



Declaration of Interests (including Gifts, Hospitality, Sponsorship and Secondary Employment) Policy and Procedure

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1 Statement of Aims and Objectives

- 1.1. South East Coast Ambulance Service 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.
- 1.2. 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.
- 1.3. The Trust embraces the ethics, values and expected behaviours for public life as enshrined in the Nolan Committee's seven 'principles of public life':
 - Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
- 1.4. Essentially the Trust has a duty to ensure that its business dealings are honest, impartial and transparent.
- 1.5. The Bribery Act 2010 makes it important that all staff are aware of, and conduct Trust business, in accordance with Nolan's seven principles. The Act reforms the criminal law of bribery, enabling simpler prosecution of offences. The Act makes it an offence for a commercial organisation, which includes NHS organisations, to fail to prevent bribery.
- 1.6. The relevant sections of the Act are:

Section 1 – Offences of bribing another person

Section 2 – Offences related to being bribed

Section 7 – Failure of commercial organisations to prevent bribery
- 1.7. The Act states that an associated person may be an employee, agent or subsidiary. Section 7 of the Act is intended to have a broad scope and it is likely that other categories of individual, for example, contractors and agents, will fall within the definition.

- 1.8. Under the 2010 Bribery Act an organisation will be able to use in its defence evidence that demonstrates that it has adequate procedures in place which are designed to prevent bribes being paid and promotes a culture of awareness and compliance with this policy.
- 1.9. Under the Act penalties for a successful conviction include an unlimited fine and (in the case of individuals) imprisonment for up to ten years.

2. Definitions

- 2.1. A **conflict of interest** is:

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

- 2.2. A **conflict of interest** may be:

Actual – there is a material conflict between one or more interests.

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

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

- 2.4. **Material interests:** An interest is said to be ‘material’ if it has or may be perceived to have the capacity to affect a person’s behaviour. If a staff member is unclear whether an interest might be deemed to introduce a conflict (that is, to be material) then the staff member must declare the interest so that a decision as to its materiality can be made.

- 2.5. **Interests**

- 2.5.1. Interests fall into the following categories:

- 2.6. **Financial interests:** Where an individual may get direct financial benefit (this may be a financial gain, or avoidance of a loss) from the consequences of a decision they are involved in making.

- 2.7. **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.

- 2.8. **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.

- 2.9. **Indirect interests:** Where an individual has a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest and could stand to benefit from a decision they are involved in making. A common sense approach should be applied to the term 'close association'. Such an association might arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners.

3 Principles

3.1. Who this Policy and Procedure applies to

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

- All salaried employees
- All prospective employees – who are part-way through recruitment
- Contractors and sub-contractors
- Bank workers
- Volunteers (including Chaplains, Community First Responders, Governors and members of other groups regularly meeting on Trust business)
- Agency staff; and
- Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the organisation)

- 3.1.2. **All staff** should familiarise themselves with the sections of this policy that cover:

- Gifts
- Hospitality
- Outside (secondary) employment
- Donations
- Patents and intellectual property
- Shareholdings
- Loyalty interests
- Sponsorship
- Clinical private practice.

- 3.1.3. 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. The impact of the potential impairment or influence on these people's

judgement could be more detrimental to the organisation than the influence or impairment of the judgment of other members of staff.

3.1.4. **Decision making staff** in this organisation include:

- Executive and Non-Executive Directors who have decision making roles which involve the spending of taxpayers' money;
- Those at Agenda for Change band 8a and above;
- All budget-holders (staff able to authorise spending against Trust budgets) as recorded by the Trust's Management Accounts Team;
- All members of the Trust's Procurement Team.

4 Responsibilities

4.1. The **Trust Board** is responsible for the effectiveness of the Trust's policies and procedures.

4.2. **Line managers** (as defined in 3.1.4) are responsible for ensuring their staff have completed a declaration when interests arise or change (or an annual nil return in the case of decision-making staff) as part of the annual appraisal process.

4.3. **Decision-making staff** (as defined in 3.1.4) are responsible for following this policy and procedure in full and making an annual declaration (which may be a nil return) as part of their annual appraisal process.

4.4. **All employees** are responsible for following this policy and procedure in respect of acceptance/lack of acceptance of gifts, hospitality etc as set out in 3.1.2 and making any relevant declarations accurately and in a timely manner.

