

Conflicts of Interest, Hospitality, Gifts, Donations & Sponsorship Policy

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| Milton Keynes University Hospital NHS Foundation Trust. <i>Counter Fraud Policy and Reporting Procedure</i> . FIN-GL-4. Version 6, 2018 | | | |
| Milton Keynes University Hospital NHS Foundation Trust. <i>Foundation Trust Standing Financial Instructions Policy</i> . FIN/GL/1. Version 9, 2020 | | | |
| Milton Keynes University Hospital NHS Foundation Trust. <i>Speaking Up Policy and Procedure</i> . HR/GL/5. Version 4, 2020 | | | |
| Milton Keynes University Hospital NHS Foundation Trust. <i>Private Patient Policy</i> . FIN/GL/12. Version 2, 2018 | | | |
| CQC Fundamental standards: | | | |
| Regulation 9 – Person centred care | | | |
| Regulation 13 – Safeguarding service users from abuse and improper treatment | | | |
| Regulation 17 – Good governance | | | |
| Regulation 19 – Fit and proper | | | |

Index

| | |
|---|----|
| Policy Statement | 4 |
| Purpose and scope | 4 |
| Abbreviations used..... | 5 |
| Definitions | 5 |
| 1.0 Roles and Responsibilities: | 7 |
| 1.1 Identification and declaration of interests (including gifts and hospitality) | 7 |
| 1.2 Proactive review of interest | 7 |
| 2.0 Records and publication..... | 7 |
| 2.1 Maintenance | 7 |
| 2.2 Publication | 8 |
| 2.3 Wider transparency initiatives | 8 |
| 3.0 Management of interests – general | 8 |
| 4.0 Management of interests – common situations | 9 |
| 4.1 Gifts | 9 |
| What should be declared | 9 |
| 4.2 Hospitality | 9 |
| What should be declared | 10 |
| 4.3 Outside Employment..... | 10 |
| What should be declared | 11 |
| 4.4 Shareholdings and other ownership issues | 11 |
| What should be declared | 11 |
| 4.5 Patents..... | 11 |
| What should be declared | 11 |
| 4.6 Loyalty interests | 12 |
| What should be declared | 12 |
| 4.7 Donations..... | 12 |
| What should be declared | 12 |
| 4.8 Sponsored events | 13 |
| What should be declared | 13 |
| 4.9 Sponsored research..... | 13 |
| What should be declared | 13 |
| 4.10 Sponsored posts | 14 |
| What should be declared | 14 |
| 4.11 Clinical private practice | 14 |
| What should be declared | 15 |
| 5.0 Management of interests – advice in specific contexts | 15 |
| 5.1 Strategic decision making groups..... | 15 |
| 5.2 Procurement | 16 |
| 5.3 Dealing with breaches..... | 16 |
| 5.3.1 Identifying and reporting breaches | 16 |
| 5.3.2 Taking action in response to breaches | 16 |
| 5.3.3 Learning and transparency concerning breaches..... | 17 |

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| | |
|--|----|
| 6.0 Statement of evidence/references..... | 17 |
| 7.0 Governance | 20 |
| 7.1 Document review history | 20 |
| 7.2 Consultation History | 20 |
| 7.3 Audit and monitoring | 20 |
| 7.4 Equality Impact Assessment | 21 |
| Appendix A - Online Portal for submitting Declarations of Interest | 22 |
| Appendix B - Declaration of Gifts and Hospitality Form..... | 23 |

Policy Statement

This policy will help our staff manage conflicts of interest risks effectively and provides guidance on processes to be followed in deciding whether offers of gifts hospitality, sponsorship or donations may be accepted.

As Milton Keynes University Hospital NHS Foundation Trust is a public body, all employees of the Trust have a duty to ensure that they act with probity at all times, safeguard and properly account for the use of public money, and that their ability to apply judgement in a way that is not, or does not appear to be, impaired or influenced by other interests that they may hold.

Purpose and scope

NHS organizations are funded by, and therefore accountable to, the public at large, and must be impartial and transparent in the conduct of their business. Milton Keynes University Hospital NHS Foundation Trust has a duty to ensure that the funds allocated to it are spent appropriately for the purposes intended, and that all actions undertaken in the fulfilment of this duty are performed with the highest standards of integrity.

