

## CONFLICTS OF INTEREST POLICY

Version	Date	Purpose of Issue/Description of Change	Review Date
1.0	25 January 2018	Replaced Standards of Business Conduct Policy – introduced following new requirements from NHS England	January 2021
2.0	27 November 2018	Updated forms	November 2021
3.0	30 September 2020	Updated and revised to reflect: <ul style="list-style-type: none"> <li>• recommendations of internal audit on Gifts and Hospitality: one form/electronic submission for declaration of interests, all gifts and hospitality offered to be declared and any offers are now required to be approved by line manager/Executive Director prior to acceptance;</li> <li>• changes to declarations and management responsibilities for decision making staff regarding shareholder and other ownership interests; and</li> <li>• recommendations of the independent Cultural Assessment: expanding the management of loyalty interests to include relationships at work requiring all staff from pre-employment to declare interests as well as throughout the recruitment/internal promotion process. Supporting Risk Assessments are required to be completed by line managers and/or Executive Directors with Human Resources oversight managing this process.</li> </ul>	November 2023
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# 1. INTRODUCTION

Harrogate and District 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 a NHS Trust 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.

This policy replaces and extinguishes the Standards of Business Conduct for NHS Staff (HSG(93)5) and the Trust's Policy that covered this.

To help staff members to understand what they need to do and how the guidance applies to them NHS England have published some Q&As for managers, care clinicians and care medical staff.

## **Conflicts of Interests Q&A for NHS Providers**

<https://www.england.nhs.uk/publication/managing-conflicts-of-interest-in-the-nhs-questions-and-answers/>

## **Conflicts of Interests Q&A for Clinical Staff**

<https://www.england.nhs.uk/publication/managing-conflicts-of-interest-in-the-nhs-questions-and-answers/>

## **Conflicts of Interests Q&A for Medical Staff**

<https://www.england.nhs.uk/publication/managing-conflicts-of-interest-in-the-nhs-questions-and-answers/>

### **1.1. Purpose**

The honesty and impartiality of all employees of the Trust should be above suspicion, especially in any contact with organisations and individuals with which the Trust has or might have dealings. The Policy should be understood in the light of this principle.

The Trust's Constitution and Standing Orders require conflicts of interest to be declared and a register of interests to be maintained. This is a publicly disclosable document.

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

- Introduces consistent principles and rules;
- Provides simple advice about what to do in common situations, including the acceptance of gifts, hospitality, honours, charitable donations, sponsorship and the award of contracts for goods and/or services; and
- Supports good judgement about how to approach and manage interests.

This policy should be considered alongside these other Trust policies:

- Anti Fraud, Bribery and Corruption Policy;
- Speaking Up Policy;
- Disciplinary Policy.

### **1.2. Scope**

This policy applies to all members of Trust staff; it is incorporated into every individual's contract of employment (it was formerly referred to as the Standards of Business Conduct).

Further details are included in sections 3 and 4 of this policy.

### **1.3. Definitions**

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 and/or have personal relationships in the workplace 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.

## **2. ROLES AND RESPONSIBILITIES**

### **2.1. Chief Executive**

The Chief Executive is responsible for ensuring that these guidelines are brought to the attention of all employees; also that systems are put in place for ensuring that they are effectively implemented and monitored including periodic examination of the “gifts and hospitality” registers maintained by the Company Secretary, and periodic examination of recruitment and employment practice.

### **2.2 Director of Workforce and Organisational Development**

The Director of Workforce and Organisational Development is responsible for ensuring systems and processes are in place in relation to compliance with this policy. Specifically, in relation to relationships at work/loyalty interests, the recruitment practice and secondary employment. The Director of Workforce and Organisational Development will provide advice, training and support for staff, ensure interests are collected and considered pre-employment and through the continuous recruitment process, monitoring risk assessments and mitigating action in place.

### **2.3 Company Secretary**

The Company Secretary is responsible for:

- Reviewing the Organisation policy and bringing it in line with national guidance;
- Providing advice, training and support for staff on how interests should be managed;
- Maintaining register(s) of interests;
- Compiling an annual report about management of conflicts of interest which will be presented to the Audit Committee;
- Auditing this policy and associated process and procedures at least every three years.

