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# CONFLICTS OF INTEREST POLICY

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## 1. THE POLICY – AT A GLANCE

The Trust has an electronic register, which will be used to record declarations of Conflicts of Interest by employees. The electronic register will facilitate publication of Conflicts of Interest relating to Decision Makers in accordance with national guidance.

Decision Makers, comprising of members of the Board of Directors, employees in Agenda for Change Band 8C and above, all members of the Procurement Team and consultant medical staff, will be required to proactively make declarations, including nil declarations, on an annual basis.

Subject areas covered by this policy are:

- Gifts and Hospitality
- Outside Employment
- Shareholdings
- Patents
- Loyalty Interests
- Donations
- Sponsored Events
- Sponsored Research & Posts
- Clinical Private Practice

It is Trust policy that all staff, in addition to Decision Makers, will make declaration/s of any Conflict of Interests as and when they arise. Such declarations will be made using the electronic register and all Trust employees will have access to the system to record declarations. Employees should note that, while declarations are a contractual requirement, the practise also serves to protect the integrity of the individual employee as well as the integrity of the Trust.

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## 2. EXECUTIVE 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...	The Trust will...
<ul style="list-style-type: none"> <li>• Familiarise yourself with this policy and follow it. Refer to the guidance for the rationale behind this policy <a href="https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf">https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf</a></li> <li>• Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent</li> <li>• Regularly consider what interests you have and declare these as they arise. If in doubt, declare</li> <li>• <b>NOT</b> misuse your position to further your own interests or those close to you</li> <li>• <b>NOT</b> be influenced, or give the impression that you have been influenced by outside interests</li> <li>• <b>NOT</b> allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that this policy and supporting processes are clear and help staff understand what they need to do</li> <li>• Identify a team or individual with responsibility for:               <ul style="list-style-type: none"> <li>○ Keeping this policy under review to ensure they are in line with the guidance.</li> <li>○ Providing advice, training and support for staff on how interests should be managed.</li> <li>○ Maintaining register(s) of interests.</li> <li>○ Auditing this policy and its associated processes and procedures at least once every three years</li> </ul> </li> <li>• <b>NOT</b> avoid managing conflicts of interest</li> <li>• <b>NOT</b> interpret this policy in a way which stifles collaboration and innovation with our partners</li> </ul>

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### 3. SCOPE AND PURPOSE

#### Introduction

Stockport NHS Foundation Trust (the ‘Trust’), and the people who work with and for us, collaborate closely with other organisations, in delivering high quality care for our patients. These partnerships have many benefits and should help ensure that public money is spent efficiently and wisely. However, there is an inherent risk that conflicts of interest may arise from such partnerships.

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 use our finite resources in the best interest of patients.

#### Purpose

The policy will help our staff to manage conflicts of interest risks effectively through:

- Introduction of consistent principles and rules
- Provision of simple advice about what to do in common situations
- Supporting good judgement about how to approach and manage interests.

This policy should be considered in the context of other Trust policy documents as follows:

- Standing Financial Instructions
- Raising Concerns and Whistleblowing Policy
- Anti-Fraud, Bribery and Corruption Policy
- Stockport NHS Foundation Trust Constitution

#### Key Terms

A ‘Conflict of Interest’ is defined as:

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

A conflict of interest may be:

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

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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.

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## 4. ROLES AND RESPONSIBILITIES

### Chief Executive

The Chief Executive has ultimate accountability for the development of policies, procedures and strategies by which staff work and carry out their duties.

### Company Secretary

The Company Secretary has delegated responsibility from the Chief Executive for aspects of corporate governance including:

- Overall management of the process for the declaration and recording of Conflicts of Interest
- Ensuring that the Conflicts of Interest Policy is subject to regular periodic review
- Providing advice, training and support for staff on how Conflicts of Interest should be managed
- Maintaining the register of interests through the electronic register
- Ensuring that an effective process is in place to facilitate annual declarations by Decision Makers
- Determining the investigation process in the event of breaches, jointly with Deputy Director of People & Organisational Development

### Deputy Director of People & Organisational Development

- The Deputy Director of People & Organisational development has responsibility for: Ensuring that a robust and effective process is in place to record new starter / leavers information on the electronic register system
- Provision of advice and support in relation to workforce-related Conflicts of Interest such as Outside Employment and Clinical Private Practice
- Determining the investigation process in the event of breaches, jointly with Company Secretary

### Deputy Director of Quality Governance

The Deputy Director of Quality Governance is responsible for overseeing the review process ensuring that policies, procedures and strategies are reviewed within timescales and monitored as agreed.

