

Standards of Business Conduct Policy

Version:
11

Summary	This policy describes the expectations on the Trust and methods to be used to declare any conflicts of interest, secondary employment, financial interest, hospitality and sponsorship.	
Keywords	Declaration, Hospitality, Conflict of Interest	
Target audience	All Trust staff	
Date issued	February 2025	
Approved & Ratified by	Executive Directors Board of Directors	Date of meeting: 5 February 2025
Next review date	November 2027	
Author	Corporate Governance Manager	
Executive Director	Chief Executive	

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Change Record

Date	Author	Version	Page	Reason for Change
Nov 2024	Cheryl Gaynor	V11	-	Review of guidance and policy updated relating to the Health and Care Act 2022 and drafted on the Trust new policy template including reference to: <ul style="list-style-type: none">- NHS England guidance of managing conflicts of interest in the NHS, Code of Governance for NHS Provider Trusts and NHS Standard Contract- My Declarations – the Trust’s electronic declaration system.

Reviewers/contributors

Name	Position	Version Reviewed & Date
Cheryl Gaynor	Corporate Governance Manager	November 2024
Group Audit Committee	N/a	10 December 2024

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1. Policy Summary

Adhering to this policy will help to ensure that we use NHS money wisely, providing best value for taxpayers and accountability to our patients for the decisions we take.

As a member of staff, you should...	As an organisation we will...
<ul style="list-style-type: none">• Familiarise yourself with this policy and follow it. Guidance for rationale behind the policy NHS England » Managing conflicts of interest in the NHS: guidance for staff and organisations• 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.• NOT misuse your position to further your own interests or those close to you.• NOT be influenced by or give the impression that you have been influenced by outside interests.• NOT allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money.	<ul style="list-style-type: none">• Ensure that this policy and supporting processes are clear and help staff understand what they need to do.• Identify a team or individual with responsibility for:<ul style="list-style-type: none">○ Keeping this policy under review to ensure they are in line with the guidance.○ Providing advice, training and support for staff on how interests should be managed.○ Maintaining register(s) of interests.○ Auditing this policy and its associated processes and procedures at least once every three years.• NOT avoid managing conflicts of interest.• NOT interpret this policy in a way which stifles collaboration and innovation with our partners.

2. Introduction

York & Scarborough Teaching Hospitals 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. It is especially important for care organisations to demonstrate transparency for staff who are budget holders or who can influence purchasing decisions.

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.

The Trust has regard to the [Managing conflicts of interest in the NHS](#) guidance through its incorporation into the [NHS Standard Contract](#) pursuant to general condition 27. The Trust is expected to comply with the [Code of governance](#). While this policy applies in its entirety to

Trust employees, the Code of governance makes additional provisions about conflicts of interest that are specific to employees of NHS trusts and foundation trusts. If the wording of the two guidance/policy documents differs on a particular point, the Code of governance should take precedence.

The Trust also regards the [statutory guidance on arrangements for delegation and joint working](#) which contains information about managing conflicts of interest when organisations are using new powers to work in an integrated way.

3. Purpose

Every year the taxpayer entrusts NHS organisations with funding to care for millions of people which must be spent well, and free from undue influence.

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

- Introduces consistent principles and rules
- Provides simple advice about what to do in common situations.
- Supports good judgement about how to approach and manage interests.

This policy should be considered alongside these other Trust policies:

- Fraud, Bribery and Corruption Policy
- Procurement Policy
- Tender Checklist
- Standing Orders
- Standing Financial Instructions
- Freedom to Speak Up Policy
- Trust's Charity Fundraising Policy and Procedure
- Reservation of Powers and Scheme of Delegation

4. Key Terms

A 'conflict of interest' is:

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

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

A conflict of interest can occur when a decision maker's judgement could be impaired by a clash between personal interests and professional duties or responsibilities.

Even if the individual doesn't actually benefit, a conflict can still occur if it appears a decision may have been influenced. The perception of competing interests, impaired judgement or undue influence can also be a conflict of interest.

A material interest is one which a reasonable person would take into account when making a

decision, because the interest is relevant to that decision.

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

Conflicts can also occur because of interests held by a close family member, business partner, close friend or associate. If officers are aware of material interests, these must also be declared. A close family member is defined as:

- Spouse or civil partner
- Any other person with whom the individual cohabits
- Children or stepchildren
- Spouse/partners' children or stepchildren
- Parents
- Grandparents
- Siblings

5. Interests

Interests arise in a number of different contexts and can generally be considered in the following categories:

- **Financial interests:** Where an individual may get direct financial benefit¹ from the consequences of a decision, they are involved in making.
- **Non-financial professional interests:** Where an individual may obtain a non-financial professional benefit from the consequences of a decision, they are involved in making, such as increasing their professional reputation or promoting their professional career.
- **Non-financial personal interests:** Where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit, because of decisions they are involved in making in their professional career.
- **Indirect interests:** Where an individual has a close association² 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.

