



# Standards of Business Conduct Policy

## Including Hospitality and Gifts and Declarations of Interests

### Document Control Sheet

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Unless this copy has been taken directly from the Policies library on Siren there is no assurance that this is the most up to date version.

This policy supersedes all previous issues.

This policy covers both the Trust (North East Ambulance Service NHS Foundation Trust) and its subsidiary company North East Ambulance Service Unified Solutions (NEASUS). References to NEAS or Trust within this policy also cover NEASUS and its employees.

In effect from 01/07/22

## Version Control - Table of Revisions

All changes to the document must be recorded within the 'Table of Revisions'.

Version number	Document section/ page number	Description of change and reason (e.g. initial review by author/ requested at approval group)	Author/ Reviewer	Date revised
03	Full policy	Extensive update including combining Standards of Business Conduct and Hospitality and Gifts Policies in line with national good practice recommendations.	Trust Secretary	April 2016
04	Full policy	<p>Additions and amendments made to multiple sections to bring the policy in line with the new national standards introduced by NHS England. Key changes include:</p> <ul style="list-style-type: none"> <li>• Clearer guidance regarding 'decision-making staff';</li> <li>• More comprehensive definition of key terms;</li> <li>• Clearer guidance regarding gifts from suppliers;</li> <li>• New sections on meals and refreshments, donations, patents, sponsored research, sponsored posts and clinical private practice;</li> <li>• A new section on contract management;</li> <li>• Guidance for strategic decision-making groups on how to manage potential conflicts;</li> <li>• A comprehensive section on how the Trust will deal with breaches; and</li> <li>• Reference to wider transparency initiatives in healthcare.</li> </ul>	Trust Secretary	July 2017
05	Full policy	Transferred to new template with a full review of the content. Checked against NHSE/I national policy – no new guidance since 2017 release. Policy has been streamlined to follow the format of the NHSE/I policy and shortened to remove background information. Gift limit increased from £25 to £50 in line with NHSE/I model policy.	Trust Secretary	August 2020
06	Section 6.5.12	Clarification of this section in relation to employment of relatives	Director of People & Development	July 2022

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In effect from 01/07/22

## 1. Introduction

This policy has been introduced to provide all staff and volunteers with clear guidelines, standards and protocols to follow in respect of their business conduct.

The Trust and the people who work with and for us, collaborate closely with other organisations, delivering high quality care for our patients. The Trust's values outline the compassion, accountability & responsibility, respect and excellence & innovation required for all workers.

Partnerships have many benefits and should help ensure that public money is spent efficiently and wisely, and behaviours are in line with our Trust values. 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, underpinned by appropriate values and behaviours are 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, behaviours are appropriate and that NHS monies are used wisely so that we are using our finite resources in the best interests of patients.

## 2. Purpose

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

It should also be read in conjunction with the Trust documents outlined within this policy.

NHS employees are expected to:

- Ensure that the interests of patients and service users remains paramount at all times;
- Be impartial and honest in the conduct of their official business;
- Demonstrate probity when dealing with the assets of the Trust;
- Use integrity in all decisions affecting patients and service users, staff and suppliers and in the use of information acquired in the course of their duties;
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money; and

- Accept responsibility for the actions that they have taken, ensuring that the appropriate person within the Trust is notified should problems occur.
- Be cognisant of the potential for, and perception of others in regard to conflicts of interest when working relationships are close, and to take proactive steps to avoid this.

It is also the responsibility of employees to ensure that they **DO NOT**:

- Abuse their official position for personal gain or to benefit their family or friends;
- Seek to advantage or further private business or other interests, in the course of their official duties;
- Misuse their position to further their interests or those close to them;
- Be influenced, or give the impression that they have been influenced by outside interests;
- Allow outside interests they have to inappropriately affect the decisions they make when using taxpayers' money;
- Avoid managing conflicts of interest; and
- Interpret this policy in a way which stifles collaboration and innovation with our partners.

As an organisation we will:

- Ensure that this policy and supporting processes are clear and help staff understand what they need to do.
- Identify a team or individual with responsibility for:
  - Keeping this policy under review to ensure they are in line with the guidance.
  - Providing advice, training and support for staff on how interests should be managed.
  - Maintaining register(s) of interests.
  - Auditing this policy and its associated processes and procedures at least once every three years.