### **2.4 Line Managers/Executive Directors**

All line managers and/or Executive Directors are responsible for:

- Ensuring all staff are aware of their responsibilities under this policy;
- Conduct matters involving close personal relationships at work in a fair and consistent way;
- Undertake risk assessments to ensure any potential conflicts of interest arising from personal relationships at work can be avoided.

### 3. STAFF

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

- All salaried employees;
- The Board of Directors, including Executive and Non Executive Directors;
- 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 Trust).

All members of staff are required to:

- Follow this policy; it is incorporated into all contracts of employment;
- Declare actual and potential conflicts of interests, and take relevant steps to manage these;
- Consider whether they meet the definition of 'decision making staff';
- Declare gifts and hospitality, outside employment, including private clinical practice current and any offered;
- Not accept gifts that may affect, or be seen to affect, their professional judgement;
- Declare any shareholdings in companies with which the Organisation would reasonably expected to do business;
- Declare patents and other intellectual property rights they hold;
- Declare donations made to the Organisation (not the Harrogate Hospital and Community Charity), include sponsorship for events, research or staff posts; and
- Report concerns about breaches of this policy.

### 4. 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.'

Decision making staff in this Organisation are:

- Executive and Non Executive Directors;
- Senior administrative and clinical staff, specifically including consultants, all procurement staff and those at Agenda for Change band 7 and above;
- Budget holders;
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services;
- Administrative and clinical staff who have the power to enter into contracts on behalf of their organisation; and,
- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions.

### 5. INTERESTS CATEGORIES

Interests fall into the following categories:

- **Financial interests:**  
Where an individual may get direct financial benefit<sup>1</sup> from the consequences of a decision they are involved in making.
- **Non-financial professional interests:**

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

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.

- **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.

- **Indirect interests:**

Where an individual has a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest and could stand to benefit from a decision they are involved in making.

*(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.)*

## **6. IDENTIFICATION, DECLARATION AND REVIEW OF INTERESTS**

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

All staff should identify and declare 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. Further details about the definition of conflicts of interest are included at section 5 above in this policy, and advice can be sought from the Company Secretary.

Declarations should be made:

- At pre-employment stage and during all recruitment process;
- 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; and
- 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).

Interests should be declared using the standard declaration form/system by clicking on the following link: <https://hdft.mydeclarations.co.uk/>

The form includes the following information:

- The returnee's name;
- Their role with the Organisation;
- Their pay band;
- The category (financial interest; indirect interest; non-financial personal interest);
- The situation (clinical private practice; donations, gifts, hospitality, relationships at work/loyalty interest, outside employment, patents, shareholder and other ownership interests, sponsored events, sponsored posts, sponsored research);
- A description of the interest declared;
- Relevant dates from and to relating to the interest;
- Any comments, including any action taken to mitigate the conflict; and
- Signature of line manager and/or Executive Director, including dates signed.

After expiry, an interest will remain on the registers for a minimum of 6 months and a private record of historic interests will be retained by the Organisation for a minimum of 6 years.

### **6.2. Proactive review of interests**

We will prompt decision making staff annually to review declarations they have made and, as appropriate, update them or make a nil return.

## **7. RECORDS AND PUBLICATION**

### **7.1. Maintenance**

The Company Secretary is responsible for the upkeep and publication of the registers.

The Organisation will maintain:

- a register of interests; and,
- a register of gifts and hospitality.

### **7.2. Publication**

The Organisation will publish the interests declared by decision making staff in the register of interests. The register of interests will be refreshed at least annually. The Trust will make this information available via the Trust's website.

If decision making staff have substantial grounds for believing that publication of their interests should not take place then they should contact the Company 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. This is a national requirement.

### **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; and
- 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 an Executive Director the aware of their existence.

Further advice about the most appropriate actions to manage conflicts of interest can be sought from the Company Secretary.

