise (for instance, in a meeting when interests staff hold are relevant to the matters in discussion).

Any declarations should be made using the declarations function on ESR. Declarations will be published on the website and staff should contact the Head of Corporate Affairs if they have valid reasons for their name and/or other information being redacted where the public disclosure of information could give rise to a real risk of harm or is prohibited by law.

### 5.1. Conflicts of Interest

A conflict of interest is defined as "a set of circumstances by which a reasonable person would consider that an individual's ability to apply judgement or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by another interest they hold".

A conflict of interest may be:

| Actual | Potential |
|---|---|
| There is a material conflict between one or more interests | There is the possibility of a material conflict between one or more interests in the future |

Staff may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently. It will be important to exercise judgement and to declare such interests where there is otherwise a risk of allegation of improper conduct.

Interests can arise in a number of different contexts. A material interest is one which a reasonable person would take into account when making a decision regarding the use of taxpayers' money because the interest has relevance to that decision.

Interests fall into the following categories:

| Financial Interests | Non-Financial Professional Interests | Non-Financial Personal Interests | Indirect Interests |
|---|---|---|---|
| Where an individual may get direct financial benefit* from the consequences of a decision they are involved in making | Where an individual may obtain a non-financial professional benefit* from the consequences of a decision they are involved in making, such as increasing their professional reputation or promoting their professional career | Where an individual may benefit* personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit, because of decisions they are involved in making in their professional career | Where an individual has a close association** with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest who would stand to benefit* from a decision they are involved in making |

* A benefit may arise from the making of gain or avoiding a loss.

** These associations may arise through relationships with close family members and relatives, close friends and associates, and business partners. A common sense approach should be applied to these terms. It would be unrealistic to expect staff to know of all the interests that people in these classes might hold. However, if staff do know of material interests (or could be reasonably expected to know about these) then these should be declared.

If an interest is declared but there is no risk of a conflict arising then no action is warranted. However, if a material interest is declared then the general management actions that could be applied include:

- restricting staff involvement in associated discussions and excluding them from decision making
- removing staff from the whole decision making process
- removing staff responsibility for an entire area of work
- removing staff from their role altogether if they are unable to operate effectively in it because the conflict is so significant

Each case will be different and context-specific, and the Trust will always clarify the circumstances and issues with the individuals involved. Staff should maintain a written audit trail of information considered and actions taken.

Staff who declare material interests should make their line manager or the person(s) they are working to aware of their existence.

**5.2. Gifts**

Situations where the acceptance of gifts could give rise to conflicts of interest should be avoided. Staff and organisations should be mindful that even gifts of a small value may give rise to perceptions of impropriety and might influence behaviour if not handled in an appropriate way. A gift means any item of cash or goods, or any service, which is provided for personal benefit, free of charge, or at less than its commercial value.

The overarching principle applying in all circumstances is that staff should not accept gifts that may affect, or be seen to affect, their professional judgement.

Where amounts* or values* have been stated in this policy they have been taken from NHSE guidance – selected by NHSE with reference to existing industry guidance issued by the ABPI

**Principles and Rules**

**Gifts from suppliers or contractors:**

- Gifts from suppliers or contractors doing business (or likely to do business) with an organisation should be declined, whatever their value.
- Subject to this, low cost branded promotional aids may be accepted where they are under the value of a common industry standard of £6* in total, and need not be declared.

**Gifts from others sources (e.g. patients, families, service users):**

- Gifts of cash and vouchers to individuals should always be declined.
- Staff should not ask for any gifts.
- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of an organisation (i.e. to an organisation's charitable funds), not in a personal capacity, unless there is an exceptional circumstance (see below). These should be declared by staff.
- Modest gifts accepted under a value of £50 do not need to be declared.
- A common sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).

- Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £75.

All appropriate gifts accepted must be declared by the staff member using the declarations of interest section on ESR. Further information is available on the Declarations of Interest page on the Intranet.

