



Torbay and South Devon
NHS Foundation Trust

Standards of Business Conduct Policy

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Document Information

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Fraud and Bribery Prevention Policy			
Gifts and Hospitality Policy			
Conflicts of Interest Policy			
<p>The Trust is committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): Sexual Orientation; Gender; Age; Gender Reassignment; Pregnancy and Maternity; Disability; Religion or Belief; Race; Marriage and Civil Partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.</p> <p>The Trust is committed to ensuring all services, policies, projects and strategies undergo equality analysis. For more information about equality analysis and Equality Impact Assessments please refer to the Equality and Diversity Policy.</p>			

Amendment History

Issue	Status	Date	Reason for Change	Authorised
1.1	Draft	19-Sept-17	New legislation	CoSec / Counter Fraud
2.1	Draft		NHSE Guidance on Managing Conflicts of Interest June 2017	Co Sec
3.0	Draft	April 2022	IA Review and general updates	DCG

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1. Purpose

- 1.1 The aim of this policy is to set out the standards of business conduct for NHS staff. Trusts are required to implement a local policy to assist staff in maintaining strict ethical standards.

2. Scope

- 2.1 The Policy applies to all employees of Torbay and South Devon NHS Foundation Trust including Non-Executive Directors, and those people employed on honorary contracts.

3. Equality Impact Assessment

- 3.1 The Trust is committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No employee will receive less favourable treatment on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, or on the grounds of trade union membership.

4. Introduction

- 4.1 The guidance document Conflicts of Interest in the NHS – Guidance for staff and organisations issued by NHS England on 1 June 2017 extinguished the previous guidance - Health Service Guidelines HSG(93)5 setting out the standards of business conduct for NHS staff. Trusts are required to implement a local 'Conflict of Interests Policy' to assist staff in maintaining strict ethical standards.
- 4.2 This guide summarises Appendix B of the Trust's Standing Orders. The latter remains the definitive guidance regarding standards of business conduct. If employees require further guidance they should read Appendix B, (available through the Finance Directorate web pages). If they have any doubt about how to proceed, they should refer the matter to the Director of Corporate Governance and Trust Secretary.

5. Legal Framework

- 5.1 Under the Bribery Act 2010 it is an offence to offer, promise, request, give, receive or agree to receive a financial or other advantage intending that in consequence a relevant function or activity should be performed improperly.
- 5.2 It is also an offence for an organisation to fail to prevent bribery. However it is a defence for the organisation to show it had adequate procedures in place to prevent persons associated with it from undertaking such conduct.
- 5.3 A relevant function is defined as:
- Any function of a public nature
 - Any activity connected with a business
 - Any activity performed in the course of a person's employment
 - Any activity performed by or on behalf of a body of other persons (corporate or unincorporated)

6. General Principles

See Short Guide for Staff Appendix 1.

6.1 A conflict of interest is defined as:

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

6.2 Staff may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently. It will be important to exercise judgement and to declare such interests where there is otherwise a risk of imputation of improper conduct.

6.3 As a member of staff you must:

- Familiarise yourself with this guidance and your organisational policies and follow them.
- Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers’ money is spent.
- Regularly consider what interests you have and declare these as they arise. If in doubt, declare.

6.4 As a member of staff you must not:

- Misuse your position to further your own interests or those close to you.
- Be influenced, or give the impression that you have been influenced by, outside interests.
- Allow outside interests you have to inappropriately affect the decisions you make when using taxpayers’ money.

7. Declaration of Interest

7.1 All staff must be aware of how and to whom declarations should be made, declaring material interests at the earliest opportunity (and in any event within 28 days).

Declarations should be made:

- On appointment with an organisation.
- When a person moves to a new role or their responsibilities change significantly.
- At the beginning of a new project/piece of work.
- As soon as circumstances change and new interests arise.

7.2 Staff members who have a decision making influence on the use of taxpayers’ money, are referred to as ‘decision making staff’.

7.3 Because of their influence in the spending of taxpayers’ money, decision making staff members are required to update and complete their declarations on an annual basis..

7.4 There may be occasions where an interest is declared, however upon closer consideration, it is clear that this is not material and is therefore not a risk of a conflict of interest.

8. Registers and Publication of Declarations of Conflicts Of Interest

8.1 The Trust operates an on-line declarations process. Staff will make declarations of interests using the 'Declare' system found via the ICON intranet. The Declare system records all gifts offered – whether accepted or declined.

