

CORPORATE POLICY: Conflicts of Interest Policy

(Incorporating arrangements for Gifts, Hospitality,
Sponsorship and other Interests)

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CORPORATE POLICY – Conflicts of Interest Policy

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1	Aug 2017	Reviewed to incorporate guidance from NHS England issued on 1 June 2017 on managing conflicts of interest in the NHS. Incorporates Gifts & Hospitality Register, Commercial and Charitable Sponsorship policy (Ed 5 Dec 2014)
2	March 2019	<ul style="list-style-type: none"> i. Reformatting of policy ii. New and updated procedures and templates iii. Strengthening the section on breaches iv. Inclusion of the following sections: roles and responsibilities, register of interest, guidance on the acceptance of gifts, hospitality and sponsorship, frequently asked questions, training and implementation, equality impact assessment and tool and Nolan Principles.
3	April 2020	Update with minor amendments and clarifications on permissible gift values
4	May 2021	Requirement to submit declarations within 10 days and value of gifts amended in line with 2021 audit recommendations

Consultation

Integrated Audit Committee

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CORPORATE POLICY – Conflicts of Interest Policy

Table of Contents

TO BE READ IN CONJUNCTION WITH ANY POLICIES LISTED IN TRUST ASSOCIATED DOCUMENTS.	5
1 INTRODUCTION	5
2 PURPOSE / AIM AND OBJECTIVE	5
3 SCOPE	5
4 DEFINITIONS	6
5 (DUTIES) ROLES & RESPONSIBILITIES	8
6 GIFTS	14
7 HOSPITALITY	15
8 DECLARATIONS OF GIFTS, HOSPITALITY AND SPONSORSHIP	18
9 REGISTER OF INTERESTS	18
10 BREACHES OF THE CONFLICT OF INTEREST POLICY	19
11 LEARNING AND TRANSPARENCY CONCERNING BREACHES	21
12 MONITORING AND REVIEW	21
13 TRAINING AND IMPLEMENTATION	22
14 EQUALITY IMPACT ASSESSMENT STATEMENT AND TOOL	22
15 DECLARATION OF INTEREST FORM – APPENDIX 1	24
16 DECLARATION OF GIFTS AND HOSPITALITY FORM – APPENDIX 2	24
17 CONFLICTS OF INTERESTS BREACH REPORTING FORM – APPENDIX 3	24
18 GUIDANCE ON POTENTIAL TYPES OF INTERESTS – APPENDIX 4	25

CORPORATE POLICY – Conflicts of Interest Policy

19	GUIDANCE ON THE ACCEPTANCE OF GIFTS, HOSPITALITY AND SPONSORSHIP – APPENDIX 5	26
20	THE NOLAN PRINCIPLES - APPENDIX 6	27
21	SOME FREQUENTLY ASKED QUESTIONS – APPENDIX 7	28

CORPORATE POLICY – Conflicts of Interest Policy

To be read in conjunction with any policies listed in Trust Associated Documents.

Introduction

- 1.1 Public sector bodies such as the NHS, which are accountable to the public at large, must be impartial and honest in the conduct of their business. In turn, their staff members and board members should undertake their duties with the highest standards of probity and remain beyond suspicion. Providing best value for taxpayers and ensuring that decisions are taken transparently and clearly, are both key principles in the NHS Constitution. 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 to ensure our finite resources are used in the best interests of patients. Medway NHS Foundation Trust (“the Trust”) adopts the Nolan Principles which can be found at [Appendix 6](#).
- 1.2 The Trust’s Conflicts of Interest Policy requires that all staff members and board members with private or personal interests which might affect their role within the Trust, declare these interests on joining the organisation, when their interests change or when the potential for conflict or actual conflict arises.
- 1.3 The policy also provides guidance to staff and board members on the procedure to be followed in the event of any gift, hospitality or sponsorship being offered and establishes a Trust gift and hospitality register whereby such gifts, hospitality and sponsorship should be recorded. The returns will be maintained in a register which will be open for inspection and accessible under the Freedom of Information Act 2000.