Further guidance on how to interpret these categories can be found in the extract from NHS England guidance in [Appendix 4](#).

6. Staff

At the 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

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

² A common sense approach should be applied to the term 'close association'. Such an association might arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners.

- All prospective employees – who are part-way through recruitment
- Contractors and sub-contractors
- Agency staff; and
- Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the Trust)

7. Scope and Decision Making Staff

Without exception, all staff of the Trust are within scope of this policy.

As part of their role, some staff make decisions or exercise influence in how public money is used. In the context of this policy, decision making staff are those in the following categories:

- Executive and Non-Executive Directors
- All staff Agenda for Change Band 7 and above
- All consultant staff
- All staff within the Pharmacy department
- All staff within the Procurement department
- Staff who are 'authorised signatories' and their direct and indirect reports who enter contracts, of any value including zero-value, on behalf of the Trust

8. Failure to comply with this policy

Allegations of failure to comply with this policy should, without exception, be explored in discussion with the individual by a responsible officer. In the first instance, in most cases, this will be the direct line manager of the subject of allegation.

A failure by a responsible person to adequately investigate such allegations will in itself be a contravention of this policy.

Depending on the outcome of any investigation, failure to comply may result in disciplinary actions being considered, in accordance with the Trust Disciplinary Policy, up to and including termination of employment.

Where failure to comply relates to a staff member who is not a direct employee of the Trust, this may result in action being taken in accordance with the relevant engagement procedures (for example termination of a secondment agreement).

Any financial or other irregularities or impropriety which involve evidence or suspicion of fraud, bribery, or corruption by any officer will be reported to the Trust's Counter Fraud Team for an appropriate investigation to be conducted and potential prosecution sought.

See also section [16 Dealing with breaches](#).

9. Identification, declaration and review of interests

9.1. Identification & declaration of interests (including gifts and hospitality)

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

Minimum requirements:

- All 'decision makers' must declare any interests on [My declarations](#) as soon as possible, within 28 days after the interest arises

- All external directorships, or equivalent positions with responsibility for governance and performance, must be declared regardless of whether they create a perceived conflict
- Decision makers must review their status and submit a declaration at the points outlined below.
- Consult your line manager if you are in any doubt as to whether you have an interest or whether it is declarable. You can also contact the Corporate Governance team (yhs-tr.trustsecretary@nhs.net).

Declarations should also be made through the online portal [My declarations](#):

- On appointment with the Trust.
- When staff move to a new role or their responsibilities change significantly.
- At the beginning of a new project/piece of work.
- As soon as circumstances change and new interests arise (for instance, in a meeting when interests staff hold are relevant to the matters in discussion).
- Individuals that are part of a tender evaluation panel should complete a declaration of interest document as required by the tendering checklist

Declaration status must be reviewed and/or submitted through [My declarations](#) at the following points:

Board members	<p>On appointment</p> <p>In advance of every meeting of the Board</p> <p>At the commencement of any formal meeting (see section 14.2)</p> <p>Nil returns are to be made.</p>
Decision makers	<p>On appointment</p> <p>Through annual appraisal</p> <p>When moving to a new role or when responsibilities materially change.</p> <p>At the commencement of any formal meeting (see section 14.2)</p> <p>Nil returns are to be made.</p>
All other staff	<p>On appointment</p> <p>Through annual appraisal</p> <p>When moving to a new role or when responsibilities materially change.</p> <p>At the commencement of any formal meeting (see section 14.2)</p> <p>Nil returns are to be made.</p>

Declarations should be completed and approved by the authorising manager through the

online portal. Should there be any issues in accessing the portal, contact should be made with the Corporate Governance Team (yhs-tr.trustsecretary@nhs.net) for assistance, ensuring that as a minimum, the following information is captured to support the next steps:

- The returnee's name and their role with the organisation
- A description of the interest declared (reflecting the content of Section 5 of the guidance for common situations [NHS England » Managing conflicts of interest in the NHS](#))
- Relevant dates relating to the interest
- Comments (e.g. action taken to mitigate conflict).

Decision makers must always act with the utmost integrity and objectivity and in the best interests of the public, taxpayers and the Trust in performing their duties. They must avoid situations which may give rise to an actual or perceived conflict of interest.

Decision makers must not use their position for personal advantage or seek to gain preferential treatment. Decision makers must declare any actual or potential interests which may be perceived as conflicting with this overriding obligation.

9.2. Proactive review of interests

The [My declarations](#) portal will prompt decision making staff annually (with additional prompts coming to the end of the financial year for those who remain outstanding) to review declarations they have made and, as appropriate, update them or make a nil return.

10. Records and publication

10.1. Maintenance

The Trust will maintain the following registers:

- Register of Outside Employment
- Register of Pecuniary (Financial) Interests
- Register of Hospitality, Gifts or Sponsorship.