### All Trust staff

All staff are responsible for adhering to the process and raising any concerns to their line manager and/or Company Secretary and/or Deputy Director of People & Organisational Development and/or Anti-Fraud Specialist as appropriate.

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## 5. GLOSSARY OF TERMS

**Conflict of Interest** - “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.”

**Actual Interest** - A material conflict exists between one or more interests held by an employee.

**Potential Interest** - A possibility exists of a material conflict between one or more interests in the future.

**Decision Maker** - members of the Board of Directors, employees in Agenda for Change Band 8C and above, all members of Procurement Team and consultant medical staff.

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## 6. MANAGING THE CONFLICTS OF INTEREST PROCESS

### Interests

Interests can arise in several different contexts. A material interest is one which a reasonable person would take into account when making a decision regarding use of taxpayers' money because the interest has relevance to that decision.

Interests fall into the following categories:

- **Financial interests:**

Where an individual may get direct financial benefit<sup>1</sup> 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 association<sup>2</sup> 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.

### Staff

At Stockport NHS Foundation Trust we use the skills of many different people to deliver safe and effective patient care, all of whom are vital to our work. This includes people on differing employment terms, who for the purposes of this policy we refer to as 'staff' and are listed below:

- All salaried employees
- All prospective employees, i.e. those who are part-way through recruitment
- Contractors and sub-contractors
- Bank and Agency staff

<sup>1</sup> This may be a financial gain, or avoidance of a loss.

<sup>2</sup> 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.

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- Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the Trust)
- Individuals with honorary contracts whose substantive employer is not the Trust; and
- Individual working for the Trust in an unpaid capacity

Responses to frequently asked questions on conflicts of interest relating to specific staff groups have been prepared by NHS England and are available through the following link: [www.england.nhs.uk/ourwork/coi](http://www.england.nhs.uk/ourwork/coi)

### Decision Making Staff

Some staff are more likely than others to have a decision making influence on the use of taxpayers' money, because of the nature and requirements of their role. For the purposes of this policy, these individuals are referred to as 'decision making staff.'

The decision making staff in the Trust are:

- Executive Directors and Non-Executive Directors (including the Chair) who have decision-making roles which involve the spending of taxpayers' money;
- Non-voting Directors;
- Members of the Council of Governors;
- Members of advisory groups which contribute to direct or delegated decision-making on the commissioning or provision of taxpayer funded services;
- All consultant medical staff;
- All staff at Agenda for Change Band 8C and above;
- The Trust's Procurement team;
- Administrative and clinical staff involved in the decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions;
- Staff not included in the above groups who may, from time to time, participate as members of groups formed to plan, conduct and evaluate competitive procurement exercises.

All decision making staff will be required to proactively declare interests, including nil returns where appropriate, on appointment and on an annual basis.

### Identification, declaration and review of interests (including gifts and hospitality)

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

Declarations should be made:

- On appointment to the Trust
- When staff move to a new role or their responsibilities change significantly
- At the beginning of a new project/piece of work

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- 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).

The Trust has implemented an electronic register of interests, which can be accessed by all staff to submit declarations. The electronic register, which can be accessed via the Trust’s intranet site, includes on-line guidance for users for each type of interest.

Further information and advice, if required, is also available from the Communications & Corporate Governance microsite:

<https://intranet.stockport.nhs.uk/Business/Intranet/Microsites/ViewSite.aspx?pageid=13088>.

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 by the Trust for a minimum of 6 years.

## Records and publication

### Maintenance

The Trust will maintain the following register:

- One overall Conflict of Interest Register (including a register of gifts and hospitality)

### Publication

The Trust will:

- Publish the interests declared by members of the Board of Directors in the Register of Interests of Members of the Board of Directors
- Publish the interests declared by the other decision making staff
- Publish any gifts and hospitality declared by any member of staff in the Register of Gifts and Hospitality
- Ensure the Trust’s electronic system is accessible to staff and the public all year round
- Compliance rates will be noted annually at Trust Board, contained within the Audit Committee Key Issues Report
- An annual Conflict of Interest Report will be presented to the Audit Committee

If decision making staff have substantial grounds for believing that publication of their interests should not take place, then they should contact the Corporate Affairs team 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 the public register. However, it should be noted that this would be the exception and that information will not be withheld or redacted merely because of a personal preference.

