

Standards of Business Conduct Policy

Effective: July 2011

Review: July 2012

## 1. Introduction

1.1 The following documents contain guidance to NHS staff on the standards of business conduct required of them (and which should be regarded as mandatory):

- Department of Health Circular HSG(93)5
- Code of Conduct for NHS Managers (Department of Health, October 2002)
- Code of Accountability (Department of Health, July 2004)
- Code of Practice on Openness (Department of Health, August 2003)

The Trust's Corporate Governance documents (January 2011) and in particular Standing Orders 6 and 7 and Standing Financial Instruction 9 also contain further guidance.

1.2 Guidance relating specifically to commercial sponsorship can be found in the Department of Health publication "Commercial Sponsorship: Ethical Standards for the NHS", November 2000. Any staff who may become involved in seeking, obtaining or receiving commercial sponsorship should ensure that they consult and comply with this guidance and if in doubt, seek advice from the Chief Executive or Finance Director. The general standards of business conduct underpinning the Department's guidance on commercial sponsorship are consistent with the standards detailed in this guidance.

1.3 The Bribery Act 2010, which came into effect on 1<sup>st</sup> July 2011, places a further requirement on all public sector organisations to be able to demonstrate that they have in place effective mechanisms for the prevention and detection of bribery, either of or by its employees. The Trust has consequently put in place procedures which are intended to protect individuals and the organisation from any allegations of bribery or attempted bribery. The main consequence of these procedures is a new requirement to declare any offers of gifts, hospitality or sponsorship which have been **declined**, not just those which have been accepted.

## 2. Public Service Values

The fundamental values underpinning the NHS and the work of the Trust remain as follows:

- Accountability:** everything done by those who work in the NHS must be able to stand the test of Parliamentary scrutiny, public judgements on propriety and professional codes of conduct
- Probity:** there should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, staff and suppliers, and in the use of information acquired in the course of NHS duties

- iii) **Openness:** there should be sufficient transparency about NHS activities to promote confidence between the NHS organisation and its patients, staff and the public.

### 3. Summary Of Guidance

The guidance can be interpreted as follows:

#### 3.1 Inexpensive Gifts of a trivial character, e.g. pens, notebooks, calendars, diaries etc

These can be regarded as normal promotional activities of companies and do not necessarily need to be refused.

#### 3.2 Sponsorship of Meetings

It is relatively commonplace for commercial companies such as pharmaceutical or equipment suppliers to sponsor medical or other meetings. Again this can be quite acceptable if sponsorship is to an appropriate level. Any member of staff arranging such meetings should, to safeguard their own interests, declare the arrangements to the Chief Executive's office by:

- a) submitting a copy of the meeting programme
- b) naming the company or organisations involved
- c) identifying the level and monetary value of the sponsorship (i.e. where individual or collective benefit is in excess of £50 per item received)

This information will be retained in case of any subsequent difficulties or criticisms.

#### **If in doubt seek advice**

#### 3.3 Hospitality

Suppliers and organisations can often offer modest hospitality in association with the sponsorship of meetings and promotional events. This may take the form of providing food and beverages and/or providing a venue. Again this is usually acceptable, but it is in the interest of staff who are arranging such an event to submit details to the Chief Executive's office which will then be held in the Register of Gifts and Hospitality.

A declaration is required irrespective of whether or not the offer is taken up. As a general guide, the level of hospitality should be similar in scale to that which would be provided by an NHS employer (see Section 4).

#### **If in doubt seek advice**

#### 3.4 Assistance with Travel/Accommodation and Fees connected with Meetings

There is nothing intrinsically wrong with this provided, again, that the level of assistance is appropriate. Nevertheless, staff should safeguard their own interests and that of their employer, by notifying the Chief Executive **in advance** by enclosing details of the travel and accommodation arrangements and a copy of the course programme. This may be done by means of the standard leave

application proforma, which is routinely submitted to the Personnel Department. These details will be retained for future reference. Staff shall not claim for travel, accommodation or fees from the Trust where these have been paid for by a third party.

### 3.5 Declaration of Interests and Related Parties Disclosures

The Trust needs to be aware of all cases where an employee, or his or her close relative (spouse, partner, sibling, or child) or associate, has a controlling and/or significant financial interest in a business (including a private company, public sector organisation, other NHS employer or voluntary organisation), or in any other activity or pursuit, which may compete for an NHS contract to supply either goods or services to the Trust. Therefore all staff must declare such an interest either on starting employment or on acquisition of the interest, in order that it may be known to and in no way promoted to the detriment of the Trust or the patients whom it serves. Failure or refusal to make a declaration may render an employee liable to disciplinary action.

