

Managing Conflicts of Interest in the NHS

Profile	
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Applies to:	<i>All staff; prospective employees, contractors; sub-contractors, agency staff, committee; sub-committee and advisory group members engaged by the Trust.</i>
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Policy Gateway

Please complete the checklist and tables below to provide assurance around the policy review process.

- I have involved everyone who should be consulted about this policy/guidance
- I have identified the target audience for this policy/guidance
- I have completed the correct template fully and properly
- I have identified the correct approval route for this policy/guidance
- I have saved a word version of this policy/guidance for future reviews and reference

Please set out what makes you an appropriate person to conduct this review:
 Interim Corporate Governance Project Manager with responsibility for conflicts of interest.

Please set out the legislation, guidance and best practice you consulted for this review:
 Guidance issued by statutory regulators of health and care professionals and best practice within other Trusts.

Please identify the key people you involved in reviewing this policy why, and when:
 HR and Local Counter Fraud Specialist.

Summarise the key changes you have made and why:
 Changes to strengthen description of responsibilities, compliance arrangements, including with guidance issued by the statutory regulators of health and care professionals, and future-proofing for launch of MES Declare software within the Trust. A detailed reference to the Bribery Act 2010 and to retention of records has also been added. Further clarification regarding arrangements for publication has been included to ensure that we fully comply with the guidance and exceed the minimum requirement to publish all interests declared by decision-making staff and publish all declarations, except for those where it has been agreed to withhold publication.

Executive Summary

It is important that all members of staff know what is expected of them regarding the conduct of business in the NHS. This policy includes specific requirements for the management of conflicts of interests.

It is the responsibility of all Trust employees to act neutrally and be impartial in the execution of their duties. Therefore they must ensure that they are not placed in a position of conflict between their NHS duties and any other interests. The primary responsibility applies to all staff, but agents and contractors acting on behalf of the Foundation Trust are similarly required to declare any interests.

Adhering to this policy will help to ensure that we use NHS money wisely, providing best value for taxpayers and accountability to our patients for the decisions we take.

The Trust's policies set out the organisation's standards and intentions, and are written with the aim of being as clear and comprehensive as possible. However, we operate in a dynamic and evolving work environment and attention should be paid to the spirit of the policy as well as the letter. Policies by themselves cannot guarantee effective behaviour or the delivery of key objectives. While they are designed to support the Trust, and the people working within it, our success depends on continuous, high quality effort by everyone the policy covers, and alongside this policy you should read any guidance or supporting documentation that relates to this policy to help you do this.

1 Introduction

St George's University Hospitals NHS Foundation Trust (the Trust), 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 Purpose

This policy sets out some guiding principles covering the management of conflicts of interests. It 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 does not provide for every eventuality and, therefore you should not hesitate to seek advice from your Line Manager or the Trust's lead for managing conflicts of interests.

The Trust is a public body and as such has a duty to ensure that:

- All its business dealing are conducted to the highest standards of openness, honesty and probity;
- The interests of the Trust and its patients come first; and
- Public funds are properly safeguarded.

In particular, staff should ensure they do not:

- Abuse their official position for personal gain or to benefit their family or friends;
- Misuse any financial procedures of the Trust for personal gain;
- Wilfully neglect to perform their duty or wilfully misconduct themselves;
- Perform a relevant function or activity improperly;
- Remove items of Trust property without authorisation; and
- Seek to gain advantage or further private or business interests in the course of their official duties.

Staff are expected to comply with this policy and ensure they:

- Abide by the rules regarding conflicts of interests;
- Inform their line manager if they suspect interests have not been declared or are not being properly managed.

One of the objectives of this policy is to ensure that staff are aware of their responsibilities and when doing business they take appropriate action to ensure they do not engage in any corrupt activities that could damage the reputation of the Trust.

It is important to note that none of the requirements in this policy contradict or conflicts with an individual's rights as set out in the Trust's Whistleblowing Policy nor is anything contained in this policy deemed as overriding the Trust's legal duty to comply with the Freedom of Information Act.

