



CONFLICTS OF INTEREST AND ANTI-BRIBERY POLICY

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AUTHOR / FURTHER INFORMATION:	<p>Sarah Ellington, Interim Board Secretary</p> <p>Vida Djelic, Board Governance Manager</p>		

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CONFLICTS OF INTERESTS AND ANTI-BRIBERY AND CORRUPTION POLICY

1 SUMMARY: DOs AND DON'Ts

DO:

- Make sure **you** are aware of this Policy and follow it.
- Make sure if **you** are responsible for any staff that you understand the Policy, that your staff are made aware of this Policy and where to find it and apply it in your area.
- Make sure if you are a board director, other director, senior manager or divisional clinical director, consultant, or work in finance, procurement, pharmacy, IT, estates or facilities or capital investment that **you** have a good working knowledge of the policy and follow it.
- Make sure **you** seek advice from your line manager in the first instance if you are not sure about the guidance in this policy.
- Make sure that **you** (and your staff) are not put in a position where personal interests may come into conflict with Trust duties.
- 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.
- Declare any relevant interests, and if in doubt, ask **yourself** the following questions:
 - Am I, or might I be in a position where I or my family or friends could gain from the connection between my private interests and my employment?
 - Do I have access to information, or contact with individuals, which could influence purchasing decision?
 - Could my outside interests be in any way detrimental to the NHS, the Trust, or to patients' interests?
 - Do I have any reason to think I may be risking a conflict of interest?

If after asking these questions **you** are still unsure – **Declare it!**

- Inform **your** line manager if you take on outside work.
- Raise any concern **you** may have in relation to fraud or potential bribery offences.

DON'T:

- 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.

2 INTRODUCTION AND PURPOSE

- 2.1 This document sets out the Chelsea and Westminster Hospital NHS Foundation Trust (the 'Trust') policy and advice to staff, and individuals working for the Trust, in dealing with potential conflicts of interests, the acceptance of gifts, hospitality, sponsorship and bribery and corruption. This policy details the arrangements made in the Trust for such concerns to be raised by all staff and members of the public.
- 2.2 The Trust has a duty to ensure that all its dealings are conducted to the highest standards of integrity and probity and that its staff, agents, contractors and others, when acting for the Trust in their official capacity, meet these standards.
- 2.3 This policy aims to ensure that individuals covered by the policy are aware that they must take decisions free from any potential or real situations of undue bias or influence in the decision-making of the Trust.
- 2.4 This policy sets out the standards of conduct expected of all staff where their private interests might conflict with their duties as an employee and the steps the Trust has taken to safeguard itself against potential conflicts of interest.
- 2.5 Conflicts of interest may arise where an individual's personal, or a connected person's interests and/or loyalties conflict with those of the Trust. The aim of this policy is to protect the Trust and the individuals from any appearance of impropriety which may be a risk to its reputation or a breach of the Bribery Act 2010.
- 2.6 The acceptance of gifts, hospitality, preferential treatment in private transactions, sponsorship or loyalty schemes as an incentive for entering into business transactions is specifically prohibited by the Trust as defined by the Bribery Act 2010.
- 2.7 Gifts, hospitality and sponsorship offered where there is no possibility that their acceptance could act as an incentive to act dishonestly, or in breach of the law, will not constitute a bribe, but may still need to be refused.
- 2.8 This policy gives instructions to staff about what to do, and whom to contact if they have any fraud related concerns or conflicts of interest or are in receipt of gifts, hospitality and sponsorship and that these are appropriately declared, recorded and monitored.
- 2.9 The policy also defines bribery and corruption and gives instruction to staff about what to do, and whom to contact if they have any fraud related concerns.
- 2.10 This policy replaces and rescinds all previous Trust policies dealing with the same policy issues.

3 SCOPE

The Scope of this policy is as follows:

- 3.1 This policy must be adhered to by all staff, volunteers, Non-Executive Directors and Governors.
- 3.2 This includes individuals who are:
 - employed under a contract of employment with the Trust;
 - unpaid volunteers of the Trust including Governors;

- employed under an honorary contract with the Trust;
- contracted under third parties (including agency staff); and
- not employed by the Trust but who exercise functions on behalf of e.g. non-NHS contract staff;

3.3 This policy does not replace or substitute any professional or other codes of conduct that members of staff or individuals connected with the Trust are obliged to follow.