Purpose / Aim and Objective

- 2.1 Appropriate management of conflicts of interest is essential for ensuring and demonstrating the integrity of the Trust’s decision-making processes and avoiding any perceived or actual situations of undue bias, undue influence and/or wrongdoing.
- 2.2 Therefore, this policy aims to ensure that the Trust has robust procedures and processes in place for the effective management of conflicts of interest and this supports an organisational culture that proactively and positively manages any conflicts. This policy also aims to protect the Trust, its decision-making, investments and stewardship of public funds from any impropriety.
- 2.3 The policy provides guidance by:
 - 2.3.1 Setting out consistent principles and rules;
 - 2.3.2 Advising appropriate courses of action for commonly arising situations; and
 - 2.3.3 Facilitating good judgement when approaching and managing interests.

Scope

- 3.1 This policy applies to all board members, staff (permanent/ temporary/ contracted, trainees, agency staff, seconded staff, prospective staff and joint appointments), self-employed consultants, contractors, sub-contractors, and sub-committee and advisory group members. It also applies to individuals seeking employment with the Trust and those who are unpaid or volunteers.

CORPORATE POLICY – Conflicts of Interest Policy

- 3.2 Some staff are more likely than others to have a decision making influence on the use of taxpayers' money, because of the requirements of their role. For the purposes of this guidance, these individuals are referred to as 'decision making staff.' Decision making staff in the Trust are:
- 3.2.1 Executive and Non-Executive Directors (or equivalent roles);
 - 3.2.2 Those at Agenda for Change Band 8D and above;
 - 3.2.3 Administrative and clinical staff who have the power to enter into contracts on behalf of the organisation;
 - 3.2.4 Administrative and clinical staff involved in decision making concerning the purchasing of goods, medicines, medical devices or equipment, and formulary decisions.

Definitions

4.1 Definition of a Conflict of Interest

- 4.1.1 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".¹
- 4.1.2 A conflict of interest may be:
 - i Actual - there is a material conflict between one or more interests
 - ii Potential - there is the possibility of a material conflict between one or more interests in the future.
- 4.1.3 Staff may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently. It will be important to exercise judgement and to declare such interests where there is otherwise a risk of imputation of improper conduct.
- 4.1.4 As a general guide:
 - i perception of wrong-doing, impaired judgement or undue influence can be as detrimental as any of them actually occurring;
 - ii if in doubt it is better to assume a conflict of interest exists and manage it, rather than ignore it; and,
 - iii financial gain is not necessary for a conflict to exist.

4.2 Privileged Information

- 4.2.1 An individual must not use confidential information acquired in the pursuit of their role within the Trust to benefit them or another connected person.
- 4.2.2 Those individuals to whom this policy applies should take care not to provide any third party with a possible advantage by sharing privileged, personal or

¹ Paragraph 3.1 of NHS England's Managing Conflicts of Interest in the NHS: Guidance for Staff and Organisations, effective 1 June 2017.

CORPORATE POLICY – Conflicts of Interest Policy

commercial information, or by providing information that may be commercially useful in advance of that information being made available publicly or any other information that is not otherwise available and in the public domain. This includes but is not limited to informing a potential supplier of procurement in advance of other potential bidders.

4.3 Types of conflicts of interest

4.3.1 Conflicts of interests can be split into four different categories:

- i Financial Interests;
- ii Non-financial Professional Interests;
- iii Non-financial Personal Interests; and
- iv Indirect Interests

4.3.2 **Financial Interests** are where an individual may financially benefit from the consequences of a commissioning decision. This could include:

- i A director (including a non-executive director) or senior employee in another organisation which is doing, or is likely to do business with an organisation in receipt of NHS funding;
- ii A shareholder, partner or owner of an organisation which is doing, or is likely to do business with an organisation in receipt of NHS funding;
- iii Someone in outside employment;
- iv Someone in receipt of secondary income;
- v Someone in receipt of a grant;
- vi Someone in receipt of other payments (e.g. honoraria, day allowances, travel or subsistence);
- vii Someone in receipt of sponsored research.

