

Policy: 18.02

Conflicts of Interest (Incorporating Standards of Business Conduct) Policy

Policy Summary:

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

- Introduces consistent principles and rules
- Supports good judgement about how to approach and manage interests.
- Provides simple advice about what to do in common situations, such as:
 - Offers of gifts and hospitality, outside employment, shareholding and ownerships, patents, loyalty interests, donations, sponsorship of events, sponsored research and posts and clinical private practice.

Related policies/procedures:

Counter Fraud, Bribery and Corruption Policy – 18.04
 Speaking Up Policy – 10.15
 Research Policy – 18.11
 Standing Orders, Standing Financial Instructions and Scheme of Delegation – 18.01

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Version Control Sheet

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GG/CG/01	06.06	T Footitt	Edited	Change to author, house style and review date
5.03	02.10	T Footitt	Edited	New format. Section 1.2 removed “are introduced with immediate effect and”. Equality Impact Assessment undertaken.
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5.03	02/21	L West	Edited	Review date extended for 3 months until May 2021.
5.03 (Issue 6)	03/2021	B Cassidy	Edited	Amendments made to reflect MES Declare portal. The way in which staff report declarations has changed and now done through an online portal. Changes throughout to reflect the change. Removal of Appendix 2 as we no longer hold a physical register, call contained within the portal
5.03	04/2021	K Liever	Edited	Reference number changed to 18.02
18.02	07/2021	L West	Edited	Review date extended by 6 months
18.02 (Issue 6)	01/2022	L West	Edited	Review date extended to March 22
18.02 (Issue 6)	02/2022	L West	Edited	Email address updated on form
18.02 (Issue 6)	05/2022	S Higginbotham	Edited	Full review with minor changes made throughout

POLICY SUMMARY

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.

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. • <u>NOT</u> misuse your position to further your own interests or those close to you • <u>NOT</u> be influenced, or give the impression that you have been influenced by outside interests • <u>NOT</u> 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 the online portal to ensure it is appropriate to statutory requirements ○ Maintaining register(s) of interests via the portal. • Auditing this policy and its associated processes and procedures at least once every three years. • <u>NOT</u> avoid managing conflicts of interest. • <u>NOT</u> interpret this policy in a way which stifles collaboration and innovation with our partners

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1.0 Introduction

- 1.1 Nottinghamshire Healthcare 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.
- 1.2 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.
- 1.3 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.

2.0 Policy Principles

- 2.1 This policy will help our staff manage conflicts of interest risks effectively. It:
 - Introduces consistent principles and rules
 - Provides simple advice about what to do in common situations
 - Supports good judgement about how to approach and manage interests.
- 2.2 This policy should be considered alongside these other Trust policies:
 - Standing Financial Instructions
 - Scheme of Delegation
 - Bribery Corruption and Commercial Sponsorship Policy
 - Whistleblowing Policy
 - Disciplinary Policy and Procedures
- 2.3 The Trust uses 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 Trust e.g. Non-Executive Directors)

3.0 Definitions

- 3.1 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."

3.2 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

3.3 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.

Interests fall into the following categories:

Financial interests	Non-financial professional interests
Where an individual may get direct ¹ financial benefit from the consequences of a decision they are involved in making.	Where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or promoting their professional career.
Non-financial personal interests	Indirect 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.	Where an individual has a close association ² 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.

3.4 Other relevant definitions:

Bribery	Bribery may be summarised as dishonestly persuading someone to act in one’s favour by a gift of money or other inducement.
Donations	Donations are charitable financial payments, which can be in the form of direct cash payment or through the application of a will or similar directive.
Gifts	Gift means any item of cash or goods, or any service, which is provided for personal benefit, free of charge or at less than its commercial value.
Hospitality	Hospitality means offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events and the like.
Sponsorship³	Sponsorship means the receipt of ex gratia funding from an external source to underwrite (whether in full or part) the Trust’s corporate costs in relation to trust led activities, events, publications and the

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

² 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.