This policy should be considered alongside these other Trust policies including: Procurement
Standing Financial Instructions
Anti Fraud and Anti Bribery
Recruitment & Selection
Disciplinary Procedure
Secondment Procedures
Employees working in other organisations
Standing Financial Instructions
The Employment of Temporary Staff
Fit and Proper Person
Induction

As a member of staff you should...	As an organisation we will...
<ul style="list-style-type: none"> • Familiarise yourself with this policy and follow it. Refer to the guidance for the rationale behind this policy https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf • Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent • Regularly consider what interests you have and declare these as they arise. If in doubt, declare. • NOT misuse your position to further your own interests or those close to you • NOT be influenced, or give the impression that you have been influenced by outside interests • NOT allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money 	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> ○ 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. • NOT avoid managing conflicts of interest. • NOT interpret this policy in a way which stifles collaboration and innovation with our partners

3 Definitions - Key terms

A 'conflict of interest' 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, 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 - there is a material conflict between one or more interests

- Potential – 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 and perceived conflicts of interest can be damaging. All interests should be declared where there is a risk of perceived improper conduct.

The Bribery Act 2010 introduced a number of offences:

- Offering, promising, or giving a bribe to another person to perform a relevant 'function or activity' improperly, or to reward a person for the improper performance of such a function or activity;
- Requesting, agreeing to receive, or accepting a bribe to perform a function or activity improperly irrespective of whether the recipient of the bribe requests or receives it directly or through a third party, and irrespective of whether it is for the recipient's benefit.

A new corporate offence was also introduced:

- Failure of a commercial organisation to prevent bribery.

This means that the Trust can be held responsible if it fails to enact adequate procedures to prevent bribery.

4 Scope - Interests

Interests fall into the following categories:

- **Financial interests:**

Where an individual may get direct financial benefit¹ from the consequences of a decision they are involved in making. Examples include:

- a director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- Secondary employment; receipt of secondary income from another organisation
- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role.

- **Non-financial professional interests:**

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. This may, for example, include situations where the individual is:

- An advocate for a particular group of patients;
- A member of a particular specialist professional body (although routine GP membership of the British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);

¹ This may be a financial gain, or avoidance of a loss.

- A medical researcher.

- **Non-financial personal interests:**
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. This could include, for example, where the individual is:
 - A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;
 - Suffering from a particular condition requiring individually funded treatment;
 - A member of a lobby or pressure group with an interest in health.

- **Indirect interests:**
This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a health and social care (as those categories are described above) for example:
 - Spouse / partner
 - Close relative e.g., parent, grandparent, child, grandchild or sibling;
 - Close friend;
 - Business partner.

5 Roles and responsibilities

At the 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 complying with this policy including declaring interests.

Continuous maintenance of the individuals' declarations of interests is the responsibility of the individual. The individual must keep the Trust up to date with any declarations. It is the responsibility of all Trust staff to ensure that they are not placed in a position which risks, or may risk, conflict between their private interests and their NHS duties. It is the responsibility of all Trust staff to declare information to be held on the Conflict of Interests register. Failure to do so may result in disciplinary procedures against individual members of staff.

Line Managers are responsible for ensuring staff are aware of and familiarise themselves with this policy. They should also provide advice and support to staff may have an interest to declare.

The Trust Secretary is responsible for ensuring that the systems for reporting and recording conflicts of interests (including the collation and publication of registers and the

audit of systems and processes) are operating effectively, and for compiling an annual report for presentation to the Audit Committee.

The Trust Management Team is responsible for ensuring the divisions and teams in the Trust comply with this policy.

The Audit Committee will receive audits of conflicts of interests and gifts, sponsorship and hospitality annually and make recommendations for the improvement and management of systems for the coming 12 months.

The Trust will ask its auditors to review its processes and policies around the management of interests at least once every three years.

Clinical Staff must declare their private practice.