**Exceptional Circumstances**
Any offer of a gift where the situation is not straightforward in line with the above, e.g. where the proposed gift is not personal to one individual or where to refuse a gift offered by a patient or their family may cause offence, should be discussed in advance with the Head of Corporate Affairs, e.g. if a patient buys a gift to be used in a specific service area. If, following discussion, it is deemed appropriate to accept the offer of the gift; a declaration should be recorded on ESR and it will then be added to the register. Any declaration should be discussed with and approved by your line manager.

## 5.3. Hospitality

Delivery of services across the NHS relies on working with a wide range of partners (including industry and academia) in different places and, sometimes, outside of 'traditional' working hours. As a result, staff will sometimes appropriately receive hospitality. Staff receiving hospitality should always be prepared to justify why it has been accepted, and be mindful that even hospitality of a small value may give rise to perceptions of impropriety and might influence behaviour.

Hospitality means offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events, etc.

**Principles and Rules**

**Overarching principles applying in all circumstances:**
- Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement.
- Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.
- Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors – these can be accepted if modest and reasonable but individuals should always obtain senior approval and declare these.

**Meals and refreshments:**
- Under a value of £25 - may be accepted and need not be declared.
- Of a value between £25 and £75* – may be accepted and must be declared.
- Over a value of £75* - should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on an organisation's register(s) of interest as to why it was permissible to accept.
- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).

**Travel and accommodation:**
- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared.
- Offers which go beyond modest or are of a type that the organisation itself might not usually offer, need approval by senior staff, should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on an organisation's register(s) of interest as to why it was permissible to accept travel and accommodation of this type.
- A non-exhaustive list of examples includes:

- offers of business class or first class travel and accommodation (including domestic travel).
- offers of foreign travel and accommodation.

**5.4. Private Clinical Opinion and other Similar Arrangements**

Where a Trust employee or those where the Trust funds their activity, are asked to provide a private clinical opinion and/or report then the activity and income must be declared as follows:

- Where the clinician takes the time as annual leave or undertakes the activity outside of contracted work time with the Trust, then they must declare the income to the Head of Corporate Affairs and as additional income to the Inland Revenue.
- In such cases the clinician must make it clear that they are providing the review and/or report in their own private clinical capacity. They must not use Trust resources in the preparation of materials. They must not use their Trust employee privileges to access records or information other than to request them as an external agent and making any necessary payment. They must not use other Trust staff's time or other resources to construct the report. They must not provide the report on Trust letterhead or imply in any way that they are undertaking work for or on behalf of the Trust or as part of their employment with the Trust. Doing so is regarded as a breach of contract and a disciplinary matter.
- Where the clinician provides any such opinion as agreed with their Line Manager as part of their duties then any fees received must be paid into the appropriate Trust budget.
- Where employed staff provide private clinical opinion and/or court reports they should ensure that this work is covered by or secure individual professional indemnity insurance that covers liability risks pertaining to these reports. This activity being private falls outside Trust business and the Trust cannot accept any liability in connection with it and/or them.
- In this context private clinical opinion and/or court reports include any witness statement(s) submitted to court for private fee payment. Therefore in essence any evidence (written or attending court in person to give oral evidence) is covered herein and is outside of the indemnity arrangements of the organisation.

Any employed member of staff sending evidence to court must be aware that they are thereby offering to be a witness and immediately expose themselves to be called to attend (even by witness summons/subpoena). As court hearings can be listed for full days, or a number of days, this potentially means that witness' may not be able to fulfil their contractual obligation to be available to attend to NHS duties. In such cases, where the statement has been made as an employee, then the line manager must make arrangements for availability and backfill. Where this is as a result of private opinion the employee must make their line manager aware of their absence which must be taken as leave (paid or unpaid). In extreme cases the line manager may consider this a breach of contract if it causes significant problems and/or expenditure to backfill normal employee duties and the employee has rendered themselves unavailable by giving their private opinion.