4.5. **All employees** are responsible for ensuring their Line Manager is aware of any interests, including outside (secondary) employment, that they have declared.

4.6. The **Corporate Governance Team** is responsible for:

4.6.1. implementing this policy and procedure;

4.6.2. undertaking quarterly reviews of the register and implementing spot checks of compliance;

4.6.3. providing guidance about whether interests are material; and

4.6.4. maintaining and publishing the Trust's Register of Interests.

5 Procedure

5.1. Identification & declaration of interests

- 5.1.1. Failure to declare an interest or being found to have abused one's position for one's own benefit may be subject to disciplinary action up to and including dismissal for gross misconduct.
- 5.1.2. If decision-making staff are in any doubt as to whether an interest is material then they must declare it, so that it can be considered.
- 5.1.3. All decision-making staff must identify and declare material interests **on an annual basis, and at the earliest opportunity** (and in any event within 28 calendar days) if any condition in 3.2.4 below is met.
- 5.1.4. Decision-making staff must also make declarations:
- On appointment with the organisation;
 - When staff move to a new role or their responsibilities change significantly (i.e. move into a decision-making role);
 - At the beginning of a new project/piece of work;
- and
- As soon as circumstances change and new interests arise (for instance, in a meeting when interests staff hold are relevant to the matters in discussion).
- 5.1.5. All staff are expected to declare gifts, hospitality, sponsorship, secondary employment and any other interests as set out in this policy as and when they arise. There is no need for staff who are not classed as 'decision-making' as set out above to make an annual declaration.
- 5.1.6. Staff have access to an online appraisal system which enables the recording of interests at any time. Others listed under 3.1.1. to whom this policy and procedure applies but who do not have an online appraisal account, for example volunteers, should use the form enclosed as [Appendix 1](#).
- 5.1.7. If employees are unable to access the system to declare an interest in a timely fashion, they should complete the declaration of interest(s) form available at: [Appendix 1](#) and send it to declarations@secamb.nhs.uk.
- 5.1.8. Decision-making staff must keep their personal record up to date and draw any interest declared to their line manager's attention in a timely fashion (usually within 14 calendar days). If you do not have a Trust line manager (for example because you are a volunteer) you should notify your main Trust contact about any interests.
- 5.1.9. Line managers must check their employees have made all relevant declarations as a routine part of their annual appraisal and remind them about this policy and procedure.
- 5.1.10. Declarations should be made directly via the online appraisal system. Only if staff persistently lack online access should a form (Annex1) be sent to declarations@secamb.nhs.uk

- 5.1.11. Individuals seeking advice on the materiality of an interest should contact declarations@secamb.nhs.uk for advice.
- 5.1.12. After expiry, an interest will remain on register(s) for a minimum of 6 months and a private record of historic interests will be retained for a minimum of 6 years.

5.1. **Proactive review of interests**

- 5.2.1. Line managers should ensure they are aware of any interests declared by decision-making staff they line manage, in order to avoid placing staff in situations where interests might become material.
- 5.2.2. Line managers should prompt decision-making staff they line manage to keep their declarations up to date and to make an annual return.

5.2. **Register of interests**

- 5.2.3. The organisation will maintain a Register of Interests, which will list declarations in respect of any interests and will include:
- Financial interests
 - Non-financial professional interests
 - Non-financial personal interests
 - Indirect interests
 - Gifts
 - Hospitality
 - Outside (secondary) employment
 - Sponsorship
 - Shareholdings
 - Patents
 - Donations
 - Clinical private practice
- 5.2.4. All declared interests that are material will be promptly transferred to the register by the Corporate Governance Team.

5.3. **Publication of the Register**

- 5.4.1. The Corporate Governance Team will:
- Publish the interests declared by staff in the Register of Interests.
 - Refresh this information at least annually and in a timely fashion whenever new material interests are declared.
 - Make this information available on the Trust's website: www.secamb.nhs.uk.
 - Staff and members of the public may also request a copy of the register by email to declarations@secamb.nhs.uk
- 5.4.2. If staff have substantial grounds for believing that publication of their interests should not take place then they should contact the Corporate Governance Team (declarations@secamb.nhs.uk) 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.