## **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, and should be declared;
- 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>2</sup> 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 Harrogate Hospital and Community Charity (i.e. as a charitable donation) 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); If an individual continues to be unsure of the value, the gift should be declined.
- 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 that line manager and/or Executive Director approved staff acceptance/refusal of the gift;
- 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**

- 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.

#### **Meals and refreshments:**

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<sup>2</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>

- Under a value of £25 - may be accepted and need not be declared;
- Of a value between £25 and £75<sup>3</sup> - may be accepted and must be declared with;
- The Date offered;
- Date that line manager and/or Executive Director approved staff acceptance/refusal of the hospitality;
- Over a value of £75 - should be refused unless (in exceptional circumstances) senior approval is given by *an Executive Director*. A clear reason should be recorded on the Trust'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 but must always be declared;
- Offers which go beyond modest, or are of a type that the Trust itself might not usually offer, need approval by *an Executive Director*, should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on the Trust'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;
- The date offered;
- Date that line manager and/or Executive Director approved staff acceptance/refusal of the travel and accommodation;
- 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 Senior Approval**

For the Board of Directors and Council of Governors, approval should be obtained from the Chief Executive.

For all other staff, senior approval is to be obtainable from an Executive Director.

### **9.4 Outside Employment**

- Staff should declare to their line manager any existing outside employment on appointment and any plans to taken on new outside employment before this is accepted;
- Managers should formally record declarations of secondary employment in the individual's personal file;
- Employees are advised not to engage in outside employment that may conflict with their NHS work, or be detrimental to it. Approval of any new outside employment must be granted by line managers and relevant Director before individuals accept;
- Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks. This includes making a declaration of interest;
- Staff must formally advise their line manager of any income that is received or earned in relation to, or through contacts made as part of their employment with the Trust, that are additional to their salary and expenses paid via the Trust's payroll system. Where deemed

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<sup>3</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>

appropriate the line manager must obtain the approval of an Executive Director and in such cases the interest should be declared;

- Employees are responsible for complying with the Working Time Directive obligations when undertaking secondary employment and must notify the Trust via their line manager when secondary employment is undertaken;
- Managers should formally record declarations of secondary employment in the individual's personal file;
- The above information also applies to private practice and self-employment.

#### **9.4.1 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, including start date of outside employment or planned start date.
- 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);
- Approval by a line manager and/or Executive Director.

### **9.5 Shareholdings and other ownership issues**

- Where an individual considered to be a decision making staff member (as defined in section 4 of this policy) has a shareholding, membership or other ownership interest in any publicly listed, private or not-for-profit company, business, partnership or consultancy at a level enabling the individual to influence or control business decisions of that organisation, or where the individual would have a material financial gain as a result of any relationship established by the Trust with the organisation, and that organisation is doing, or might be reasonably expected to do business with the Trust, this must be declared and recorded;
- Where such 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 or where the holding or interest does not permit the individual member of staff to influence or control business decisions of that organisation, or benefit from a material financial gain.

#### **9.5.1 What should be declared**

- The returnee's name;
- Their role with the Organisation;
- Their grade;
- The category (financial interest; indirect interest; non-financial personal interest);
- The situation (nature of the shareholder/other ownership interest);
- A description of the interest declared ;
- Relevant dates from and to relating to the interest;
- Any comments, including any action taken to mitigate the conflict details of any approvals given to depart from the terms of this policy; and
- Signature of line manager and/or Executive Director, including dates signed.

### **9.6 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 an *Executive Director* before entering into any agreement with bodies regarding product development, research, work on pathways etc, where this impacts on the Trust'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.

### **9.6.1 What should be declared**

- The returnee's name;
- Their role with the Organisation;
- Their grade;
- The category (financial interest; indirect interest; non-financial personal interest);
- The situation (and description of the patent);
- Relevant dates from and to relating to the interest;
- Any comments, including any action taken to mitigate the conflict details of any approvals given to depart from the terms of this policy; and
- Signature of line manager and/or Executive Director, including dates signed.