After expiry, an interest will remain on register(s) for a minimum of 6 months and a record of historic interests will be retained for a minimum of 6 years.

10.2. Publication

The Trust will publish the interests declared by decision making staff in:

- Register of Outside Employment
- Register of Pecuniary (Financial) Interests
- Register of Hospitality, Gifts or Sponsorship.

The Trust will

- Refresh this information annually
- Make the Register of Hospitality, Gifts or Sponsorship available on the Trust's website.

If decision making staff have substantial grounds for believing that publication of their interests should not take place, then they should contact the Corporate Governance Team (yhs-tr.trustsecretary@nhs.net) 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.

11. Wider transparency initiatives

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

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

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

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

[About Disclosure UK \(abpi.org.uk\)](https://www.abpi.org.uk)

12. Management of interests – general

If an interest is declared but there is no risk of a conflict arising then no action is warranted. However, if a material interest is declared then the general management actions that could be applied include:

- restricting staff involvement in associated discussions and excluding them from decision making
- removing staff from the whole decision making process
- removing staff responsibility for an entire area of work
- removing staff from their role altogether if they are unable to operate effectively in it because the conflict is so significant.

Each case will be different and context-specific, and the Trust will always clarify the circumstances and issues with the individuals involved. Staff should maintain a written audit trail of information considered and actions taken.

Staff who declare material interests should make their line manager or the person(s) they are working to aware of their existence. The line manager must review the interest. If the interest gives rise to potential or actual conflict, the line manager must determine what action is required to mitigate the conflict as described in the actions above.

Line managers must maintain an audit trail of the actions agreed and taken in respect of individual conflicts and record this as notes in the relevant declaration records in [My declarations](#).

13. Management of interests – common situations

This section sets out the principles and rules to be adopted by staff in common situations, and what information should be declared. Further guidance can be found here ([NHS England » Managing conflicts of interest in the NHS](#)) and an extract of examples of conflict of interest situations described in [Appendix 3](#).

13.1. Gifts

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

Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the Trust should be declined, whatever their value.
- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6³ in total, and need not be declared.

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

- Gifts of cash and vouchers to individuals should always be declined.
- Staff should not ask for any gifts.
- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of the Trust (i.e. payment to charitable funds through [York and Scarborough Teaching Hospitals NHS Foundation Trust - York & Scarborough Hospitals Charity Funding Application \(yorkhospitals.nhs.uk\)](https://www.yorkhospitals.nhs.uk/funding)) not in a personal capacity. These should be declared by staff.
- Modest gifts accepted under a value of £50 do not need to be declared.
- A common sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).
- Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

13.1.1. What should be declared

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

13.2. Hospitality

- Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement.
- Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.
- Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This can be accepted, and must be declared, if modest and reasonable. Senior approval must be obtained.

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
- Over a value of £75 - should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the Trust's register(s) of interest as to why it was permissible to accept.
- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or a reasonable estimate).

Travel and accommodation:

- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared.

³ The £6 value has been selected with reference to the Association of the British Pharmaceutical Industry's (ABPI) [Code of practice for the pharmaceutical industry 2021](#).

- Offers which go beyond modest, or are of a type that the Trust itself might not usually offer, need approval by senior staff, should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on the Trust's register(s) of interest 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.

13.2.1. What should be declared

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

13.3. Outside Employment

- Staff should declare any existing outside employment on appointment and any new outside employment when it arises.
- Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks.
- Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from the Trust to engage in outside employment.

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

13.3.1. What should be declared

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

13.4. Shareholdings and other ownership issues

- Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the Trust.
- Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.
- There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

13.4.1. What should be declared

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

13.5. Patents

- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the Trust.
- Staff should seek prior permission from the Trust before entering into any agreement with bodies regarding product development, research, work on pathways etc, where this impacts on the Trust's own time, or uses its equipment, resources or intellectual property.
- Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

13.5.1. What should be declared

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

13.6. Loyalty interests

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

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

13.6.1. What should be declared

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

13.7. Donations

- Donations made by suppliers or bodies seeking to do business with the Trust should be treated with caution and not routinely accepted. In exceptional circumstances they may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.
- Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the Trust, or is being pursued on behalf of the Trust's own registered charity or other charitable body and is not for their own personal gain.
- Staff must obtain permission from the Trust if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the Trust's own.
- Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.
- Staff wishing to make a donation to a charitable fund in lieu of receiving a professional fee may do so, subject to ensuring that they take personal responsibility

for ensuring that any tax liabilities related to such donations are properly discharged and accounted for.

13.7.1. What should be declared

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

13.8. Sponsored events

- Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit the Trust and the NHS.
- During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.
- No information should be supplied to the sponsor from whom they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.
- At the Trust's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event.
- The involvement of a sponsor in an event should always be clearly identified.
- Staff within the Trust involved in securing sponsorship of events should make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event.
- Staff arranging sponsored events must declare this to the Trust.