³ Sponsorship should not be confused with circumstances in which external funding is provided to support individual’s attendance at external conferences etc., this should be treated as falling within the provisions for hospitality.

	like. Sponsored posts are positions within the Trust that are funded, in whole or in part, by organisations external to the NHS.
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4.0 Decision Making Staff

4.1 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.'

4.2 Decision making staff in this Trust are:

- Executive and Non-Executive Directors
- Members of strategic assurance or decision-making groups which contribute to direct to delegated decision making on the commissioning or provision of taxpayer funded services
- Those at Agenda for Change band 8d and above
- Administrative and clinical staff that have the power to enter into contracts on behalf of the Trust
- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions.

5.0 Identification, Declaration and Review of Interests

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

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

5.2 A declaration of interest(s) form is available at appendix 1 or on Connect.

- The Executive Directors, as Executive Sponsors, are responsible for reviewing current policies and bringing them in line with guidance.
- The Director of Corporate Affairs is responsible for providing advice, training and support for staff on how interest should be managed.
- The Director of Corporate Affairs is responsible for maintaining the Register(s) of Interests
- The Director of Corporate Affairs is responsible for auditing the policy, process and procedures at least every three years.

5.3 Declarations should be made to the employee's line manager, and then added to the online portal MES Declare.

5.4 After expiry, an interest will remain on the Trust portal for a minimum of six months, and a private record of historic interests will be retained for a minimum of six years.

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

6.0 Records and Publication

6.1 Maintenance

The Trust will maintain the following registers on the online portal pertaining to this policy:

- Declaration of Interest Register
- Gifts, Hospitality and Sponsorship Register

All declared interests that are material will be promptly transferred to the registers by the Director of Corporate Affairs.

6.2 Publication

6.2.1 The Trust will:

- Publish the interests declared by 'decision making staff' in the Declarations of Interest Register and the Gifts, Hospitality and Sponsorship Register.
- Refresh this information on an annual basis.
- Make this information available on the website of the Trust and/or by contacting the Director of Corporate Affairs.

6.2.2 In some cases it might not be appropriate to publish information about the interests of some 'decision making staff', or their personal information might need to be redacted.

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

6.3 Wider Transparency Initiatives

6.3.1 The Trust fully supports wider transparency in healthcare, and we encourage staff to engage actively with these.

6.3.2 Relevant staff are required 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

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- 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>

7.0 Management of Interests – General

- 7.1 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.
- 7.2 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.
- 7.3 The Director of Corporate Affairs will advise on possible disputes about the most appropriate management action.

8.0 Management of Interests – Common Situations

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

8.2 Gifts

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

8.2.2 Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the Trust 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 £6⁴ in total, and need not be declared.

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

⁴ 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>

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- Gifts of cash and vouchers to individuals should always be declined.
- Staff should not ask for gifts.
- Gifts valued at over £25 should be treated with caution and only be accepted on behalf of the Trust and not in a personal capacity.
- Gifts of cash should be paid into the Trust's Charitable Funds.
- Modest gifts accepted under a value of £25 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 £25 where the cumulative value exceeds £25.

8.2.4 What should be declared

- Staff name and their role within the Trust
- 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 an approvals given to depart from the terms of this policy).

8.3 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 of the purpose of the event.
- Hospitality offered by actual or potential suppliers or contractors should not be accepted without prior approval from an Executive Director. If accepted, this must be declared.
- Hospitality should only be provided when it is necessary and fully justifiable in pursuing the work of the Trust. This includes business both on and away from Trust premises.
- Hospitality should not be provided simply to reciprocate hospitality received on some previous occasion, nor should it be extended to spouses or guests unless the circumstances justify it.
- It is appropriate for drinks to be provided at business meetings, taking into account the length of the meeting and the distance travelled by staff attending. Drinks provided should be non-alcoholic.
- The provision of hospitality for receptions and other social functions must be able to be justified as an appropriate and acceptable use of public funds and approved by an Executive Director. Charitable funds are available to support some activities and a scheme is in place to support those retiring or who have long service.
- Alcohol – The Trust Board resolved (June 2006) that no alcohol would be supplied at any event organised by the Trust. Any exception to be agreed by the Chief Executive.
- Expenditure relating to the staging of significant events which have a social element, for example an Annual General Meeting or an awards ceremony (OSCARS) should be approved by the Chief Executive.