**5.5. Declarations and Potential Conflict of Interest**

Where other types of work have been undertaken (e.g. writing on behalf of a company for a sponsored publication) a declaration must be made on ESR . This is the case even if the work has been commissioned and undertaken in the employee's own time and where any payment is a matter for the employee and the sponsor and where the employee is responsible for any financial declaration to HMRC.

This is because there is still the potential for a conflict of interest to arise relating to Trust business and the persons status as an employee. For example, publications sponsored by companies where by that company's products are used in the work context. In such cases, the employee should declare their interest and withdraw from the discussion or the senior officer present must ensure that their continued involvement does not compromise or overtly influence the process.

**5.6. Secondary Employment and Outside Interests**

The NHS relies on staff with good skills, broad knowledge and diverse experience. Many staff bring expertise from sectors outside the NHS, such as industry, business, education, government and

beyond. The involvement of staff in these outside roles alongside their NHS role can therefore be of benefit, but the existence of these should be well known so that conflicts can be either managed or avoided.

Outside employment means employment and other engagements, outside of formal employment arrangements. This can include directorships, non-executive roles, self-employment, consultancy work, charitable trustee roles, political roles and roles within not-for-profit organisations, paid advisory positions and paid honorariums which relate to bodies likely to do business with an organisation. (Clinical private practice is considered in a separate section).

Declarations of secondary employment should be made on an annual basis to the Human Resources Department. Forms are available on the Intranet or through the link below Secondary Employment.pdf (humber.nhs.uk)

**Principles and Rules:**

- Staff should declare any existing outside employment on appointment and any new outside employment when it arises.
- Where a risk of conflict of interest is identified, the general management actions outlined in this guidance should be considered and applied to mitigate risks.
- Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from an organisation to engage in outside employment.
- Organisations may also have legitimate reasons within employment law for knowing about outside employment of staff, even if this does not give rise to risk of a conflict. Nothing in this guidance prevents such enquiries being made.

**What should be declared**

- Staff name and their role with the organisation.
- A description of the nature of the outside employment (e.g. who it is with, a description of duties, time commitment).
- Relevant dates.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this guidance).

### 5.7. Private Practice

Service delivery in the NHS is done by a mix of public, private and not-for-profit organisations. The expertise of clinicians in the NHS is in high demand across all sectors and the NHS relies on the flexibility that the public, private and not-for-profit sectors can provide. It is therefore not uncommon for clinical staff to provide NHS funded care and undertake private practice work either for an external company, or through a corporate vehicle established by themselves.

Existing provisions in contractual arrangements make allowances for this to happen and professional conduct rules apply. However, these arrangements do create the possibility for conflicts of interest arising. Therefore, these provisions are designed to ensure the existence of private practice is known so that potential conflicts of interest can be managed. These provisions around declarations of activities are equivalent to what is asked of all staff in the section on Outside Employment.

**Principles and Rules:**

Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises* including:

- where they practise (name of private facility)
- what they practise (specialty, major procedures)
- when they practise (identified sessions/time commitment)

*Hospital Consultants are already required to provide their employer with this information by virtue of Para.3 Sch. 9 of the Terms and Conditions – Consultants (England) 2003

https://www.bma.org.uk/-/media/files/pdfs/practical advice at work/contracts/consultanttermsandconditions.pdf.

Clinical staff should (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed):

- Seek prior approval of their organisation before taking up private practice.
- Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work. **
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf.

Hospital Consultants should not initiate discussions about providing their Private Professional Services for NHS patients, nor should they ask other staff to initiate such discussions on his or her behalf. **

** These provisions already apply to Hospital Consultants by virtue of Paras.5 and 20, Sch. 9 of the Terms and Conditions – Consultants (England) 2003: https://www.bma.org.uk/-/media/files/pdfs/practical advice at work/contracts/consultanttermsandconditions.pdf).

Where clinical private practice gives rise to a conflict of interest then the general management actions outlined in this guidance should be considered and applied to mitigate risks.

**What should be declared?**

- Staff name and their role with the organisation.
- A description of the nature of the private practice (e.g. what, where and when you practise, sessional activity, etc).
- Relevant dates.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this guidance).