13.8.1. What should be declared

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

13.9. Sponsored research

- Funding sources for research purposes must be transparent.
- Any proposed research must go through the relevant health research authority or other approvals process.
- There must be a written protocol and written contract between staff, the Trust, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services.
- The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
- Staff should declare involvement with sponsored research to the Trust.

13.9.1. What should be declared

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

13.10. Sponsored posts

- staff who are establishing the external sponsorship of a post should seek formal prior approval from the Trust

- rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and confirm the appropriateness of arrangements continuing
- sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. For the duration of the sponsorship, auditing arrangements should be established to ensure this is the case. Written agreements should detail the circumstances under which the Trust has the ability to exit sponsorship arrangements if conflicts of interest which cannot be managed arise
- sponsored post holders must not promote or favour the sponsor's specific products, and information about alternative products and suppliers should be provided
- sponsors should not have any undue influence over the duties of the post or have any preferential access to services, materials or intellectual property relating to or developed in connection with the sponsored posts.

13.10.1. What should be declared

- The Trust will retain written records of sponsorship of posts, in line with the above principles and rules.
- Staff should declare any other interests arising as a result of their association with the sponsor, in line with the content in the rest of this policy.

13.11. Clinical private practice

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

- where they practise (name of private facility)
- what they practise (specialty, major procedures)
- when they practise (identified sessions/time commitment)
- hospital consultants are already required to provide their employer with this information by virtue of paragraph 3, schedule. 9 of [Terms and conditions – consultants \(England\)](#)

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

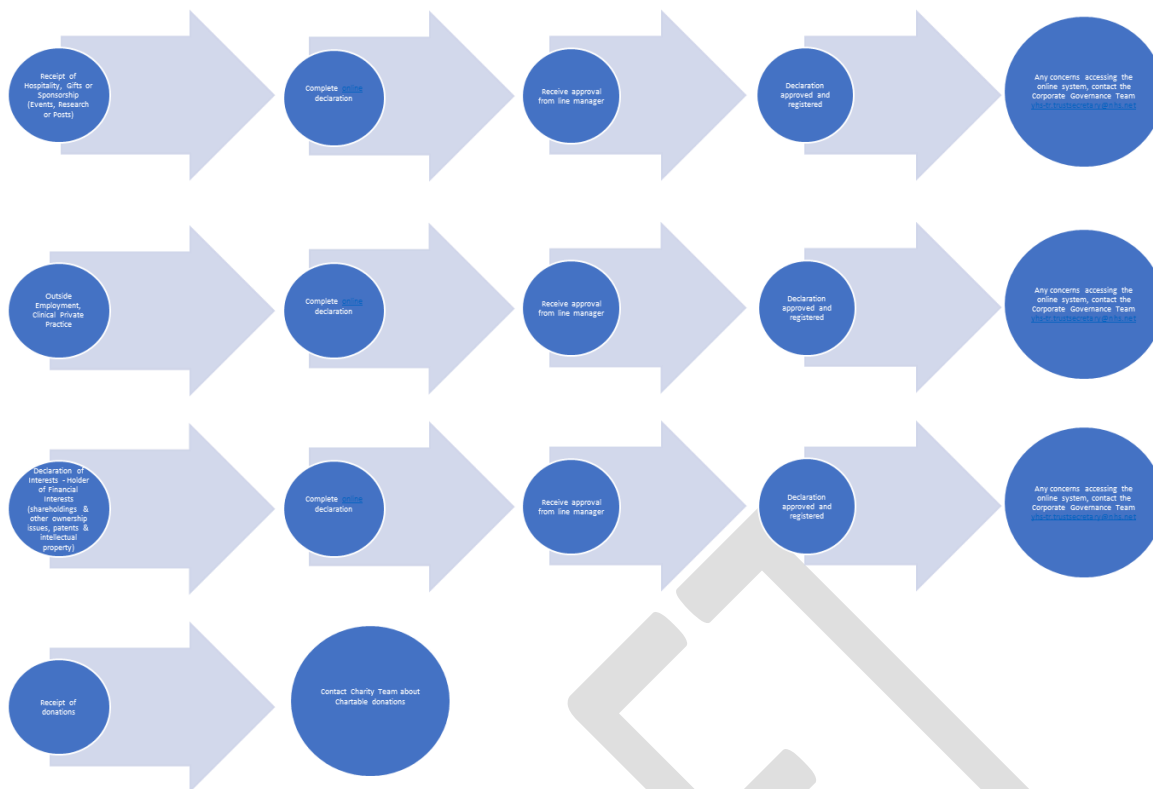
- seek prior approval of the Trust before taking up private practice
- ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work (these provisions already apply to hospital consultants by virtue of paragraphs 5 and 20, schedule 9 of the [Terms and conditions – consultants \(England\)](#))
- not accept direct or indirect financial incentives from private providers

Hospital Consultants should not initiate discussions about providing their Private Professional Services for NHS patients, nor should they ask other staff to initiate such discussions on their behalf.

