

Surrey & Sussex Healthcare NHS Trust

AN ORGANISATION WIDE POLICY ON STANDARDS OF BUSINESS CONDUCT

Draft/revision

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Human Rights Statement	The Trust incorporates and supports the human rights of the individual, as set out by the European Convention on Human Rights and the Human Rights Act 1988
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<p>This policy will be made available in different languages and formats upon request. Requests of this nature should be made to the Patient Advice Liaison Service (PALS) at East Surrey Hospital, whose contact details are provided below:</p> <p>Telephone: 01737 768511 extensions 6922 or 6831 E-Mail: pals@sash.nhs.uk Correspondence: PALS at East Surrey Hospital, Canada Avenue, REDHILL, Surrey, RH1 5RH</p>	

The latest approved version of this document supersedes all other versions. Upon receipt of the latest approved versions all other version should be destroyed, unless specifically stated that the previous version(s) are to remain extant. If in any doubt please contact the document owner or Policy Coordinator.

Version Control	Date//Lead	Comment
1.1	January 2016 G Francis-Musanu	Updating to include new regulations (FPPT) Revising requirement to submit annual declarations forms Including the Shadow Council of Governors Inclusion of Fraud Act 2006 Reference to the NHS Fraud and Corruption Reporting Line Overall strengthening of the policy

Contents

Page No.

	Summary	5
1.	Introduction	7
2.	Purpose	7
3.	Public Service Values	8
4.	Scope of Policy	8
5.	Organisational Responsibilities	8
6.	Fit & Proper Persons Test	9
7.	Conflict of Interests	11
8.	Employment external to the Trust	14
9.	Contracts	15
10.	Private Practice	15
11.	Intellectual Property	16
12.	Confidentiality – Sensitive Information	16
13.	Consultation and Communication with Stakeholders	16
14.	Approval and Ratification	16
15.	Review and Revision	17
16.	Dissemination and Implementation	17
17.	Archiving	17
18.	Monitoring and Compliance	18
19.	References	17
20.	Associated Documents	18
Appendix 1	Brief Overview of Bribery Act 2010	19
Appendix 2	Short Guide to Standards of Business Conduct for NHS Staff HSG (93)5	20
Appendix 3	Form – Declaration of Interests	22
Appendix 4	Form – Declaration of Gifts/Hospitality/sponsorship	23
Appendix 5	Form – Declaration of Relationship with Candidate	24
Appendix 6	Nolan Principles	25
Appendix 7	Equality Impact Assessment	26

Equality statement

This document demonstrates commitment to create a positive culture of respect for all individuals, including staff, patients, their families and carers as well as community partners. The intention is, as required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the nine named protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is also intended to use the Human Rights Act 1998 to promote positive practice and value the diversity of all individuals and communities. This document is available in different languages and formats upon request to the Trust Procedural Documents Coordinator and the Equality and Diversity Lead.

DRAFT

Summary - of the Standards of Business Conduct Policy

To assist NHS employers and staff in maintaining strict ethical standards in the conduct of NHS Business in 1993 the NHS Executive published HSG (93) 5 – Standards of Business Conduct for NHS Staff. (Please refer to the statement in the 'Introduction' of this document relating to HSG (93) 5.

In brief, the guidelines cover the declaration of interests and acceptance of gifts and hospitality. It is the responsibility of all NHS staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties.

The Trust's Director of Corporate Affairs holds the Register of Interests, Gifts and Hospitality, which is checked periodically by the Audit Committee, internal and external auditors and the Trust Board. If you have anything to declare, please complete the declaration form and forward to the Director of Corporate Affairs, Trust Headquarters, East Surrey Hospital.

Short Guide for staff

Do:

- Make sure you understand the guidelines on Standards of Business Conduct (HSG (93) 5) referred to in your terms and conditions of employment and consult your line manager if you are not sure
- Make sure you are not in a position where your private interests and NHS duties conflict.
- Declare any relevant interests. If in doubt, ask yourself:
 1. Am I, or might I be, in a position where I (or my family/friends) could gain from the connection between my private interests and my employment, **or where it could be perceived by others that a gain could be made?**
 2. Do I have access to information which could influence the Trust's purchasing or contracting decisions, **or could it be perceived by others that I have such access?**
 3. Could my outside interests be in any way detrimental to the NHS or to patients' interests, **or could other perceive them to be detrimental?**
 4. Do I have any other reason to think I may be risking a conflict of interest?

IF IN DOUBT – DECLARE IT

Always :

- Adhere to the ethical code of the Institute of Purchasing and Supply if you are involved in any way with the acquisition of goods and services.
- Seek your employer's permission before taking on outside work, if there is any question of it adversely affecting your NHS duties.
- Obtain the Trust's permission before accepting any commercial sponsorship.

Do Not

- Abuse your past or present official position to obtain preferential rates for private deals.
- Unfairly advantage one competitor over another or show favoritism in awarding contracts.
- Misuse or make available 'commercial in confidence' information.
- Accept gifts, inducements or inappropriate hospitality.