The aim of this policy is to provide clear guidance to all staff on the declaration of interests and how to respond to offers of gifts, hospitality, sponsorship and donations within the course of their duties. The policy outlines circumstances when gifts/hospitality may be accepted or must be declined, and when a declaration must be made and included on the register. .

This policy follows the publication of *Managing Conflicts of Interest in the NHS: Guidance for staff and organisations* by NHS England in February 2017, and it reinforces principles of probity and honesty. The Trust's policy is a local adaptation of NHS England's Managing conflicts of interest – Model policy (NHS England, 2017b). The Trust's Standing Orders and Standing Financial Instruction also reflect these principles.

The policy also reflects the provisions of the Bribery Act 2010. Under that Act, it is a criminal offence to directly or indirectly offer, promise or give an advantage to another, with the intention of inducing another person to do something improper or to reward someone for behaving improperly. It is also an offence to request or accept an advantage, intending that he, or another, should in consequence behave inappropriately or behave improperly in anticipation or in consequence of requesting or accepting an advantage.

The Trust Board is required to ensure that all staff, in particular, those referred to in the NHS England guidance as 'decision making staff' are familiar with this policy.

It is a requirement that all members of the Board, Council of Governors and staff with personal interests which might affect their role within the Trust, declare these interests on joining the organization or when the potential for conflict arises. This includes staff with honorary contracts and volunteers. Managers must also ensure that temporary staff not employed through an agency (for example, management consultants), declare actual or potential conflicts of interest when they commence 'employment'. It is particularly applicable to those occupying positions where a potential for conflict of interest exists; i.e. staff able to exercise discretion on issues which affect patient care or financial arrangements such as procurement.

The Trust Secretary is required to draw up a register of interests declared by board members, governors and staff and to report on this annually to the Audit Committee and to Trust Board (public section). The returns will be maintained in a register which will be open for inspection and accessible under the Freedom of Information Act 2000.

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The policy also provides guidance to Board members, governors and staff on the procedure to be followed in the event of any gift, hospitality or sponsorship being offered and accepted or declined.

The Trust is directly responsible for ensuring that Board members, governors and staff are impartial and honest in the conduct of Trust business, and that they do not abuse their official positions for personal gain or to the benefit of their family and friends.

It is the responsibility of all Board members, governors and staff to ensure that they are not placed in a position which risks conflict between their private interests and their NHS duties. It is also their responsibility to ensure that they are not placed in a position which creates a sense of obligation, or where their actions could be constituted as giving or receiving an incentive or bribe.

This primary responsibility applies to all who commit NHS resources directly (e.g. by the ordering of goods and services) or those who do so indirectly.

This policy:

- sets out the principles of business conduct for non-executive directors, governors and staff in relation to gifts, donations and hospitality;
- outlines the circumstances under which gifts, donations and / or hospitality may be accepted or must be declined;
- specifies when a declaration must be made, for an entry to the Trust's Conflict of Interest, or Gifts, Hospitality and Sponsorship Registers;
- specifies when non-executive directors, governors and staff need to proactively register an interest they may have that may conflict with the Trust's interest; and
- specifies the arrangements that must be in place for the management of sponsorship by external organisations.

Abbreviations used

ABPI - Association of British Pharmaceutical Industry

CQC – Care Quality Commission

Definitions

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

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

Staff may hold interests for which they cannot see potential conflict, but 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.

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 enhancing 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 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 Milton Keynes University NHS Foundation Trust, we use the skills of many different people, all of whom are vital to our work. This includes people of differing employment terms, who for the purpose of this policy we refer to as 'staff' and are listed below:

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

Decision making staff:

It is recognised that some staff within the organisation are more likely than others to have a decision making influence over the use of taxpayers' funds, because of the requirements of their role. For the purpose of this policy, these people are referred to as 'decision making staff'.

Decision making staff at this Trust are:

- Executive and non-executive directors.
- All staff at Agenda for Change Band 8A and above
- All administrative and clinical staff (Including Procurement Staff) with the power to enter into contracts on the Trust's behalf
- All administrative and clinical staff (including Procurement Staff) involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices and equipment, and formulary decisions

Staff within these categories are required to make a declaration at least once each year. In the event that they have no material interests, they should nevertheless make a nil declaration.