13.11.1. What should be declared

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

13.12. Process map



14. Management of interests – advice on specific contexts

14.1. Strategic decision making groups

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

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

The interests of those who are involved in these groups should be well known so that they can be managed effectively. For the Trust these groups are: Board of Directors, Council of Governors and Executive Board.

These groups should adopt the following principles:

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

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

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

- Removing the member from the group or process altogether.

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.

14.2. Formal meetings

All formal meetings, including the Board and its committees, must have a standing agenda item at the beginning of each meeting to determine whether anyone has any conflict of interest to declare in relation to the business being transacted at the meeting. Any new interests declared at the meeting should be included in the relevant register of interest as soon as practicable after the meeting but the relevant decision maker and the meeting secretariat.

If the Chair of the meeting has a conflict of interest, the deputy chair is responsible for deciding the appropriate course of action to manage it. If the deputy chair is also conflicted, then the remaining non-conflicted voting members of the meeting should unanimously agree how to manage the conflict(s).

If a member of the meeting (including the chair and deputy chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or deputy chair or remaining non conflicted members as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:

- Where the chair has a conflict of interest, deciding that the deputy chair (or another non-conflicted member of the meeting if the deputy chair is also conflicted) should chair all or part of the meeting.
- Asking the individual who has a conflict of interest (including the chair or deputy chair if necessary) not to attend the meeting
- Ensuring the individual does not receive the supporting papers or minutes of the meeting which relate to the matters which give rise to the conflict.
- Asking the individual to leave the discussion while the relevant matters are being discussed and when any decisions are being taken in relation to those matters.
- Allowing the individual to participate in some or all of the discussion when the relevant matters are being discussed but asking them to leave the meetings when any decisions are being taking in relation to those matters.
- Noting the interest ensuring that all attendees are aware of the nature and extent of the interest but allowing the individual to remain and participate in both the discussion and any decisions. This is only likely to be an appropriate course of action where it is decided that the declared interest is immaterial or not relevant to the matter(s) under discussion.

In all cases however, a quorum must be present for the discussion and decision; and interested parties cannot be counted in determining whether the meeting is quorate for that item.

All decision relating to a conflict of interest must be recorded by the meeting secretariat and reported in the minutes of the meeting. The minutes will include:

- Who has the interest
- The nature and extent of the conflict
- An outline of the discussion
- The actions taken to manage the conflict
- Evidence that the conflict was managed as intended.

To support chairs in their role, the secretariat will provide access to details of any conflicts which have already been made by members of the group.

When hosting a formal meeting whose membership includes people who are not decision makers of the Trust, it is good practice to ensure the interests of such attendees are captured and maintained as part of the formal meeting record.

Conflicts of interest arising at the Trust Board of Directors meeting must be managed in accordance with the requirements of the Trust Standing Orders.

15. Procurement

Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law, to ensure there is no discrimination against or in favour of any provider. Procurement processes should be conducted in a manner that does not constitute anti-competitive behaviour - which is against the interest of patients and the public.

Those involved in procurement exercises for and on behalf of the Trust should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of procurement processes. At every stage of procurement steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.

The Trust holds a Procurement Policy where further detail on this process can be found. A key contact in the Trust on this area is Head of Procurement, Ian Willis (ian.willis3@nhs.net).

16. Dealing with breaches

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

16.1. Identifying and reporting breaches

Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns to the Counter Fraud Team ([Counter Fraud | York and Scarborough Teaching Hospitals \(yorkhospitals.nhs.uk\)](https://www.yorkhospitals.nhs.uk)), Steve Moss, Head of Anti Crime Services and Local Counter Fraud Specialist (steven.moss@nhs.net)

To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this. For further information about how concerns should be raised see the staffroom intranet [Raising a concern | York and Scarborough Teaching Hospitals \(yorkhospitals.nhs.uk\)](https://www.yorkhospitals.nhs.uk)

The Trust 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.

Following investigation the Trust will:

- Decide if there has been or is potential for a breach and if so, what 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 Trust should be made aware
- Take appropriate action as set out in the next section.

16.2. Taking action in response to breaches

Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the Trust and could involve Trust leads for staff support (e.g. Human Resources), fraud (e.g. Local Counter Fraud Specialists), members of the management or executive teams and Trust auditors.

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

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

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

Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then the Trust can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:

- Employment law action against staff, which might include:
 - Informal action (such as reprimand, or signposting to training and/or guidance).
 - Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
- Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be.
- Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach.
- Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

16.3. [Learning and transparency concerning breaches](#)

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

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 as appropriate, or made available for inspection by the public upon request.

17. Training Requirements

Training requirements should be identified during the development stage.