4.3.3 **Non-financial Professional Interests** are where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This could include situations where the individual is:

- i An advocate for a particular group of patients;
- ii A clinician with a special interest;
- iii An active member of a particular specialist body;
- iv An advisor for the Care Quality Commission or National Institute of Health and Care Excellence;
- v In a research role.

4.3.4 **Non-financial Personal Interests** are 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. This could include, for example, where the individual is:

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

CORPORATE POLICY – Conflicts of Interest Policy

4.3.5 **Indirect Interests** are where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision.

This would include:²

- a. Close family members and relatives;
- b. Close friends and associates;
- c. Business partners.

4.3.6 It is not possible to define all instances in which an interest may be a real or perceived conflict. However, if an individual is unsure as to whether an interest should be declared then advice should be sought from the Company Secretary. If in doubt, the individual concerned should assume that a potential conflict of interest exists.

4.3.7 Further guidance on potential types of interest can be found at Appendix 4.

(Duties) Roles & Responsibilities

5.1 Chief Executive

5.1.1 The Chief Executive has overall accountability for the Trust's approach to managing conflicts of interest.

5.2 Company Secretary and Secretariat to Trust Meetings

5.2.1 The Company Secretary will receive and review all completed declarations of interest and gifts and hospitality forms and provide advice on such matters. The Company Secretary will also hold and publish a register of declared interests and a gifts and hospitality register.

5.2.2 The secretariat to the Trust's Board/ Committees/ subcommittees and Council of Governors will ensure, where a member of any such meeting has a conflict of interest that has been identified in advance, that member does not receive any papers or other information relating to that conflict of interest or where applicable, the conflicted member attends the meeting, but does not take part in decision making, where required.

5.2.3 The secretariat at meetings must ensure, in consultation with the Chair of the meeting, there are arrangements for the management of the meeting's business in the event the Chair has a conflict of interest.

5.2.4 The secretariat must also ensure any declared conflicts and how they are managed are accurately recorded in the meeting's minutes.

5.3 Other management actions:

5.3.1 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:

- i restricting staff involvement in associated discussions and excluding them from decision making

² A common sense approach should be applied to these terms. It would be unrealistic to expect staff to know of all the interests that people in these classes might hold. However, if staff do know of material interests (or could be reasonably expected to know about these) then these should be declared.

CORPORATE POLICY – Conflicts of Interest Policy

- ii removing staff from the whole decision making process
 - iii removing staff responsibility for an entire area of work
 - iv removing staff from their role altogether if they are unable to operate effectively in it because the conflict is so significant.
- 5.3.2 It may be appropriate to set out in advance a management plan in some circumstances.
- 5.3.3 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.
- 5.3.4 Staff who declares material interests should make their line manager or the person(s) they are working to aware of their existence.
- 5.4 Line Managers
 - 5.4.1 Must ensure that employees are aware of the policy and processes to be followed for declaring interests;
 - 5.4.2 Must raise awareness as part of appraisal process; and
 - 5.4.3 Must consider and approve declarations of interest made by their staff and seek advice from the Company Secretary, if needed.
- 5.5 Human Resources department
 - 5.5.1 The Human Resources department will ensure that newly appointed staff completes a declaration of interest form.
 - 5.5.2 Staff members (see definition above), and Board members
 - 5.5.3 It is the responsibility of all staff, governors and Board members (including committee and sub-committee members) to:
 - i Familiarise themselves and comply with this policy;
 - ii Declare any relevant interests or complete nil returns in accordance with this policy;
 - iii Use common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent; and
 - iv Avoid undertaking duties, remunerated or otherwise, outside of their employment with the Trust if it may or does give rise to any actual or potential conflict of interest, or prejudice the standards set out in this policy.
 - 5.5.4 Where staff have not completed and submitted a declaration of interest form and/ or gift and hospitality form, the Trust will assume that these individuals have no financial or personal interests to declare and/ or have not received/ accepted offers of gifts, benefits, or sponsorship of any kind.
 - 5.5.5 A nil declaration is required when carrying out the annual declaration of interests exercise by those designated as decision-making in section 3.2. Breaches of this policy will be dealt with under the Trust's disciplinary procedure and may be referred to the Local Counter Fraud Specialist for a potential criminal investigation.