### Wider transparency initiatives

Stockport NHS Foundation Trust fully supports wider transparency initiatives in healthcare, and we 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

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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](#):

### 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. Advice to staff and/or line managers in relation to appropriate management action is available from the Corporate Affairs team.

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## 7. 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.

### 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, post-it notes or calendars may, however, be accepted where they are under the value of £6 in total and need not be declared.

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

- Gifts of cash and vouchers to individuals should always be declined
- Staff should not ask for any gifts
- Gifts valued at over £25 should only be accepted on behalf of Stockport NHS Foundation Trust and not in a personal capacity. These should be declared by staff
- Modest gifts with a value of up to £25 may be accepted and 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 £25 where the cumulative value exceeds £25.

#### *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).

### 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. Line manager approval must be obtained.

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### **Hospitality – Meals and Refreshments:**

- Under a value of £25 - may be accepted and need not be declared.
- Of a value between £25 and £50 - may be accepted and must be declared.
- Over a value of £50 - should be refused unless (in exceptional circumstances) line manager 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).

### **Hospitality – Travel and Accommodation**

- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted but must be declared.
- Offers which go beyond modest, or are of a type that the organisation itself might not usually offer, need line manager approval, 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.

### **What should be declared**

- Staff name and their role with the Trust
- 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).

## **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.

### **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)
- Relevant dates

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- 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).

## Shareholdings and other ownership issues – General principles

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.

### *What should be declared*

- Staff name and their role with the Trust
- 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).

## Patents – General Principles

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

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.

### *What should be declared*

- Staff name and their role with the Trust
- 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).

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## 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 an organisation spends taxpayers' money
- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners
- Are aware that their organisation does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

### *What should be declared*

- Staff name and their role with the Trust
- 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).

## 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 on behalf of the Trust's charity 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 the Trust's charity (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.

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

## 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 for the Trusts 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 which 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. The Trust will maintain records regarding sponsored events in line with the above principles and rules.

## 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.

### *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 Trust
  - nature of their involvement in the sponsored research
  - relevant dates

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- 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).

## Sponsored posts

External sponsorship of a post requires prior approval from the Trust. Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.

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 organisations have 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 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.

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.

## Clinical Private Practice

Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises<sup>3</sup> including:

- Where they practise (name of private facility)
- What they practise (specialty, major procedures)
- When they practise (identified sessions/time commitment).

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

- Seek prior approval of their 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<sup>4</sup>

<sup>3</sup> Hospital Consultants are already required to provide their employer with this information by virtue of Para.3 Sch. 9 of the Terms and Conditions – Consultants (England) 2003: [https://www.bma.org.uk/-/media/files/pdfs/practical\\_advice\\_at\\_work/contracts/consultanttermsandconditions.pdf](https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf)

<sup>4</sup> These provisions already apply to Hospital Consultants by virtue of Paras.5 and 20, Sch. 9 of the

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- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:  
[https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment\\_Order\\_amended.pdf](https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf)

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.

### *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
- 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).

## Roll-Over of Declarations

For those declarations in the following categories, once interests have been declared, they will stay 'live' on the system from year to year (i.e. roll-over):

- Loyalty Interests
- Outside Employment
- Clinical Private Practice
- Shareholdings and other Ownership Interests

When an interest in any of the above four categories ceases the 'end' date of the interest must be entered onto the conflicts of interest database.

For clarification, should 'decision makers' have an interest declared in any of the above 4 categories and no other interests to declare, their original declaration will roll over on the system and an additional annual declaration will be required to be made confirming 'no change' to previous declaration/s.

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Terms and Conditions – Consultants (England) 2003: [https://www.bma.org.uk/-/media/files/pdfs/practical\\_advice\\_at\\_work/contracts/consultanttermsandconditions.pdf](https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf)

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## 8. MANAGEMENT OF INTERESTS – ADVICE IN SPECIFIC CONTEXTS

### Strategic Decision Making Groups

In common with other NHS bodies, Stockport NHS Foundation 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 Stockport NHS Foundation Trust these groups are:

- Board of Directors
- Audit Committee
- Finance and Performance Committee
- People Performance Committee
- Quality Committee
- Remuneration Committee
- Capital Programmes Management Group

These groups are required to 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
- 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.

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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.

## 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.

All procurement activity must be conducted in accordance with the requirements of the Trust's Procurement Policy. Further advice and guidance is available from the Head of Procurement.