Casual gifts offered by Contractors or others e.g. at Christmas time, may not be in any way connected with the performance of duties so as to be committing an offence under the Bribery Act. Such gifts should nevertheless, be politely but firmly declined. Articles of low intrinsic value totaling £25 such as diaries or calendars, or small tokens of gratitude from patients or relatives, i.e. chocolates etc. need not be refused. In cases of doubt staff should either consult their line manager or politely decline acceptance.

Modest hospitality provided it is normal and reasonable in the circumstances i.e. lunches in the course of working visits may be acceptable, though it should be similar to the scale of hospitality which the NHS as an employer would be likely to offer. Receipt of such hospitality should be declared.

Staff should decline all other offers of gifts, hospitality or entertainment. If in doubt they must seek advice from their line manager and/or declare it.

1. Introduction

Public service values must be at the heart of the National Health Service (NHS). High standards of corporate and personal conduct based on a recognition that patients come first, have been a requirement throughout the NHS since its inception. Moreover, since the NHS is publicly funded, it must be accountable to Parliament for the services it provides and for the effective and economical use of taxpayers' money (NHS code of conduct: code of accountability in the NHS: Appointments Commission/DOH - 2nd Rev: 2004).

The Trust is committed to the highest standards of openness, probity and accountability so that its employees remain beyond suspicion. In addition, under the Bribery Act 2010, it is an offence for any employee to corruptly accept any gifts or consideration as an inducement or reward for:

- doing, or refraining from doing anything, in his or her official capacity, or
- corruptly showing favor or disfavour, to any person in their official capacity.

A brief description of the Bribery Act can be found at Appendix 1.

All staff should be aware of the NHS Management Executive Health Service Guidelines on 'Standards of Business Conduct for NHS HSG (93)5 see Appendix 2. Guidance contained within this document referring to the 'Prevention of Corruption Acts 1906 and 1916' has been superseded by the Bribery Act 2010. However, much of the information contained within HSG (93) 5 is still relevant and until the document is either updated or replaced by the Department of Health it should still be issued to employees, alongside a 'Code of Conduct for NHS Managers' 2002 as it still contains useful guidance.

This policy has been written to take account of latest legislation as well as guidance and recommendations received from the Trust's Local Counter Fraud Specialist, with particular reference to the new provisions under the Bribery Act 2010, which received Royal Assent and is now part of UK Law. www.legislation.gov.uk/ukpga/2010/23/introduction

2. Purpose

The purpose of this policy is to provide employees with an awareness of their own personal responsibilities in their conduct at work as a public service employee in the NHS. It is also to make them aware that any breach of the provisions legislated in the Bribery Act 2010 is a criminal offence for which they could be prosecuted. **The Fraud Act 2006 came into force in 2007 and created three ways of committing an offence of fraud, by false representation, by failing to disclose information and abuse of position.**

This policy offers guidelines intended to assist employees in being aware they have a duty to demonstrate high ethical standards of both business and personal conduct. Specifically it deals with gifts and hospitality and conflicts of interest to minimise placing themselves in a position which risks, or appears to risk, conflict between their private interests and their NHS duties.

All suspected breaches of this policy will be reported to the Local Counter Fraud Specialist for investigation and may result in criminal proceedings being commenced and/or disciplinary action being taken.

3. Public Service Values

The NHS code of conduct: code of accountability in the NHS (Appointments Commission/DOH - 2nd Rev: 2004) defines three crucial public service values which must underpin the work of the health service.

i) Accountability – everything done by those who work in the Surrey and Sussex Healthcare NHS Trust must be able to stand the test of parliamentary scrutiny, public judgments on propriety and professional codes of conduct;

ii) Probity – staff should have an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal and professional conduct in decisions affecting patients, colleagues and suppliers and in the use of information acquired in the course of NHS duties;

iii) Openness – there should be sufficient transparency about Surrey and Sussex Healthcare NHS Trust's activities to promote confidence between staff, patients and the public.

These Public Service values are in accordance with the Seven Nolan Principles of Public Life. See Appendix 6

4. Scope of Policy

This policy applies equitably to all employees of the Trust and includes all those who work for the Trust, whether full-time, part-time, self-employed, or employed through an agency, a contractor or as a volunteer.

5. Organisational Responsibilities

5.1. Trust Board – Executive and Non Executive Directors

The Trust Board must ensure compliance with the NHS Code of Conduct: Code of Accountability (Appointments Commission/DOH – 2nd Rev: 2004), the principles of which are contained in this policy and the reference documents.

The Trust Board are responsible for ensuring all Executives, Non Executives and Senior managers complete declaration of interest forms on appointment and that these are reviewed. The Register of Interests is presented to the Trust Board on an annual basis for monitoring purposes and corrective action if appropriate. Any changes to declaration of interests should be made immediately and the CEO must be informed if these changes relate to an Executive Director. The Chairman must be informed if this relates to a Non-Executive Director.

5.2. Managers

Managers must ensure compliance with the NHS Code of Conduct for Managers 2002, the principles of which are contained in this policy and the reference documents. They must ensure all staff under their direction are aware of this policy and the referenced documents.