Declaration of Interests

CORPORATE POLICY – Conflicts of Interest Policy

- 5.6 The Trust fosters an open and honest environment to encourage all to declare actual or potential conflicts of interest.
- 5.7 The Trust will ensure that those individuals identified in the scope of this policy regularly declare any conflict or potential conflict. The individual is to declare the conflict to the Trust in any event within 28 days of identification of the conflict.
- 5.8 The Trust will ensure that regular declarations of interest are made and recorded, and in any event:
- i On appointment;
 - ii At meetings;
 - iii On changing role or responsibility or other relevant change of circumstance; and
 - iv When prompted by the Trust, annually.
- 5.9 Procedures
- 5.9.1 **On appointment:** applicants for any appointment to the Trust, its Board or Council of Governors should be asked to declare any relevant interests as part of the election/ recruitment process. When an appointment is made, a formal declaration of interests should be made and recorded.
- 5.9.2 **At meetings:** all attendees should be asked under a standing item on the agenda of the meeting, to declare any interest they have in any agenda item before it is discussed or as soon as it becomes apparent. Declarations of interest made should be recorded in the minutes of the meeting.
- 5.9.3 Where an individual is unable to provide a declaration in writing, e.g. if a conflict becomes apparent in the course of a meeting, they will make an oral declaration, which will be recorded in the minutes of the meeting, and complete a written declaration form as soon as possible (where applicable) thereafter but no later than 28 days.
- 5.9.4 Click to view [SOP0361 - Company Commercial Representatives Procedures](#)
- 5.9.5 **On changing role or responsibility:** Where an individual changes role or responsibility within the Trust, any change to the individual's interests should be declared immediately.
- 5.9.6 **On any other change of circumstances:** wherever an individual's circumstances change in a way that affects the individual's interests (e.g. where an individual takes on a new role outside the Trust or sets up a new business or relationship), a further declaration should be made to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising.
- 5.9.7 Declarations are made by completing and signing the Declaration of Interest form ([Appendix 1 - Declaration of Interest Form - OTCGR281](#)) and sending the signed declaration to the Company Secretary within 10 days at medwayft.trustsecretary@nhs.net. Alternatively, this form is available on the intranet via this link - [Declaration of Interests On-Line Form'](#)
- 5.9.8 In the case of declarations made during a Board/ Committee meeting, the minutes ought to reflect the method by which the particular conflict management solution was arrived at.

CORPORATE POLICY – Conflicts of Interest Policy

5.10 Common Situations

5.10.1 *Outside Employment*

- i Staff should declare any existing outside employment (whether paid or unpaid) on appointment and any new outside employment (whether paid or unpaid) when it arises.
- ii Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks.
- iii 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.
- iv 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.

5.10.2 *Partnerships and Companies*

- i Staff should declare, as a minimum, any shareholdings and other ownership interests in any non-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.
- ii 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.
- iii There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

5.10.3 *Third Party Transactions*

Declarations should include relevant third party transactions. This includes where, in any organisation either seeking to do business or is doing business with the NHS, a person or a close family member or a partner with whom they jointly own or control a business:

- Have ownership;
- Control; or
- Are a senior manager.

5.10.4 *Intellectual Property*

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

CORPORATE POLICY – Conflicts of Interest Policy

- iii 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.

5.10.5 *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.