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## 9. BRIBERY ACT

Bribery & Corruption – Bribery and corruption prosecutions can be brought using specific pieces of legislation:

- Prevention of Corruption Acts 1906 and 1916, for offences committed prior to 1 July 2011
- Bribery Act 2010, for offences committed on or after 1 July 2011.

The Bribery Act 2010 ('the Act') has updated UK law by making it a criminal offence to:

- Offer, promise, or give a bribe (Section 1 of the Act); and/or,
- Request, agree to receive, or accept a bribe (Section 2 of the Act).

Corruption is generally considered to be an “umbrella” term covering such various activities as bribery, corrupt preferential treatment, kickbacks, cronyism, graft or embezzlement.

Under the 2010 Act, however, bribery is now a series of specific offences. Generally, bribery is defined as: ***an inducement or reward offered, promised or provided to someone to perform their functions or activities improperly in order to gain a personal, commercial, regulatory and/or contractual advantage.***

Examples of bribery in the NHS context could be a contractor attempting to influence a procurement decision-maker by giving them an extra benefit or gift as part of a tender exercise; or, a medical or pharmaceutical company providing holidays or other excessive hospitality to a clinician in order to influence them to persuade their Trust to purchase that company's particular clinical supplies.

A bribe does not have to be in cash; it may be the awarding of a contract, the provision of gifts, hospitality or sponsorship, the promise of work or some other benefit. The persons making and receiving the bribe may be acting on behalf of others – under the Bribery Act 2010, all parties involved may be prosecuted for a bribery offence.

The Act is also extra-territorial in nature. This means that anyone involved in bribery activity overseas may be liable to prosecution in the UK if the bribe is in respect of any UK activity, contract or organisation. To this end, the Act also includes ***an offence of bribing a foreign public official (Section 6 of the act).***

In addition, the Act introduces a new 'corporate offence' (Section 7 of the act) of the failure of commercial organisations to prevent bribery. The Department of Health Legal Service has stated that NHS bodies are deemed to be 'relevant commercial organisations' to which the Act applies. As a result, an NHS body may be held liable (and punished with a potentially unlimited fine) when someone “associated” with it bribes another in order to get, keep or retain business for the organisation. However, the organisation will have a defence, and avoid prosecution, if it can show it had adequate procedures in place designed to prevent bribery.

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The Trust adopts a 'zero tolerance' attitude towards bribery and does not, and will not, pay or accept bribes or offers of inducement to or from anyone, for any purpose. The Trust is fully committed to the objective of preventing bribery and will ensure that adequate procedures, which are proportionate to our risks, are in place to prevent bribery and which will be regularly reviewed. We will, in conjunction with the NHS Counter Fraud Authority (NHS CFA), seek to obtain the strongest penalties – including criminal prosecution, disciplinary and/or civil sanctions – against anyone associated with Stockport NHS Foundation Trust who is found to be involved in bribery or corrupt activities.

As with the Fraud Act, a conviction under the Bribery Act may ultimately result in an unlimited fine and/or custodial sentence of up to 10 years imprisonment.

### **Sanctions and Redress**

Where fraud, bribery or corruption has taken place within or against the NHS, the full range of available sanctions – criminal, civil, disciplinary and/or regulatory – should be considered at the earliest opportunity, and any or all of these may be pursued where and when appropriate.

In deciding the appropriate sanctions and redress in criminal and civil cases against employees, there should be no hesitation on the part of the Trust in all but the most exceptional of cases. Those who defraud the Trust, be they internal or external to it, must never be allowed to profit from their actions.

The range of available sanctions which may be pursued includes:

- Criminal prosecution (potentially resulting in fine, imprisonment, community penalty, confiscation and/or compensation order) or out-of-court disposal;
- Civil action, including action to preserve assets and recover losses;
- Disciplinary action by the employing body;
- Regulatory action by a relevant regulatory body.

Where possible the Trust should adopt a multi-track approach and, if the evidence supports it, there should be no unnecessary barriers to preventing a criminal prosecution, a civil claim and a disciplinary process taking place concurrently.

In deciding the most appropriate sanctions against employees, there should be a consensus of opinion between Human Resources (HR) and the Anti-Fraud Specialist (AFS) where possible. In addition, the Director of Finance must agree the action to be taken in respect of sanctions. The AFS is responsible for informing HR of sanctions applied from a criminal case; HR should keep the AFS updated on the application of disciplinary sanctions.