## **9.7 Managing Relationship at Work/Loyalty interests**

All members of staff, regardless of their decision making responsibilities and powers, must declare to their line manager and on the electronic portal 'Conflicts of Interest' any existing or new personal relationships they have with other members of staff, close family members and relatives, close friends and associates, and business partners, which may give rise to an actual or potential conflict of interest, trust or breach of confidentiality. The line manager will treat these matters in confidence and in consultation with the member(s) of staff, find ways in which potential conflicts can be avoided.

All members of staff must complete a declaration and their line manager and/or Executive Director in consultation with the member(s) of staff will complete a risk assessment to be retained on the employee's personal file and a copy submitted to the Human Resources Department at [hdfh.hr@nhs.net](mailto:hdfh.hr@nhs.net).

Relationships at work/loyalty interests should be declared by all staff 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 related to a Trust member of staff who is classed as a 'Decision maker' as described in this policy;
- 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.

### **9.7.1 What should be declared**

- 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).
- The returnee's name;
- Their role with the Organisation;
- Their grade;
- The category (financial interest; indirect interest; non-financial personal interest);
- The situation (relationships at work/loyalty interest);
- A description of the interest declared;
- The date when discussed with line manager and HR manager;
- Relevant dates from and to relating to the interest;

- Any comments, including confirmation that a Risk Assessment has been carried out and any action taken to mitigate the conflict, details of any approvals given to depart from the terms of this policy; and
- Signature of line manager and/or Executive Director, including dates signed.

## **9.8 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.

### **9.8.1 What should be declared**

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

## **9.9 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.

### **9.9.1 What should be declared**

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

## **9.10 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 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.

### 9.10.1 What should be declared

- The Organisation will retain written records of sponsorship of research, in line with the above principles and rules.
- Staff need to declare:
  - Their name and their role with the organisation;
  - Nature of their involvement in the sponsored research;
  - Relevant dates: start or planned start and end dates;
  - Date discussed with line manager and/or Executive Director;
  - Date and signature confirming line manager and/or Executive Director approval;
  - 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).

### 9.11 Sponsored posts

- External sponsorship of a post requires prior approval from the Organisation;
- Rolling sponsorship of posts should be avoided unless appropriate check 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.

#### 9.11.1 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.

### 9.12 Clinical private practice

As described with their terms and conditions, Clinical staff should declare all private practice on appointment, and/or any new private practice *as it arises<sup>4</sup> and prior to acceptance* 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 line manager and/or Executive Director 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>5</sup>

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<sup>4</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)

- 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](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.

### 9.12.1 What should be declared

- The returnee's name;
- Their role with the Organisation;
- Their grade;
- The category (financial interest; indirect interest; non-financial personal interest);
- The situation (clinical private practice);
- A description of the interest declared ;
- Relevant dates from and to relating to the interest;
- Any comments, including any action taken to mitigate the conflict; and
- Signature of line manager and/or Executive Director, including dates signed.

## 10 MANAGEMENT OF INTERESTS – ADVICE IN SPECIFIC CONTEXTS

### 10.1 Strategic decision making groups

In common with other NHS bodies the Organisation 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. For Harrogate and District NHS Foundation Organisation these groups are:

- The Board of Directors;
- Committees of the Board;
- The Council of Governors;
- Council of Governor Committees and Working Groups;
- The Senior Management Team;
- Clinical Directorate Boards;
- Harrogate Integrated Facilities Ltd; and
- Any meetings where staff are involved in appraising different suppliers for goods, and services; including but not limited to such things as the Clinical Procurement Group, Area Prescribing Committee, The Equipment 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.

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<sup>5</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)

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.

All staff are required to comply with Organisation policies and procedures for procurement. Further advice is available from the Head of the Supplies Department.

## **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, must report these concerns to the Director of Workforce and Organisational Development, the Company Secretary or Director of Finance or Head of Risk Management the Local Counter Fraud Specialist. Further details are available in the Anti Fraud, Bribery and Corruption Policy.

To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this. For further information about how concerns should be raised please refer to the Organisation's Speaking Up 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 the 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.