4 DEFINITIONS

The terms in use in this document are defined as follows:

4.1 Conflicts of interest (see section 12)

4.1.1 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."

A conflict of interest may be:

Actual - there is a material conflict between one or more interests; and/or

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

4.1.2 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.

4.2 Bribery

4.2.1 Bribery is promising, offering, or giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly in order to gain an advantage (commercial, regulatory, personal) or to reward a person for the improper performance of a relevant function or activity .

4.3 Corruption

4.3.1 This can be broadly defined as the offering or acceptance of inducements, gifts, favours, payment or benefit-in-kind which may influence the action of any person. Further guidance on countering corruption and fraud can be found in the Trust's "Policy for Counter Fraud and Corruption and Response Plan Policy."

4.4. Staff

4.4.1 This includes people on differing employment terms, who for the purposes of this policy we refer to as 'staff', a non-exhaustive list of whom is:

- All salaried employees;
- All prospective employees;

- Contractors and sub-contractors;
- Agency staff;
- Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the Trust); and volunteers

4.5 Decision making staff

4.5.1 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. These people are referred to as 'decision making staff' in this Policy.

4.5.2 In addition to the general responsibilities placed upon all staff to declare their interests, there are distinct guidelines that apply to the decision making staff:

4.5.3 Decision making staff in the Trust include:

- Board of Directors and Council of Governors;
- All at Agenda for Change band 8A and above;
- Administrative and clinical staff who have the power to enter into contracts on behalf of the Trust; and
- Administrative and clinical staff involved in decision making concerning the purchasing of goods, medicines, medical devices or equipment, and formulary decisions.

4.5.4 Decision making staff are required to make an annual submission of interests and submit a nil return if they have not had any interests within the year. The Trust will ensure compliance with annual declarations from decision making staff in the annual appraisal process, including a nil return. However, all staff, and decision making staff in particular, should review declarations they have made and, as appropriate, update them or make a nil return throughout the year.

4.5.5 A form is available at Appendix D and on the Trust intranet site. Declarations of decision making staff must be published annually unless exceptional circumstances apply.

5 BOARD OF DIRECTORS

5.1 In addition to this Policy, members of the Trust Board are required to declare interests which are relevant to the Trust Board, Committee or Group of which they are a member, as stated in:

- The Code of Conduct: Code of Accountability in the NHS;
- The Trust's Constitution; and
- The Standing Orders to the Trust's Constitution.

5.2 A register of all board member interests will be kept and maintained by the Board Governance Manager and will be reviewed by the Trust Board on an annual basis. Interests, however, should be declared as and when they arise, including at the start of all relevant meetings and committees, and not only as a result of this annual declaration.

6 COUNCIL OF GOVERNORS

6.1 In addition to this Policy, members of the Council of Governors are required to declare interests which are relevant to the Trust Council of Governors, Committee or Group of which they are a member as stated in:

- The Code of Conduct: Code of Accountability in the NHS;
- The Trust's Constitution; and
- The Standing Orders to the Trust's Constitution.

6.2 A register of all of Governors' interests will be kept and maintained by the Board Governance Manager and will be reviewed by the Trust Board on an annual basis. Interests, however, should be declared as and when they arise, including at the start of all relevant meetings and committees, and not only as a result of this annual declaration.

7 PROCUREMENT

7.1 In addition to the main content of this Policy, the following applies to procurement staff:

7.1.1. All staff who participate in tender evaluation panels will be required to make a declaration of interest prior to the commencement of a tender exercise – this will include staff who have previously declared an interest. This declaration process will be managed by the procurement department. All declarations will be recorded in the tender project file even if no relevant interests are declared.

7.1.2 Any panel member who feels that their personal knowledge, dealings or interests of a tendering organisation would compromise their objectivity should withdraw from the tender evaluation process.

7.1.3. Where it is the opinion of the panel chair that it would be in the interest of the Trust to involve the panel member in the tender evaluation process because of their expertise, the extent of their involvement must be recorded in the tender project file notes as an addendum to the Declaration of Interest Form. If the panel chair has any concerns about the involvement of an individual in the tender evaluation process they should seek advice from their procurement representative.

7.1.4 If the previous knowledge or interest is between the panel chair and a tendering organisation, this should be raised with the panel and procurement representative. If it is considered by the panel to be material, the member should stand down as chair of the panel and a record made in the tender project file notes as an addendum to the Declaration of Interest Form.