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8.3.1 Meals and Refreshments (Both Provision and receipt of)

- Under a value of £25 – may be accepted and need not be declared
- Of as value between £25 and £75⁵ – 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 Trust's register(s) of interest, via the online portal, 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).

8.3.2 Travel and Accommodation

- 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 Trust itself might not 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 Trust's register(s) of interest, via the online portal, 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.

8.3.3 What should be declared

- Staff name and their role with the Trust
- 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).

8.4 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 Trust to engage in outside employment.

8.4.1 The Trust may also have legitimate reasons within employment law for knowing about outside employment of staff, even when this does not give rise to a conflict. Executive Directors, Non-Executive Directors and Associate Directors are required to comply with the Fit and Proper Regulations as set out in the Health and Social

⁵ 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>

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8.4.2 What should be declared

- Staff name and their role with the Trust
- 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).

8.5 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 Trust.
- Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in the 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.

8.5.1 What should be declared:

- Staff name and their role in the Trust
- Nature of shareholdings/other ownership interests
- 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).

8.6 Patents

- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial organisation), including where applications to protect have started it are ongoing, which are, or might be reasonable expected to be, related to items to be procured or used by the Trust.
- Staff should seek prior permission from the Trust before entering into any agreement with bodies regarding product development, research, work on pathways etc, where this impacts on the 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.

8.6.1 What should be declared

- Staff name and their role in the Trust
- 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)

8.7 Loyalty Interests

8.7.1 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 decision 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.

8.7.2 What should be declared

- Staff name and their role in the Trust
- 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).

8.8 Donations

- Donations made by suppliers or bodies seeking to do business with the Trust should not be accepted.
- Staff should not actively solicit charitable donations unless this is a prescribed part of their duties for the Trust, or is being pursued on behalf of the Trust's own registered charity or other charitable body and is not for their own personal gain.
- Staff must obtain permission from the Trust if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the Trust's own.
- Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.
- Staff wishing to make a donation to 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.

8.8.1 What should be declared

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

8.9 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 to the Trust 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 be normally supplied.
- At the Trust's discretion, sponsors or their representatives may attend or take part in the event, but they should not have 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 Trust 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 Trust.

8.9.1 What should be declared

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

8.10 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 Trust and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services.
- The study must not constitute inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
- Staff should declare involvement with sponsored research to the Trust.

8.10.1 What should be declared

- The Trust 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 Trust
 - Nature and involvement in the sponsored research
 - Relevant dates
 - Other relevant information (e.g. what, if any, benefit the sponsor derives from the sponsorship, action take to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

8.11 Sponsored Posts

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

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- 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, material, or intellectual property relating to or developed in connection with the sponsored posts.

8.11.1 What should be declared

- The Trust will retain written records of sponsorship 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.

8.12 Clinical Private Practice

- Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises including:
 - Where they practice (name of private facility)
 - What they practice (speciality, major procedures)
 - When they practice (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 the Trust before taking up private practice
 - Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work.
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:
https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf

8.12.1 What should be declared

- Staff name and their role with the Trust
- A description of the nature of the private practice (e.g. what, where and when staff practice, 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).

8.12.2 This means:

Staff undertaking private work cannot do this work during NHS time

Staff undertaking private work cannot access NHS patient records or utilise NHS resources in or out of work

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Staff must not use their position to benefit themselves privately (e.g. providing information on their private company to patients seen by them in the NHS)

Staff undertaking private work must not see patients privately that are on their caseload in the NHS or within their locality in case cover of caseloads is needed (manager discretion advised depending on the size of the team)

STAFF UNDERTAKING PRIVATE WORK MUST COMPLETE A CONFLICT-OF-INTEREST FORM

9.0 Management of Interests – Advice in Specific Contexts

9.1 Strategic Decision-Making Groups

9.1.1 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.