## 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 Counter Fraud Authority, the Police, statutory health bodies (such as NHS England, NHS Improvement or the Care Quality Commission), 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

Reports on breaches, the impact of these, and action taken will be considered regularly by the Audit Committee, as a minimum at least annually.

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

## 11.3 Roles and Responsibilities

- All staff to be aware of the policy, declare any interests promptly (within 28 days) of the interest occurring and report breaches;
- All staff are required to complete a return upon employment and during the course of their employment in relation to any relationship at work/loyalty interests as part of the recruitment process;

- Decision making staff are required to complete a return upon employment, as and when interests change and annually (nil returns are also required to be submitted for all decision making staff);
- Strategic decision making staff are also required to declare any interests at the start of their meetings.

## **12 POLICY DEVELOPMENT AND EQUALITY**

### **12.1 Identification of Stakeholders**

The stakeholders of this policy are all employees of the Organisation. They are represented by elected Trade Union Members and are involved in the development and review process of all HR Policies and Procedures through partnership.

### **12.2 Equality Impact Assessment**

This policy has undergone Stage 1 Equality Impact Assessment Screening.

The Organisation is committed to creating a culture that fully respects equality and diversity and aims to ensure that all its services are accessible, appropriate and sensitive to the needs of the whole community. It believes in fairness, equity and above all values diversity in all its dealings, both as a provider of health services and an employer of people.

This policy has been developed to reinforce the Organisation's vision in this respect and to give direction for the pursuit of the highest standards of equality and diversity in all our services. This policy reflects the following:

- Opportunities for employment, promotion, training and development are open to all on an equal basis;
- Access to services are sensitive to individual needs irrespective of colour, disability, ethnic origin, age, gender, illness (such as HIV/AIDS), marital status, nationality, race, religion, sexual orientation and social background;
- All future service developments take into account the needs of all groups within the community;
- Patients, staff, volunteers and all other service users and providers are treated with dignity and respect;
- Every member of staff has a role to play in recognizing and respecting Equality and Diversity in others;
- Staff are able to carry out their duties effectively without fear of discrimination, harassment or bullying of any kind.

The Organisation will continue to embed its equality and diversity values into all of its policies, procedures and everyday practice, so that equality and diversity is the norm.

## **13 CONSULTATION, APPROVAL AND RATIFICATION PROCESS**

### **13.1 Consultation Process**

This policy was drafted and updated by the Company Secretary and the Director of Workforce and Organisational Development, based on cross NHS guidance issued by NHS England, lessons learned following audits and independent reviews.

The Policy Advisory Group (PAG) which is composed of management, HR and staff side representatives considers all draft HR policies and guidance. All members have the opportunity to make comments and suggestions on the document content which is debated within the group and amendments made and agreed. Any additional individuals or groups that are relevant to include in the consultation process will be identified in Appendix 2.

### **13.2 Approval Process**

Once discussions on all HR policies and guidance have been concluded and amendments made they are re-submitted and approved at PAG.

### **13.3 Ratification Process**

All HR policies approved by the PAG are submitted for ratification by the Partnership Forum.

## **14 DOCUMENT CONTROL**

### **14.1 Publication**

The policy will be published in the electronic document library i.e. on the Organisation's intranet under the HR Department, in the Policies/Guidance section.

Details of the issue of the document will be communicated to all staff, through the all users e-mail circulation list.

### **14.2 Archiving Arrangements**

Where the policy replaces a previous version, the old policy will be archived as evidence of a previous policy. The front page of the policy will indicate the version number, the approving body and date of approval along with the next review date.

### **14.3 Access**

The policy should be accessed from the electronic document library. Copies of this document should not be printed unless it is absolutely necessary as there is a risk that out of date copies may be in circulation. Requests for this policy in an alternative language or format (such as Braille, audiotape, large print etc) will be considered and obtained whenever possible.

### **14.4 Protective Marking**

The front page of the policy will indicate the version number, the approving body and date of approval along with the next review date.

## **15 DISSEMINATION AND IMPLEMENTATION**

### **15.1 Dissemination and Communication**

The policy will be published in the electronic document library i.e. on the Organisation's intranet under the HR Department, in the Policies/Guidance section.