There is case law within the UK to support parallel sanctions, with a general view that different proceedings are distinct and have different purposes. There is no general rule that the criminal process should take precedence over other processes relating to alleged fraud, bribery and corruption. In practice, public protection is paramount. For example, where there is compelling public interest in suspending/excluding or removing an individual from employment, other

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proceedings may need to take precedence. This approach requires liaison between those undertaking the various investigations, and certain information may be shared where lawful and at the appropriate time. A case conference (minuted) is the best way of achieving such objectives. If required, however, reference should be made to the relevant case law within the NHS CFA publication 'Applying Appropriate Sanctions Consistently' (April 2013 Update); as well as, to 'Parallel Criminal Disciplinary Investigations – Guidance for Anti-Fraud Specialists' (April 2013).

### *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'.

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.

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. Further information about how concerns should be raised is included in the Trust's Raising Concerns at Work Policy and Anti-Fraud & Corruption Policy.

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. The Company Secretary and Deputy Director of People & Organisational Development have joint responsibility for determining the appropriate investigation process.

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.

### *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 organisational leads for staff support (e.g. Human Resources), fraud (e.g. Anti-Fraud Specialist), members of the management or Executive Team 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

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- Consideration being given to escalation to external parties. This might include referral of matters to external auditors, NHS CFA, the Police, statutory health bodies (such as NHS England, or the Care Quality Commission), 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.

### *Learning and transparency concerning breaches*

Reports on breaches, the impact of these, and action taken will be considered by the Audit Committee on an annual basis.

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## 10. REVIEW

This policy will be reviewed on a three yearly basis unless an earlier review is required due to either changes in national guidance or other requirements. Review of the policy will be led by the Company Secretary.

## 11. TRAINING

Staff involved in the administration of the electronic register will receive appropriate training in use of the system.

Information regarding conflicts of interest will be provided to all new starters as part of the Trust's documentation. Following appointment, all staff will receive electronic notification of how to log on to the online portal to declare interests.

Additional training, information and guidance on the implications for Decision Makers will also be provided as required.

Training activities will be coordinated by the Corporate Affairs team.

## 12. MONITORING COMPLIANCE

The Trust is committed to ensuring compliance with documents and will actively monitor the effectiveness of such documents.

### Process for monitoring compliance with this policy

CQC Regulated Activities	Process for monitoring e.g. audit	Responsible individual/ group/ committee	Frequency of monitoring	Responsible individual/group / committee for review of results	Responsible individual/group/ committee for development of action plan	Responsible individual/group/ committee for monitoring action plan and implementation
N/A	Audit of compliance with annual declaration process and monitoring of breaches	Company Secretary	Annual	Audit Committee	Executive Team	Executive Team

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## 13. DOCUMENT LAUNCH AND DISSEMINATION

### Launch

Once the document is approved, it will be uploaded to the intranet and shared by the Corporate Affairs team.

### Dissemination

It will be disseminated by using links to the Trust Document Microsite through

- Information cascade via relevant management teams
- Communication via Management / Departmental / Team meetings
- Inclusion of relevant information in Team Brief
- Notice board administration
- Articles in bulletins

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## 14. REFERENCES AND ASSOCIATED DOCUMENTATION

- Freedom of Information Act 2000
- ABPI: The Code of Practice for the Pharmaceutical Industry (2014)
- ABHI Code of Business Practice
- NHS Code of Conduct and Accountability (July 2004)
- Raising Concerns at Work Policy
- Anti-Fraud, Bribery & Corruption Policy
- Disciplinary Policy
- Procurement Policy

## 15. EQUALITY IMPACT ASSESSMENT

### Office Use Only

Submission Date:	
Approved By:	
Full EIA needed:	No

### Equality Impact Assessment – Policies, SOP’s and Services not undergoing re-design

1	<b>Name of the Policy/SOP/Service</b>	Conflict of Interest Policy
2	<b>Department/Business Group</b>	Corporate Affairs
3	<b>Details of the Person responsible for the EIA</b>	<b>Name:</b> Rebecca McCarthy
		<b>Job Title:</b> Company Secretary
		<b>Contact Details:</b> rebecca.mccarthy@stockport.nhs.uk
4	<b>What are the main aims and objectives of the Policy/SOP/Service?</b>	To ensure compliance with national guidance published by NHS England relating to Conflict of Interests.