5.3. Employees

All employees of, and those who work for, Surrey and Sussex Healthcare NHS Trust have a duty to ensure they are aware of and comply with this policy and referenced documents. In so doing employees and those working for the Trust must:

- a) ensure the interest of patients remain paramount at all times,
- b) be impartial and honest in the conduct of their official business and
- c) use the public funds entrusted to them to the best advantage of the service, always ensuring value for money

Employees and those working for the Trust must also ensure that they do not:

- a) seek to advantage a private interest which is of such value that it could improperly influence performance of their official duties - for example to benefit their family and friends, religious belief, professional affiliation or political alignment, personal assets, investments or debts or
- b) seek to advantage a private interest which is of such value that it could improperly influence performance of their official duties for personal gain - for example a business interest, or an opportunity to make a financial profit or avoid a loss.

5.4. Human Resources

HR will provide advice and guidance on the interpretation of this policy to managers and staff.

5.5. Trade Unions and Professional Organisations

Trade Unions and Professional Organisations are required to be aware of this policy and the referenced documents and to advise staff accordingly.

6. Fit & Proper Person's Test

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the 2014 Regulations) places a duty on NHS providers not to appoint a person or allow a person to continue to be an executive director or equivalent or a non-executive director (NED) under given circumstances.

Providers must not appoint a person to an executive director level post (including associate directors) or to a non-executive director post unless they are:

- Of good character;
- Have the necessary qualifications, skills and experience;
- Are able to perform the work that they are employed for after reasonable adjustments are made;
- Can supply information as set out in Schedule 3 of the Regulations (see the Role of the CQC below).

Paragraph 5 (4) of regulations states that in assessing whether a person is of good

character, the matters considered must include those listed in Part 2 of Schedule 4.' Part 2 of Schedule 4 refers to:

- Whether the person has been convicted in the United Kingdom of any offence or been convicted elsewhere of any offence which, if committed in any part of the United Kingdom, would constitute an offence, and
- Whether the person has been erased, removed or struck off a register of professionals maintained by a regulator of health care or social work professionals.

The Care Quality Commission's (CQC) definition of good character is not the objective test of having no criminal convictions but instead rests upon a judgement as to whether the person's character is such that they can be relied upon to do the right thing under all circumstances. This implies discretion for boards and councils in reaching a decision and allows for the fact that people can and do change over time.

The regulations list categories of persons who are prevented from holding the office and for whom there is no discretion:

- The person is an undischarged bankrupt or a person whose estate has had a sequestration awarded in respect of it and who has not been discharged;
- The person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order or an order to like effect made in Scotland or Northern Ireland;
- The person is a person to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986(40);
- The person has made a composition or arrangement with, or granted a trust deed for, creditors and not been discharged in respect of it;
- The person is included in the children's barred list or the adults' barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006, or in any corresponding list maintained under an equivalent enactment in force in Scotland or Northern Ireland;
- The person is prohibited from holding the relevant office or position, or in the case of an individual from carrying on the regulated activity, by or under any enactment;
- The person has been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a regulated activity, or discharging any functions relating to any office or employment with a service provider.

It will be the responsibility of the Chair of the provider to discharge the requirement placed on the provider, to ensure that all directors meet the fitness test and do not meet any of the 'unfit' criteria.

The CQC expects senior leaders to set a tone and culture of the organisation that leads to staff adopting a caring and compassionate attitude. It is important therefore that in making appointments boards and councils take account of the values of the organisation and the extent to which candidates provide a good fit with those values.

The regulations give the CQC powers to assess whether both executive and non-executive directors (but not foundation trust governors) are fit to carry out their role and whether providers have put in place adequate and appropriate to ensure that directors are fit and proper persons. The CQC has the right to require the provision of information set out in Schedule 3 of the Regulations and such other information as is kept by the organisation that is relevant to the individual as follows:

- Proof of identity including a recent photograph.

- Where required for the purposes of an exempted question in accordance with section 113A(2)(b) of the Police Act 1997(38), a copy of a criminal record certificate issued under section 113A of that Act together with, after the appointed day and where applicable, the information mentioned in section 30A(3) of the Safeguarding Vulnerable Groups Act 2006 (provision of barring information on request)(39)
- Where required for the purposes of an exempted question asked for a prescribed purpose under section 113B(2)(b) of the Police Act 1997, a copy of an enhanced criminal record certificate issued under section 113B of that Act together with, where applicable, suitability information relating to children or vulnerable adults.
- Satisfactory evidence of conduct in previous employment concerned with the provision of services relating to:
 - (a) health or social care, or,
 - (b) children or vulnerable adults
- Where a person (P) has been previously employed in a position whose duties involved work with children or vulnerable adults, satisfactory verification, so far as reasonably practicable, of the reason why P's employment in that position ended.
- In so far as it is reasonably practicable to obtain, satisfactory documentary evidence of any qualification relevant to the duties for which the person is employed or appointed to perform.
- A full employment history, together with a satisfactory written explanation of any gaps in employment.
- Satisfactory information about any physical or mental health conditions which are relevant to the person's capability, after reasonable adjustments are made, to properly perform tasks which are intrinsic to their employment or appointment for the purposes of the regulated activity.