Details of the issue of this policy will be communicated to all staff, through the all user e-mail circulation list.

### **15.2 Implementation**

Senior Managers will have responsibility for ensuring that their staff members are aware of the new/revised policy. The policy will be sent to all members of the HR team and discussed at the HR team meeting to ensure all members of the HR team are fully aware of any changes to the policy.

### **15.3 Training and Support**

Any relevant training or advice in relation to the implementation of the policy will be specified and provided by the HR Department where appropriate.

## **16 MONITORING COMPLIANCE AND EFFECTIVENESS**

### **16.1 Standards/Key Performance Indicators**

The monitoring standards/key performance indicators for this policy can be found at Appendix 1.

### **16.2 Process for Monitoring Compliance**

An annual report will be presented to the Audit Committee, this will summarise the Organisation's approach to managing conflicts of interest and detail associated assurance.

## **17 REFERENCE DOCUMENTS**

- 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)
- Bribery Act 2010

## **18 ASSOCIATED DOCUMENTATION**

- Anti Fraud, Bribery and Corruption Policy;
- Speaking Up Policy;
- Disciplinary Policy.

## **APPENDICES**

Appendix 1: Monitoring, Audit and Feedback Summary

Appendix 2: Consultation Summary

Appendix 3: Employee Declaration and Risk Assessment for Relationships at Work/Loyalty Interests

Appendix 4: Declaration of Interests Form

KPIs	Audit / Monitoring required	Audit / Monitoring performed by	Audit / Monitoring frequency	Audit / Monitoring reported to	Concerns with results escalated to
Staff awareness of interests that need to be declared.	Check staff are aware of the guidance and what needs to be declared.	As part of Local Counter Fraud surveys/awareness	Annually	Audit Committee	Chief Executive
System in place to record staff declarations in the register of interest/hospitality	Check that staff declare their interests on the approved system.  Introduce process for staff to complete declarations as part of their pre-employment checks and throughout all recruitment processes	Company Secretary  Director of Workforce and Organisational Development	Annually  Quarterly	Audit Committee  Audit Committee	Chief Executive  Chief Executive
Public Disclosure:  Register of interests and Register of Gifts and Hospitality for Decision Making Staff published	Registers have been published on the Organisation's website and include all 'decision making staff'	Company Secretary	Annually	Audit Committee	Chief Executive
Strategic decision making groups	Check staff are declaring their interests at the start of meetings which is recorded in meeting minutes	Company Secretary	Annually	Audit Committee	Chief Executive
System in place to record staff declarations of personal relationships at work	Number of declarations and risk assessments made.	Director of Workforce & Organisational Development	Annually	Audit Committee	Chief Executive
Breaches	Company Secretary and Director of Workforce and Organisational Development to discuss any breaches with the Chief Executive and as appropriate with Local Counter Fraud	Company Secretary/ Director of Workforce and OD	Annually	Audit Committee	Chief Executive

<p><b>Those listed opposite have been consulted and any comments/actions incorporated as appropriate.</b></p> <p>The author must ensure that relevant individuals/groups have been involved in consultation as required prior to this document being submitted for approval.</p>	<b>List Groups and/or Individuals Consulted</b>
	Corporate Secretary
	Director of Workforce & Organisational Change
	Policy Advisory Group
	Partnership Forum
	LNC

**Version 3.0 –November 2020  
Conflicts of Interest Policy**

Approved by

..... Date .....  
Angela Wilkinson, Management side

..... Date .....  
Hilary Levitt, Trade Union representatives

..... Date .....  
T Metcalfe, BMA

## Appendix 3

### Employee Declaration Form (Part A)

#### To be completed by Employee

In accordance with the Conflicts of Interest Policy all employees are required to declare to their line manager any existing or new personal relationships they have with other members of staff, stakeholders or partners, which may give rise to an actual or potential conflict of interest, trust or breach of confidentiality.

#### What type of relationship at work and/or loyalty interests should be declared:

- 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 related to a Trust member of staff who is classed as a 'Decision maker' as described in this policy.
- 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.