For the following question, please use the EIA Guidance document for reference:

5	<b>A) IMPACT</b>	<b>B) MITIGATION</b>
	<p>Is the policy/SOP/Service likely to have a differential impact on any of the protected characteristics below? Please state whether it is positive or negative. What data do you have to evidence this?</p>	<p>Can any potential negative impact be justified? If not, how will you mitigate any negative impacts?</p> <p>✓ Think about reasonable adjustment and/or positive action</p>

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	<p><b>Consider:</b></p> <ul style="list-style-type: none"> <li>• What does existing evidence show? E.g. consultations, demographic data, questionnaires, equality monitoring data, analysis of complaints.</li> <li>• Are all people from the protected characteristics equally accessing the service?</li> </ul>	<ul style="list-style-type: none"> <li>✓ Consider how you would measure and monitor the impact going forward e.g. equality monitoring data, analysis of complaints.</li> <li>✓ Assign a responsible lead.</li> <li>✓ Produce action plan if further data/evidence needed</li> <li>✓ Re-visit after the designated time period to check for improvement.</li> </ul>	<b>Lead</b>
<b>Age</b>	No differential impact		
<b>Carers</b>	No differential impact		
<b>Disability</b>	No differential impact		
<b>Race / Ethnicity</b>	No differential impact		
<b>Gender</b>	No differential impact		
<b>Gender Reassignment</b>	No differential impact		
<b>Marriage &amp; Civil Partnership</b>	No differential impact		
<b>Pregnancy &amp; Maternity</b>	No differential impact		
<b>Religion &amp; Belief</b>	No differential impact		
<b>Sexual Orientation</b>	No differential impact		
<b>General Comments across all equality strands</b>	The policy will help our staff to manage conflicts of interest risks effectively thus having a positive impact across all protected groups.	Any adjustments for protected groups will be identified at induction and put in place as required.	

## Action Plan

### What actions have been identified to ensure equal access and fairness for all?

Action	Lead	Timescales	Review & Comments

<b>EIA Sign-Off</b>	<b>Your completed EIA should be sent to Equality, Diversity &amp; Inclusion Manager for approval:</b>
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	<a href="mailto:equality@stockport.nhs.uk">equality@stockport.nhs.uk</a>
	<b>0161 419 4784</b>

## Quality

**(Clinical and Quality Impact Assessment, Please record 'No Impact' if this is the case)**

Date of Initial Review	DD/MM/YYYY
Date of Last Review	DD/MM/YYYY

Area of Impact		Consequence	Likelihood	Total	Potential Impact	Impact (Positive or Negative)	Action	Owner
Quality	Duty of Quality			0	How does it impact adversely the rights and pledges of the NHS Constitution?	No impact		
					How does the impact affect the organisation's commitment to being an employer of choice?	No impact		
					What is the equality impact on race, gender, age, disability, sexual orientation, religion and belief, gender reassignment, pregnancy and maternity for individuals' access to services and experience of the service?	No impact		
	Patient Safety			0	How will this impact on the organisation's duty to protect children, young people, and adults?	No impact		
					How will it impact on patient safety? • Infection rates • Medication errors • Significant untoward incidents and serious adverse events • Mortality & Morbidity • Failure to recognise a deteriorating patient • Safe staffing levels	No impact		
					How will it impact on preventable harm? (eg. slips, trips, falls)?	No impact		
					How will it impact upon the reliability of safety systems? (eg. WHO checklist)	No impact		
					How will it impact on systems and processes for ensuring that the risk of healthcare acquired infections is reduced?	No impact		
					How will this impact on workforce capability, care and/or skills?	No impact		
					Experience	Patient Experience	0	What impact is it likely to have on self-reported experience of patients and service users? (Response to national / local surveys / complaints / PALS/incidents)
How will it impact on choice?	No impact							
Will there be an impact on waiting times?	No impact							
How will it impact upon the compassionate and personalised care agenda?	No impact							
Staff Experience	0	How will it impact on recruitment of staff?	No impact					
		What will the impact be on staff turnover and absentee rates?	No impact					
Effectiveness	Clinical Effectiveness and Outcomes	0	How does it impact on implementation of evidence-based practice?	No impact				
			How will it impact on patient's length of stay?	No impact				

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				Will it reduce/impact on variations in care? (eg. readmission rates)	No impact			
				What will the impact be upon clinical and cost-effective care delivery?	No impact			
				How does it impact upon care pathway(s)? eg. Mortality	No impact			
				How will it impact on target performance?	No impact			
Other	Please use this section to detail any other impacts to clinical and quality that are not listed in the questions.							