1.0 Roles and Responsibilities:

1.1 Identification and declaration of interests (including gifts and hospitality)

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

- On appointment to their post
- 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 example, in a meeting at which the interests that staff hold are relevant to the matters being discussed)
- All employees, including Procurement Staff, at the beginning of each tender process they are involved in

The online portal for submitting declarations of interests for the various members of staff, is managed by the Trust Secretariat (please see Appendix A), and the Trust Secretary is responsible for:

- Providing advice, training and support for staff on how interests should be managed
- Maintaining register(s) of interests
- Auditing policy, process and procedures relating to this guidance at least every three years.

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

1.2 Proactive review of interest

The Trust Secretary will, on an annual basis, prompt all decision making staff to review the declarations that they have made and, as appropriate, update them or make a nil return. Staff should declare any new interests that arise between these annual prompts to the Trust Secretary through the online portal (please see Appendix A).

2.0 Records and publication

2.1 Maintenance

The Trust will maintain four separate registers as follows:

- Register of interests for executive and non-executive directors
- Register of interests for all other staff
- Register of interests for members of the Council of Governors
- Gifts and Hospitality register for all staff and members of the Council of Governors

All declared interests that are material will be promptly transferred to the relevant register by the Trust Secretary.

2.2 Publication

We will:

- Publish the register of interests of decision making staff and directors on the Trust website
- Refresh this information annually
- Ensure all other registers are available on request

2.3 Wider transparency initiatives

Milton Keynes University Hospital NHS Foundation Trust fully supports wider transparency initiatives in healthcare, and we encourage staff to engage actively with these.

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

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

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

<https://www.abpi.org.uk/our-ethics/disclosure-uk/>

3.0 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 for aware of their existence.

4.0 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. A copy of the form for submitting declarations on accepted or declined gifts and hospitality for all staff can be found on Appendix B.

4.1 Gifts

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

Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the organisation should be declined, whatever their value.
- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6 in total, and need not be declared.

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

- Gifts of cash and vouchers to individuals should always be declined.
- Staff should not ask for any gifts.
- Gifts valued at over £50 should be treated with caution and only be accepted on the basis that this is being done on behalf of the Milton Keynes Hospital Charity, and not in a personal capacity. These should be declared by staff.
- Modest gifts accepted under a value of £50 do not need to be declared.
- A common sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).
- Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

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).

4.2 Hospitality

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

Meals and refreshments:

- Under a value of £25 - may be accepted and need not be declared.
- Of a value between £25 and £75¹ - may be accepted and must be declared.
- Over a value of £75 - should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the organisation's register(s) of interest as to why it was permissible to accept.
- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or a reasonable estimate).

Travel and accommodation:

- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared.
- Offers which go beyond modest, or are of a type that the organisation itself might not usually offer, need approval by senior staff, should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on the organisation'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 organisation.
- The nature and value of the hospitality including the circumstances.
- Date of receipt.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

4.3 Outside Employment

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

The organisation 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.

¹ The £75 value has been selected with reference to existing industry guidance issued by the ABPI
[https://www.pmcpa.org.uk/the-code/2019-interactive-abpi-code-of-practice/clause-22-meetings-hospitality-and-
sponsorship/?p=meals#tab4734-slide](https://www.pmcpa.org.uk/the-code/2019-interactive-abpi-code-of-practice/clause-22-meetings-hospitality-and-sponsorship/?p=meals#tab4734-slide)

What should be declared

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

4.4 Shareholdings and other ownership issues

- Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the organisation.
- 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 organisation.
- Nature of the shareholdings/other ownership interest.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

4.5 Patents

- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation.
- Staff should seek prior permission from the organisation before entering into any agreement with bodies regarding product development, research, work on pathways etc, where this impacts on the organisation's own time, or uses its equipment, resources or intellectual property.
- 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 organisation.
- A description of the patent.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy)

4.6 Loyalty interests

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

- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be seen to influence decisions they take in their NHS role.
- Sit on advisory groups or other paid or unpaid decision making forums that can influence how 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 organisation.
- Nature of the loyalty interest.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

4.7 Donations

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

What should be declared

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

4.8 Sponsored events

- Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in a clear benefit to the organisation and the NHS.
- During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.
- No information should be supplied to the sponsor from whom they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.
- At the organisation'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 organisation 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 organisation.