7.1.5 Commercial sponsorship would generally preclude an individual from taking part in a tender panel if the sponsoring organisation were involved. However, where if in the opinion of the Head of Procurement it would be in the interest of the Trust to waive this rule (for example to obtain the individual's particular expertise) the Head of Procurement will seek agreement of the Chief Financial Officer. This decision will be recorded in the tender project file.

8 PHARMACY

8.1 In addition to the main content of this Policy, the following applies to pharmacy staff:

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

9 ROLES AND RESPONSIBILITIES

9.1 The Trust

- 9.1.1 The Trust has a duty to ensure that it provides a secure environment in which to work, and one where people are confident to raise concerns without worrying that it will reflect badly on them. This extends to ensuring that staff feel protected when carrying out their official duties and are not placed in a vulnerable position. If staff have concerns about any procedures or processes that they are asked to be involved in, the Trust has a duty to ensure that those concerns are listened to and addressed.
- 9.1.2. The Board may be called to account for failing to prevent bribery. The Trust therefore has a duty to ensure employees receive adequate training and support in order to carry out their responsibilities. The Company Secretary in conjunction with the Chief Financial Officer will monitor and ensure compliance with this policy on behalf of the Board as the designated Compliance Officer.

9.2 The Trust Managers

- 9.2.1 The Chief Financial Officer manages the Local Counter Fraud Services and internal audit; is responsible for agreeing counter fraud work and the internal audit plan, and is a source of advice on the value of the gift and any aspects of the policy.
- 9.2.2 The Company Secretary is responsible for overseeing the policy and maintaining the Register of Conflicts of Interest.
- 9.2.3 The Board Governance Manager is responsible for collating the Declarations of Interest.
- 9.2.4 Managers are responsible for confirming, to the satisfaction of the Company Secretary, where conflicts of interest do not in fact arise after a Declaration of Conflict of Interest has been made
- 9.2.5 Managers at all levels have a responsibility to ensure that an adequate system of internal control exists within their areas of responsibility and that controls operate effectively. The responsibility for the prevention and detection of bribery therefore primarily rests with managers but requires the co-operation of all staff.
- 9.2.6 As part of that responsibility, line managers need to:
- Inform staff of the Trust's relevant policies as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms;
 - Ensure that decision making staff provide a declaration in all relevant categories annually as part of their appraisal process;
 - Ensure that all staff for whom they are accountable are made aware of the requirements of the policies and of this Policy in particular;
 - Assess the types of risk involved in the operations for which they are responsible;
 - Ensure that adequate control measures are put in place to minimise the risks. This must include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of a key function is not invested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively;
 - Be aware of the Trust's Policy for Counter Fraud and Corruption and Response Plan Policy;
 - Identify sensitive/at-risk posts;

- Ensure that controls are being complied with; and
- Contribute to their Director's assessment of the risks and controls within their business area, which feeds into the Trust's and the Department of Health Accounting Officer's overall statements of accountability and internal control.

9.2.7 All instances of actual or suspected bribery, which come to the attention of a manager, must be reported immediately. It is appreciated that some staff will initially raise concerns with their manager, however, in such cases managers must not attempt to investigate the allegation themselves, and they have the clear responsibility to refer the concerns to the Chief Financial Officer and/or the Local Counter Fraud Specialist as soon as possible.

9.3 Staff

9.3.1 All staff are responsible for following this policy and the allowances detailed, and, for declining or referring a gift/hospitality of any value if they have any concern about the reason it is being given.

9.3.2 It is expected that Board Directors and staff at all levels will lead by example in acting with the utmost integrity and ensuring adherence to all relevant regulations, policies and procedures.

9.3.4 Staff who are involved in receiving offers of sponsorship, funding or gifts from third parties or outside agencies also should comply with their own professional codes of practice. Professional staff must also make themselves aware of their own professional body codes of conduct e.g. Nursing and Midwifery Council, General Medical Council, professional, legal, accounting and other bodies.

9.3.5 Examples of what may indicate bribery or corruption are set out in appendix C. Examples of what staff should not do are set out within appendix D.

9.4 Local Counter Fraud Specialist

9.4.1. The Local Counter Fraud Specialist is responsible for investigating any breaches of this policy which may suggest impropriety and bribery. They will carry out periodic reviews of declarations to ensure policy is being adhered to and that management action taken in relation to declarations is appropriate.