### 5.8. Commercial Sponsorship

Sponsorship of NHS events by external parties is valued. Offers to meet some or part of the costs of running an event secures their ability to take place, benefiting NHS staff and patients. Without this funding there may be fewer opportunities for learning, development and partnership working. However, there is potential for conflicts of interest between the organiser and the sponsor, particularly regarding the ability to market commercial products or services. As a result there should be proper safeguards in place to prevent conflicts occurring.

**Principles and Rules:**

- Sponsorship of events by appropriate external bodies should only be approved if a reasonable person would conclude that the event will result in clear benefit for the organisation and the NHS.
- During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.
- No information should be supplied to the sponsor from which they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.
- At an organisation's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event.
- The involvement of a sponsor in an event should always be clearly identified in the interest of transparency.

- Organisations should make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event.
- Staff should declare involvement with arranging sponsored events to their organisation.

Organisations should maintain records regarding sponsored events in line with the above principles and rules.

Research is vital in helping the NHS to transform services and improve outcomes. Without sponsorship of research some beneficial projects might not happen. More broadly, partnerships between the NHS and external bodies on research are important for driving innovation and sharing best practice. However, there is potential for conflicts of interest to occur, particularly when research funding by external bodies does or could lead to a real or perceived commercial advantage. There needs to be transparency and any conflicts of interest should be well managed.

**Principles and Rules:**

- Funding sources for research purposes must be transparent.
- Any proposed research must go through the relevant health research authority and any other applicable approvals processes.
- For commercial research there must be a study protocol and contract between the Trust and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services. This should be overseen by the Trust's Research department.
- The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
- Staff should declare involvement with sponsored research to their organisation.

**What should be declared?**

- Organisations should retain written records of sponsorship of research, in line with the above principles and rules.
- Where a potential conflict of interest may arise staff should declare:
  - their name and their role with the organisation
  - a description of the nature of their involvement in the sponsored research
  - relevant dates
  - any other relevant information (e.g. what, if any, benefit the sponsor derives from the sponsorship, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this guidance)

Sponsored posts are positions with an organisation that are funded, in whole or in part, by organisations external to the NHS. Sponsored posts can offer benefits to the delivery of care, providing expertise, extra capacity and capability that might not otherwise exist if funding was required to be used from the NHS budget. However, safeguards are required to ensure that the deployment of sponsored posts does not cause a conflict of interest between the aims of the sponsor and the aims of the organisation, particularly in relation to procurement and competition.

**Principles and Rules:**

- Staff who are establishing the external sponsorship of a post should seek formal prior approval from their organisation.
- Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and confirm the appropriateness of arrangements continuing.
- Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. For the duration of the sponsorship, auditing arrangements should be established to ensure this is the case. Written agreements should detail the circumstances under which organisations have the ability to exit sponsorship arrangements if conflicts of interest which cannot be managed arise.

- Sponsored post holders must not promote or favour the sponsor's specific products, and information about alternative products and suppliers should be provided.
- Sponsors should not have any undue influence over the duties of the post or have any preferential access to services, materials or intellectual property relating to or developed in connection with the sponsored posts.

Organisations should retain written records of sponsorship of posts, in line with the above principles and rules.

Staff should declare any other interests arising as a result of their association with the sponsor, in line with the content in the rest of this guidance.

### 5.9. Wider Transparency Initiatives

Humber Teaching NHS Foundation Trust fully supports wider transparency initiatives in healthcare, and we encourage staff to engage actively with these.