5.1 Staff Required to Make a Declaration

Having interests is not in itself negative; but not declaring and managing them is. Therefore the Trust will ask annually the following categories of staff to declare interests:

- Executive and non-executive directors
- All members and regular attendees at board sub-committees and management committees
- Members of the Council of Governors
- All staff at Agenda for Change band 8b and above
- All staff working in accounts payable, procurement, the Trust PMO, pharmacy, and the Trust's corporate office.
- Any staff who are involved in a decision on how taxpayers' money will be spent e.g. those involved in tenders, or in the commissioning or purchasing of goods, medicines, devices or equipment.
- All doctors who are employed as consultants

In addition **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)

6 Identification, declaration and review of interests

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

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 organisation.
- 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).

All declarations of interest can be made via our dedicated declaration website – you can find a link to this from the intranet and our website.

Staff should also make a declaration of interests at any meeting where an agenda item relates to an area where they have a material or potential interest. This will allow the Chair to make a decision on how this will be handled, in line with that meeting's terms of reference or, if the terms of reference are silent on conflicts of interest, in line with this policy.

When an interest is declared it will be reviewed by the declaring person's line manager or, if the line manager is unable or not an appropriate person to make a decision, by the appropriate divisional chair. On a case by case basis a decision will be made if it is a material interest, or a potentially material interest. If so, the next step is to make a decision on how that interest will be managed and record the interest and its management arrangements via our declaration website.

6.2 Proactive review of interests

We will ask staff required to make a declaration to review declarations they have made and, as appropriate, update them or make a nil return annually, but we also require staff to proactively declare any interests if their circumstances change or they become aware of an interest that they have not previously declared.

7 Records and publication

7.1 Maintenance

St George's University Hospitals NHS Foundation Trust will maintain a single register of interests which will be publicly available via the Trust's external website. Staff will make their own declarations on the system, which will be managed by the Trust Secretary.

7.2 Publication

In line with national requirements, the system used by the Trust will enable members of the public to view the declarations made by all staff. The publicly-accessible register will be accessed through the Trust's external website.

If 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, the matter will then be referred to the Chief Executive. 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.

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.

7.3 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>

8 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, 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.

9 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.

9.1 Gifts

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

Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the organisation should be declined, whatever their value.

- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6² in total, and need not be declared.

Gifts from other 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 the Trust, 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.

9.1.1 What should be declared

- Staff name and their role with the organisation.
- A description of the nature and value of the gift, including its source.
- Date of receipt.
- Any other relevant information (e.g. circumstances surrounding the gift, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

9.2 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.

- 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. 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 £75³ - 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.

² 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>

³ 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>

- 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.
- 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.

9.2.1 What should be declared

- Staff name and their role with the organisation.
- The nature and value of the hospitality including the circumstances.
- Date of receipt.
- 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 policy).

9.3 Outside Employment

- Staff should declare any existing outside employment on appointment and any new outside employment when it arises.
- Where a risk of conflict of interest arises, the general management actions outlined in this policy 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 the organisation to engage in outside employment.

The organisation may also have legitimate reasons within employment law for knowing about outside employment of staff, even when this does not give rise to risk of a conflict.

9.3.1 What should be declared

- Staff name and their role with the organisation.
- The nature of the outside employment (e.g. who it is with, a description of duties, time commitment).
- 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).

9.4 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.

9.4.1 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).

9.5 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 organisation 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.

9.5.1 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)

9.6 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.

9.6.1 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).

9.7 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.

9.7.1 What should be declared

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

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

9.8.1 What should be declared

- The organisation will maintain records regarding sponsored events in line with the above principles and rules.

9.9 Sponsored research

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.

- 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 organisation, 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 organisation.

9.1.1 What should be declared

- The organisation will retain written records of sponsorship of research, in line with the above principles and rules.
- Staff should declare:
 - their name and their role with the organisation.
 - Nature of their involvement in the sponsored research.
 - relevant dates.
 - 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 policy).