### 3. Scope

This policy applies in all areas of the Trust. It is aimed at all employees of the Trust, regardless of position held, be they permanent or temporary and all secondees, agency workers and contracted out staff working within the Trust. It also applies to:

- All prospective employees – who are part-way through recruitment;
- Volunteers acting on behalf of the Trust, trainees, apprentices, contractors, sub-contractors and those on work experience; and
- Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the organisation).

### Decision Making Staff

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'.

The following will be decision making staff:

- Executive and non-executive directors 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 8a and above.
- Any other administrative, clerical or managerial staff deemed to have significant decision-making responsibilities and the power to enter into contracts for the Trust.

## 4. Duties - Roles & Responsibilities

Individual	Key Responsibilities
<b>Chief Executive</b>	<ul style="list-style-type: none"> <li>• As the 'Accounting Officer' is ultimately responsible for ensuring there is an effective system in place for employees to declare hospitality, gifts, sponsorship, outside income and any other interests.</li> </ul>
<b>Trust Secretary</b>	<ul style="list-style-type: none"> <li>• Ensuring a fit for purpose policy is in place and made available to staff.</li> <li>• Monitor and ensure compliance with this policy.</li> <li>• Advising staff on the contents of this policy.</li> <li>• Providing guidance for staff on refusal or acceptance for hospitality or gifts.</li> <li>• Maintaining a central register of hospitality and gifts and ensuring that this is available for inspection.</li> <li>• Receive declarations for inclusion in the Hospitality and Gifts Register.</li> <li>• Maintaining a register of interests and making this available for inspection.</li> <li>• Ensure that this policy is compliant with legislation and</li> </ul>



Individual	Key Responsibilities
	guidance.
<b>All Managers</b>	<ul style="list-style-type: none"> <li>• Ensuring that their staff are aware of, and adhere to, this policy.</li> <li>• Make declarations of receipts of hospitality or gifts where required.</li> <li>• Processing staff declarations of interest and requests for secondary employment in line with this policy.</li> <li>• Provide advice and guidance to staff on the receipt of hospitality and gifts in the first instance, and</li> <li>• Are responsible for promoting a culture of openness and transparency regarding personal relationships at work</li> <li>• Consult with the Trust Secretary where additional guidance is required.</li> </ul>
<b>All Staff</b>	<ul style="list-style-type: none"> <li>• Ensuring they are aware of, and follow this policy.</li> <li>• Make declarations of receipt of hospitality and gifts where required in consultation with their line manager.</li> <li>• Refuse gifts, inducements or hospitality other than items of modest value.</li> <li>• Staff with authority to commit expenditure must declare any relevant and material interests.</li> <li>• Do not use your official position for private gain.</li> <li>• Respect confidentiality of business information.</li> <li>• Act in accordance with the seven Nolan principles on standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.</li> <li>• Ensure that they are not placed in a position which risks, or appears to risk, conflict between individuals, and/or their private interests and their NHS duties, whether this is direct or indirect.</li> <li>• Are responsible for ensuring that any personal relationship at work does not interfere with their duties and responsibilities and does not give rise to a conflict of interest, abuse of power or more or less favourable</li> </ul>

Individual	Key Responsibilities
	treatment.
<b>Local Counter Fraud Specialist (LCFS)</b>	<ul style="list-style-type: none"> <li>• The LCFS's role is to ensure that all cases of actual or suspected fraud and bribery are notified to the Group Director of Finance and Contracting and reported accordingly.</li> <li>• Investigation of cases of alleged fraud within NEAS / NEASUS.</li> <li>• The LCFS will regularly report to the Group Director of Finance and Contracting on progress of investigations and when/if referral to the police is required.</li> <li>• The LCFS and the Group Director of Finance and Contracting, in conjunction with NHS Counter Fraud Authority, will decide who will conduct investigations and when/if referral to the police is required.</li> </ul>

## 5. Glossary of Terms

This policy uses the following terms:

Term	Description
<b>Hospitality and gifts</b>	For the purposes of this policy is defined as the receipt of entertainment (including meals and drinks), gifts or cash (or equivalent, i.e. cheques, vouchers, gift cards, lottery tickets or betting slips) for personal use or benefit which has no direct benefit to patient care or the business of the Trust. This policy covers general hospitality (e.g. when a Trust employee is bought a meal or a snack either during or outside normal working hours) and management hospitality (the entertainment and hospitality of Directors and employees).
<b>Commercial Sponsorship</b>	Defined as NHS funding from an external source, including funding of all or part of the costs of a member of staff, NHS research, staff, training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs (including trips abroad), provision of free services (speakers), equipment, buildings or premises.

Term	Description
<b>Financial interests</b>	Where an individual may get direct financial benefit <sup>1</sup> from the consequences of a decision they are involved in making.
<b>Non-financial professional interests</b>	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.
<b>Non-financial personal interests</b>	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.
<b>Indirect interests</b>	Where an individual has a close association <sup>2</sup> with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest and could stand to benefit from a decision they are involved in making.
<b>Conflict of interest</b>	<p>A conflict is ‘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, line managing or assuming taxpayer funded health and care services is, or could be, impaired or influenced by another interest they hold’.</p> <p>A conflict of interest may be:</p> <ul style="list-style-type: none"> <li>○ Actual – there is a material conflict between one or more interest</li> <li>○ Potential – there is the possibility of a material conflict between one or more interests in the future.</li> </ul>
<b>Secondary employment</b>	<p>This includes:</p> <ul style="list-style-type: none"> <li>● any paid employment outside the Trust</li> <li>● self-employment</li> <li>● bank/locum agency work outside of the Trust</li> <li>● voluntary work (whether paid or not)</li> </ul>
<b>Corruption</b>	Accepting any gifts or consideration as an inducement or reward for: doing, or refraining from doing, anything in their official capacity; or showing favour or disfavour to any person in their official capacity.
<b>Bribery</b>	Promising or giving a financial or other advantage to another person, and intending the advantage to induce a person to

<sup>1</sup> This may be a financial gain, or avoidance of a loss.

<sup>2</sup> A common sense approach should be applied to the term ‘close association’. Such an association might arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners.

Term	Description
	<p>perform improperly a relevant function or activity, or to reward a person for the improper performance of such a function or activity.</p> <p>The scope of the Bribery Act 2010 extends to bribery taking place overseas, conniving or turning a blind eye to bribery; and failure to take reasonable steps to prevent bribery.</p>

## 6. Policy Content

### 6.1 Identification and declaration of interests (including gifts and hospitality)

The Trust has a legal duty to prevent bribery, corruption and fraud and all employees are required to demonstrate the highest standards of probity and transparency, in line with the Trust's contracts of employment.

All staff should identify and declare material interests at the earliest opportunity (and in any event within 28 days). If staff are in any doubt as to whether an interest is material then they should declare it, so that it can be considered. Declarations should be made:

- On appointment with the Trust.
- 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).

There are three declaration of interest forms available to staff within the Policies section of Siren:

- Declaration of Gifts Hospitality and Event Sponsorship Form
- Declaration of Interests and Identification of Related Party Transactions Form
- Secondary Employment Form

After expiry, an interest will remain on register(s) for a minimum of 6 months and a private record of historic interests will be retained for a minimum of 6 years.

We will prompt Board Members, staff at band 8a and above, and anyone who has previously made a declaration to annually review declarations they have made and, as appropriate, update them or make a nil return. Additionally, on an annual basis we will encourage all staff to consider whether they need to make a declaration via promotion of the policy through the Trust's communication channels.

### 6.2 Maintenance and publication of records

The organisation will maintain the following registers:

- Register of Interests for the Board of Directors
- Register of Interests for Decision-Making Staff

- Register of Interest for the Council of Governors
- Register of Gifts and Hospitality

All declared interests that are material will be promptly transferred to the registers maintained by the Trust Secretary and Assistant Trust Secretary.

We will publish all four registers on the Trust's website and refresh this information at least annually.