5.4. **Action to be taken if there is a risk of conflict**

5.5.1. If an interest is declared but there is no risk of a conflict arising, then no action is warranted.

5.5.2. 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; and/or
- removing staff from their role altogether if they are unable to operate effectively in it because the conflict is so significant.

5.5.3. Each case will be different and context-specific, and the Trust will always clarify the circumstances and issues with the individuals involved. Staff involved in taking such actions must maintain a written audit trail of information considered and actions taken (through the minutes of meetings, for example).

5.5.4. Decision-making staff who declare material interests must make their line manager, the person(s) they are working to or their main contact at the Trust aware of their existence.

5.5.5. Staff have a responsibility to remove themselves from conflict.

5.5. **Management of interests – common situations**

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

5.6. **Gifts**

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

5.7.2. The following principles apply to all gifts excepting those from suppliers or contractors:

- Staff must not ask for any gifts.
- **Gifts of cash and vouchers to individuals must always be declined.**
- Persons wishing to make cash donations may do so into the Trust's charitable fund (contact treasury@secamb.nhs.uk to make a donation).
- Gifts valued at over £50 must not be accepted by an individual.

- Gifts to the Trust at over £50 must only be accepted with the prior agreement of the Executive Team and only on behalf of South East Coast Ambulance Service NHS Foundation Trust not in a personal capacity. These must be declared by staff, including the date of the Executive Team meeting at which the approval was given.
- Modest gifts under a value of £50 may be accepted and do not need to be declared.
- A common sense approach must 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 an extended time period must be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

5.7.3. Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the organisation must 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 (the £6 value has been selected with reference to existing industry guidance issued by the Association of the British Pharmaceutical Industry (ABPI): <http://www.pmcpa.org.uk/thecode/Pages/default.aspx>).

5.7.4. What must be declared:

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

5.7.5. Authorisation:

5.7.6. All gifts received in excess of the £50 limit are subject to review by the Trust's Executive Team and authorisation may not be provided. Staff must retain all items, unless perishable, in case they need to be returned.

5.7. **Hospitality (including meals, travel and accommodation)**

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

5.8.2. Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.

5.8.3. Particular caution must 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. Executive Director approval must be obtained prior to accepting the hospitality.

5.8.4. 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 (The £75 value has been selected with reference to existing industry guidance issued by the ABPI <http://www.pmcps.org.uk/thecode/Pages/default.aspx>)
- Over a value of £75 must be refused unless (in exceptional circumstances) Executive Director approval is given. A clear reason must be recorded on the organisation's 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).

5.8.5. Travel and accommodation:

- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared.
- Offers which go beyond modest, or are of a type that the organisation itself might not usually offer, need approval by an Executive Director, must only be accepted in exceptional circumstances, and must be declared. A clear reason must be recorded on the organisation's 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.

5.8.6. What must 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).

5.8. **Outside (secondary) employment (this applies to direct employees of the Trust only)**

5.9.1. Staff are permitted to undertake paid or unpaid secondary employment providing:

5.9.2. it does not conflict with their role at the Trust;

- 5.9.3. their involvement in the other organisation would not in any way bring the Trust in to disrepute;
- 5.9.4. they comply with Working Time Regulations; and
- 5.9.5. there are no health and safety or other concerns as set out in [Appendix 2](#).
- 5.9.6. Staff must declare any existing outside employment on appointment and any new outside employment when it arises.
- 5.9.7. Where a risk of conflict of interest arises, the general [management actions](#) outlined in this policy must be considered and applied to mitigate risks.
- 5.9.8. Staff must advise their line manager of all secondary employment. This will likely happen during regular one to one meetings as the employee registers their secondary employment on the online appraisal system. Staff must be reminded to update their declarations as relevant as a routine part of the appraisal process.
- 5.9.9. Line manager approval to undertake secondary employment is not required however line managers can provide clear reasons why the advised secondary employment is not acceptable. See [Appendix 2](#) for further detail.
- 5.9.10. There may be good reasons (within employment law) why the Trust would wish to be aware of a staff member's secondary employment, even if that employment does not lead to a risk of a conflict of interest.
- 5.9.11. Employees in doubt about whether secondary employment might affect their work for the Trust should contact their HR Business Partner for advice.
- 5.9.12. Queries about potential conflicts in relation to outside (secondary) employment should be sent to declarations@secamb.nhs.uk
- 5.9.13. What must 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).