9.4.2 The Directions to NHS Bodies on Counter Fraud Measures 2004 or Clause 43 and Schedule 13 of the Standard NHS Contract for Acute Services require the Trust to appoint and nominate a Local Counter Fraud Specialist. The Local Counter Fraud Specialist's role is to ensure that all cases of actual or suspected bribery and corruption are notified to the Chief Financial Officer and reported accordingly.

9.4.3 The Local Counter Fraud Specialist and the Chief Financial Officer, in conjunction with NHS Protect where relevant, will decide who will conduct the investigation and when/if referral to the police is required. Cases, where possible bribery/corruption is involved may be investigated by NHS Protect themselves (though the Local Counter Fraud Specialist may assist), otherwise the investigation will normally be undertaken by the Trust's own Local Counter Fraud Specialist directly.

9.5 Internal and External Audit

Any incident or suspicion that comes to Internal or External Audit's attention will be passed immediately to the Local Counter Fraud Specialist.

10 INTERESTS

10.1 Identification and declaration of interests (including gifts and hospitality). Interests fall into the following categories:

- Financial interests: Where an individual may get direct financial benefit 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; and/or
- 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.

10.2 Declaration.

10.2.1 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.

10.2.2 Declarations should be made:

- 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);and
- For decision making staff, as a conflict arises and at least annually as part of the Trust appraisal process.

10.2.3 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.

11 MANAGEMENT OF INTERESTS – GENERAL

11.1 All staff should ensure that they are not placed in a position that risks, or appears to risk, compromising their role or the Trust's public and statutory duties or reputation. Staff must not, or be perceived to, secure valuable gifts or hospitality by virtue of their role within the Trust. The Bribery Act 2010 makes it a criminal offence to give or offer a bribe, or to request, offer or receive or accept a bribe. The Act reformed the criminal law of bribery, making it easier to tackle this offence proactively in both the public and private sectors. It introduced a corporate offence which means that commercial organisations, including NHS bodies, will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery.

11.2 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; and/or
- 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.

11.3 Staff who declare material interests should make their line manager or the person(s) they are working to aware of their existence.

11.4 Managers can contact the Company Secretary for further advice regarding appropriate management actions.

11.5 Staff can raise a dispute (with the Company Secretary) against a management action which their line manager has implemented, should they wish to.

12 MANAGEMENT OF INTERESTS – COMMON SITUATIONS

12.1 Gifts

12.1.1 Staff should not ask for any gifts;

12.1.2 The following gifts must be politely but firmly declined:

- Gifts from suppliers or contractors doing business (or likely to do business) with the Trust;
- Gifts of cash or vouchers;
- Multiple gifts from the same source (or a closely related source) over a rolling 12 month period once the cumulative value exceeds £50.

12.1.3 The following gifts may be accepted and do not need to be declared:

- From suppliers, low cost branded promotional aids such as pens or post-it notes may be accepted where they are under the value of £6 in total; and
- Small tokens of gratitude (e.g. chocolates) from patients or from their relatives.

12.1.4 The following gifts may be accepted and must be declared:

- Multiple gifts from the same source (or a closely related source) over a rolling 12 month period that have a cumulative or individual value that does not exceed £50;
- Where a gift has been accepted (for whatever reason) that does not fall into the exceptions detailed above;
- Where the staff member is unsure whether a gift should or should not be declared;

- 12.1.5 Where a member of staff has been left something in a patient's will, the above principles should be applied.
- 12.1.6 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).
- 12.1.7 All gifts outside of these definitions must be declined, or accepted only if permission is given by the Company Secretary, and in any event declared.
- 12.1.8 In all cases, if any doubt exists, employees should either consult their line manager or politely decline the gift.
- 12.1.9 What should be declared:
- Staff name and their role with the Trust;
 - A description of the nature and value of the gift, including its source;
 - Date of receipt; and
 - 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).