What should be declared

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

4.9 Sponsored research

- Funding sources for research purposes must be transparent.
- Any proposed research must go through the relevant health research authority or other approvals process.
- There must be a written protocol and written contract between staff, the Trust, and/or institutes at which the study will take place and the sponsoring organization. The document must specify 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 organisation.

What should be declared

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

4.10 Sponsored posts

- External sponsorship of a post requires prior approval from the organisation.
- 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.

What should be declared

- The organisation 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.

4.11 Clinical private practice

Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises² 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 organisation 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.³
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:
<https://www.gov.uk/government/publications/private-healthcare-market-investigation-order-2014>

² 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.nhsemployers.org/pay-pensions-and-reward/medical-staff/consultants-and-dental-consultants/consultants-and-dental-consultants-tcs-handbook/consultant-contract-\(2003\)](https://www.nhsemployers.org/pay-pensions-and-reward/medical-staff/consultants-and-dental-consultants/consultants-and-dental-consultants-tcs-handbook/consultant-contract-(2003))

³ These provisions already apply to Hospital Consultants by virtue of Paras.5 and 20, Sch. 9 of the Terms and Conditions – Consultants (England) 2003: [https://www.nhsemployers.org/pay-pensions-and-reward/medical-staff/consultants-and-dental-consultants/consultants-and-dental-consultants-tcs-handbook/consultant-contract-\(2003\)](https://www.nhsemployers.org/pay-pensions-and-reward/medical-staff/consultants-and-dental-consultants/consultants-and-dental-consultants-tcs-handbook/consultant-contract-(2003))

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

5.0 Management of interests – advice in specific contexts

5.1 Strategic decision making groups

In common with other NHS bodies Milton Keynes University Hospital 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 this organisation these groups are:

- The Board of Directors
- Trust Executive Committee
- Clinical Board Investment Group

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 organisation's register(s).
- The vice chair (or other non-conflicted member) should chair all or part of the meeting if the chair has an interest that may prejudice their judgement.

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

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

5.2 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 organisation 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.

To ensure that there is complete transparency, all members of the Procurement Staff (being decision making staff), are required to submit annual declarations when prompted to do by the Trust Secretary.

5.3 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'.

5.3.1 Identifying and reporting breaches

Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns either to the Trust Secretary, or the Local Counter Fraud Specialist, or anonymously through the NHSCFA website:

<https://cfa.nhs.uk/reportfraud>.

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 please contact the Trust's Freedom to Speak Up Guardian via freedomtospeakup@mkuh.nhs.uk.

The Trust will investigate each reported breach according to its own specific facts and merits, and give relevant parties the opportunity to explain and clarify any relevant circumstances.

Following investigation the organisation will:

- Decide if there has been or is potential for a breach and if so what the severity of the breach is.
- Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum.
- Consider who else inside and outside the organisation should be made aware
- Take appropriate action as set out in the next section.

5.3.2 Taking action in response to breaches

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

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

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

Inappropriate or ineffective management of interests can have serious implications for the Trust and its 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 organisation can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:

- Employment law action against staff, which might include
 - Informal action (such as reprimand, or signposting to training and/or guidance).
 - Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
- Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be.
- Contractual action, such as 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.

5.3.3 Learning and transparency concerning breaches

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

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 made available for inspection by the public upon request.

6.0 Statement of evidence/references

The Association of the British Pharmaceutical Industry (2020) *Disclosure UK*. [Online]. Available from: <https://www.abpi.org.uk/our-ethics/disclosure-uk/> [Accessed 8 September 2020]

Chartered Institute of Purchasing and Supply (2013) *Code of Conduct*. [Online]. Available from: <https://www.cips.org/who-we-are/governance/cips-code-of-conduct/> [Accessed 8 September 2020]

Committee on Standards in Public Life (1995) *The Seven Principles of Public Life [Nolan Principles]*. [Online]. Available from: <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2> [Accessed 8 September 2020]