5.9. **Shareholdings and other ownership issues**

- 5.10.1. Staff must declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the organisation.

5.10.2. 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 must be considered and applied to mitigate risks.

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

5.10.4. What must 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).

5.10. **Patents and intellectual property**

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

5.11.2. Staff must seek prior permission from the organisation before entering into any agreement with bodies regarding product development, research, work on pathways etc. where this impacts on the organisation's own time, or uses its equipment, resources or intellectual property.

5.11.3. Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this policy must be considered and applied to mitigate risks.

5.11.4. What must 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).

5.11. **Loyalty interests**

5.12.1. Loyalty interests must be declared by staff where they:

- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be seen to influence decisions they take in their NHS role.

- Sit on advisory groups or other paid or unpaid decision-making forums that can influence how an organisation spends taxpayers' money.
- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners (see Recruitment and Selection Policy and Procedure).
- Are aware that their organisation does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

5.12.2. What must 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).

5.12. **Donations**

- 5.13.1. Donations made by suppliers or bodies seeking to do business with the organisation must be treated with caution and not routinely accepted. In exceptional circumstances they may be accepted but must always be declared. A clear reason must be recorded as to why it was deemed acceptable, alongside the actual or estimated value.
- 5.13.2. Staff must 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.
- 5.13.3. Staff must obtain permission from their line manager if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the organisation's own.
- 5.13.4. Donations, when received, must be made to a specific charitable fund (never to an individual) and a receipt must be issued.
- 5.13.5. Staff wishing to make a donation to a charitable fund in lieu of receiving a professional fee may do so, subject to ensuring that they take personal responsibility for ensuring that any tax liabilities related to such donations are properly discharged and accounted for.
- 5.13.6. Contact treasury@secamb.nhs.uk for advice about receiving donations to SECAMB's charitable funds.
- 5.13.7. What must be declared:

- Staff declaring a charitable donation from a supplier or contractor must declare their name and role within the organisation, the amount of the donation, the donating organisation and relevant dates.
- Where donations are made to the Trust's own charitable funds, the organisation will maintain its own records in line with the above principles and rules and relevant obligations under charity law.

5.13. **Sponsored events**

- 5.14.1. Sponsorship of events by appropriate external bodies must be approved by an Executive Director. Sponsorship must only be approved if a reasonable person would conclude that the event will result in clear benefit for the organisation(s) and the NHS.
- 5.14.2. During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.
- 5.14.3. No information will be supplied to the sponsor from whom they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.
- 5.14.4. At the organisation's discretion, sponsors or their representatives may attend or take part in the event but they must not have a dominant influence over the content or the main purpose of the event.
- 5.14.5. The involvement of a sponsor in an event must always be clearly identified.
- 5.14.6. Staff within the organisation involved in securing sponsorship of events must make it clear that sponsorship does not equate to endorsement of a company or its products and this must be made visibly clear on any promotional or other materials relating to the event.
- 5.14.7. Staff arranging sponsored events must declare this to the organisation using the declaration of interests process.
- 5.14.8. What must be declared:
 - Staff must declare:
 - Their name and their role with the organisation.
 - The nature of their involvement in the sponsorship.
 - The value or nature of the sponsorship.
 - 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 including the name of any Executive Director giving approval).

5.14. **Sponsored research**

- 5.15.1. Funding sources for research purposes must be transparent.

- 5.15.2. Any proposed research must go through the relevant health research authority or other approvals process.
- 5.15.3. There must be a written protocol and written contract between staff, the organisation, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services.
- 5.15.4. The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
- 5.15.5. Staff must declare involvement with sponsored research to the organisation.
- 5.15.6. What must be declared:
- The organisation (Medical Director) will retain written records of sponsorship of research, in line with the above principles and rules.
 - Staff must declare:
 - Their name and their role with the organisation.
 - The 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).