12.2 Hospitality

- 12.2.1 Staff should not ask for hospitality
- 12.2.2 Staff should not accept hospitality that may affect, or be seen to affect, their professional judgement.
- 12.2.3 In cases of uncertainty, employees should consult their line manager. If doubt still exists, then the hospitality received should be declared.
- 12.2.4 The following hospitality may be accepted and does not need to be declared, provided that there is a legitimate business reason and it is proportionate to the nature and purpose of the event:
- Meals and refreshments under a value of £25;
- 12.2.5 The following hospitality may be accepted, provided that there is a legitimate business reason and it is proportionate to the nature and purpose of the event, and must be declared (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 of a value between £25 and £75; and
 - Modest offers to pay travel and accommodation related to attendance at events.
- 12.2.6 The following hospitality may not be accepted and must be declared:
- Offers of business class or first class travel and accommodation (including domestic travel); and
 - Offers of foreign travel and accommodation.

- 12.2.7 What should be declared:

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

12.3 Outside employment

12.3.1 Employees must declare any secondary employment (paid or voluntary) to their line managers and follow this up in writing.

12.3.2 Failure to declare any secondary employment will be dealt with under the disciplinary policy and may result in disciplinary action.

12.3.3 Staff are advised not to engage in outside employment that may conflict with Trust business, or be harmful to it. Staff must advise their line manager, if they think they may be in, or about to place themselves in, a situation giving rise to a conflict of interest in this area. It is impossible to give a complete list of outside employment that may conflict with Trust work. However, it includes activities that cause concern with regard to health or safety at work or breach of the European Working Time Directive. For example, being overly tired due to excessive hours of work, or bringing the Trust into disrepute, or, harming the public's confidence in the Trust and its services.

12.3.4 If it comes to the attention of a line manager that an individual is undertaking work outside the Trust and the manager thinks there may be a conflict of interest, health and safety implications or breach of the European Working Time Directive, they will discuss the situation with the employee with a view to ensuring that there are no risks to the individual, their colleagues, patient's or the Trust's interests. Where a potential risk is identified, a risk assessment will be conducted.

12.3.5 If the manager thinks that a risk does exist and a solution cannot be reached in discussion with the individual, the appropriate General Manager with advice from Human Resources (HR), will be responsible for judging whether there are Health and Safety risks or the interest of patients could be harmed, or any other conflict of interest might arise.

12.3.6 What should be declared:

- Staff name and their role with the Trust;
- The nature of the outside employment (e.g. who it is with, a description of duties, time commitment); and
- Relevant dates.

12.4 Shareholdings and other ownership issues

12.4.1 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.

12.4.2 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 should be considered and applied to mitigate risks.

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

12.4.4 What should be declared:

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

12.5 Patents

12.5.1 The Trust must ensure that it is in a position to identify potential intellectual property rights, as and when they arise, so that the Trust can protect and exploit them properly, and thereby ensure that they receive any rewards or benefits (such as royalties) in respect of work commissioned from third parties, or work carried out by their employees in the course of their NHS duties. Most potential intellectual property rights are protected under the Patents Act 1977 and copyright (which includes software programmes) under the Copyright Designs and Patents Act 1988.

12.5.2 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 on-going, which are, or might be reasonably expected to be, related to items to be procured or used by the Trust.

12.5.3 Staff should build appropriate specifications and provisions into the contractual arrangements, which they enter into before the work is commissioned, or begins. Staff should always seek legal advice if in any doubt in specific cases.

12.5.4 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.

12.5.5 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.

12.5.6 In the case of collaborative research and evaluative exercises with manufacturers, the Trust should obtain a fair reward for the input provided. If such an exercise involves additional work for an NHS employee outside that paid for by the Trust under his or her Contract of Employment, arrangements should be made for some share of any rewards or benefits to be passed on to the employees concerned from the collaborating parties. Care should however be taken that involvement in this type of arrangement with a manufacturer does not influence the purchase of other supplies from that manufacturer.

12.5.7 What should be declared:

- Staff name and their role with the Trust;
- A description of the patent; and
- Relevant dates.

12.6 Loyalty interests

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

- Hold a position of authority in another NHS Trust 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 a 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; or
- Are aware that their Trust does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

12.6.2 What should be declared:

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

12.7 Donations

12.7.1 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.

12.7.2 Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the Trust.

12.7.3 Staff may never solicit charitable donations for personal gain.

12.7.4 Staff may refer enquiries from those wishing to make donations to CW+.

12.7.5 Donations must comply with the Trust Policy on Fundraising and the Trust policy on recognising donors within the hospital estate.