## Data Protection Impact Assessment

Organisations must ensure that the third parties they both process and share personal confidential data with, will ensure the data is secure and confidential. To assess the implications of using personal data, a risk assessment called a Data Privacy Impact Assessment (DPIA) is required.

If you are doing any of the following you will need to complete a Data Privacy Impact Assessment (DPIA):

- Setting up a new process using personal confidential data (PCD)
- Changing an existing process which changes the way personal confidential data is used
- Procuring a new information system which holds personal confidential data

A DPIA is a proforma or risk assessment which asks questions about the process or new system based on data quality / data protection / information security and technology.

The DPIA Process:

- 1) Complete the screening questions below – this is to determine whether or not completion of a full DPIA is required.
- 2) If a full DPIA is required, you will be advised by the Information Governance Team and sent the full DPIA proforma for completion.

If DPIA's are not completed, there may be data protection concerns that have not been identified which could result in breaching the Data Protection Act/GDPR.

**Advice/Guidance on completing the screening questions or the full DPIA can be provided by the Information Governance Team (Khaja Hussain x5295/Joan Carr x4364)**

## DPIA Screening Questions

		Yes	No	Unsure	Comments <i>Document initial comments on the issue and the privacy impacts or clarification on why it is not an issue</i>
A)	Will the process described involve the collection of new information about individuals?	X			Individuals are required to make a declaration as any new interest arises. Staff are clear of the reason for publication of this information, in line with the NHS Contract, and can request information is not publicised due to exceptional circumstances.
B)	Does the information you are intending to process identify individuals (e.g. demographic information such as name, address, DOB, telephone, NHS number)?	X			Name
C)	Does the information you are intending to process involve sensitive information e.g. health records, criminal records or other information people would consider particularly private or raise privacy concerns?		X		Supports transparency and accountability in use of public funds.

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D)	Are you using information about individuals for a purpose it is not currently used for, or in a way it is not currently used?		X		
E)	Will the initiative require you to contact individuals in ways which they may find intrusive <sup>1</sup> ?		X		
F)	Will the information about individuals be disclosed to organisations or people who have not previously had routine access to the information?		X		There has always been a requirement for declarations of key staff members to be made public.
G)	Does the initiative involve you using new technology which might be perceived as being intrusive? e.g. biometrics or facial recognition		X		
H)	Will the initiative result in you making decisions or taking action against individuals in ways which can have a significant impact on them?	X			Dependent on the declaration and if this constitutes a breach of the conflicts of interest policy.
I)	Will the initiative compel individuals to provide information about themselves?	X			

*1. Intrusion can come in the form of collection of excessive personal information, disclosure of personal information without consent and misuse of such information. It can include the collection of information through surveillance or monitoring of how people act in public or private spaces and through the monitoring of communications whether by post, phone or online and extends to monitoring the records of senders and recipients as well as the content of messages.*

If you answered YES or UNSURE to any of the above, you need to continue with the Privacy Impact Assessment. Giving false information to any of the above that subsequently results in a yes response that you knowingly entered as a NO may result in an investigation being warranted which may invoke disciplinary procedures.

## DOCUMENT INFORMATION

Type of Document	Policy
Title	Conflicts of Interest Policy
Version Number	X.4
Consultation	Executive Team
Recommended by	Executive Team Audit Committee
Approved by	Audit Committee
Approval Date	20 February 2024
Next Review Date	February 2027
Document Author	Company Secretary
Document Director	Chief Executive

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For use by	All Staff
Specialty / Ward / Department <i>(if local procedure document)</i>	

Version	Date of Change	Date of Release	Changed by	Reason for Change
x.1	28 February 2019		Paul Buckingham	Document Creation
x.2	14 July 2019	15 August 2019	Sharon Katema	Updated in readiness for approval process and to reflect best practice
x.3	29 June 2021		Caroline Parnell	Updated in line with internal audit recommendations
x.4	20 February 2024		Rebecca McCarthy	Refresh of policy

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## APPENDICES

Nil.

Conflicts of Interest Policy		Page:	<b>34 of 34</b>
Author:	Rebecca McCarthy, Trust Secretary	Version:	X.4
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To Note:	Printed documents may be out of date – check the intranet for the latest version.		