Relevant staff are strongly encouraged to give their consent for payments they receive from the pharmaceutical industry to be disclosed as part of the Association of British Pharmaceutical Industry (ABPI) Disclosure UK initiative. These "transfers of value" include payments relating to:

- Speaking at and chairing meetings
- Training services
- Advisory board meetings
- Fees and expenses paid to healthcare professionals
- Sponsorship of attendance at meetings, which includes registration fees and the costs of accommodation and travel, both inside and outside the UK
- Donations, grants and benefits in kind provided to healthcare organisations

**Benefits, Risks and Principles**

There are potential benefits and risks associated with sponsorship, e.g.:

| Benefits | Risks |
|---|---|
| Income generation or expenditure avoidance | Financial loss |
| Promotion of the Trust | Adverse publicity. e.g. through association with discredited company or product |
| Beneficial alliances with commercial sponsors | Loss of control by being beholden to another party |

The principles upon which any sponsorship arrangements are based must enhance benefits and minimise risks, such that:

- The Trust must not be seen to endorse firms or products; disclaimers are essential
- Sponsorship must not damage the image of the Trust
- Suppliers of products suspected or known to be harmful to health will not be accepted
- Where possible potential sponsors should be given the opportunity to compete
- The Trust will not be involved in the promotion of specific branded drugs
- Trust staff must not allow their professional status or qualifications to be used in the promotion of commercial products or services.
- Sponsorship arrangements must not breach the legal duty of confidence.

### 5.10. Procurement

Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law, to ensure there is no discrimination against or in favour of any provider. Procurement processes should be conducted in a manner that does not constitute anti-competitive behaviour – which is against the interest of patients and the public.

Those involved in procurement exercises for and on behalf of the organisation should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of

procurement processes. At every stage of procurement steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.

### 5.11. Shareholdings and other Ownership Issues

- Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the organisation.
- Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.
- There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

**What should be declared?**

- Staff name and their role with the organisation.
- Nature of the shareholdings/other ownership interest.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

### 5.12. Patents

- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation.
- Staff should seek prior permission from the Trust before entering into any agreement with bodies regarding product development, research, work on pathways etc., where this impacts on the organisation's own time, or uses its equipment, resources or intellectual property.
- Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

**What should be declared?**

- Staff name and their role with the organisation.
- A description of the patent.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy)

### 5.13. Loyalty Interests

Loyalty interests should be declared by staff involved in decision making where they:

- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be seen to influence decisions they take in their NHS role.
- Sit on advisory groups or other paid or unpaid decision making forums that can influence how an organisation spends taxpayers' money.
- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners.
- Are aware that their organisation does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

**What should be declared?**

- Staff name and their role with the organisation.
- Nature of the loyalty interest.

- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

### 5.14. Donations

- Donations made by suppliers or bodies seeking to do business with the organisation should be treated with caution and not routinely accepted. In exceptional circumstances they may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.
- Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the organisation, or is being pursued on behalf of the organisation's own registered charity or other charitable body and is not for their own personal gain.
- Staff must obtain permission from the organisation if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the organisation's own.
- Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.
- Staff wishing to make a donation to a charitable fund in lieu of receiving a professional fee may do so, subject to ensuring that they take personal responsibility for ensuring that any tax liabilities related to such donations are properly discharged and accounted for.

**What should be declared?**

- The organisation will maintain records in line with the above principles and rules and relevant obligations under charity law.

## 6. DEALING WITH BREACHES

There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or other organisations. For the purposes of this policy these situations are referred to as 'breaches'.

### 6.1. Identifying and Reporting Breaches

Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns to their line manager in the first instance and the Head of Corporate Affairs.

To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this. For further information about how concerns should be raised please refer to the Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy for the NHS.

The organisation will investigate each reported breach according to its own specific facts and merits and give relevant parties the opportunity to explain and clarify any relevant circumstances.

Following investigation the organisation will:

- Decide if there has been or is potential for a breach and if so what the severity of the breach is.
- Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum.
- Consider who else inside and outside the organisation should be made aware
- Take appropriate action as set out in the next section.

### 6.2. Taking Action in Response to Breaches

Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the organisation and could involve organisational leads for staff support (e.g. Workforce and Organisational Development), fraud (e.g. Local Counter Fraud Specialists), members of the management or executive teams and organisational auditors.