12.7.6 Staff must obtain permission from the Trust (line manager) if in their professional role they intend to undertake fundraising activities on behalf of a preapproved charitable campaign for a charity other than CW+

12.7.7 Donations, when received, should be transferred to CW+ (never to an individual) and a receipt should be issued.

12.7.8 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.

12.7.9 What should be declared:

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

12.8 Sponsored events

12.8.1 Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in a clear benefit to the Trust and the NHS.

12.8.2 During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.

12.8.3 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.

12.8.4 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.

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

12.8.6 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.

12.8.7 Staff arranging sponsored events must declare this to the Trust.

12.8.8 What should be declared:

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

12.9 Sponsored research

12.9.1 Funding sources for research purposes must be transparent.

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

12.9.3 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.

12.9.4 The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.

12.9.5 Staff should declare involvement with sponsored research to the Company Secretary, including sponsorship by CW+

12.9.6 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:
- Name and role with the Trust;
- Nature of their involvement in the sponsored research;
- Relevant dates; and

- 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).

12.10 Sponsored posts

- 12.10.1 External sponsorship of a post requires prior approval from the Trust.
- 12.10.2 Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.
- 12.10.3 Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. This should be audited for the duration of the sponsorship. Written agreements should detail the circumstances under which the Trust has the ability to exit sponsorship arrangements if conflicts of interest which cannot be managed arise.
- 12.10.4 Sponsored post holders must not promote or favour the sponsor's products, and information about alternative products and suppliers should be provided.
- 12.10.5 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.
- 12.10.6 What should be declared:
- The Trust will retain written records of sponsorship of posts, in line with the above principles and rules; and
 - 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.

12.11 Clinical private practice

- 12.11.1 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).
- 12.11.2 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; and
 - Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines.
- 12.11.3 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.

- 12.11.4 What should be declared:

- Staff name and their role with the Trust;
- A description of the nature of the private practice (e.g. what, where and when staff practise, sessional activity, etc);
- Relevant dates; and
- 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 MANAGEMENT OF INTERESTS – ADVICE IN SPECIFIC CONTEXTS

13.1 Strategic decision making committees/groups

13.1.1 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; and/or selection of medicines, equipment, and devices.

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

- Board of Directors and sub committees/groups of the Board with delegated authority for decision making (See SFIs and Scheme of Delegation);
- Council of Governors and Nominations Committee;

13.1.2 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.

13.1.3 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; and/or
- 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.

13.2 Procurement

13.2.1 Procurement should be managed in an open and transparent manner and be 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.

- 13.2.2 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.

14 DEALING WITH BREACHES

- 14.1 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'.

- 14.2 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 Counter Fraud Specialist in accordance with Standing Financial Instructions and in line with the Trust Counter Fraud Policy and Response Plan with a view to an appropriate investigation being conducted and potential prosecution being sought.

14.3 Identifying and reporting breaches

- 14.3.1 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 Company Secretary.

- 14.3.2 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. For further information about how concerns should be raised see Raising Concerns Policy.

- 14.3.3 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.

- 14.3.4 Following investigation the Trust 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 Trust should be made aware;
- Take appropriate action as set out in the next section.

14.4 Taking action in response to breaches

- 14.4.1 Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the Trust and could involve Human Resources & Organisational Development, Local Counter Fraud Specialists, members of the management or executive teams and Trust auditors.

- 14.4.2 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.

14.4.3 Possible sanctions include employment law action against staff, which might include:

- Informal action (such as reprimand, or signposting to training and/or guidance); and
- Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).

14.4.4 Possible sanctions include reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be.

14.4.5 Possible sanctions include contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach.

14.4.6 Possible sanctions include other legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

14.5 Learning and transparency concerning breaches

14.5.1 Reports on breaches, the impact of these, and action taken will be considered by The 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 as appropriate, will be made available for inspection by the public upon request.

15 COMMUNICATION

15.1 This policy and all associated forms will be made available on the Trust's Intranet and copies of the forms can be requested from the Board Governance Manager.

15.2 This policy will be drawn to the attention of newly appointed staff through induction. Reminders to raise awareness on key aspects of the policy e.g. declaration of interest reminders, will be sent via email or otherwise annually by Board Governance Manager.

15.3 All new staff members & Governors will receive a copy of the policy and be briefed on the contents as part of their local induction arrangements.

15.4 The Trust will provide anti-bribery training to all staff on a regular basis to make them aware of this policy and guidelines, in particular of possible types of bribery, the risks of engaging in bribery activity, and how staff may report suspicion of bribery.