Any training requirements identified within this policy that are of a Corporate Statutory or Mandatory nature will be outlined in the Statutory/Mandatory Training Brochure. This can be accessed via the link on StaffRoom, the Q:\York Hospital Trust\Mandatory Training or the Trust's online learning platform.

If this training is deemed to be statutory or mandatory and is not identified within the Statutory/Mandatory Training Brochure then application must be made by the Policy Author to the Corporate Learning and Development Team to have it added.

These training requirements are used to develop the customised profiles that can be viewed

by learners when they access their personal online learning account. It is then the learner's responsibility to undertake this learning with the support of their line manager and the line manager's responsibility to review this at annual appraisal.

The [Corporate Statutory and Mandatory Training Identification Policy and Procedure document](#) describes the processes relating to the identification, review, delivery and monitoring of statutory and mandatory training including non-attendance.

18. Monitoring Compliance

Operational implementation, delivery and monitoring of the policy reside with:

The Trust

The Chief Executive is responsible for ensuring that this policy is brought to the attention of all employees, also that machinery is put in place for ensuring that it is effectively implemented and monitored, including periodic examination of the 'gifts and hospitality' registers and declaration of interests register maintained within the directorates or by the Associate Director of Corporate Governance.

Associate Director of Corporate Governance

The Associate Director of Corporate Governance is responsible for the upkeep of the corporate registers and for compiling an annual report which is presented to the Group Audit Committee.

Associate Chief Operating Officers/Care Group Directors

The Associate Chief Operating Officers/Care Group Directors are responsible for ensuring all staff are aware of the policy and for approving/escalating any declarations received.

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements
Completion of an annual report	Associate Director of Corporate Governance	Electronic system review and reporting	Annual	Report to the Audit Committee
Production of the registers and breach log	Associate Director of Corporate Governance	Electronic system review and reporting	Annual	Report to the Audit Committee
Review of the system	Associate Director of Corporate Governance	Review of effectiveness of system to policy and NHSE guidance	According to the annual risk assessment as part of the annual audit plan preparation	Report to the Audit Committee

19. Document Review

This policy will be reviewed in 3 years unless an earlier review is required. This will be led by the Associate Director of Corporate Governance through the Trust's Group Audit Committee.

20. Associated Trust Documents

- Fraud, Bribery and Corruption Policy
- Procurement Policy
- Tender Checklist
- Standing Orders

- Standing Financial Instructions
- Raising Concerns and Whistleblowing Policy
- Trust's Charity Fundraising Policy and Procedure
- Reservation of Powers and Scheme of Delegation

21. Supporting References

- Freedom of Information Act 2000
- ABPI: The Code of Practice for the Pharmaceutical Industry (2021)
- ABHI Code of Business Conduct
- NHS Code of Conduct and Accountability (July 2004)
- [statutory guidance on arrangements for delegation and joint working](#)
- [NHS England » Managing conflicts of interest in the NHS](#)
- [Terms and conditions – consultants \(England\)](#)

22. Definitions

See Sections 4, 5, 6 and 7 for key terms and definitions used in this policy.

23. Equality Impact Assessment

In the development of this policy, the Trust has considered evidence to ensure understanding of the actual/potential effects of our decisions on people covered by the Equality duty. On analysis there is no detriment identified. A copy of the analysis is attached at [Appendix 2](#).

24. Appendices

- Appendix 1: Bribery Act 2010
- Appendix 2: Equality Analysis
- Appendix 3: Example Situations of conflicts
- Appendix 4: Interest Categories

Appendix 1

Bribery Act 2010

The Bribery Act 2010 replaced offences in common law and under the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Act 1906 and 1916.

The Act brings into force a new consolidated scheme of bribery offences including:

- Two general offences covering offering, promising or giving an advantage, and the requesting, agreeing to receive or accepting of an advantage
- A discrete offence of bribery of a foreign public official to obtain or retain business or an advantage in the conduct of business;
- A new offence of failure by a commercial organisation to prevent a bribe being paid for or on its behalf. It will be a defence if the organisation has 'adequate procedures' in place to prevent bribery
- A maximum penalty of 10 years imprisonment for all offences and unlimited fines
- Extra-territorial jurisdiction to prosecute bribery committed abroad by persons ordinarily resident in the UK as well as UK national and UK corporate bodies.

The Trust is committed to eliminating all level of fraud and corruption within the Trust and the NHS. It is an offence under the Bribery Act 2010 for anyone to receive, be offered or to offer any financial or other advantage to another person in order to induce a person to perform improperly or reward any person for improper performance of a function or activity. The Trust is committed to carry out business fairly, honestly and openly and is committed to a zero tolerance of bribery.

Any staff concerned or requiring further clarification should contact the Associate Director of Corporate Governance or Head of Procurement.

