

## MANAGING CONFLICTS OF INTEREST POLICY

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## 1. 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.

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

Examples of frequently asked questions for specific staff groups can be found at [www.england.nhs.uk/ourwork/coi](http://www.england.nhs.uk/ourwork/coi)

As a member of staff you should...	As an organisation we will...
<ul style="list-style-type: none"> <li>• Familiarise yourself with this policy and follow it. Refer to the guidance for the rationale behind this policy <a href="https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf">https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf</a></li> <li>• Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent</li> <li>• Regularly consider what interests you have and declare these as they arise. If in doubt, declare.</li> <li>• <b>NOT</b> misuse your position to further your own interests or those close to you</li> <li>• <b>NOT</b> be influenced, or give the impression that you have been influenced by outside interests</li> <li>• <b>NOT</b> allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that this policy and supporting processes are clear and help staff understand what they need to do.</li> <li>• Identify a team or individual with responsibility for:               <ul style="list-style-type: none"> <li>- Keeping this policy under review to ensure they are in line with the guidance.</li> <li>- Providing advice, training and support for staff on how interests should be managed.</li> <li>- Maintaining register(s) of interests.</li> <li>- Auditing this policy and its associated processes and procedures at least once every three years.</li> </ul> </li> <li>• <b>NOT</b> avoid managing conflicts of interest.</li> <li>• <b>NOT</b> interpret this policy in a way which stifles collaboration and innovation with our partners</li> </ul>

## **2. INTRODUCTION**

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

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

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

## **3. PURPOSE**

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

- Defining consistent principles and rules.
- Providing simple advice about what to do in common situations.
- Supporting good judgement about how to approach and manage interests.

This policy should be considered alongside these other organisational policies, including:

- Standing Financial Instructions.
- Standing Orders.
- Fit and Proper Persons Test Policy.
- Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy.
- Counter Fraud Policy and Guidance.

This policy replaces previous policies on gifts and hospitality and registers of interests.

## **4. TRUST POLICY EQUALITY STATEMENT**

The Trust is committed to promoting equality, valuing diversity and protecting Human Rights. It is committed to eliminating discrimination against any individual on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation, as well as to promote positive practice and value the diversity of all individuals and communities.

## 5. KEY TERMS

A 'conflict of interest' is:

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

A conflict of interest may be:

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

Staff may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently and perceived conflicts of interest can be damaging. All interests should be declared where there is a risk of perceived improper conduct.

A 'material interest' is an interest which has relevance to or may influence a decision regarding the use of taxpayers' money and which any reasonable person would take into account when making that decision.

## 6. INTERESTS

Interests fall into the following categories:

- **Financial Interests**  
Where an individual may get direct financial benefit (or avoidance of a loss) from the consequences of a decision they are involved in making.
- **Non-Financial Professional Interests**  
Where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or promoting their professional career.
- **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.

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\* 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.

## **7. DECISION-MAKING STAFF**

This policy applies to all staff. However, 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 regarded to be:

- Executive and Non-Executive Directors
- Those at Agenda for Change Band 8d and above
- All Consultants
- Trust Governors
- Staff considered by Finance, IT, Estates and Procurement as having the power to enter into contracts on behalf of the Trust'

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

### **8.1 Identification & Declaration of Interests (including gifts and hospitality)**

All staff should identify and declare material interests at the earliest opportunity (and in any event within 28 days of the date of one of the events listed below). If staff are in any doubt as to whether an interest is material then they should declare it so that it can be considered.

It is the responsibility of staff members to identify where an actual conflict, or potential conflict, arises and take appropriate action, including discussing with their line manager if they are unsure whether an actual conflict is arising.

Declarations should be made:

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

Declarations should be made on the Electronic Staff Record (ESR) system. For those who do not have access to ESR, a declaration of interest(s) form is available from [khft.declarations@nhs.net](mailto:khft.declarations@nhs.net)

The Director of Corporate Affairs and Company Secretary will provide advice on the practical aspects of making a declaration.

### **8.2 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.

## **9. RECORDS AND PUBLICATION**

### **9.1 Maintenance**

Separate registers will be maintained for:

- Members of the Trust Board.
- Members of the Council of Governors.
- Gifts and hospitalities etc
- Interests of decision-making staff

and published on the Trust's website.

### **9.2 Publication**

We will:

- Make available the interests declared by decision making staff.
- Refresh this information annually.

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

### **9.3 Wider Transparency Initiatives**

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

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

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

Further information about the scheme can be found on the ABPI website:

<https://abpi.org.uk/our-ethics/disclosure-uk/>

## **10. 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.

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, through the ESR system, make their line manager or the person(s) they are working to aware of their existence.

## 11. 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.

### 11.1 Gifts

A gift in the context of this policy is defined as something (e.g. cash, vouchers, object) given willingly to an individual or to a group of individuals. See also the definition of donation in section 11.7.