15.5 Executive Directors, other directors and divisional managers and equivalent Staff will have responsibility for implementation and for ensuring that all staff under their direction are made aware of this policy directly. Those departments involved in aspects of procurement will be asked to draw its content to the attention of suppliers and contractors to assure they have commensurate policies in place.

15.6 If staff are in any doubt about matters concerning this policy they should seek advice from their line manager in the first instance. Advice on this policy and its applicability should be directed to the Company Secretary.

15.7 Staff must not communicate with any member of the press, media or another Third Party about a suspected act of bribery as this may seriously damage the investigation and any

subsequent actions to be taken. Anyone who wishes to raise such issues should discuss the matter with the Chief Financial Officer.

16 MONITORING OF THIS POLICY

- 16.1 The Board Governance Manager will hold the Declarations of Interest Register of the Board of Directors and the Council of Governors. The Company Secretary will provide advice to managers on request.
- 16.2 The Declarations of Interest Register will be subject to an annual review, as part of the counter fraud work plan. The outcome of that review will be reported to the Audit Committee.
- 16.3 The Declarations of Interest Register which will include details of relevant offers that were accepted and declined.
- 16.4 The Board Governance Manager will monitor the Declarations of Interest Register for each individual and will notify the Company Secretary if there is a perception of excessive amounts.
- 16.5 The Declarations of Interest Register will be subject to an annual review. This review will be part of internal audit or counter fraud work plan.
- 16.6 The Chief Financial Officer will monitor the effectiveness and implementation of this policy via internal audit and relevant actions will be included in the counter fraud work plan which will include audits of control systems to provide assurance that they are effective in countering bribery and corruption. Any actions required will be monitored through the Audit Committee.
- 16.7 This policy does not form part of any employee's contract of employment and it may be amended at any time.

17 REVIEW

- 17.1 This policy will be reviewed every three years unless an earlier review is required. This will be led by the Company Secretary.

18 REFERENCES

- 18.1 This Policy has been prepared taking into account the following guidance:

Bribery Act 2010

Monitor Code of Governance

HSC 1998/231

A Code of Conduct for Private Practice – Recommended Standards of Practice for NHS Consultants

Managing Conflicts of Interest in the NHS: Guidance for staff and Organisations NHS England 2017

NHS Executive Guidance on the Ethical Standards of Commercial Sponsorship (November 2000)

The seven Principles of Public Life established by the Nolan Committee (the Nolan Principles)

Consultant Contract and Terms and Conditions for Consultants England (2003)

The Chartered Institute of Purchasing and Supply – Ethical Code

Code of Practice for the Pharmaceutical Industry 2016 edition (ABPI)

The NHS Foundation Trust Code of Governance (Monitor, July 2014)

Appendix A

Examples of Potential Conflict and how these should be dealt with:

- An equipment manufacturer offers to sponsor a clinical post in the Trust. This cannot be accepted if the clinician is required to recommend the sponsor's equipment/product over other clinically appropriate products or any other associated action e.g. withholding information about other suppliers. Sponsorship of this kind can only be considered if recommendation of the equipment (or other associated action) is not part of the agreement and this is clearly and unambiguously stated in writing by the manufacturer - for example our sponsorship shall not require you and/or your Trust to recommend the use of our equipment.
- A pharmaceutical company offers a clinician starter packs at discounted price. This should be refused but should be declared in order to avoid any suspicion of impropriety and/or that subsequent prescribing of the product might be inappropriately linked to the offer of starter packs. All medicines under all circumstances must enter the Trust through the pharmacy department. It is appropriate for the pharmacy department to consider the use of discounted starter packs in order to make best use of NHS resources.
- A company offers to provide Training for Trust staff. Training by industry is only acceptable where it is unbiased and has mutual benefit, is evidence based and any hospitality provided is appropriate. Participants must assess whether:
 - they may be influenced unduly for example by providing access to contacts from which a company might benefit in the future.
 - if the training is linked to a specific product that nothing in the arrangement shall require the Trust to recommend, order, purchase or use the product.
- A clinician wishes to bring a new drug produced by a company with which they have links onto the formulary. The Trust's use of medicines committee requires clinicians who submit applications for new drugs to be added to the formulary to declare their interests as part of the application process. In addition they are asked again to do this at the meeting at which the application is presented. Each committee member is also asked to declare their interests in any application being considered at the meeting. Additions to the formulary are based on clinical and cost effectiveness.