9.1.2 The interests of those who are involved in these groups should be well known so that they can be managed effectively. For this Trust, those groups are:

- Board of Directors
- Executive Leadership Team
- Strategic Programme Executive

9.1.3 These groups should adopt the following principles:

- Chairs should consider any known interests in advance, and begin each meeting by asking for declarations 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 Trust's register(s) via the online portal
- The deputy chair (or any other non-conflicted member) should chair all or part of the meeting if the chair has an interest that may prejudice their judgement.

9.1.4 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 for 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.

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- 9.1.5 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.

9.2 Procurement

- 9.2.1 Procurement should be managed in an open and transparent manner, compliance 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 interests of patients and the public.
- 9.2.2 Those involved in procurement exercises for and on behalf of the Trust should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of a procurement process. 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.
- 9.2.3 If you are unsure of the process or for further advice you should contact the Trust's Head of Procurement.
- 9.2.4 The Procurement department operates through fully transparent procurement processes and procedures for all contracting, tendering and quotations which are supported and underpinned by the following:
- The Trust Procurement Manual
 - Standing Financial Instructions
 - Standing Orders
 - UK & EU public sector law
- 9.2.5 Procurement have a fully developed page on the staff intranet – Connect – which covers all areas of procurement compliance and provides contact details for procurement professionals.

10.0 Dealing with Breaches

- 10.1 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'.

10.2 Identifying and Reporting Breaches

- 10.2.1 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 either:

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- The Trust's Local Anti-Crime Specialist: Ian Morris 360 Assurance Tel: 07920 138606
- The Trust's Senior Independent Director: Tel: 0115 9555399
- The Director of Corporate Affairs: Tel 01159934519

10.2.2 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 refer to the Speaking Up Policy.

10.2.3 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.

10.2.4 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.

10.3 Taking Action in Response to Breaches

10.3.1 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.

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

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

10.3.3 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.

10.3.4 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).

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- 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.
- Criminal sanctions – failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. The Fraud Act 2006 created a criminal offence of fraud and defines three ways of committing it;
 - Fraud by False Representation
 - Fraud by Failing to disclose information, and
 - Fraud by abuse of position

10.3.5 In these cases an offender's conduct must be dishonest and their intention must be to gain, or cause a loss (or risk of a loss) to another. Fraud carries a maximum sentence of 10 years imprisonment and/or a fine and can be committed by a body corporate.

10.3.6 The Bribery Act 2010 makes it easier to tackle this offence in public and private sectors. Bribery is generally defined as giving or offering someone a financial or other advantage to encourage a person to perform certain activities and can be committed by a body corporate. Commercial organisations (including NHS bodies) will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery. The offences of bribing another person or being bribed carry a maximum sentence of 10 years imprisonment and/or a fine. In relation to a body corporate the penalty for these offences is a fine.

10.4 Learning and Transparency Concerning Breaches

10.4.1 Reports on breaches, the impact of these, and action taken will be considered by the Audit Committee at least on an annual basis.

10.4.2 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 made available for inspection by the public upon request.

11.0 Implementation

11.1 As this policy has already been implemented no implementation plan is required.

12.0 Training

12.1 No specific training.

13.0 Target Audience

13.1 All Trust employees.

14.0 Review Date

14.1 This policy will be reviewed in 3 years or in the light of any legislative or organisational changes.

15.0 Consultation

15.1 Executive Leadership Council, Audit Committee and Counter Fraud Colleagues.

16.0 Relevant Trust Policies & Procedures

- Counter Fraud, Bribery and Corruption Policy – 18.04
- Speaking Up Policy – 10.15
- Research Policy – 18.11
- Standing Orders, Standing Financial Instructions and Scheme of Delegation – 18.01

17.0 Monitoring Compliance

17.1 Reports will be presented to the Audit Committee (at each meeting) and the Trust Board (annually).

18.0 Equality Impact Assessment

18.1 This policy has been assessed using the Equality Impact Assessment Screening Tool. The assessment concluded that the policy would have no adverse impact on, or result in the positive discrimination of, any of the diverse groups detailed. These include the strands of disability, ethnicity, gender, gender identity, age, sexual orientation, religion/belief, social inclusion and community cohesion.