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

#### Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the organisation should be declined, whatever their value.
- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6\* in total, and need not be declared.

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

- Gifts of cash or vouchers to individuals must always be declined. A gift to a group (e.g. ward staff or a service team) can be accepted up to the value of £50.
- Other gifts valued at over £50 should be treated with caution and must only be accepted on behalf of Kingston Hospital Charity and not in a personal capacity. These must be declared by staff in accordance with the policy on donations
- Modest gifts (under a value of £50) accepted 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 must be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

#### 11.1.1 What should be declared

- Staff name and their role with the organisation.
- A description of the nature and value of the gift, including its source.
- Date of receipt.

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\* 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>

- 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).

## 11.2 Hospitality

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

Hospitality should 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 if modest and reasonable, and must be declared. Approval by an Executive Director (or in the case of the Chief Executive, the approval of the Chairman) must be obtained and recorded on the register.

### Meals and Refreshments

- Under a value of £25 - may be accepted and need not be declared.
- Of a value between £25 and £75\* - may be accepted and must be declared.
- Over a value of £75 - should be refused unless approved by an Executive Director (or in the case of the Chief Executive, the approval of the Chairman). Acceptance in this case should only be for exceptional reasons and the reason should be recorded on the register of interests 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 (under £100) offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared.
- Offers which go beyond modest, or are of a type that the organisation itself might not usually offer, must be approved by an Executive Director (or in the case of the Chief Executive, the Chairman), should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on the register of interests 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.

#### 11.2.1 What should be declared

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

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\* 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>

### **11.3 Outside Employment**

Staff should declare any existing outside employment on application or appointment to the Trust and any new outside employment when it arises.

Where a risk of conflict of interest arises, the general management actions outlined in this policy will be considered and applied to mitigate risks.

Staff may be required to seek prior approval from the Trust to engage in outside employment.

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

#### **11.3.1 What should be declared**

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

### **11.4 Shareholdings and Other Ownership Issues**

Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy.

Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in this policy will be considered and applied to mitigate risks.

**NB:** There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

#### **11.4.1 What should be declared**

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

### **11.5 Patents**

Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, where these are, or might reasonably be expected to relate to items to be procured or used by the Trust.

Staff should seek prior permission 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 gives rise to a conflict of interest then the general management actions outlined in this policy will be considered and applied to mitigate risks.

#### **11.5.1 What should be declared**

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

### **11.6 Loyalty Interests**

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

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

#### **11.6.1 What should be declared**

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

### **11.7 Donations**

A donation in the context of this policy is defined as something (e.g. cash, vouchers, objects) given willingly to charity.

All monetary donations (cash, card, cheque or vouchers) should be accepted on behalf of Kingston Hospital Charity (KHC) using its donation form and handed to a member of the KHC team. For donations received on a weekday, this should be done immediately i.e. for cash, on the same day as receipt or for cheques within 24 hours of the gift being made. For donations received over the weekend, transfer to the KHC team should take place on the following Monday (or Tuesday if it's a Bank Holiday weekend).

Donations by cheque should be made out to 'Kingston Hospital Charity'.

Wards and departments should ensure donations are held securely for the period between receiving the donation and handing it to the KHC team (i.e. in a ward's safe or locked drawer).

If for any reason there is no form available, a note should be provided with the donation clarifying any request from the donor on how the gift is to be used, along with their name and address details.

Donations can either be taken to the KHC office or the charity team should be notified by email or phone, so that arrangements can be made to pick up the gift without delay.

If a cash donation is made to a member of staff, a colleague should witness the gift being made. This is considered good practice, providing a means to verify the donation amount as required.

The charity team is committed to banking and acknowledging all donations received within one week of their receipt, hence the importance of receiving or being notified of the donation within 24 hours of it being made.

Donations made by suppliers or bodies seeking to do business with the Trust should be treated with caution and not routinely accepted. In exceptional circumstances they may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.

Staff must obtain permission from Kingston Hospital Charity if in their professional role they intend to undertake fundraising activities on behalf of a charitable campaign for a charity other than the Trust's own.

Staff wishing to make a donation to Kingston Hospital Charity or one of its charitable funds 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.

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

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

#### **11.7.1 What should be declared**

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

### **11.8 Sponsored Events**

Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit for 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 which they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.

At the Trust's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event.

The involvement of a sponsor in an event should always be clearly identified.

Staff within the 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 must declare if they are arranging sponsored events where the sponsor has or may have a financial interest in the supply of goods or services with the Trust.

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

#### **11.8.1 What should be declared**

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

### **11.9 Sponsored Research**

The primary focus of entering into research projects should be to achieve the best possible treatment for patients rather than commercial gain for an external sponsor, the Trust or Trust employee.