5.15. **Sponsored posts**

- 5.16.1. External sponsorship of a post requires prior approval from the Director of Workforce.
- 5.16.2. Rolling sponsorship of posts must be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.
- 5.16.3. Sponsorship of a post must only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. This must be audited for the duration of the sponsorship. Written agreements must detail the circumstances under which organisations have the ability to exit sponsorship arrangements if conflicts of interest which cannot be managed arise.
- 5.16.4. Sponsored post holders must not promote or favour the sponsor's products, and information about alternative products and suppliers must be provided.
- 5.16.5. Sponsors must 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.
- 5.16.6. What must be declared:

- The organisation (Director of Workforce) will retain written records of sponsorship of posts, in line with the above principles and rules.
- Staff must 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.

5.16. **Clinical private practice**

5.17.1. Clinical staff must 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).

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

- Seek prior approval from the Medical Director before taking up private practice.
- Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work. These provisions already apply to Hospital Consultants by virtue of Paras.5 and 20, Sch. 9 of the Terms and Conditions – Consultants (England) 2003: https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines: https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf

5.17.3. What must 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).

5.17. **Wider transparency initiatives**

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

5.18.2. 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

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

<http://www.abpi.org.uk/our-work/disclosure/about/Pages/default.aspx>

5.18. **Management of interests – advice in specific contexts**

5.19. **Strategic decision making groups**

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

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

5.20.2. The interests of those who are involved in these groups must be well known so that they can be managed effectively. For the Trust, these groups are currently deemed to be the following:

- Trust Board
- Senior Management Team
- Executive Team
- Audit Committee
- Nominations Committee
- Appointments and Remuneration Committee
- Finance and Investment Committee
- Quality and Patient Safety Committee
- Charitable Funds Committee
- Workforce and Wellbeing Committee
- Procurement Team
- External Audit Working Group

5.20.3. These groups must adopt the following principles:

- Chairs must consider any known interests of members in advance, and begin each meeting by asking for declaration of relevant material interests.
- Members must take personal responsibility for declaring material interests at the beginning of each meeting and as they arise.
- Any new interests identified must be added to the organisation's register(s).
- The vice chair (or other non-conflicted member) must chair all or part of the meeting if the chair has an interest that may prejudice their judgement.

5.20.4. If a member has an actual or potential interest the chair must 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.

5.20.5. The default response should not always be to exclude members with interests, as this may have a detrimental effect on the quality of the decision being made. Good judgement is required to ensure proportionate management of risk.

5.20. **Procurement**

5.21.1. Procurement must 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 must be conducted in a manner that does not constitute anti-competitive behaviour - which is against the interest of patients and the public.

5.21.2. Those involved in procurement exercises for and on behalf of the organisation must 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 must be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.

5.21.3. Relevant individuals must also refer to the Trust's existing:

- Standing Financial Instructions
- Standing Orders
- Scheme of Delegation

5.21. **Reviewing declarations**

- 5.22.1. The Corporate Governance Team will undertake reviews of all declarations at least quarterly.
- 5.22.2. Spot checks will be undertaken by the Team each quarter to ensure Line Managers are aware of declarations.
- 5.22.3. The spot checks will review a minimum of five declarations per quarter.
- 5.22.4. If spot checks reveal breaches action will be taken according to the principles set out below.

5.22. **Breaches**

- 5.23.1. There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or other organisations. For the purposes of this policy these situations are referred to as 'breaches'.

5.24. **Identifying and reporting breaches**

- 5.24.1. Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns to the following:
 - Trust Company Secretary (declarations@secamb.nhs.uk)
 - A Non-Executive Director (details are held on the intranet)
 - The Trust's Local Counter Fraud Specialist (details are held on the intranet)
 - FREE 24hr confidential fraud reporting hotline powered by [Crimestoppers](https://www.crimestoppers.co.uk/) on [0800 028 4060](tel:08000284060) or the online fraud reporting form at www.reportnhsfraud.nhs.uk
 - Your Trade Union Representative
- 5.24.2. To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this.
- 5.24.3. All these people have been trained in receiving concerns and will give you information about where you can go for more support.
- 5.24.4. The organisation will investigate each reported breach according to its own specific facts and merits, and give relevant parties the opportunity to explain and clarify any relevant circumstances.
- 5.24.5. Following investigation, the organisation will:
 - Decide if there has been or is potential for a breach and if so what the severity of the breach is.

- Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum.
- Consider who else inside and outside the organisation should be made aware.
- Take appropriate action as set out in the next section.