If you believe any bribery offence has taken place, please report to the Counter Fraud Team ([Counter Fraud | York and Scarborough Teaching Hospitals \(yorkhospitals.nhs.uk\)](https://www.yorkhospitals.nhs.uk)), Steve Moss, Head of Anti Crime Services and Local Counter Fraud Specialist (steven.moss@nhs.net)

Appendix 2

Equality Analysis

Name of Policy		Standards of Business Conduct Policy
1.	What are the intended outcomes of this work? That Staff have clear guidance and understanding of the acceptable standards of business conduct in the Trust	
2	Who will be affected? All Staff	
3	What evidence have you considered? Legislation National guidance	
a	Disability	
b	Sex	
c	Race	
d	Age .	
e	Gender Reassignment	
f	Sexual Orientation	
g	Religion or Belief	
h	Pregnancy and Maternity.	
i	Carers	
j	Other Identified Groups	
4.	Engagement and Involvement	
a.	Was this work subject to consultation?	Yes
b.	How have you engaged stakeholders in constructing the policy	Yes
c.	If so, how have you engaged stakeholders in constructing the policy	A number of stakeholders have been asked to comment on the draft policy
d.	For each engagement activity, please state who was involved, how they were engaged and key outputs Corporate Directors – informed of the new policy requirements. Counter Fraud/ Internal Audit – kept up to date with draft policy. Audit Committee – reviewed and endorsed at 10 December 2024 meeting.	
5.	Consultation Outcome <i>Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups</i>	
a	Eliminate discrimination, harassment and victimisation	Not applicable

b	Advance Equality of Opportunity	Not applicable
c	Promote Good Relations Between Groups	Not applicable
d	What is the overall impact?	None
	Name of the Person who carried out this assessment: Associate Director of Corporate Governance	
	Date Assessment Completed 2 December 2024	
	Name of responsible Director Simon Morritt	

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Appendix 3

Extract of examples of conflict of interest situations

[\(NHS England » Managing conflicts of interest in the NHS\)](#)

Gifts

Staff in the NHS offer support during significant events in people's lives. For this work they may sometimes receive gifts as a legitimate expression of gratitude. We should be proud that our services are so valued. But situations where the acceptance of gifts could give rise to conflicts of interest should be avoided. Staff and organisations should be mindful that even gifts of a small value may give rise to perceptions of impropriety and might influence behaviour if not handled in an appropriate way.

A gift means any item of cash or goods, or any service, which is provided for personal benefit, free of charge, or at less than its commercial value.

Hospitality

Delivery of services across the NHS relies on working with a wide range of partners (including industry and academia) in different places and, sometimes, outside of 'traditional' working hours. As a result, staff will sometimes appropriately receive hospitality. Staff receiving hospitality should always be prepared to justify why it has been accepted and be mindful that even hospitality of a small value may give rise to perceptions of impropriety and might influence behaviour.

Hospitality means offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events, etc.

Outside employment

The NHS relies on staff with good skills, broad knowledge and diverse experience. Many staff bring expertise from sectors outside the NHS, such as industry, business, education, government and beyond. The involvement of staff in these outside roles alongside their NHS role can therefore be of benefit, but the existence of these should be well known so that conflicts can be either managed or avoided.

Outside employment means employment and other engagements, outside of formal employment arrangements. This can include directorships, non-executive roles, self-employment, consultancy work, charitable trustee roles, political roles and roles within not-for-profit organisations, paid advisory positions and paid honorariums which relate to bodies likely to do business with an organisation. (Clinical private practice is considered in a separate section).

Shareholding and other ownership interests

Holding shares or other ownership interests can be a common way for staff to invest their personal time and money to seek a return on investment. However, conflicts of interest can arise when staff personally benefit from this investment because of their role with an organisation. For instance, if they are involved in their organisation's procurement of products or services which are offered by a company they have shares in then this could give rise to a conflict of interest. In these cases, the existence of such interests should be well known so that they can be effectively managed.

Patents

The development and holding of patents and other intellectual property rights allows staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas. Staff are encouraged to be innovative in their practice and therefore this activity is welcomed.

However, conflicts of interest can arise when staff who hold patents and other intellectual property rights are involved in decision making and procurement. In addition, where product development involves use of time, equipment or resources from their organisation, then this too could create risks of conflicts of interest, and it is important that the organisation is aware of this and it can be managed appropriately.

Loyalty interests

As part of their jobs, staff need to build strong relationships with colleagues across the NHS and in other sectors. These relationships can be hard to define as they may often fall in the category of indirect interests. They are unlikely to be directed by any formal process or managed via any contractual means – it can be as simple as having informal access to people in senior positions. However, loyalty interests can influence decision making.

Conflicts of interest can arise when decision making is influenced subjectively through association with colleagues or organisations out of loyalty to the relationship they have, rather than through an objective process. The scope of loyalty interests is potentially huge, so judgement is required for making declarations.