Breaches could require action in one or more of the following ways:

- Clarification or strengthening of existing policy, process and procedures.
- Consideration as to whether HR/employment law/contractual action should be taken against staff or others.
- Consideration being given to escalation to external parties. This might include referral of matters to external auditors, NHS Counter Fraud Authority, the Police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies.

Inappropriate or ineffective management of interests can have serious implications for the organisation and staff. There will be occasions where it is necessary to consider the imposition of sanctions for breaches.

Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then the organisation can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:

- Employment law action against staff, which might include
  - Informal action (such as reprimand or signposting to training and/or guidance).
  - Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
- Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be.
- Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach.
- Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

### 6.3. Learning and Transparency Concerning Breaches

Reports on breaches, the impact of these, and action taken will be considered by the Executive Management Team (EMT) and if appropriate Human Resources Department as they arise

To ensure that lessons are learnt and management of interests can continually improve, anonymised information on breaches, the impact of these, and action taken will be prepared and published on the Trust's website as appropriate, or made available for inspection by the public upon request.

## 7. TRAINING REQUIREMENTS

Training is not required for this document.

Publication of its existence and reminders for staff of the need to make declarations of any conflicts, or potential conflicts of interests will be made through Trust communication channels, via the Head of Corporate Affairs as a minimum annually.

## 8. BRIBERY ACT

The Bribery Act 2010 makes it a criminal offence to bribe or be bribed by another person by offering or requesting a financial or other advantage as a reward or incentive to perform a relevant function or activity improperly performed.

The penalties for any breaches of the Act are potentially severe. There is no upper limit on the level of fines that can be imposed and an individual convicted of an offence can face a prison sentence of up to 10 years.

For further information see https://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf.

If you require assistance in determining the implications of the Bribery Act please read the Trust Local Anti-Fraud, Bribery and Corruption Policy available on the intranet at Local Anti Fraud Bribery and Corruption Policy.pdf (humber.nhs.uk)or contact the Head of Corporate Affairs on 01482 389107, the Local Counter Fraud Specialist on 07872 988939 / email nikki.cooper1@nhs.net or Head of Anti-Crime Services on 07717 356707 / email steven.moss@nhs.net.

## 9. IMPLEMENTATION

This policy will be disseminated by the method described in the Policy for the Development and Management of Procedural Documents.

This is a revised policy following publication of new guidance it will be implemented within existing resources.

The risk of not having this document is that the Trust will not be compliant with NHSE Guidance for all Trusts.

### 9.1. Publication

We will:

- Publish the interests declared (including nil returns by decision-making staff) on our website
- Refresh this information annually

If staff have substantial grounds for believing that publication of their interests should not take place then they should contact the Head of Corporate Affairs to explain why. In exceptional circumstances, for instance where publication of information might put a member of staff at risk of harm, information may be withheld or redacted on public registers. However, this would be the exception and information will not be withheld or redacted merely because of a personal preference.

## 10. MONITORING AND AUDIT

| Minimum Requirement | Frequency | Process for monitoring | Evidence | Responsible Individual(s) | Responsible Committee(s) |
|---|---|---|---|---|---|
| Regular reminder to staff of requirements within the policy | Quarterly | Annual review of Registers | Report produced | Head of Corporate Affairs | Audit Committee<br>Trust Board |
| Publication on website | Annually | Annual report to Audit Committee | Report produced | Head of Corporate Affairs | Audit Committee<br>Trust Board |

Monitoring of the implementation of this policy will be through the annual report to the Audit Committee. An annual report will be submitted to show the number of declarations of gifts, hospitality and sponsorship that have been made. EMT will review any declarations of sponsorship.

This document will be reviewed every two years or whenever NHSE or other statutory legislation is reviewed, whichever is the sooner.