The guidance states the following:

- (a) 'the appointed day' means the day on which section 30A of the Safeguarding Vulnerable Groups Act 2006 comes into force;
- (b) 'satisfactory' means satisfactory in the opinion of the Commission;
- (c) 'suitability information relating to children or vulnerable adults' means the information specified in sections 113BA and 113BB respectively of the Police Act 1997

The Trust has procedures in place to ensure that Directors and Non-Executive Directors are fit and proper persons.

7. Conflict of Interest

A 'conflict of interest' involves a conflict between the public duty and the private interest of a public service individual, in which a public official's private interest could improperly

influence the performance of their official duties or responsibilities.

Situations can arise in which there appears to be a conflict of interest but this is not in fact the case, or may not be the case. This situation is regarded as an “apparent conflict of interest”. Having an “apparent conflict of interest” as a public official, however, can be as serious as having an actual conflict because of the potential for suspicion of the official’s integrity and that of the organisation.

An employee may have private interests which may be such as to cause a conflict of interests to arise in the future this is called a “potential conflict of interest”.

7.1 Managing a Conflict of Interest

Employees must notify any conflicts, apparent conflicts or potential conflicts, to their Line Manager as soon as they become aware of such conflict and complete a declaration of interest form at Appendix 3. This form will be retained on the Trust’s Register of Interests and a copy retained in the employee’s personal file.

Managers should consider how a conflict of interest be managed. In the first instance advice should be sought from the Chief Financial Officer or Director of Corporate Affairs, where one or more of the following options may be considered:

- removal of the interest
- removal of the employee from involvement in an affected decision-making process
- restriction of access by the employee to particular information
- transfer of the employee to duties in a non-conflicting function
- re-arrangement of the employee’s duties and responsibilities
- assignment of the conflicting interest in a genuinely ‘blind trust’ arrangement.

7.2 Benefits – Gifts, Hospitality and Sponsorship

The Trust is required to keep a record of all gifts or hospitality offered and/or received, even when refused. All employees must complete the Declaration of Gifts and Hospitality Form (see Appendix 4) when offered any gift or hospitality, however small. This will be recorded on the Trust’s Gifts and Hospitality Register held by the Director of Corporate Affairs.

Sight of the Trust’s Gifts and Hospitality Register is a frequent feature under the Freedom of Information Act and the Trust is obliged to produce this on request.

The following guidelines should be followed when offered any gift or hospitality:

- One off casual gifts of low intrinsic value (£25) such as diaries, calendars, pens and such small tokens of gratitude are considered acceptable and do not need to be declared but if multiple gifts of such value (£25) are offered, either at one time or over a period of time, this would not be acceptable, if such offers are made they should be politely but firmly declined and a declaration form completed to confirm declining the

offer.

- Gifts above the value of £25 are not acceptable and should be politely but firmly declined and a declaration completed to confirm declining the offer.
- Modest hospitality is normally considered reasonable e.g. working lunches may be acceptable in the right circumstances.
- All other offers of hospitality or entertainment should be declined. In cases of doubt employees should either consult their manager, the Chief Financial Officer or else politely decline acceptance.

Employees should only accept commercial sponsorship to attend relevant conferences or courses after they have received advance permission from the Trust by referring the matter to their Line Manager and on completion of the gifts and hospitality form at Appendix 4 for inclusion on the Register.

Employees should refer offers of drugs and/or clinical equipment/**devices** to their Line Manager or Chief Financial Officer and acceptance of the offer can only be made after they have received advance permission from the Trust and on completion of the gifts and hospitality form at Appendix 4 for inclusion on the Register. **There are strict guidelines contained in the Policy for Commercial Representatives which should be followed.**

Employees should also refer to their Line Manager in the first instance and also the Chief Finance Officer when seeking, or being offered, sponsorship funding from an external source towards costs, or for the cost, of a specific event or work programme.

7.3 Declaration of relationship to candidates

The Trust Board, Senior Officers, Medical Staff and any other staff involved in the recruitment and selection of candidates must declare the relationship (see Appendix 5).

Candidates for any staff appointments must declare if they are related to any employee of the Trust. This includes partners and anyone whose affairs are so closely connected with the affairs of the candidate that a benefit derived by the other person, or a substantial part of it, could pass to the candidate, or could constitute a conflict of interest. A copy of such declaration must be retained on the Personal File (see Appendix 5).

7.4 Declaration of Interests

If an employee has interests in any outside business they should declare this to the Trust as their employer. The following are examples of situations where a declaration must be made:

- The individual (or their family or friends) has a financial interest in a business which may compete for a contract to supply goods or services to the Trust
- The individual has access to information that may influence where the Trust is to place a contract for goods or services
- The individual has outside interests that may be in any way detrimental to the NHS or to

patients' interest.

- A role or interest undertaken in a capacity which is paid or unpaid which a member of staff wishes to place on record but does not fall into the categories above.

A full list of examples is listed in the declaration of interest forms at **Appendix 3**.

7.5 Council of Governors

As part of our journey to become an NHS Foundation Trust we have elected a shadow council of governors. The shadow council consists of elected and appointed governors. All governors are required to declare any interest. Declarations are held in the Governors Declaration of Interests Register.