If decision making staff have substantial grounds for believing that publication of their interests should not take place then they should contact the Trust Secretary 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.

### **6.3 Wider transparency initiatives**

The 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

Further information about the scheme can be found on the ABPI website:  
<http://www.abpi.org.uk/our-work/disclosure/about/Pages/default.aspx>

### **6.4 Management of interests – general**

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. 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.

## 6.5 Management of interests – common situations

This section sets out the principles and rules to be adopted by staff in common situations, and what information should be declared.

### 6.5.1 Gifts

The Trust maintains a Register of Hospitality and Gifts.

Staff should not accept gifts that may affect, or be seen to affect, their professional judgement.

Gifts from suppliers and contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the organisation should be declined, whatever their value. To accept a gift under such circumstances may amount to an offence under Section 2 of the Bribery Act, or at the very least the perception that a member of staff may have been influenced by such a gift.
- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6<sup>3</sup> in total, and need not be declared.

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

- **Gifts of cash and vouchers (cash equivalents) to individuals should always be declined.** Staff can politely refer the patient / family to the Trust's Charitable Fund, which can accept cash donations.
- Staff should not ask for any gifts.
- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of NEAS / NEASUS not in a personal capacity. 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 £50.

For the avoidance of doubt, if an employee is unsure as to the appropriateness or acceptability of a gift then it should be politely declined. Similarly it is better for an

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<sup>3</sup> The £6 value has been selected with reference to existing industry guidance issued by the ABPI: <http://www.pmcpa.org.uk/thecode/Pages/default.aspx>

employee to declare an entry in the Register of Hospitality and Gifts if in doubt as to whether or not they are required to do so.

It is particularly important that gifts and hospitality offered by pharmaceutical companies are declared in detail in order to comply with the 'sunshine rule' which seeks to ensure that NHS organisations are not inappropriately lobbied in order to use specific drugs. This is in accordance with the Human Medical Regulations 2012.

Accepted gifts and hospitality which are deemed to be declarable must be authorized by the line manager of the staff member.

If any member of staff is unclear whether any offers of gifts or hospitality should be declined or submitted to the register they should contact the Trust Secretary for advice.

### 6.5.2 Hospitality

Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement.

Hospitality offered by patients may jeopardise professional boundaries. All staff, where it is reasonable to do so, should therefore politely decline such hospitality.

Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event. It is not necessary for small, simple, low cost hospitality received, e.g., tea, coffee and buffet lunches to be recorded in the register, nor is it necessary to record items of an advertising nature received at training courses, conferences or seminars, etc., or part of a promotional exercise, e.g. pens, books, folders, etc.

Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This can be accepted, and must be declared, if modest and reasonable. Senior approval must be obtained.

Meals and refreshments:

- Under a value of £25 - may be accepted and need not be declared.
- Of a value between £25 and £75<sup>4</sup> - 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 the 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 a reasonable estimate).

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.

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<sup>4</sup> The £75 value has been selected with reference to existing industry guidance issued by the ABPI <http://www.pmcpa.org.uk/thecode/Pages/default.aspx>



- 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 the 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.

### 6.5.3 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.

### 6.5.4 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 Trust.

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.

### 6.5.5 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 NEAS role.



- Sit on advisory groups or other paid or unpaid decision making forums that can influence how NEAS 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 NEAS does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

#### 6.5.6 Donations

Donations made by suppliers or bodies seeking to do business with the Trust 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 Trust, or is being pursued on behalf of the Trust's own registered charity or other charitable body and is not for their own personal gain.

Staff must obtain permission from the Trust 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 Trust'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 the Trust's 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.

#### 6.5.7 Sponsored events

Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit for the Trust and the NHS.

Sponsorship of £1,500 and over requires pre-approval from the Group Director of Finance and Contracting.

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 whom they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.

At the Trust'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.

Staff within the organisation involved in securing sponsorship of events 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 arranging sponsored events must declare this to the organisation.

#### **6.5.8 Sponsored research**

Funding sources for research purposes must be transparent.

Any proposed research must go through the relevant health research authority or other approvals process.

There must be a written protocol and written contract between staff, the Trust, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services.