Appendix B

Examples of bribery and corruption

The following is a non-exhaustive list of examples that may arise during the course of your employment or association with The Trust and which may raise concerns under various anti-bribery and anti-corruption laws.

If you encounter any of the following while working for The Trust, you must report them promptly to the Chief Financial Officer:

- you become aware that a third party engages in or has been accused of engaging in improper business practices;
- you learn that a third party has a reputation for paying bribes, or requiring that bribes are paid to them, or has a reputation for having a “special relationship” with foreign government officials;
- a third party insists on receiving a commission or fee payment before committing to sign up to a contract with us, or carrying out a government function or process for us;
- a third party requests payment cash and/refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made;
- a third party request that payment is made to a country or geographic location different from where the third party resides or conducts business;
- a third party request and unexpected additional fee or commission to “facilitate” a service;
- a third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
- a third party request that a payment is made to “overlook” potential legal violations;
- a third party requests that you provide employment or some other advantage to a friend or relative;
- you receive an invoice from a third party that appears to be non-standard or customised;
- a third party insists on the use of side-letters or refuses to put agreed terms in writing;
- you notice that the Trust has been invoiced for a commission or fee payment that appears large given the service stated to have been provided;
- a third party request or require the use of an agent, intermediary, consultant, distributor, or supplier that is not typically used by or known to The Trust; or
- you are offered an unusually generous gift or lavish hospitality by a third party.

Appendix C

Examples of what staff should not do

It is not acceptable for staff to:

- Give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- Accept a payment from a third party that the member of staff knows or suspects has been offered with the expectation that it will obtain a business advantage for them;
- Accept a gift or hospitality from a third party if the member of staff knows or suspects that it is offered or provided with an expectation that a business advantage will be provided by the Trust in return;
- Threaten or retaliate against another worker who has refused to commit a bribery offence or who has raised concerns under this policy;
- Engage in any activity that might lead to a breach of this policy.

Appendix D – Declaration of interests form

INTERESTS DECLARATION FORM					
Name	Role	Description of Interest	Relevant Dates		Comments
<i>Please see over for information on how to populate this form</i>			From	To	
<i>EXAMPLE: Mr John Smith</i>	<i>Senior Policy Manager, Commissioning Directorate, Organisation A</i>	<i>Hospitality received - £95 from Organisation Z to pay for travel to speak at conference on Managing Conflicts of Interest on 21/12/16</i>	<i>21/12/2016</i>	<i>21/12/2016</i>	<i>Approval to attend event and accept hospitality given by Mary Baker, Head of Unit</i>
<p>The information submitted will be held by Chelsea and Westminster Hospital NHS Foundation Trust for personnel or other reasons specified on this form and to comply with the organisation's policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the Trust holds.</p>					
<p>I confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to Chelsea and Westminster Hospital NHS Foundation Trust as soon as practicable and no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then civil, criminal, internal disciplinary, or professional regulatory action may result.</p>					
<p>I do / do not <i>[delete as applicable]</i> give my consent for this information to published on registers that the Trust holds.</p>					
If consent is NOT given please give reasons:					
Signed:			Date:		
<p>Please return this form to Board Governance Manager - vida.djelic@chelwest.nhs.uk</p>					

GUIDANCE NOTES FOR COMPLETION OF SPECIMEN INTERESTS DECLARATION FORM	
Name and Role:	Insert your name and your position/role in relation to the Organisation you are making the return to
Description of Interest:	Provide a description of the interest that is being declared. This should contain enough information to be meaningful (e.g. detailing the supplier of any gifts, hospitality, sponsorship, etc). That is, the information provided should enable a reasonable person with no prior knowledge should be able to read this and understand the nature of the interest.
	Types of interest:
	Financial interests - This is where an individual may get direct financial benefits from the consequences of a decision they are involved in making
	Non-financial professional interests - This is 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 status or promoting their professional career
	Non-financial personal interests - This is 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 - 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 from a decision they are involved in making
	A benefit may arise from both a gain or avoidance of a loss.
Relevant Dates:	Detail here when the interest arose and, if relevant, when it ceased
Comments:	This field should detail any action taken to manage an actual or potential conflict of interest. It might also detail any approvals or permissions to adopt certain course of action