7.6 Pharmacy

Staff who present applications for additions to the formulary are required to make a declaration of interest as part of that process. All members of the Drugs and Therapeutic Committee and Formulary committee are asked to make a declaration of interest each time an application is considered by the committee. All declarations are recorded in the minutes of the meeting even if no relevant interest is declared.

7.7 Medical Devices

Staff who present applications to the medical devices group are required to make a declaration of interest as part of that process. All members of the Medical Devices Group should make a declaration of interest each time an application is considered. All declarations should be recorded in the minutes of the meeting even if no relevant interest is declared.

7.8 FAILURE TO MAKE A DECLARATION

Should it be suspected that a member of staff has failed to appropriately declare an interest, or failed to demonstrate compliance with the conduct outlined in this policy, it may be deemed appropriate to take action in line with the Trust's Disciplinary Policy and/or make a referral to the Trust's Local Counter Fraud specialist (LCFS). Staff can obtain details via the intranet should they have any concerns

It is the responsibility of ALL staff to ensure that declarations must be updated on an annual basis using Appendix 3 and sent to the Director of Corporate Affairs.

8. Employment external to the Trust

8.1 Working Time Regulations

To comply with the Working Time Regulations (1998), it is a requirement that employees notify the Trust of any outside employment, including private work or work for outside agencies, particularly where their total time worked is in excess of 48 hours a week and they will be required to sign an "opt-out" agreement.

An opt-out form can be accessed from the Trust Intranet.

8.2 Conflict of Interest with outside employment

Employees should not engage in any activities outside the Trust which may impact on their ability to fulfill their duties and responsibilities without first obtaining consent, which will not be unreasonably withheld. The Trust retains the right to review this position, should it become aware of issues affecting the employee's employment with the Trust.

Employees are advised not to take on outside employment or become involved in another company that may conflict with their Trust employment or be detrimental to it. This includes any work in or on behalf of a business owned by the employee, a member of his/her family or friends, as well as work for outside agencies.

9. Contracts

All Trust employees who are in contact with suppliers and contractors, in particular those who are authorised to sign purchase orders, or place contracts for goods or services, must ensure that they are familiar with the Trust's Standing Orders and Standing Financial Instructions.

9.1 Favoritism in Awarding Contracts

Fair and open competition between prospective contractors or suppliers for Trust contracts is a requirement of the Trust's Standing Financial Instructions, NHS Standing Orders and the EU Directives on Purchasing.

Employees involved in placing or awarding contracts must not unfairly advantage one contractor or competitor over another, or show any favoritism in awarding contracts.

This means that:

- no private, public or voluntary organisation which may bid for NHS business should be given an advantage over its competitors.
- each new contract should be awarded solely on merit, taking into account the requirements of the NHS and the ability of the contractors to fulfil them.

All invitations to potential contractors to tender for NHS business should include a notice warning with regard to the consequences of engaging in any corrupt activity involving employees of the **Trust**. All contractors should be made aware of the Trust's Whistle Blowing policy (Public Interest Disclosure Act).

NHS Fraud and Corruption Reporting Line is available on Freephone 0800 028 4060 or by completing an online form at www.reportnhsfraud.nhs.uk

10. Private Practice

Consultants and Associate Specialists are permitted to carry out private practice subject to the provisions of their Trust contract of employment and clearly identified in their job plan.

Other grades of staff may undertake private work or work for outside agencies provided this work does not conflict with their Trust employment or take place during their contracted hours with the Trust and complies with the requirements in their Contract of Employment and clearly identified in their job plan.

Any work should also be subject to the conditions outlined in the NHS Code of Conduct for Private Practice and the Trust's Policy on Private Patients and should be declared to the Trust using the declaration of interests form Appendix 3.

11. Intellectual Property

Managers should ensure that they are in a position to identify intellectual property rights (IPR) as and when they arise so that they can exploit them properly. This will ensure that the Trust receives any reward or benefit (such as royalties), both in respect of work carried out by third parties, or work carried out by employees of the Trust. To ensure this is achieved managers should build appropriate specifications and provisions into the contractual arrangements before work is commissioned or begins, and seek legal advice in relation to specific cases.

This complex area relates to copyright, patents, new inventions and collaborative research projects. Before any work is undertaken in this area, legal advice, in liaison with the Chief Finance Officer on intellectual property should be sought and contractual arrangements drawn up with the Trust, as to how rewards or benefits in respect of this work may be allocated.

12. Confidentiality – Sensitive Information

Staff should ensure they are aware of information relating to business conducted by the Trust which is "commercial in confidence". All such information should be restricted with regard to disclosure particularly if its disclosure would prejudice the principle of a purchasing system based on fair competition. This refers to both private and public providers of services.

The term "commercial in confidence" should not be taken to include information about service delivery and activity levels, which should be publicly available, under the Freedom of Information Act. The exchange of data for medical audit purposes is subject to the rules governing patient confidentiality and data protection.

13. Consultation and Communication with Stakeholders

The policy has been drawn up in consultation with the trade unions, counter fraud, the Executive Committee and the Audit and Assurance Committee.