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 the Trust.

#### **6.5.9 Sponsored posts**

External sponsorship of a post requires prior approval from the Trust.

Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.

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. This should be audited for the duration of the sponsorship. Written agreements should detail the circumstances under which the Trust has 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 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.

### 6.5.10 Secondary Employment

It is a condition of employment that Trust staff do not undertake any other employment, - paid or unpaid - which conflicts with the requirements of the post. In the event of staff wishing to take up any employment, they must seek prior, written, authority in line with the Trust's Secondary Employment Procedure which is available on Siren. This procedure must be consulted and adhered to prior to commencing any secondary employment.

Staff should be aware that undertaking other employment whilst claiming sick pay from the Trust may lead to a referral being made to the Trust's Local Counter Fraud Specialist for investigation. This may lead to disciplinary action (including dismissal) and/or criminal prosecution. The employee would also have to repay any sick pay.

### 6.5.11 Clinical Private Practice

Clinical staff (such as GPs working in the Clinical Assessment Service) should declare all private practice on appointment, and/or any new private practice when it arises<sup>5</sup> including:

- Where they practise (name of private facility).
- What they practise (specialty, major procedures).
- When they practise (identified sessions/time commitment).

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.<sup>6</sup>
- 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/N\\_on-Divestment\\_Order\\_amended.pdf](https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/N_on-Divestment_Order_amended.pdf)

### 6.5.12 Personal Relationships

For the purposes of this policy, the term personal relationship applies to blood relations (or adoptive/step/through marriage) e.g., husband, wife, parent, child, brother, sister, aunt etc., very close friendships and also to people who are living together as partners/friends, regardless of gender identity or sexual orientation.

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<sup>5</sup> 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](https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf)

<sup>6</sup> 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](https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf)

The Trust permits the employment of relatives. Potential colleagues must declare any current or previous relationship to employees of the Trust as part of the recruitment process, as the employment of relatives may constitute a conflict of interest and must be declared. Failure to declare leading to a conflict of interest may result in disciplinary action/loss of employment offer.

To protect both the staff member/s and the Trust, Line Managers must risk assess whether it is acceptable for staff members in relationships as detailed above to work closely within the same department and/or location, or on specific projects, or for the purposes of representation. This documented risk assessment will consider the potential (perceived or actual) conflict of interest and only if significant steps to mitigate the risk of a conflict of interest are taken should this be agreed. All declarations and agreed mitigation should be documented by the line manager to the individual/s and retained on their personal file.

It is not acceptable for colleagues in relationships to act as supervisor or line manager, whether in a direct or indirect sense, to one another. Colleagues must not shortlist, interview, appoint, promote, review performance, manage absence, access personal data, allocate shifts/leave/overtime, authorize expenses, terminate employment of a person, or conduct similar activities with individuals related to them. Where this currently exists, a declaration of interest must be made and steps must be implemented to address and mitigate this (and documented as above).

Colleagues entering into a relationship which may be considered to lead to a conflict of interest must make their line manager aware of this as soon as possible. As above steps must be implemented to mitigate the potential for conflict and should this mean the individuals cannot remain in their current roles, the longer serving party will be given priority. It is the individuals' responsibility to seek alternatives, and the Trust is not responsible for the impact/any costs required to mitigate the conflict that has arisen.

Should any concerns be raised by colleagues about the conduct of individuals in a relationship or where it appears conflicts have arisen, further action may be taken where appropriate. Where a personal relationship, or failure to comply with this policy results in an unfair advantage or disadvantage to either of the parties to the relationship, favouritism or bias, the matter will be considered seriously by the Trust in line with the Disciplinary Policy.

## **6.6 Management of interests – advice in specific contexts**

### **6.6.1 Strategic decision making groups**

In common with other NHS bodies the Trust uses a variety of different groups to make key strategic decisions about things such as:

- Entering into (or renewing) contracts.
- Making procurement decisions.
- Selection of medicines, equipment, and devices.

The interests of those who are involved in these groups should be well known so that

they can be managed effectively. For the Trust these groups would include the Board of Directors, Board-level committees, Executive Management Group and the sub-groups which feed directly into the Executive Management Group.