5.25. Taking action in response to breaches

- 5.25.1. Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the organisation and could involve organisational leads for staff support (e.g. Human Resources), fraud (e.g. Local Counter Fraud Specialists), members of the management or Executive Team and organisational auditors.
- 5.25.2. Breaches could require action in one or more of the following ways:
- Clarification or strengthening of existing policy, process and procedures.
 - Consideration as to whether HR/employment law/contractual action should be taken against staff or others.
 - Consideration being given to escalation to external parties. This might include referral of matters to external auditors, Counter Fraud Authority (CFA), the Police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies.
- 5.25.3. Inappropriate or ineffective management of interests can have serious implications for the organisation and staff. There will be occasions where it is necessary to consider the imposition of sanctions for breaches.
- 5.25.4. Any resulting investigation may need to be carried out under the terms of strict confidentiality, i.e. by not informing the subject of the issue until (or if) it becomes necessary to do so. This may be appropriate in cases of suspected bribery. Protection of service users is paramount in all cases.
- 5.25.5. An investigation will be carried out to establish the facts of the incident or complaint, before deciding if there is a formal case to answer, and whether to proceed under trust's policies or procedures. In cases of suspected bribery, this will be passed for investigation in the first instance to the Local Counter Fraud Specialist (LCFS) and investigated in accordance with the trust's Anti-Fraud and Bribery Policy.
- 5.25.6. Disciplinary action up to and including dismissal for gross misconduct may be taken if a member or employee of the Trust fails to declare an interest, or is found to have abused their position for their own benefit. Action may be taken against volunteers and other people associated with the Trust under their relevant codes of conduct and other provisions.
- 5.25.7. Criminal prosecution under the Fraud Act 2006 and Bribery Act 2010 could also ensue under certain circumstances. More information can be

found under the Trust's Disciplinary Policy, and Anti-Fraud and Bribery Policy.

- 5.25.8. The Trust could face civil challenges to decisions made. For instance, if breaches occur during a service re-design or procurement exercise, the Trust risks a legal challenge that could potentially overturn the award of a contract, lead to damages claims against the Trust.
- 5.25.9. Lastly, statutorily regulated healthcare professionals must be made aware that the consequences for inappropriate action could include fitness to practise proceedings being brought against them, and that they could, if appropriate, be struck off by their professional regulator as a result.
- 5.25.10. Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then the organisation can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:
- Employment law action against staff, which might include
 - Informal action (such as reprimand, or signposting to training and/or guidance).
 - Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
 - Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be.
 - Contractual action, such as terminating a contract and/or taking other sanctions against the organisation or person(s) who caused the breach.
 - Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.
- 5.25.11. The Bribery Act 2010, which repealed existing Corruption legislation, places specific responsibility on organisations to have in position sufficient and adequate procedures to prevent bribery and corruption taking place. Under the Act, bribery is defined as "Inducement for an action which is illegal, unethical or a breach of trust. Inducements can take form of gifts, loans, fees, rewards and other privileges". No actual gain or loss has to be made.
- 5.25.12. Corruption is broadly defined as the offering or acceptance of inducements, gifts, favours, payments or benefit-in-kind which may influence the improper action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.
- 5.25.13. To demonstrate that the Trust has sufficient and adequate procedures in place and to demonstrate openness and transparency, all staff are required to comply with this Policy and Procedure.

5.26. **Learning and transparency concerning breaches**

- 5.26.1. Reports on breaches, the impact of these, and action taken will be considered by the Audit Committee at least annually
- 5.26.2. To ensure that lessons are learnt and management of interests can continually improve, anonymised information on breaches, the impact of these, and action taken will be prepared and published in the Trust's Annual Report as appropriate, or made available for inspection by the public upon request.

6 Competence

- 6.1. The Trust will promote the importance of transparency and the highest standards of public behaviour to all staff through its promotion of this policy and procedure. This policy and procedure will be made available to all staff online.

7 Monitoring

- 7.1. The Audit Committee will annually scrutinise the effectiveness of the processes set out in this policy and procedure.
- 7.2. The Trust's Local Counter Fraud Specialist will notify the Trust of any legislation or best practice in regard to this policy and procedure.
- 7.3. The Corporate Governance Team will formally review this policy and procedure at intervals of not less than three years, and sooner if best practice, legislation, regulation or feedback suggests that the policy and/or procedure are no longer best practice or are not working for the Trust effectively.