8.2 An interest will remain on the register for a minimum of 6 months after the interest has expired. The Trust will retain a private record of historic interests for a minimum of 6 years after the date on which it expired.

8.3 All staff must disclose any conflict of interest (perceived or actual). In accordance with NHS England guidance on Managing Conflicts of Interest in the NHS, the Trust will publish the interests of decision making staff on its website.

8.4 The Trust has adopted the NHS England standard policy template. Staff are advised to read the Conflicts of Interest Policy located on the ICON intranet regarding the definition of 'interests', what should be declared and how to declare.

8.5 Staff members may make representations that their interests should not be published. In exceptional circumstances an individual's name and / or other information will be redacted from any publicly available register. An exceptional circumstance would be where the disclosure of information could give rise to a real risk of harm or is prohibited by law.

9. Breaches

9.1 Where an interest has not been identified, declared, or managed appropriately or is suspected for any reason the matter should be reported to the Local Counter Fraud Specialist. Staff members are encouraged to speak up about actual or suspected breaches of this policy.

9.2 The Local Counter Fraud Specialist is empowered to investigate breaches. Each breach will be investigated and judged on its own merits. However each investigation will start with those involved having the opportunity to explain and clarify any relevant circumstances.

9.3 Following an investigation the Trust will:

- decide if there has been or is a potential for an actual breach and its severity;
- 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 of the breach; and
- take appropriate action, such as clarifying existing policy, taking action against the staff member(s) responsible for the breach, or escalating to external parties such as auditors, NHS Protect, the Police, statutory health bodies and/or regulatory bodies.

10. Governance

- 10.1 This document is available via our ICON intranet site. Staff will receive an annual reminder of the need to review their declarations.

11. Checklist for Managers

- 11.1 All managers must ensure they are conversant with this policy and use the checklist provided at Appendix 3.

12. Review

- 12.1 A review of this document will be conducted every three years or following a change to associated legislation or national/local terms and conditions of service and is the responsibility of the Director of Corporate Governance and Trust Secretary.

**STANDARDS OF BUSINESS CONDUCT
SHORT GUIDE FOR STAFF****Do:**

- Make sure you understand the guidelines on standards of business conduct, 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 may conflict.
- Declare to your employer any relevant interests. If in doubt, ask yourself;
 - > 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?
 - > do I have access to information which could influence purchasing decisions?
 - > could my outside interest be in any way detrimental to the NHS or to patients' interests?
 - > do I have any other reason to think I may be risking a conflict of interest?

If still unsure – Declare it!

- Adhere to the ethical code on the Chartered Institute of Procurement 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 your employer's permission before accepting any commercial sponsorship.
- Discuss the matter with your line manager in the first instance.

Do not:

- Accept any gifts, inducements or inappropriate hospitality.
- Abuse your past or present official position to obtain preferential rates for private deals.

Some Examples

1. Some examples of Conflicts of Interest

- Authorising the discharge of a patient into a nursing or care home in which you, your family, friend or business acquaintance had a financial interest.
- Purchasing, or authorising or persuading another Trust employee to purchase or authorise the purchase of, goods or services from an organisation in which you, your family, friends or business acquaintances have a financial interest.
- Using the Trust's resources i.e. time or materials to provide private gain through a private company in which you, your family, friends or business acquaintances have a financial interest.

2. Some examples of financial interests which should be declared

Financial interests include:

- Interest in a business including a private company, public sector organisation, other NHS employer and/or voluntary organisation.
- Interest in any other activity or pursuit, which might reasonably become involved in the supply of goods or services to the Trust.

ACTION CHECKLIST FOR NHS MANAGERS

Managers must:

- Ensure that all staff are aware of this guidance;
- Develop a local policy and implement it;
- Show no favouritism in awarding contracts (e.g. to businesses run by employees, ex-employees or their friends or relatives);
- Include a warning against corruption in all invitations to tender;
- Consider requests from staff for permission to undertake additional outside employment;
- Apply the terms as they pertain to doctors' terms and conditions of service and in conjunction with the Code of Conduct for Private Practice.;
- Receive rewards or royalties in respect of work carried out by employees in the course of their NHS work, and ensure that such employees receive due rewards;
- Similarly ensure receipt of rewards for collaborative work with manufacturers, and pass on to participating employees;
- Ensure that acceptance of commercial sponsorship will not influence or jeopardise purchasing decisions;
- Refuse 'linked deals' whereby sponsorship of staff posts is linked to the purchase of particular products or supplied from particular sources;
- Avoid excessive secrecy and abuse of the term 'commercial in confidence'.