14. Approval and Ratification

The following groups were responsible for the discussion, approval and ratification of this policy:

Joint Consultative Committee
The Executive Committee
The Audit & Assurance Committee
The Trust Board

15. Review and Revision

All policies will be monitored and data presented to the relevant committee on a quarterly basis to analyse trends, and act on any areas of concern.

16. Dissemination and implementation

The Trust process for dissemination of policies will be followed as described in the Organisation-wide Policy for the Management and Development of Procedural Documents.

It will be posted on the dedicated Policies and Procedures page of the intranet and a notification to all staff of the new policy placed on the next available E Bulletin. All forms which are attached (Appendices 2 – 5) are available as individual forms on the Form section of the intranet.

Standards of Business Conduct are also referred to in all Employee Statement of Main Terms and Conditions of Employment.

17. Archiving

This policy will be held in the Trust database and archived in line with the arrangements in the Organisation-wide Policy for the Management and Development of Procedural Documents.

18. Monitoring and Compliance

The Department of Corporate Affairs will monitor the daily operation of this policy.

Breaches of the policy will be monitored and reported on an annual basis.

Registers will be maintained by the Department of Corporate Affairs to record declarations of gifts/hospitality/sponsorship received or refused and disclosures of interest.

Registers will be presented for review at the Audit & Assurance Committee and the Trust Board on a bi-annual basis. Annual reports will be made to the Trust Consultative Committee.

Periodic communications to maintain a level of awareness of responsibilities of staff will be undertaken through the SASH news, e Bulletin, counter fraud initiatives, any other appropriate medium as identified. Executive and Non Executive Directors and Senior Managers will be written to on an annual basis to ensure compliance with the policy.

19. References

Trust's Standing Orders
Trust's Standing Financial Instructions
Trust Policy for Commercial Representatives
Standards of Business Conduct HSG (93)5
Code of Conduct for NHS Managers 2002
Professional Codes of Conduct
Contracts of Employment
Bribery Act 2010
Nolan Principles
Standards for Members of NHS Boards 2011 (Professional Standards Authority for Health & Social Care)
Private Patients Policy
Fit & Proper Persons Regulations
Working Time Directive Policy
Fraud Act 2006

20. Associated Documents

Disciplinary Policy
Code of Conduct for Confidentiality
Counter Fraud Response and Bribery Plan
Policy for Raising Serious Concerns (Whistleblowing)
Intellectual Property Policy
Private Patients Policy
Working Time Directive Policy
Contracts of Employment
Professional Codes Conduct
Medical Devices Policy
Trust Policy for Commercial Representatives

Bribery and Corruption

The new Bribery Act 2010 replaces the fragmented and complex offences at common law and in the Prevention of Corruption Acts 1889 – 1916.

The Act sets out four offences:

- 1. Offering, promising or giving a bribe** to another person to perform improperly a relevant function or activity, or to reward a person for the improper performance of such a function or activity (the active offence). It does not matter whether the person to whom the bribe is offered or given is the same person who is to perform the function or activity concerned. This applies to both public and private functions.
- 2. Requesting, agreeing to receive or accepting a bribe** to perform a function or activity improperly (the passive offence). It does not matter whether the recipient of the bribe requests or receives it directly or through a third party, or whether it is for the recipient's benefit or not. In some cases, it is not necessary for the recipient to know or believe that the performance of the function or activity is improper. This applies to both public and private functions.
- 3. Bribing a foreign public official** – where a person directly, or through a third party, offers, promises or gives any financial or other advantage to a foreign public official ("FPO") (or to a third party at the request or acquiescence of the FPO) in an attempt to influence them in their capacity as a FPO in order to obtain or retain business, or to obtain an advantage in the conduct of business. To constitute bribery under the Act the FPO must be neither permitted nor required by applicable law to be influenced by the offer, promise or gift.
- 4. Failure of a commercial organisation to prevent bribery** (the "Corporate Offence"). A commercial organisation will commit an offence if a person associated with it bribes another (in the UK or overseas) intending to obtain or retain business or a business advantage for that commercial organisation. An associated person includes any person who performs services for the commercial organisation. So, for example, an associated person may include not only employees, agents and subsidiaries, but also entities over which the organisation has no ownership or control.

Short Guide to Standards of Business Conduct for NHS Staff

To assist NHS employers and staff in maintaining strict ethical standards in the conduct of NHS Business in 1993 the NHS Executive published HSG (93) 5 – Standards of Business Conduct for NHS Staff. (Please refer to the statement in the ‘Introduction’ of this document relating to HSG (93) 5.

In brief, the guidelines cover the declaration of interests and acceptance of gifts and hospitality. It is the responsibility of all NHS staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties.

The Trust’s HR Director holds the Register of Interests, Gifts and Hospitality, which is checked periodically by the Audit Committee, internal and external auditors and the Trust Board. If you have anything to declare, please complete the declaration form and forward to the Chief Financial Officer, Maple House.