19.0 Legislation Compliance

- EL (94)40 -Codes of Conduct and Accountability, as initiated by the NHS Executive.
- Bribery Act 2010

20.0 Champion & Expert Writer

20.1 The Champion of this policy is the Chief Executive, and the Expert Writer is the Director of Corporate Affairs.

21.0 References/ Source Documents

NHS England – Managing Conflicts of Interest in the NHS (2017)

<https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf>

Managing conflicts of interest in the NHS: Q&A for NHS provider managers

<https://www.england.nhs.uk/wp-content/uploads/2017/09/coi-ga-provider-managers.pdf>

18.02 – Conflicts of Interest (Incorporating Standards of Business Conduct)

Managing conflicts of interest in the NHS: Q&A for clinical staff

<https://www.england.nhs.uk/wp-content/uploads/2017/09/coi-qa-clinical-staff.pdf>

Managing conflicts of interest in the NHS: Q&A for medical staff

<https://www.england.nhs.uk/wp-content/uploads/2017/09/coi-qa-medical-staff.pdf>

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)

Counter Fraud, Bribery and Corruption Policy

Conduct and Capability Procedures for Medical and Dental staff

Grievance Policy

Speaking Up Policy

Disciplinary Policy and Procedures

22.0 Appendices

22.1 Appendix 1 – Declaration of Interest Form

This form should only be used by people who are not directly employed by the Trust, or, who have no access to the online portal.

Name	Role	Description of Interest	Relevant Dates		Comments
			From	To	
<i>Mr. John Smith</i>	<i>Senior Policy Manager, Commissioning Directorate, Organisation A</i>	<i>Hospitality received - £95 from Organisation Z to pay for travel to speak at conference on Managing Conflicts of Interest on 21/12/16</i>	<i>21/12/2016</i>	<i>21/12/2016</i>	<i>Approval to attend event and accept hospitality given by Mary Baker, Head of Unit</i>

Please see overleaf for information on how to populate the above boxes

18.02 – Conflicts of Interest (Incorporating Standards of Business Conduct)

The information submitted will be held by **Nottinghamshire Healthcare NHS Foundation Trust** for personnel or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic form in accordance with the Data Protection Legislation. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that **Nottinghamshire Healthcare NHS Foundation Trust** holds.

I confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to **Nottinghamshire Healthcare NHS Foundation Trust** as soon as practicable and no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then civil, criminal, internal disciplinary, or professional regulatory action may result.

I **do / do not [delete as applicable]** give my consent for this information to published on registers that **Nottinghamshire Healthcare NHS Foundation Trust** holds.

If consent is NOT given please give reasons:

Signed:

Date:

Please return this form to **The Director of Corporate Affairs' Office, DMH (bodcommitteepapers@nottshc.nhs.uk)**

GUIDANCE NOTES FOR COMPLETION OF SPECIMEN INTERESTS DECLARATION FORM

Name and Role: Insert your name and your position/role in relation to the Organisation you are making the return to

18.02 – Conflicts of Interest (Incorporating Standards of Business Conduct)

Description of Interest: Provide a description of the interest that is being declared. This should contain enough information to be meaningful (e.g. detailing the supplier of any gifts, hospitality, sponsorship, etc). That is, the information provided should enable a reasonable person with no prior knowledge should be able to read this and understand the nature of the interest.

Types of interest:

Financial interests - This is where an individual may get direct financial benefits from the consequences of a decision they are involved in making

Non-financial professional interests - This is 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 status or promoting their professional career

Non-financial personal interests - This is 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 - This is where an individual has a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest who would stand to benefit from a decision they are involved in making

A benefit may arise from both a gain or avoidance of a loss.