Funding sources for research purposes must be transparent and any potential or actual conflicts of interest should be well managed.

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

There should be a written protocol or contract between (as appropriate) staff, the Trust, and/or institutes at which the study will take place and the sponsoring organisation (which may be the Trust), which specifies the nature of the services to be provided and the payment (if any) for those services.

There should be no financial or other inducement to the Trust or staff involved to enter a research contract to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.

Staff should declare any personal or professional involvement with sponsored research to the Trust, including that not taking place within the Trust.

The Trust will retain written records of sponsorship of research, in line with the above principles and rules.

#### **11.9.1 What should be declared**

- The organisation will retain written records of sponsorship of research, in line with the above principles and rules.
- Staff should declare:
  - their name and their role with the organisation.
  - Nature of their involvement in the sponsored research.
  - relevant dates.
  - Other relevant information (e.g. what, if any, benefit the sponsor derives from the sponsorship, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

## **11.10 Sponsored Posts (including Charitable Sponsorship)**

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

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

Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. This should be audited for the duration of the sponsorship. Written agreements should detail the circumstances under which 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.

The Trust 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.

### **11.10.1 What should be declared**

- The organisation will retain written records of sponsorship of posts, in line with the above principles and rules.

## **11.11 Clinical Private Practice**

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

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

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

- Seek prior approval 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:

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\* 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/pay-and-contracts/contracts/consultant-contract/consultant-contract-in-england>

[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.

Any member of staff supporting a Trust clinician in their private practice (and receiving a financial reward regardless of whether it is money or a gift) should ensure such work does not take place during their contracted NHS hours of work and should obtain the agreement of their line manager.

#### **11.11.1 What should be declared**

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

## **12. MANAGEMENT OF INTERESTS – ADVICE IN SPECIFIC CONTEXTS**

### **12.1 Strategic Decision-Making Groups**

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

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

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

- Trust Board.
- Finance & Investment Committee.
- Investment Committee.
- Executive Management Committee.
- Medical Devices 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 Trust's register(s).
- The vice-chair (or other non-conflicted member) should chair all or part of the meeting if the chair has an interest that may prejudice their judgement.

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

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

It is not necessary for the default response to be always 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.

## **12.2 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 interests 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.

Advice on procurement policies may be obtained from the Head of Procurement.

## **13. 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'.

### **13.1 Identifying and Reporting Breaches**

Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns initially to their line manager.

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 and what to do if a member of staff believes their concerns are not being listened to, refer to the Trust's Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy.

Each reported breach will be investigated according to its own specific facts and merits, giving relevant parties the opportunity to explain and clarify any relevant circumstances. Breaches of policy could also be reported to the Trust LCFS.

Following investigation:

- A decision will be made as to whether there has been an actual or potential breach and if so what the severity of the breach is.
- Further action required in response will be assessed.
- Consideration will be given to who else inside and outside the organisation should be made aware.
- Appropriate action will be taken as set out in the next section.

### **13.2 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 (NHS CFA), the Police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies.

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

Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then the Trust 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.
- The Bribery Act 2010 underpins the reasons why the declarations of interest process is important. It details that it is a criminal offence to solicit, receive or offer a bribe in any form to receive favours in return.

### **13.3 Learning and Transparency Concerning Breaches**

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

To ensure that lessons are learnt and management of interests continually improves, anonymised information on breaches, the impact of these, and action taken will be prepared and published in reports to the Board as appropriate, or made available for inspection by the public upon request.

### **14. REVIEW**

This policy will be reviewed every three years unless an earlier review is required. This will be led by Director of Corporate Governance & Company Secretary.

### **15. ASSOCIATED DOCUMENTATION**

Freedom of Information Act 2000

ABPI: The Code of Practice for the Pharmaceutical Industry (2014)

ABHI Code of Business Practice

NHS Code of Conduct and Accountability (July 2004)

## MONITORING SHEET

Element to be monitored i.e. measurable policy objective	Position responsible for monitoring	Method	Frequency	Reporting arrangements – Committee/Group that monitoring is reported to, including responsibility for action plans
Assurance that the policy is being implemented	Director of Corporate Governance	Compliance report including latest public register	Annual	Audit Committee
Content of public register	Director of Corporate Governance	Public register as an agenda item at a Public Board meeting	Annual	Trust Board

## VERSION CONTROL SHEET

Version	Date	Author	Status	Comment
1	January 2018	Director of Corporate Governance and Assistant Company Secretary	Approved	New policy based on NHS England model policy template. Consultation included TPF and LNC
2.	December 2020	Director of Corporate Governance and Company Secretary	Approved	Revised policy to adapt for recording of declarations by staff on ESR.
3.	May 2022	Director of Corporate Affairs and Company Secretary		Updates as per suggestions from LCFS