8 References

- Freedom of Information Act (2000)
- ABPI: The Code of Practice for the Pharmaceutical Industry (2014)
- ABPI Code of Business Practice
- NHS Code of Conduct and Accountability (July 2004)
- The NHS Codes of Conduct and Standards of Business Conduct for NHS Staff

9 Audit and Review (evaluating effectiveness)

- 10.1. All procedures have their effectiveness audited by the HR Working Group at regular intervals, and initially six months after a new policy is approved and disseminated.

- 10.2. Effectiveness will be reviewed using the tools set out in the Trust's Policy and Procedure for the Development and Management of Trust Policies and Procedures (also known as the Policy on Policies).
- 10.3. This document will be reviewed in its entirety every three years or sooner if new legislation, codes of practice or national standards are introduced, or if feedback from employees indicates that the policy is not working effectively.
- 10.4. All changes made to this procedure will go through the governance route for development and approval as set out in the Policy on Policies.

10 Equality Analysis

- 12.1. The Trust believes in fairness and equality, and values diversity in its role as both a provider of services and as an employer. The Trust aims to provide accessible services that respect the needs of each individual and exclude no-one. It is committed to comply with the Human Rights Act and to meeting the Equality Act 2010, which identifies the following nine protected characteristics: Age, Disability, Race, Religion and Belief, Gender Reassignment, Sexual Orientation, Sex, Marriage and Civil Partnership and Pregnancy and Maternity.
- 12.2. Compliance with the Public Sector Equality Duty: If a contractor carries out functions of a public nature then for the duration of the contract, the contractor or supplier would itself be considered a public authority and have the duty to comply with the equalities duties when carrying out those functions.

Appendix: Secondary Employment

Notification of Paid or Unpaid Secondary Employment

All members of staff are obliged to notify the Trust of all secondary employment they may wish to pursue/continue on an annual basis and whenever new secondary employment arises. If Trust management deem this employment to be in conflict with the interests of the service, the member of staff will be informed of this and instructed that this employment could jeopardise their employment with the Trust.

All such notifications must be submitted on the declarations form accessible on the Trust's online appraisal system and line managers must be informed. Should the line manager believe that the secondary employment is unacceptable, the reasons for this will be given in writing and the member of staff will have 21 days in which to request a meeting to discuss the issue. If this does not lead to a conclusion to the satisfaction of both parties, mediation may be considered or the staff member may choose to pursue a grievance in keeping with the Trust's Grievance Procedure.

Possible reasons in addition to conflicts of interest which may lead to secondary employment being unacceptable to the Trust include:

Working Hours

Staff who choose to undertake secondary employment must ensure that they are fully aware of the Working Time Regulations and that the total hours worked, in their primary and secondary employment combined, comply with the provisions of these Regulations.

Staff may choose to opt out of the 48-hour average working week if their total hours in their primary and secondary employment exceed this limit, but, employees must ensure that they comply with the requirement for an 11-hour rest break between episodes of work.

Staff should refer to the Working Time Directive Policy and use the form provided within it to opt out of the 48-hour average working week.

Sickness or Non Fulfilment of Contractual Obligations

Please refer to the Managing Health and Attendance Policy for information about sickness and secondary employment.

Poor Attendance

Where staff have a sickness absence rate in excess of 2% and/or have triggered one of the warning mechanisms, if they are unable to justify this absence and/or there is a clear link between their secondary employment and their absence, they may have their entitlement to secondary employment withdrawn.

Should this occur, then further consideration may be given to this secondary employment once attendance has improved.

Poor Performance

Where staff are being managed for poor performance and there is clear evidence to show that the secondary employment is the primary cause, then they may have their entitlement to secondary employment withdrawn.

Should this occur then further consideration may be given to secondary employment once performance has improved.

Injury/Illness/Disease During Secondary Employment

Other than in exceptional circumstances, employees who sustain an injury/ disease or illness as a result of secondary employment will only be entitled to Statutory Sick Pay and will therefore waive their right to Occupational sick pay from the Trust.

Where in exceptional circumstances Occupational sick pay is authorised, the Trust reserves the right to claim this back where compensation settlements have been paid to the employee following the event which caused the absence.