5.10.6 *Clinical Private Practice*

- i Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises³ including:
 - a. Where they practise (name of private facility)
 - b. What they practise (specialty, major procedures)
 - c. When they practise (identified sessions/ time commitment).
- ii Clinical staff should (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed):
 - Seek prior approval from the Trust before taking up private practice.
 - Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work⁴.
 - Not accept direct or indirect financial incentives from private providers other than those allowed by [Competition and Markets Authority guidelines](#).
- iii The Trust's 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.

5.11 Strategic decision-making groups

³ 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%20advice%20at%20work/contracts/consultanttermsandconditions.pdf)

⁴ 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.bma.org.uk/-/media/files/pdfs/practical advice at work/contracts/consultanttermsandconditions.pdf](https://www.bma.org.uk/-/media/files/pdfs/practical%20advice%20at%20work/contracts/consultanttermsandconditions.pdf)

CORPORATE POLICY – Conflicts of Interest Policy

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

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

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

- i The Trust Board
- ii Board Committees (the extent of decision making is restricted to that delegated by the Board and set out in the terms of reference for the Committee)
- iii The Executive Group (acting within the Chief Executive's delegated limits)

5.11.3 These groups should adopt the following principles:

- i Chairs should consider any known interests of members in advance, and begin each meeting by asking for declaration of relevant material interests.
- ii Members should take personal responsibility for declaring material interests at the beginning of each meeting and as they arise.
- iii Any new interests identified should be added to the Trust's register(s).
- iv 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.

5.11.4 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:

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

5.11.5 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.

5.12 Procurement

CORPORATE POLICY – Conflicts of Interest Policy

- 5.12.1 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.
- 5.12.2 Those involved in procurement exercises for and on behalf of the Trust should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of procurement processes. At every stage of procurement steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.
- 5.12.3 Procurement arrangements, for instance with pharmaceutical or medical devices companies, should be at a corporate rather than an individual level (i.e. through the Procurement Department), and must be subject to the agreement of a divisional director / head of department.

5.13 Wider transparency initiatives

The 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 Association of British Pharmaceutical Industry (ABPI) Disclosure UK initiative. These “transfers of value” include payments relating to:

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

Further information about the scheme can be found on the ABPI website:
<http://www.abpi.org.uk/our-work/disclosure/about/Pages/default.aspx>

Gifts

- 6.1 A ‘gift’ is defined as “any item of cash or goods, or any service, which is provided for personal benefit, free of charge, or at less than its commercial value”.⁵
- 6.2 As general guidance, gifts that may affect, or be seen to affect, the recipient’s professional judgement ought not to be accepted, and should be declared.
- 6.3 Any personal gift of cash or cash equivalent (e.g. vouchers) in any circumstances, must be declined and declared.
- 6.4 Gifts from suppliers or contractors doing business, or likely to do business with the Trust:

⁵ Paragraph 32 of NHS England’s Managing Conflicts of Interest in the NHS: Guidance for staff and organisations effective 1 June 2017.

CORPORATE POLICY – Conflicts of Interest Policy

- i Should be declined and declared, whatever their value (subject to ii. below);
 - ii branded promotional aids (such as pens or post-it notes) may be accepted where they are under the value of £6⁶ in total, and need not be declared.
- 6.5 With regards to gifts from other sources (e.g. patients, families, service users):
- i Staff should not ask for any gifts;
 - ii Gifts valued at under £50 may be accepted and do not need to be declared;
 - iii Gifts valued at over £50 should be treated with caution and only be accepted on behalf of the Trust, not in a personal capacity. In any event these should be declared by staff;
 - iv A common sense approach should be applied to the valuing of gifts (an estimate that a reasonable person would make as to its value, if the actual value is not known);
 - v 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.
- 6.6 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. Gifts should be declared within 10 days
 - 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

- 7.1 Hospitality means offers of meals, refreshment, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events etc.⁷
- 7.2 Hospitality should not be asked for or accepted where it may affect, or be seen to affect professional judgement.
- 7.3 It may only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.
- 7.4 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.
- 7.5 Meals and refreshments:
- Under a value of £25 - may be accepted and need not be declared.