Short Guide for staff

Do:

- Make sure you understand the guidelines on Standards of Business Conduct (HSG (93) 5) referred to in your terms and conditions of employment and consult your line manager if you are not sure
- Make sure you are not in a position where your private interests and NHS duties conflict.
- Declare any relevant interests. If in doubt, ask yourself:
 5. Am I, or might I be, in a position where I (or my family/friends) could gain from the connection between my private interests and my employment, or where it could be perceived by others that a gain could be made?
 6. Do I have access to information which could influence the Trust’s purchasing or contracting decisions, or could it be perceived that I have such access?
 7. Could my outside interests be in any way detrimental to the NHS or to patients’ interests, or could others perceive them to be detrimental?
 8. Do I have any other reason to think I may be risking a conflict of interest?

IF IN DOUBT – DECLARE IT

Always :

- Adhere to the ethical code of the Institute of Purchasing and Supply if you are involved in any way with the acquisition of goods and services.
- Seek your employer's permission before taking on outside work, if there is any question of it adversely affecting your NHS duties.
- Obtain the Trust's permission before accepting any commercial sponsorship.

Do Not

- Abuse your past or present official position to obtain preferential rates for private deals.
- Unfairly advantage one competitor over another or show favoritism in awarding contracts.
- Misuse or make available 'commercial in confidence' information.
- Accept gifts, inducements or inappropriate hospitality.

Casual gifts offered by Contractors or others e.g. at Christmas time, may not be in any way connected with the performance of duties so as to be committing an offence under the Bribery Act. Such gifts should nevertheless, be politely but firmly declined. Articles of low intrinsic value such as diaries or calendars, or small tokens of gratitude from patients or relatives, i.e. chocolates etc need not be refused. In cases of doubt staff should either consult their line manager or politely decline acceptance.

Modest hospitality provided it is normal and reasonable in the circumstances i.e. lunches in the course of working visits may be acceptable, though it should be similar to the scale of hospitality which the NHS as an employer would be likely to offer. Receipt of such hospitality should be declared.

Staff should decline all other offers of gifts, hospitality or entertainment. If in doubt they must seek advice from their line manager and/or declare it.

DECLARATION OF INTERESTS

Name

Title

Under the Codes of Conduct and Accountability, the Trust’s Standing Orders and Standing Financial Instructions and the content of the Standards of Business Conduct Policy I declare my interests as follows:

Category	Details (include start date of interest & all locations)
Category A Directorships, including non-executive directorships held in Private companies or PLCs (with the exception of those of Dormant companies) i.e. being a Board Member of a Statutory Organisation	
Category B Undertaking of private practice at any facility.	
Category C Ownership or private companies, business or consultancies likely or possible to do business with the NHS or any other organisation.	
Category D Majority, controlling or large shareholdings in organisations likely to possibly seek to do business with the NHS	
Category F A position of authority in a charity or voluntary organization in the field of health and social care	
Category F Any connection with a voluntary or other organisation contracting for NHS services	
Category G Any additional role or other interest undertaken in a capacity is paid or unpaid which a member wishes to place on record but does not fall into categories A-E above	

If this situation changes during the next 12 months I will advise you accordingly

Signed

Date

Countersigned

Director /Chief of Service/Assistant Director.....

Date.....

Copy to be placed on employee’s file and original to be retained by the Corporate Affairs Team on the Register of Interests File.

Declaration of Gifts, Entertainment, Hospitality/ Sponsorship/Sample Medical Equipment or Drugs

Please complete this form if you receive or have offered any of the above that is beyond that set out in the Policy

Please complete this form if you receive or have offered any of the above that is beyond that set out in the Policy

Nature of Hospitality /gift given:

Hospitality/gift offered to:

Name of organisation:

Date

Value (Approx.).....

Description of hospitality/sponsorship/gift/entertainment/sample medical equipment or drugs:

Do you have any personal relationship with, or personal business connection with the person/organization from whom you received, or to whom you offered hospitality/gift/sponsorship/sample medical equipment /drugs declared above

Yes No

If yes, please describe

Declaration

I declare that the above record represents a complete and accurate statement of the hospitality/gift/sponsorship/sample medical equipment/drugs I have given/received

Signed..... Date

Name

Countersigned.....

Director/Chief of Service/Assistant Director/Date.....

Copy to be placed on employee's file and original to be retained by the Corporate Affairs Team on the Register of Interests File.

Declaration of relationships with Candidates

Guidance:

- Candidates will be required to disclose in writing whether to their knowledge they are related to the Chairman, Director, Consultant Medical staff or other staff with responsibilities for the recruitment process. Failure to do so shall disqualify from the recruitment and selection process. If an appointment is made, it shall render the appointee liable to dismissal.
- Relationships to which these rules apply are those of husband, wife, where two persons live together as partners, sons, daughter, grandson, granddaughter, brother, sister, nephew, nieces of either partner.
- Direct or indirect canvassing of the Chairman or Directors or of any committee of the Trust by or on behalf of any candidates shall disqualify the candidate from the appointment.
- Employees of the Trust shall not solicit for any person or any appointment with the Trust or recommend any person for such an appointment. However, this does not preclude the member of staff from giving a written or verbal reference on request concerning a candidate's ability or experience for submission to the Trust.

Name

Job Title

Declaration of Relationship

Name of Candidate

Post applied for

Nature of relationship.....