These groups should adopt the following principles:

- Chairs should consider any known interests of members in advance, and begin each meeting by asking for declaration of relevant material interests.
- Members should take personal responsibility for declaring material interests at the beginning of each meeting and as they arise.
- Any new interests identified should be added to the organisation's register(s).
- The vice chair (or other non-conflicted member) should chair all or part of the meeting if the chair has an interest that may prejudice their judgement.

If a member has an actual or potential interest the chair should consider the following approaches and ensure that the reason for the chosen action is documented in minutes or records:

- Requiring the member to not attend the meeting.
- Excluding the member from receiving meeting papers relating to their interest.
- Excluding the member from all or part of the relevant discussion and decision.
- Noting the nature and extent of the interest, but judging it appropriate to allow the member to remain and participate.
- Removing the member from the group or process altogether.

The default response should not always be to exclude members with interests, as this may have a detrimental effect on the quality of the decision being made. Good judgement is required to ensure proportionate management of risk.

### 6.6.2 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 Trust 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.

## 7. 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'.

## 7.1 Identifying and Reporting Breaches

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.

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 the Trust Secretary (0191 430 2001). Concerns which may relate to fraud, bribery or corruption should be reported to the Local Counter Fraud Specialist or Group Director of Finance and Contracting. The Local Counter Fraud Specialist can be contacted via the AuditOne hotline 0191 441 5936 and [ntawnt.counterfraud@nhs.net](mailto:ntawnt.counterfraud@nhs.net) (secure email address for patient / staff identifiable information) or [counterfraud@audit-one.co.uk](mailto:counterfraud@audit-one.co.uk) (non secure).

Staff can alternatively report fraud by calling the confidential NHS Fraud & Corruption Reporting Line on: 0800 028 40 60 or at <https://cfa.nhs.uk/reportfraud> but are encouraged to try to contact the Local Counter Fraud Specialist first.

For further information about how concerns relating to risk, malpractice or wrongdoing should be raised is contained within the Trust's *Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy*.

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 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.

## 7.2 Taking action in respect 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. Human Resources), 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 and 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.

### **7.3 Learning and transparency regarding breaches**

Reports on breaches, the impact of these, and action taken will be considered by the Audit Committee.

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 as appropriate, or made available for inspection by the public upon request.

## **8. Training Required for Compliance with this Policy**

This policy will be part of the induction material presented to staff on commencement of employment with the Trust. The Trust Secretary will provide training and advice to individual's on request.

## **9. Equality and Diversity**

The Trust is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on the grounds of any protected characteristic (Equality Act 2010).

An equality analysis assessment has been undertaken for this policy, in accordance with the internal Equality Policy and the Equality Act (2010).

Details of this assessment are stored within the central register for Equality Analysis Assessments maintained by the Trust Secretariat team.

## **10. Monitoring Compliance with and Effectiveness of this Policy**

### **10.1 Compliance and Effectiveness Monitoring**

Arrangements for the monitoring of compliance with this policy and of the effectiveness of the policy are detailed below.

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## 10.2 Compliance and Effectiveness Monitoring Table for this policy

Process in the policy	Monitoring and audit					
	Key Performance Indicators (KPI)/ Criteria	Method	Who By	Committee	Frequency	Learning/ Action Plan
Register of Interests	Audited on an annual basis.  Public Document – can be examined on request.	Review of completed forms within the register to determine compliance with this policy	Trust Secretary	Audit	Annual	Provide feedback to individuals on the appropriateness of their declarations if any weaknesses are identified.
Register of Hospitality & Gifts	Audited on an annual basis.  Public Document – can be examined on request.	Review of completed forms within the register to determine compliance with this policy	Trust Secretary	Audit	Annual	Provide feedback to individuals on the appropriateness of their declarations if any weaknesses are identified.

## 11. Consultation and Review of this Policy

This policy has been reviewed in consultation with the Trust Secretary, the Policy Review Group, JCC Policy Sub-Group and the Executive Management Group. Its content is aligned with the model policy produced by NHS England in 2017.