If an employee becomes aware of a contract, or negotiations for a contract between an organisation and the Trust in which he/she has a pecuniary interest, then this must be immediately registered in writing to the Chief Executive, even if the member of staff is not directly involved in the contractual negotiations or decision making. If the member of staff's spouse, partner, sibling or child has an interest, then this too should be registered as if it were their own.

In addition, if an employee has been in receipt of any gift, hospitality, sponsorship or assistance with fees or travel in the previous 12 months and is then party to the evaluation process for any bid made for good or services by the provider of that gift, hospitality, sponsorship or assistance with fees or travel, then this must be declared and, if deemed necessary by the Chair of the Evaluation Panel, that employee may not participate further in the evaluation process.

The guidance here is to protect the Trust and its staff from any perception of bias or giving or receipt of bribes in contracting by ensuring that all potential interests are fully documented and registered before a decision is made.

It is also important that staff declare in writing to the Chief Executive any employment or business relationship they or their spouse may have that could reasonably be expected to conflict with the interests of the Trust. This information is used to compile and maintain an up to date **Register of Directors' Interests and those of Staff**.

NHS Trusts are required to comply with national accounting standards in the production of their Annual Report and Accounts. The accounts must comply with the Financial Reporting Standard (FRS) 8: Related Parties Disclosures. A Declaration of Interest pro-forma is sent to all Directors, Governors, consultant Medical and Dental staff, Directorate Managers, Heads of Service and other senior managers on an annual basis requiring submission ahead of the annual audit of the accounts.

This pro-forma and covering letter is enclosed as Appendix A.

In addition, any members of staff who consider they need to make a declaration of interest should complete this declaration and return it to the Finance Director's office.

The purpose of the register is to protect the individual and the Trust from any accusations of bias or self interest when placing contracts, by ensuring that all of the staff involved in the process are free from any personal interest in the outcome, and that the Directors and senior staff responsible for delegating decision making powers are fully aware of all of the relevant facts.

### **If in doubt seek advice**

#### **3.6 Preferential Treatment in Private Transactions**

Individual staff must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have had, official dealings on behalf of the Trust. Nationally agreed discount schemes are exempted from this requirement, e.g. NHS Discounts, Red Guava.

#### **3.7 Contracts**

All staff (including external consultants) who are in contact with suppliers and contractors and, in particular those who are authorised to sign requisitions, purchase orders or place contracts for goods, materials and services, are expected to adhere to professional standards of the kind set out in the Ethical Code of the Institute of Purchasing and Supply.

It is important that when seeking formal quotations or pricing bids for the supply of goods or services that these are conducted solely via the Supplies Department; Pharmacy; or Estates Department, as applicable.

#### **3.8 Favouritism in awarding Contracts**

Fair and open competition between prospective contractors or suppliers for NHS business is a requirement of the NHS Standing Orders and of EC Directives on Public Purchasing for Works and Supplies. Staff must ensure that they do not unfairly advantage one competitor over another or show favouritism in awarding contracts.

#### **3.9 Outside Employment**

Where a job other than the paid employment with The Newcastle upon Tyne Hospitals NHS Foundation Trust is held there is a duty to inform the Personnel Department in writing, giving the details and hours worked. This includes private practice work and any other form of remunerated, unremunerated or voluntary activities.

During periods of sickness/absence other paid or unpaid work should not be pursued unless there is a written permission to do so from a Senior Officer of the Trust.

#### **3.10 Canvassing of and Recommendations by Directors and Staff in relation to Appointments**

The purpose here is to ensure that Directors and staff are free to make a decision on staff appointments based on the merits of the applicants and the best interests of the Trust. Candidates who flout this rule, and canvass Officers directly or indirectly for any Trust appointment, will be disqualified.

Directors and staff will be free to provide references and testimonials to the Trust regarding a candidate's ability, experience or character, but this must not be taken to the extent of recommending persons for appointment, or soliciting persons for jobs in the Trust.

In the spirit of openness and fair play to all job candidates, any discussions outside formal panels or appointment committees should be declared at the appropriate time to the relevant panel or committee.

#### 3.11 Fees Received from Outside Organisations in Connection with Lectures, Speeches, Seminars etc.

The receipt of such fees must be declared in the Register of Gifts and Hospitality if the activity is being carried out during normal working hours.

It may be necessary to repay these fees to the Trust if annual or other leave entitlement is not taken. The employee's line manager will be responsible for this judgement.