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Competition and Markets Authority (2014a) *Explanatory note to accompany the Private Healthcare Market Investigation Order 2014*. [Online]. Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/453466/Private_Healthcare_Market_Investigation_Order_2014_explanatory_note.pdf [Accessed 8 September 2020]

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Competition and Markets Authority (2017a) *Explanatory note to accompany the Private Healthcare Market Investigation (Variation and Commencement) Order 2017*. [Online]. Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/611680/private-healthcare-variation-order-2017-explanatory-note.pdf [Accessed 8 September 2020]

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NHS Appointments Commission and Department of Health (2004) *Code of Conduct Code of Accountability in the NHS*. [Online]. 2nd rev. Available from: https://webarchive.nationalarchives.gov.uk/20090218062750/http://www.dh.gov.uk/en/Publications_andstatistics/Publications/PublicationsPolicyAndGuidance/DH_4116281 [Accessed 8 September 2020]

NHS Employers (2003, Last amended April 2018) *Terms and Conditions – Consultants (England) 2003*. [Online]. v10. Available from: [https://www.nhsemployers.org/pay-pensions-and-reward/medical-staff/consultants-and-dental-consultants/consultants-and-dental-consultants-tcs-handbook/consultant-contract-\(2003\)](https://www.nhsemployers.org/pay-pensions-and-reward/medical-staff/consultants-and-dental-consultants/consultants-and-dental-consultants-tcs-handbook/consultant-contract-(2003)) [Accessed 8 September 2020]

NHS England (2017a) *Managing conflicts of interest in the NHS: Guidance for staff and organisations*. [Online]. Available from: <https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf> [Accessed 8 September 2020]

NHS England (2017b) *Managing conflicts of interest in the NHS - Model policy content for organisations*. [Online]. Available from: <https://www.england.nhs.uk/publication/managing-conflicts-of-interest-model-policy-content-for-organisations/> [Accessed 8 September 2020]

Prescription Medicines Code of Practice Authority (2020) *2019 ABPI Code of practice*. [Online]. Interactive ed. Available from: <https://www.pmcpa.org.uk/the-code/2019-interactive-abpi-code-of-practice/> [Accessed 8 September 2020]

Legislation

Note re: links to legislation.gov.uk website. Versions may be revised, annotated or original as enacted. A 'List of all changes' made by subsequent legislation affecting the statute or statutory instrument may be viewed by opening the statute or statutory instrument on the legislation.gov.uk website and clicking the 'More Resources' tab.

Bribery Act 2010. (c.23). [Online]. Available from:
<https://www.legislation.gov.uk/ukpga/2010/23/contents> [Accessed 8 September 2020]

Fraud Act 2006. (c.35). [Online]. Available from:
<https://www.legislation.gov.uk/ukpga/2006/35/contents> [Accessed 8 September 2020]

Freedom of Information Act 2000. (c.36). [Online]. Available from:
<https://www.legislation.gov.uk/ukpga/2000/36/contents> [Accessed 8 September 2020]

7.0 Governance

7.1 Document review history

| Version number | Review date | Reviewed by | Changes made |
|----------------|---------------|-------------------|--|
| 1 | April 2004 | Robin Parkinson | New Policy |
| 2 | October 2008 | Robin Parkinson | Document reviewed, minor amendments made, new review date set for two years |
| 3 | February 2014 | Karan Hotchkin | Document reviewed, minor amendments made |
| 4 | June 2017 | Adewale Kadiri | Document re-written to reflect new NHSE guidance and in line with Model Policy |
| 5 | August 2020 | Alison Marlow | Document reviewed, transferred to new policy template, minor amendments made – decision-making staff changed from Band 8D to Band 8A |
| 6 | November 2020 | Kwame Mensa-Bonsu | To update the process to include the introduction of an online portal for submissions and the requirement for annual declarations from all Procurement Staff |

7.2 Consultation History

| Stakeholders Name/Board | Area of Expertise | Date Sent | Date Received | Comments | Endorsed Yes/No |
|-------------------------|--------------------|---------------|---------------|---------------------------------------|-----------------|
| Medical Director | Medical Consultant | November 2020 | November 2020 | Reviewed and approved online solution | Yes |