This Policy will be reviewed by the Trust Secretary every three years or when otherwise appropriate to reflect changes in legislation or guidance. The Policy Review Group and Executive Management Group will consider the materiality of any revision made to the document and, subject to its view, approve for dissemination throughout the Trust.

This policy will be published on the Trust's Policy Library – Siren – and available to all staff.

## 12. Implementation of this Policy

This policy will be implemented Trust-wide. Guidance can be obtained from the Trust Secretary.

## 13. References

This document refers to the following guidance, including national and international standards:

- The Nolan Committee's Seven Principles of Public Life
- The Bribery Act 2010
- NHS Code of Accountability
- The Fraud Act 2006

## 14. Associated Documentation

This policy does not directly impact upon other Trust policies and procedures, although the standards of professional and business conducts outlined within the Trust's codes of conduct apply to all circumstances outlined in this policy.

- Secondary Employment Procedure
- Declaration of Gifts Hospitality and Sponsorship Form
- Declaration of Interests and Identification of Related Party Transactions Form

- Constitution
- Standing Financial Instructions
- Reservation and Delegation of Powers
- Standing Orders
- Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy
- Anti-Fraud, Bribery and Corruption Policy
- Staff Terms and Conditions of Employment (Employment Contracts)
- Disciplinary Policy and Procedures
- Social Media Policy

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## 15. Appendices

### 15.1 Appendix A: Practical Guidelines for Staff on Gifts and Hospitality

**Genuine:** Is the offer made for reasons of genuine appreciation for something I have done, without any encouragement from me?

**Independent:** If I accept it, would a reasonable member of the public be confident that I could be independent in doing my job?

**Free:** Would it be clear to a reasonable member of the public that the donor does not expect any favourable treatment from the Trust in return?

**Transparent:** Would I be comfortable if the gift was transparent to my organisation, colleagues and to the public?

If the answer to any of the above questions is 'no' then the offer of a gift, gratuity, hospitality or sponsorship must be declined.

#### **Do:**

- Make sure you understand the guidelines on the hospitality and gifts and consult your line manager if you are not sure
- Make sure you are not in a position where your private interests and duties to the Trust may conflict
- Declare to the Trust any interests which may be relevant

#### **If in doubt, ask yourself:**

- Am I or might I be in a position where I (or my family/friends) could gain from the connection between my private interests and my employment?
- Do I have access to information which could influence purchasing or contracting decisions?
- Could my outside interest be in any way detrimental to the Trust or to clients' interests?
- Do I have any other reason to think I may be risking a conflict of interest?

#### **Do not:**

- Accept any gifts, inducements or hospitality unless you are sure that acceptance will not constitute a conflict of interest
- Abuse your past or present official position to obtain preferential rates for private deals or to affect the employment conditions of a relative
- Unfairly advantage one competitor over another or show favoritism in awarding contracts or making business decisions
- Misuse to make available official 'commercial in confidence' information



## 16. Personal Relationship at Work Relationship

Name of individual declaring relationship: \_\_\_\_\_

Job Title: \_\_\_\_\_

Area/Place of Work: \_\_\_\_\_

Name of other individual: \_\_\_\_\_

Nature of personal relationship: \_\_\_\_\_

Nature of working relationship: \_\_\_\_\_

**Relationship Risk Matrix**

Description of Risk	Presence/significance of risk	Options available to mitigate risk	Action to be taken	Expected outcome
<b>Line Management</b> (e.g. Appraisal, Disciplinary, allocation of work)				
<b>Patient Care</b> (e.g. Safeguarding)				
<b>Working Together</b> (e.g. On shift, dept/location, project, representation)				
<b>Financial / Governance</b> e.g. sign-off expenditure				

<b>Perceived Risk</b> (e.g. perception of other staff on preferential treatment)				
<b>Other</b> (to be specified)				

*A copy of the completed form should be signed by the employee and line manager. A copy of this form will be placed on your (employee's) personal file. Please revisit annually or as and when a concern arises/situation changes.*

**Signed (employee):**..... **Print (employee):**.....**DATE:**

**Signed (line manager):**..... **Print (line manager):**..... **DATE:**

In effect from 01/07/22