### 4. Value of Gifts and Hospitality which Must be Declared

The Trust's Corporate Governance: Reservation of Powers to the Board and Delegation of Powers states that individual and collective hospitality receipts and gifts in excess of £25 in value per item must be declared in the Trust's Register of Gifts and Hospitality (held in the Corporate Services Office, Freeman Hospital). Declarations may be made via email to [register.gifts@nuth.nhs.uk](mailto:register.gifts@nuth.nhs.uk)

### 5. Requirement for Declaration

- 5.1 This guidance is to protect staff's interests and to ensure that no-one is placed in a position which risks, or equally importantly **appears** to risk, any allegation of seeking, giving or receiving of bribes or any conflict between private interest and NHS duties.
- 5.2 It is an offence under the Bribery Act 2010 for an employee corruptly to accept any inducement or reward for doing, or by refraining from doing, anything in his or her official capacity, or corruptly showing favour or disfavour, in the handling or contracts. Sponsorship must not compromise purchasing decisions and a breach of any of these Acts will render staff liable to prosecution and may also lead to a loss of employment and pension rights in the NHS.
- 5.3 It is of overriding importance to note that under the provisions of the Bribery Act 2010, any money, gift or consideration received by an employee in public services from a person or organisation holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves to the contrary.
- 5.4 **This guidance applies to all NHS staff** and is of particular concern to those who commit NHS resources either directly (e.g. by ordering or influencing the ordering of goods) or indirectly (e.g. by prescribing of medicines or influencing choice of product or service used).
- 5.5 As well as the letter of this guidance, it is also important to recognise the spirit in which it is written. As public servants and custodians of tax payers' money, all

Trust employees must act, and be seen to be acting, in accordance with the highest standards of business conduct. This not only involves following the guidance contained in this note and in the Trust's Corporate Governance documents but also the application of a degree of common sense. For example, although acceptable levels of gifts, hospitality and sponsorship are referred to under Section 3, common sense would dictate that all such offers be refused under certain circumstances. These include when tenders or contracts are near to, or at, the decision making stage; or where there is a risk of an influence on the choice of procurement of goods or services. Such refusal avoids the perception of bias even though any acceptance may have had no influence on the final decision. Again, for the protection of employees and the Trust, any such gifts, hospitality or sponsorship, even where it has been declined, should be declared.

- 5.6 **Directors and staff should, at all times**, reflect on how their actions and decisions will be perceived in the light of external scrutiny, and ensure that they are in a position to apply the principles of openness, fairness and impartiality contained in this guidance.

## 6. Action to be Taken

- 6.1 It is incumbent upon the role of all staff in a senior management role i.e. Executive Directors; Heads of Department; Clinical Directors; Directorate Managers and heads of services to ensure there is a complete and continuing awareness of these guidelines amongst staff with whom they have a direct line relationship.
- 6.2 The Trust's Corporate Governance documents (Standing Orders, Standing Financial Instructions, Scheme of Delegation and Reservation of Powers); HSG(93)5; and these documents must be readily accessible at all times to staff. They are available on the intranet.
- 6.3 In all instances line manager authorisation must be obtained prior to the acceptance of any benefit considered to be valued in excess of £250.
- 6.4 If there is any doubt about the appropriateness of gifts or hospitality or any other area of potential conflict of interest, you must seek advice from the Chief Executive. **If Unsure - Declare It!**
- 6.5 In the event of any suspicion of potential fraud or corruption, employees should either contact the Counter Fraud Specialist, the Finance Director, the national NHS Protect (Counter Fraud and Security Management Service) (Freephone 0800 028 40 60 or [www.nhsbsa.nhs.uk](http://www.nhsbsa.nhs.uk)) or follow the Trust Whistleblowing Policy (available on the intranet).

## 7. Review of Registers

- 7.1 The "Register of Directors' Interests and those of Staff" and individual Related Party Disclosures is reviewed on an annual basis by the Chief Executive and any issues of concern are referred to the Audit Committee.
- 7.2 The "Register of Gifts & Hospitality" is reviewed on an annual basis by the Audit Committee and any issues of concern may be referred to the Board of Directors.

## 8. Definitions

- 8.1 “Director” means a member of the Trust Board of Directors, either Executive or Non-Executive (including the Chairman).
- 8.2 “Officer” or “Staff” means a person who is authorised to act on behalf of the Trust but need not be an employee of the Trust.

Author: Trust Secretary

LRF/CG/2011

**STRICTLY PRIVATE & CONFIDENTIAL**

Dear Colleague

**Annual Accounts:  
Financial Reporting Standard (FRS) 8: Related Party Disclosures**

NHS organisations are required to comply with Accounting Standards in the production of Annual Reports and Annual Accounts. It is part of the role of the External Auditors to ensure that the Trust complies with these standards to accordingly certify the Accounts.

The Annual Accounts must comply with the Financial Reporting Standard (FRS) 8: Related Party Disclosures.

The objective of FRS 8 is to ensure that the Trust's financial statements contain the disclosures necessary to draw attention to the possibility that the reported financial position and results may have been affected by the existence of related parties and by material transactions with them.