⁶ The £6 value has been selected with reference to existing industry guidance issued by the ABPI: <http://www.pmcpa.org.uk/thecode/Pages/default.aspx>

⁷ Paragraph 37 of NHS England's Managing Conflicts of Interest in the NHS: Guidance for staff and organisations effective 1 June 2017.

CORPORATE POLICY – Conflicts of Interest Policy

- Of a value between £25 and £75⁸ - 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 (an estimate that a reasonable person would make as to its value, if the actual value is not known).
- Declarations must be made within 10 days and where possible in advance.

7.6 Travel and accommodation:

- 7.6.1 Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be agreed and declared in advance.
- 7.6.2 Offers which go beyond modest, or are of a type that the Trust might not usually offer, need approval by the individual's line manager, 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.

7.7 Donations

- 7.7.1 Click here to view [POLCGR131 - Charity and Fundraising Policy](#)
- 7.7.2 A donation is a charitable financial payment, which can be in the form of direct cash payment or through the application of a will or similar directive. Charitable giving and other donations are often used to support the provision of health and care services. As a major public sector employer the NHS holds formal and informal partnerships with national and local charities. Staff will, in their private lives, undertake voluntary work or fundraising activities for charity. A supportive environment across the NHS and charitable sector should be promoted. However, conflicts of interest can arise.
- 7.7.3 Donations made by suppliers or bodies seeking to do business with the Trust should be treated with caution and not routinely accepted. In exceptional circumstances they may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.
- 7.7.4 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.

⁸ The £75 value has been selected with reference to existing industry guidance issued by the ABPI
<http://www.pmcpa.org.uk/thecode/Pages/default.aspx>

CORPORATE POLICY – Conflicts of Interest Policy

- 7.7.5 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.
- 7.7.6 Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.
- 7.7.7 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.

7.8 Sponsored Events

- 7.8.1 Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit to the Trust and the NHS. Advice from a manager should be sought.
- 7.8.2 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 which is not in the public domain already.
- 7.8.3 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.
- 7.8.4 At the Trust's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event.
- 7.8.5 The involvement of a sponsor in an event should always be clearly identified.
- 7.8.6 Staff arranging sponsored events must declare this to the Trust within 10 days.

7.9 Sponsored Research

- 7.9.1 Click to view [POLCGR075 - Research and Innovation Policy](#)
- 7.9.2 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.
- 7.9.3 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.

7.10 Sponsored Posts

- 7.10.1 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.
- 7.10.2 Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing

CORPORATE POLICY – Conflicts of Interest Policy

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.

- 7.10.3 Sponsored post holders must not promote or favour the sponsor's products, and information about alternative products and suppliers should be provided.
- 7.10.4 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.

Declarations of gifts, hospitality and sponsorship

- 8.1 Declarations of gifts, hospitality and sponsorship are made by completing and signing the Declaration of gifts, hospitality and sponsorship form ([Appendix 2 - Declaration of Gifts and Hospitality Form - OTCGR282](#)) and sending the signed declaration to the Company Secretary at medwayft.trustsecretary@nhs.net. Alternatively, this form is available on the intranet via this link. Declarations must be made within 10 days.
- 8.2 [Appendix 5](#) provides further guidance on managing gifts, hospitality and sponsorship and [Appendix 7](#) provides information on some frequently asked questions.

Register of Interests

- 9.1 The Company Secretary, on behalf of the Trust will maintain the following registers of interests:
 - 9.1.1 Trust Board Register of Interest
 - 9.1.2 Decision Making Staff Register of Interest
 - 9.1.3 Register of Gifts and Hospitality
- 9.2 Because of their influence in the spending of taxpayers' money, decision making staff will be prompted quarterly to review declarations, and as appropriate, update them including nil declarations. A decision-making staff register of interests will be reviewed quarterly by the Integrated Audit Committee and published on the Trust's website at least annually.
- 9.3 Interests will remain on the public register for a minimum of 6 months after the expiration of the interest. The Trust will retain a private record of historic interests for a minimum of 6 years after expiration.
- 9.4 When conflicts are entered onto the register, sufficient information about the nature of the interest and the details of those holding the interest will be recorded, as will details of deliberations and subsequent decisions about how to manage these conflicts.
- 9.5 Where in exceptional circumstances the public disclosure of information could give rise to a real risk of harm or distress the details of an individual's declaration of interests or other information may be redacted from the publicly available register(s).
- 9.6 Requests for redaction of the published register of interests must be made in writing by the subject individual to the Company Secretary. Information will not be withheld or redacted merely because of personal preference. The Trust will retain a confidential un-redacted version of the register(s).