Relevant Dates: Detail here when the interest arose and, if relevant, when it ceased

Comments: This field should detail any action taken to manage an actual or potential conflict of interest. It might also detail any approvals or permissions to adopt certain course of action

18.02 – Conflicts of Interest (Incorporating Standards of Business Conduct)

22.2 Appendix 2 – Equality Impact Assessment (EIA) Screening Tool

A. Name of policy/procedure/strategy/plan/function etc. being assessed:	Conflicts of Interest (incorporating Standards of Business Conduct) Policy
B. Brief description of policy/procedure/strategy/plan/function etc. and reason for EIA:	<p>This policy will help our staff manage conflicts of interest risks effectively. It:</p> <ul style="list-style-type: none"> • Introduces consistent principles and rules • Supports good judgement about how to approach and manage interests. • Provides simple advice about what to do in common situations, such as: <ul style="list-style-type: none"> • Offers of gifts and hospitality, outside employment, shareholding and ownerships, patents, loyalty interests, donations, sponsorship of events, sponsored research and posts and clinical private practice.
C. Names and designations of EIA group members:	Director of Corporate Affairs
D. List of key groups/organisations consulted:	Leadership Council, Audit Committee, Counter Fraud Specialist
E. Data, Intelligence and Evidence used to conduct the screening exercise:	Previous policy and feedback

F. Equality Strand	Does the proposed policy/procedure/ strategy/ plan/ function etc. have a positive or negative (adverse) impact on people from these key equality groups? Please describe	Are there any changes which could be made to the proposals which would minimise any adverse impact identified? What changes can be made to the proposals to ensure that a positive impact is achieved? Please describe	Have any mitigating circumstances been identified? Please describe	Areas for Review/Actions Taken (with timescales and name of responsible officer)

18.02 – Conflicts of Interest (Incorporating Standards of Business Conduct)

Race	The implementation of this policy does not positively or negatively impact on people from key equality groups	Not applicable	Not applicable	Author to review in 3 years
Gender- Including Transgender and Pregnancy & Maternity	As above	Not applicable	Not applicable	As above
Disability Including Mental Health, Intellectual and Learning Disabilities	As above	Not applicable	Not applicable	As above
Religion/Belief	As above	Not applicable	Not applicable	As above
Sexual Orientation- Including Marriage & Civil Partnership	As above	Not applicable	Not applicable	As above
Age	As above	Not applicable	Not applicable	As above
Social Inclusion*¹	As above	Not applicable	Not applicable	As above
Community Cohesion*²	As above	Not applicable	Not applicable	As above
Human Rights*³- Including Safeguarding	As above	Not applicable	Not applicable	As above

18.02 – Conflicts of Interest (Incorporating Standards of Business Conduct)

*1 for **Social Inclusion** please consider any issues which contribute to or act as barriers, resulting in people being excluded from society e.g. homelessness, unemployment, poor educational outcomes, health inequalities, poverty etc.

*2 **Community Cohesion** essentially means ensuring that people from different groups and communities interact with each other and do not exclusively live parallel lives. Actions which you may consider, where appropriate, could include ensuring that people with disabilities and non-disabled people interact, or that people from different areas of the City or County have the chance to meet, discuss issues and are given the opportunity to learn from and understand each other.

*3 **The Human Rights Act 1998** prevents discrimination in the enjoyment of a set of fundamental human rights including: The Right to a Fair Trial; Freedom of Thought, Conscience and Religion; Freedom of Expression; Freedom of Assembly and Association; the Right to Education; the Right Not to be Subjected to Torture, Degrading or Inhumane Treatment; and the Right to Enjoy Private, Family and Home Life Without Unjustified Interference from Public Authorities.

G. Conclusions and Further Action (including whether a full EIA is deemed necessary and agreed date for completion)	Following the Equality Impact Assessment screening exercise it has been determined that a full EIA is not necessary.
H. Screening Tool Consultation End Date	
I. Name and Contact Details of Person Responsible for EIA (tel. e-mail, postal)	Director of Corporate Affairs 01159934519
J. Name of Group Approving EIA (i.e. Directorate E&D Group; Divisional Workforce, Equality & Diversity Group; Trustwide E&D Subcommittee; or Divisional Policy & Procedures Group)	Equality and Diversity Subcommittee of the Board of Directors