Transactions are material when their disclosure might reasonably be expected to influence decisions made by the users of Accounts, Annual Reports and other general purpose financial statements. The materiality of related party transactions is to be judged not only in terms of their significance to the Trust, but also in relation to the other related party when the party is:

- a) a Director, key manager or other individual in a position of influence, or accountable for the stewardship of the Trust; or
- b) a member of the close family of any individual mentioned in a) above; or
- c) an entity controlled by any individual mentioned in a) or b) above

Financial statements should disclose material transactions undertaken by the Trust with a related party and disclosure should include, inter alia:

- a) the names of the transaction related parties
- b) a description of the relationship between the parties
- c) a description of the transactions
- d) the amounts involved

I should be grateful if, in your capacity as a Senior Officer/Budget Manager in the Trust at any time during the financial year, you would let me have details of any relationships you or your close family have with companies and public bodies, e.g. directorships, partnerships, etc by no later than the second Friday in March of each year. Additionally,

if there are any instances of any of your colleagues within the Trust who you feel are covered by these requirements please could you advise me so that a request can be made for a return to be completed. A nil return is still required, even where there are no interests to be declared. The Trust will determine the materiality of transactions, if any, undertaken with the related parties, for the purposes of any disclosures in the Annual Accounts.

All information received will, of course, be subject to detailed checking.

Should you require any further clarification on the requirements of FRS 8, please contact Helen Ripley, Assistant Finance Director, Freeman Hospital ([helen.ripley@nuth.nhs.uk](mailto:helen.ripley@nuth.nhs.uk), ext. 37063).

Note that all returns should be emailed to Claire Garrity, Finance Director's Secretary, Freeman Hospital ([claire.garrity@nuth.nhs.uk](mailto:claire.garrity@nuth.nhs.uk) , ext. 37622).

Yours sincerely

Sir Leonard Fenwick CBE  
Chief Executive

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**DECLARATION OF INTERESTS**

Please declare any and all interests held personally or by a close family member

FULL NAME

1. Directorships including non-executive directorships held in private companies or PLCs (with the exception of those of dormant companies)

2. Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS.

3. Majority or controlling shareholdings in organisations likely or possibly seeking to do business with the NHS.

4. A position of authority in a charity or voluntary body in the field of health and social care.

5. A financial or non-financial interest in other public sector bodies.

6. Any connection with a voluntary or other body contracting for NHS services.

"I declare that the information I have given on this form is correct and complete and that I have not claimed elsewhere for the expenses / fees / hours / shifts detailed on this form.

I understand that if I knowingly provide false information or fail to make a full declaration for myself or where applicable for a member of my close family this may result in disciplinary action and I may be liable for prosecution and civil recovery proceedings. I consent to the disclosure of information from this form to and by the Trust and NHS Protect (Counter Fraud and Security Management Service) for the purpose of verification of this declaration and the investigation, prevention, detection and prosecution of fraud and corruption."

Signature .....

Date .....

THE NEWCASTLE UPON TYNE HOSPITALS NHS FOUNDATION TRUST  
**IMPACT ASSESSMENT – SCREENING FORM A**

This form must be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.

Policy Title:	Standard of Business Conducts Policy	Policy Author:	Steven Reed
		Yes/No?	You must provide evidence to support your response:
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of the following: (* denotes protected characteristics under the Equality Act 2010)	No	This guideline is equally applicable to all with no discrimination between age, gender, race or sexual orientation.
	• Race *	No	
	• Ethnic origins (including gypsies and travellers)	No	
	• Nationality	No	
	• Gender *	No	
	• Culture	No	
	• Religion or belief *	No	
	• Sexual orientation including lesbian, gay and bisexual people *	No	
	• Age *	No	
	• Disability – learning difficulties, physical disability, sensory impairment and mental health problems *	No	
	• Gender reassignment *	No	
	• Marriage and civil partnership *	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination which can include associative discrimination i.e. direct discrimination against someone because they associate with another person who possesses a protected characteristic, are any exceptions valid, legal and/or justifiable?	No	
4(a).	Is the impact of the policy/guidance likely to be negative? (If "yes", please answer sections 4(b) to 4(d)).	No	
4(b).	If so can the impact be avoided?	No	
4(c).	What alternatives are there to achieving the policy/guidance without the impact?	No	
4(d)	Can we reduce the impact by taking different action?	No	

<b>Comments:</b>	<b>Action Plan due (or Not Applicable):</b>
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Name and Designation of Person responsible for completion of this form: Steven Reed Date: 02<sup>nd</sup> September 2011  
Names & Designations of those involved in the impact assessment screening process: Trust Secretary

(If any reader of this procedural document identifies a potential discriminatory impact that has not been identified on this form, please refer to the Policy Author identified above, together with any suggestions for the actions required to avoid/reduce this impact.)