Name:	:
Position:	
Department:	
Directorate/Hosted Organisation:	
Name of Line Manager:	

#### **Name of person with whom you have a close personal relationship as detailed above**

Name:	
Position:	
Department:	
Nature of Personal Relationship:	

**Sign and date the section applicable:**

**a. Is the person named above in the same line management chain as you at either first or second tier?**

Yes  No

I understand that where a close personal relationship exists between me and another employee in the same line management chain, at first or second tier that alternative line management arrangements must be made and this may result in one or other of us being moved to a different area/department/site after discussion and based on service requirements.

Signed: .....

Dated: .....

**b. Do you and the person named above work in the same team/department (i.e. report to the same line manager)?**

Yes  No

I understand that where I work in the same team or department as someone with whom I have a close personal relationship outside of work, a risk assessment must be undertaken to mitigate any possible risk to myself or the service. I understand that if it is not possible to mitigate the risk it may be necessary to consider the transfer of one or other of us to another team/department or location after discussion.

Signed: .....

Dated: .....

**c. Is the person named above with whom you have a close personal relationship above classed as a Decision Maker, an Executive or a Director or Senior Management Team member?**

Yes  No

I understand this relationship as declared above will be maintained on a register by the Human Resources Department.

Signed: .....

Dated: .....

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**d. Is the person named above with whom you have a close personal relationship, in an organization in which the Trust does business?**

Yes  No

Signed: .....

Dated: .....

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**You matter most**



## Risk Assessment (Part B)

To be completed by the line manager in conjunction with Employee by using the scoring matrix below to identify the severity of the risk:

Detail of the named employee's positions in Trusts ie line management report, same team/department or Decision Maker, Executive or a Director or Senior Management member:

Description of Risk	Presence/ Significance of Risk	Options available to control risk	Mitigating actions agreed	Risk Score see guidance below
<b>Line Management</b>  e.g. Appraisal, employee relations investigation etc.				
<b>Team working</b>  e.g. Allocation of duties /annual leave/rostering				

<p><b>Recruitment &amp; Selection</b></p> <p>Are or could be, involved in the recruitment of close family members and relatives, close friends and associates and business partners associates and business partners</p>				
<p><b>Financial governance</b></p> <p>e.g. Sign off of expenditure</p>				
<p><b>External Organization in which the Trust does business</b></p> <p>e.g. procurement of services</p>				

<b>Other</b> To be specified (e.g. Relationship with Decision Maker/Executive Director/Senior Manager/Recruitment officer)				
Where concerns regarding conflicts of interest arising from a personal relationship are identified, please score the impact below. The scoring methodology is the same used for risk assessments.				Total Score:

A copy of the completed form must be signed by the employee and line manager and retained on their personal file and a copy submitted to the HR Department at [hdfh.hr@nhs.net](mailto:hdfh.hr@nhs.net)

All risk assessments with a score of 12 and above must be recorded on the Directorate and Corporate risk registers.

Signed (Employee)..... Date.....

Print name (Employee).....

Signed (Manager)..... Date.....

Print name (Manager).....



**Risk Assessment Scoring Matrix**

Likelihood	Consequence				
	Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Rare (1)	1	2	3	4	5
Unlikely (2)	2	4	6	8	10
Possible (3)	3	6	9	12	15
Likely (4)	4	8	12	16	20
Almost Certain (5)	5	10	15	20	25
Likelihood	Broad descriptor		Probability descriptor	Time-framed descriptor	
Rare (1)	This will probably never happen/recur		<0.1%	Not expected to occur for years	
Unlikely (2)	Do not expect it to happen/recur but it is possible it may do so		0.1-1%	Expected to occur at least annually	
Possible (3)	Might happen or recur occasionally		1-10%	Expected to occur at least monthly	
Likely (4)	Will probably happen/recur, but it is not a persisting issue / circumstance		10-50%	Expected to occur at least weekly	
Almost certain (5)	Will undoubtedly happen/recur, possibly frequently		>50%	Expected to occur at least daily	

Likelihood descriptors