Donations

A donation is a charitable financial payment, which can be in the form of direct cash payment or through the application of a will or similar directive. Charitable giving and other donations are often used to support the provision of health and care services. As a major public sector employer the NHS holds formal and informal partnerships with national and local charities. Staff will, in their private lives, undertake voluntary work or fundraising activities for charity. A supportive environment across the NHS and charitable sector should be promoted. However, conflicts of interest can arise.

Sponsored events

Sponsorship of NHS events by external parties is valued. Offers to meet some or part of the costs of running an event secures their ability to take place, benefiting NHS staff and patients. Without this funding there may be fewer opportunities for learning, development and partnership working. However, there is potential for conflicts of interest between the organiser and the sponsor, particularly regarding the ability to market commercial products or services. As a result, there should be proper safeguards in place to prevent conflicts occurring.

Sponsored research

Research is vital in helping the NHS to transform services and improve outcomes. Without sponsorship of research some beneficial projects might not happen. More broadly, partnerships between the NHS and external bodies on research are important for driving

innovation and sharing best practice. However, there is potential for conflicts of interest to occur, particularly when research funding by external bodies does or could lead to a real or perceived commercial advantage. There needs to be transparency and any conflicts of interest should be well managed.

Sponsored posts

Sponsored posts are positions with an organisation that are funded, in whole or in part, by organisations external to the NHS. Sponsored posts can offer benefits to the delivery of care, providing expertise, extra capacity and capability that might not otherwise exist if funding was required to be used from the NHS budget. However, safeguards are required to ensure that the deployment of sponsored posts does not cause a conflict of interest between the aims of the sponsor and the aims of the organisation, particularly in relation to procurement.

Clinical private practice

Service delivery in the NHS is done by a mix of public, private and not-for-profit organisations. The expertise of clinicians in the NHS is in high demand across all sectors and the NHS relies on the flexibility that the public, private and not-for-profit sectors can provide. It is therefore not uncommon for clinical staff to provide NHS funded care and undertake private practice work either for an external company, or through a corporate vehicle established by themselves.

Existing provisions in contractual arrangements make allowances for this to happen and professional conduct rules apply. However, these arrangements do create the possibility for conflicts of interest arising. Therefore, these provisions are designed to ensure the existence of private practice is known so that potential conflicts of interest can be managed. These provisions around declarations of activities are equivalent to what is asked of all staff in the section on [outside employment](#).

Appendix 4

Interest Categories

[\(NHS England » Managing conflicts of interest in the NHS\)](#)

Financial interest

Where an individual may get direct financial benefits (a benefit may arise from the making of gain or avoiding a loss) from the consequences of a decision their organisation makes. This could include:

- a director (including a non-executive director) or senior employee in another organisation which is doing or is likely to do business with an organisation in receipt of NHS funding
- a shareholder, partner or owner of an organisation which is doing, or is likely to do business with an organisation in receipt of NHS funding
- someone in outside employment
- someone in receipt of secondary income
- someone in receipt of a grant
- someone in receipt of other payments (eg honoraria, day allowances, travel or subsistence)
- someone in receipt of research sponsorship

Non-financial professional interests

Where an individual may obtain a non-financial professional benefit (a benefit may arise from the making of gain or avoiding a loss) from the consequences of a decision their organisation makes, such as increasing their professional reputation or status or promoting their professional career. This could include situations where the individual is:

- an advocate for a particular group of patients
- a clinician with a special interest
- an active member of a particular specialist body
- undertaking a research role, particularly sponsored research
- an advisor for the Care Quality Commission or National Institute of Health and Care Excellence

Non-financial personal interests

This is where an individual may benefit (a benefit may arise from the making of gain or avoiding a loss) personally from a decision their organisation makes in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:

- a member of a voluntary sector board or has a position of authority within a voluntary sector organisation
- a member of a lobbying or pressure group with an interest in health and care

Indirect interests

This is where an individual has a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest who would stand to benefit (a benefit may arise from the making of gain or avoiding a loss) from a decision they are involved in making. This would include:

- close family member and relatives
- close friends and associates

- business partners

A common-sense approach should be applied to these terms. It would be unrealistic to expect staff to know of all the interests that people in these classes might hold. However, if staff do know of material interests (or could be reasonably expected to know about them) then these should be declared.

Loyalty Interests

As part of their role, decision makers may build strong relationships with colleagues across the NHS and in other sectors. Decision makers should be mindful of any situation where relationships may give rise to a perception that a loyalty, credit or responsibility is owed to another person or body, which could conflict with the interests of the Trust or their responsibilities as a decision maker. Examples include:

- A recent (five years or less) previous employment with an employer which directly or indirectly provides services or products to the NHS or patients or might be reasonably expected to seek to do so.
- Line management, either directly or as part of a wider management function, or family members, relatives, close friends and associates, and business partners.

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