9.10 Sponsored posts

Sponsored posts are positions 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 Trust, particularly in relation to procurement and competition.

The sponsorship for a post should be approved in line with the Trust's Scheme of Delegation and only following advice from HR. Sponsored posts will not be permanent posts and a review of the arrangements and the delivery of the role must be done periodically, at least annually.

There should be 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.

Staff in the sponsored post must act in the best interests of the Trust and abide by the rules and guidance set out in this and the Conflicts of Interests policies, applying them to the sponsoring organisation in the same way as they should for any other organisation. Sponsorship should be declared on the Trust's Register of Interests.

- External sponsorship of a post requires prior approval from the organisation.
- 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 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 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.

9.10.1 What should be declared

- The organisation will 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 policy.

9.11 Clinical private practice

Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises⁴ 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.⁵
- 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 their behalf.

9.11.1 What should be declared

- Staff name and their role with the organisation.

⁴ 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)

⁵ 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)

- A description of the nature of the private practice (e.g. what, where and when staff 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 policy).

10 Management of interests – advice in specific contexts

10.1 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) large scale contracts.
- Awarding grants.
- 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. These include the staff set out in section 5.1, above.

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.

10.2 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 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.

11 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'.

11.1 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 or the Trust Secretary.

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 can be found in the Trust's Raising Concerns at work Policy or by speaking to the Freedom to Speak Up Guardian.

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.

11.2 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. 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 Protect, 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.

11.3 Learning and transparency concerning breaches

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 part of reporting to the Board at least annually or as appropriate, or made available for inspection by the public upon request at the Trust's discretion.

12 Implementation and dissemination

12.1 Dissemination:

This policy will be made available to all on the policy hub.

12.2 Implementation

Arrangements set up under this policy will be delivered in accordance with the detail described above and via the MES declare system.

13 Monitoring compliance

- The table below outlines the process for monitoring compliance with this policy.

Monitoring compliance and effectiveness table

Element/ Activity being monitored	Lead/role	Methodology to be used for monitoring	Frequency of monitoring and Reporting arrangements	Acting on recommendations and Leads	Change in practice and lessons to be shared
Monitor compliance with the policy	Board Secretary	Completion of an annual report	Annually to Audit Committee	Required actions will be identified and completed in a specified timeframe.	Required changes to practice will be identified and actioned within a specific timeframe. A lead member of the team will be identified to take each change forward where appropriate. Lessons will be shared with all the relevant stakeholders.
Register updates	Board Secretary	Maintenance of the registers	Annually to Audit Committee	Required actions will be identified and completed in a specified timeframe.	Required changes to practice will be identified and actioned within a specific timeframe. A lead member of the team will be identified to take each change forward where appropriate. Lessons will be shared with all

Review of the system	Internal audit	Audit	<p>Audit Committee According to the annual risk assessment as part of the annual audit plan preparation, but at least once every three years.</p>	Required actions will be identified and completed in a specified timeframe.	Required changes to practice will be identified and actioned within a specific timeframe. A lead member of the team will be identified to take each change forward where appropriate. Lessons will be shared with all the relevant stakeholders.
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14 Associated documentation

- Freedom of Information Act 2000
- ABPI: The Code of Practice for the Pharmaceutical Industry (2014)
- ABHI Code of Business Practice
- NHS Code of Conduct and Accountability (July 2004)
- The NHS England guidance on which this policy is based can be found here: <https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf>
- The Information Commissioner's guidance on which the policy approach to publication of the Register of Interests is based can be found here: <https://ico.org.uk/media/1220/definition-document-health-bodies-in-england.pdf>
- Hospital Consultants' Terms and Conditions: [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)
- Joint statement from the Chief Executives of statutory regulators of health and care professionals on Conflicts of interest <https://www.nmc.org.uk/globalassets/sitedocuments/other-publications/conflicts-of-interest-joint-statement.pdf>
- Competition and Market Authority Guidelines: https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/NonDivestment_Order_amended.pdf