7.3 Audit and monitoring

| Audit/Monitoring Criteria | Tool | Audit Lead | Frequency of Audit | Responsible Committee/Board |
|---|--|-----------------|--------------------|-----------------------------|
| On upload of Trust registers to website | Compliance declaration of interest requirements, and gifts and hospitality forms | Trust Secretary | Annual | Audit Committee |

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7.4 Equality Impact Assessment

As part of its development, this policy and its impact on equality has been reviewed. The purpose of the assessment is to minimise and if possible remove any disproportionate impact on the grounds of race, gender, disability, age, sexual orientation, religion or belief, pregnancy and maternity, gender reassignment or marriage and civil partnership. No detriment was identified.

| Equality Impact Assessment | | | |
|--|---------------------------|--|---------------------|
| Division | Corporate | Department | Trust Secretariat |
| Person completing the EqIA | Trust Secretary | Contact No. | Ext 86234 |
| Others involved: | Trust Executive Committee | Date of assessment: | 29/11/2021 |
| Existing policy/service | Yes | New policy/service | No |
| Will patients, carers, the public or staff be affected by the policy/service? | | Staff | |
| If staff, how many/which groups will be effected? | | All staff | |
| Protected characteristic | Any impact? | Comments | |
| Age | NO | Positive impact as the policy aims to recognise diversity, promote inclusion and fair treatment for patients and staff | |
| Disability | NO | | |
| Gender reassignment | NO | | |
| Marriage and civil partnership | NO | | |
| Pregnancy and maternity | NO | | |
| Race | NO | | |
| Religion or belief | NO | | |
| Sex | NO | | |
| Sexual orientation | NO | | |
| What consultation method(s) have you carried out? | | Circulation by email Face to face meetings | |
| How are the changes/amendments to the policies/services communicated? | | At Trust Executive Committee | |
| What future actions need to be taken to overcome any barriers or discrimination? | | | |
| Who will lead this? | Who will lead this? | Who will lead this? | Who will lead this? |
| | | | |
| | | | |
| | | | |
| | | | |
| Review date of EqIA | | | |

Appendix A

Access to the online portal for the submission of declarations of interests is managed by the Trust Secretariat on request. Please contact the Trust Secretariat for access to the online portal on corporate.services@mkuh.nhs.uk or the Trust Secretary (Kwame Mensa-Bonsu) on Kwame.Mensa-Bonsu@mkuh.nhs.uk or on ext 86234 or via Microsoft Teams.

Appendix B

Copy of the form for submitting declarations of accepted or declined offers of gifts and hospitality

DECLARATION OF GIFTS AND HOSPITALITY FORM

Receiving benefits, gifts, rewards or hospitality in return for providing services (even if these services are part of a usual role) can be perceived as an inducement to show favour to a person or organisation in his or her official capacity. Staff are advised to decline such offers, but it is acknowledged there may be occasions when this is not feasible. All staff should conduct themselves with integrity, impartiality and honesty at all times and should maintain high standards of propriety and professionalism.

Details of Employee declaring gifts and/or hospitality

| | |
|---|--|
| Full Name | |
| Department | |
| Job Title | |
| Email Address | |
| Description of Gift or Hospitality | |
| Value/Estimated Value | |
| Purpose of the Offer | |
| Person/Organisation making the offer | |
| Relationship with the person offering the gift/hospitality | |
| Offer of gifts/hospitality accepted or declined | |

The information submitted will be held by Milton Keynes University Hospital NHS Foundation Trust for personnel and/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 2018/General Data Protection/Regulations. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that Milton Keynes University Hospital NHS Foundation Trust holds and displays on its website.

I confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to Milton Keynes University 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 internal disciplinary or professional regulatory action may result. Should I provide false or misleading information, I understand that a referral may be made to the Local Counter Fraud Specialist for a Criminal Investigation.

Signature of Employee:

Date:

APPROVAL

Has acceptance of the gift/hospitality been given prior to approval? If yes, please explain why approval has not been sought.

| Approved By | | Job Title | | Date | |
|-------------|--|-----------|--|------|--|
|-------------|--|-----------|--|------|--|

Please return this form to: Kwame Mensa-Bonsu, Trust Secretary – kwame.mensa-bonsu@mkuh.nhs.uk