## 11. REFERENCES/EVIDENCE/GLOSSARY/DEFINITIONS

- Managing Conflicts of Interest NHS England/NHS Improvement
- Freedom of Information Act 2000
- ABPI The Code of Practice for the Pharmaceutical Industry (2014)
- ABHI Code of Business Practice
- NHS Code of Accountability
- Bribery Act 2010
- Data Protection Act 1998
- Freedom to Speak Up: Raising Concerns (whistleblowing) Policy for the NHS
- Trust Constitution
- Standing Orders, and Standing Financial Instructions
- Reservation of Powers to the Trust Board and Scheme of Delegation
- Ethical Code of the Chartered Institute of Purchasing and Supply – Sept 2013

## 12. RELEVANT POLICIES/PROCEDURES/PROTOCOLS/GUIDELINES

Working Time Regulations Policy
Local Anti-fraud, Bribery and Corruption Policy
Charitable Funds Procedures Handbook

## Appendix 1 – Document Control Sheet

*This document control sheet, when presented for approval/ratification must be completed in full to provide assurance. The master copy of the document is to be held by the Policy Management Team.*

| | | | |
|---|---|---|---|
| Document Type | Policy | | |
| Document Purpose | The policy has been produced to assist staff in maintaining strict ethical standards in the conduct of NHS business | | |
| Consultation: | Date: | Group / Individual | |
| *list in right hand columns consultation groups and dates -* | 14 January 2025 | EMT | |
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| Approving Body: | Trust ODG | Date of Approval: | 27 January 2025 |
| Date of Board Ratification: | N/A (minor amends) | | |
| | | | |
| Training Impact Analysis: | None [ x ] | Minor [ ] | Significant [ ] |
| Financial Impact Analysis: | None [ x ] | Minor [ ] | Significant [ ] |
| Capacity Impact Analysis: | None [ x ] | Minor [ ] | Significant [ ] |
| Equality and Health Inequalities Impact Assessment (EHIIA) undertaken? | Yes [ ] | No [ ] | N/A [ x ] Rationale: This policy is compliant with NHS England guidance regarding the need for all staff to declare any conflicts of interests they have. It does not impact on services users nor the delivery of services. |

| ***Document Change History:*** | | | |
|---|---|---|---|
| *Version Number* | *Type of Change (full/interim review, minor or significant change(s))* | *Date* | *Details of Change and approving group or Executive Director* ***(if very minor changes as per the document control policy)*** |
| *1.0* | *Full Review* | *June 2017* | *New guidance published by NHS England with new model policy. Existing policy put into new format and renamed.*<br>*Approved by EMT and ratified at Trust Board June 2017* |
| *1.1* | *Minor* | *June 2018* | *Trust name updated to include Teaching and document put into new style policy format*<br>*Approved by EMT.* |
| *1.2* | *Minor* | *July 2018* | *Addition of information for secondary employment and link to form*<br>*Approved by EMT* |
| *1.3* | *Minor* | *April 19* | *Update to job title and contact details for Counter Fraud. Updating of policy titles in section 14.*<br>*Clarification on completion of appendix to make it clear that the details provided in the example should be removed and appropriate information added.*<br>*Approved by EMT* |
| *1.4* | *Minor* | *Feb 21* | *Update to Section 9 Counter Fraud details*<br>*Approved by EMT* |
| *1.5* | *Minor* | *July 22* | *Name change following recommendation from Internal Audit review to ensure policy is more easily located on the Intranet*<br>*Approved by EMT* |
| *1.6* | *Review* | *April/May 23* | *Minor amendments made. Gift value changed to £50 in line with NHSE guidance*<br>*Approved by EMT 9 May 2023* |
| *1.7* | *Minor* | *Nov 23* | *Updated of policy to reflect move to ESR for reporting any declarations*<br>*Approved at EMT 13 November 2023* |
| *1.8* | *Full review – Minor amends* | *Dec 24* | *Amendment of NHSE Guidance title (to reflect the title of the latest version of the guidance)*<br>*Update of job titles*<br>*Reference to all staff within the publications section of the policy (rather than just decision making) and removal of repetition in this section* |
| *1.9* | *Minor amend* | *April -26* | *Minor amend to table in "**MONITORING AND AUDIT**" section. Review deadline kept the same. Approved by Exec Lead sign-off (Michele Moran – 15 April 2026).* |