Signed.....Date.....

Countersigned

Director of HR

Copy to be placed on employee's file and original to be retained by the Human Resources Team.

The Seven Principles of Public Life (Nolan)

1. **Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

2. **Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

3. **Objectivity**

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

4. **Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

5. **Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

6. **Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7. **Leadership**

Holders of public office should promote and support these principles by leadership and example.

The Committee on Standards in Public Life has set out “Seven Principles of Public Life” which it believes should apply to all in the public service. www.public-standards.gov.uk

Equality Impact Assessment

Names of assessors carrying out the screening procedure (min of 2- author / manager and staff member / patient representative) <ul style="list-style-type: none"> • Gillian Francis-Musanu • Sally Knight 		Name of lead author /manager & contact number Gillian Francis-Musanu	
1. Name of the strategy / policy / proposal / service function <p style="text-align: center;">POLICY ON STANDARDS OF BUSINESS CONDUCT</p>		Date last reviewed or created & version number. New, December 2012	
2. Who is the strategy / policy / proposal / service function aimed at? All staff, whether full-time, part-time, self-employed, or employed through an agency, a contractor or as a volunteer			
3. What are the main aims and objectives? The purpose of this policy is to provide employees with an awareness of their own personal responsibilities in their conduct at work as a public service employee in the NHS. It is also to make them aware that any breach of the provisions legislated in the Bribery Act 2010 is a criminal offence for which they could be prosecuted			
4. Consider & list what data / information you have regarding the use of the strategy / policy / proposal / service function by diverse groups? Workforce data, Employee relations data.			
5. Is the strategy / policy / proposal / service function relevant to any of the protected characteristics or human rights below? If YES please indicate if the relevance is LOW, MEDIUM or HIGH			
	Protected Characteristics	Patient, their carer or family	Staff
•	Age	NO	NO
•	Disability	NO	NO
•	Gender Reassignment	NO	NO
•	Race/ Ethnic Communities / groups	NO	Yes. Low negative
•	Religion or belief	NO	NO
•	Sex (male female)	NO	NO
•	Sexual Orientation (Bisexual, Gay, heterosexual, Lesbian)	NO	NO
•	Marriage & Civil Partnership	NO	NO
•	Pregnancy & Maternity	NO	NO
•	Human Rights	NO	NO

6.	<p>What aspects of the strategy / policy / proposal / service function are of particular relevance to the protected characteristics? Race and potential for disciplinary action</p>		
7.	<p>Does the strategy / policy / proposal / service function relate to an area where there are known inequalities? If so which and how? Allegations of fraud may result in disciplinary action. In the past the number of BME staff in disciplinary cases has been disproportionate to the overall number in the Trust.</p>		
8.	<p>Please identify what evidence you have used / referred to in carrying out this assessment. See q 4 and authors knowledge</p>		
9.	<p>If you identify LOW relevance only can you introduce any minor changes to the strategy / policy / proposal / service function which will reduce potential adverse impacts at this stage? If so please identify here. Annual monitoring of breaches of the policy by protected characteristics of the staff involved will help identify any potential discrimination. This can be reported on as a subset of the employee relations report.</p>		
10.	<p>Please indicate if a Full Equality Impact Assessment is recommended. (required for all where there is MEDIUM & HIGH relevance)</p> <p style="text-align: center;">NO</p>		
11.	<p>If you are not recommending a Full Equality Impact assessment please explain why. The policy follows national guidance, good practice and UK legislation. The policy is identified in all employment contracts. Monitoring and reporting of the breaches by protected characteristics annually will provide additional assurance.</p>		
12.	<table border="1" style="width: 100%;"> <tr> <td data-bbox="228 1384 754 1473">Signature of author / manager</td> <td data-bbox="762 1384 1260 1473">Date of completion and submission</td> </tr> </table>	Signature of author / manager	Date of completion and submission
Signature of author / manager	Date of completion and submission		

Definitions of relevance

Low

- The policy **may not be relevant** to the Equality General Duty* as stated by law
- Little or no evidence is available that different groups may be affected differently
- Little or no concern raised by the communities or the public about the policy etc when they are consulted – (recorded opinions, not lack of interest)

Medium

- The policy **may be relevant** to parts of the Equality General Duty* in the policy etc regarding differential impact
- There may be some evidence suggesting different groups are affected differently
- There may be some concern by communities and the public about the policy

High

- There **will be relevance** to all or a major part of the Equality General Duty* in the policy regarding differential impact.
- There will be substantial evidence, data and information that there will be a significant impact on different groups

There will be significant concern by the communities and relevant partners on the potential impact on implementation of the policy etc.

•	Human Rights
1	the right to life
2	the right not to be tortured or treated in an inhuman or degrading way
3	the right to be free from slavery or forced labour
4	the right to liberty
5	the right to a fair trial
6	the right to no punishment without law
7	the right to respect for private and family life home and correspondence
8	the right to freedom of thought, conscience and religion
9	the right to freedom of expression
10	the right to freedom of assembly and association
11	the right to marry and found a family
12	the right not to be discriminated against
13	the right to peaceful enjoyment of possessions
14	the right to an education
15	the right to free elections