CORPORATE POLICY – Conflicts of Interest Policy

Breaches of the Conflict of Interest Policy

10.1 Failure to disclose or declare

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

10.1.2 Failing to respond to a request for information in relation to this policy, including a request to submit a declaration form, will also be considered a breach of this Policy.

10.1.3 The Trust takes the failure to disclose such information as required by this policy seriously. Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for the Trust. If an individual fails to declare an interest or the full details of an interest, this may result in disciplinary action being undertaken. Please see the [PROCHR002 - Disciplinary Policy](#) for more information.

10.1.4 The Fraud Act 2006 states that a person is guilty of fraud if he dishonestly breaches any section listed within the Act, namely:

- i Fraud by false representation;
- ii Fraud by failing to disclose information;
- iii Fraud by abuse of position.

in order to make a gain for themselves or another, or to cause a loss or expose the Trust to a loss.

10.1.5 Therefore, if an individual becomes aware of any financial or other irregularities or impropriety which involve evidence or suspicion of fraud, bribery or corruption they should contact the Local Counter Fraud Specialist in accordance with the [POLCF001 - Anti-Fraud, Bribery and Corruption Policy](#) with a view to an appropriate investigation being conducted and potential prosecution being sought.

10.1.6 Under the Bribery Act 2010, all staff, including Board members, should be aware that in committing an act of bribery they may be subject to a penalty of up to ten years' imprisonment, a fine, or both. They may also expose the Trust to a conviction punishable with an unlimited fine.

10.1.7 They should also be aware that a breach of this Act, or of this guidance, renders them liable to disciplinary action by the Trust whether or not the breach leads to prosecution. Where a material breach of this guidance is found to have occurred, the likely sanction will be dismissal in accordance with the Trust's internal policies and procedures.

10.1.8 Breaches of this policy may result in a Board member being removed from office in line with the Trust's Constitution. A contractor may be prevented from obtaining further work with the Trust or an employee may face disciplinary action and dismissal. Breaches which amount to criminal offences may result in criminal prosecution and civil recovery action.

10.2 Identifying and reporting breaches

CORPORATE POLICY – Conflicts of Interest Policy

Staff who are aware of actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns to:

- i Their line manager
- ii The Company Secretary
- iii The Counter Fraud Service
- iv The Freedom to Speak Up Guardian.

- 10.3 To ensure that interests are effectively managed, staff are encouraged to discuss actual or perceived breaches. Every individual has a responsibility to do this. For further information about how concerns should be raised, refer to [POLCHR014 - Freedom to Speak Up - Raising Concerns at Work -Whistleblowing Policy](#).
- 10.4 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. For further information about how concerns should be raised please see the Whistleblowing policy.
- 10.5 Following investigation, the Trust will:
- 10.5.1 Decide if there has been or is potential for a breach and if so what the severity of the breach is
 - 10.5.2 Assess whether further action is required in response - this is likely to involve any staff member involved and their line manager, as a minimum.
 - 10.5.3 Consider who else inside and outside (e.g. the Care Quality Commission (CQC), General Medical Council (GMC), Nursing and Midwifery Council (NMC), etc.) the Trust should be made aware.
 - 10.5.4 Take appropriate action as set out in the next section.
- 10.6 Taking action in response to breaches
- 10.6.1 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. Local Counter Fraud Specialists), members of the management or executive teams and the Trust's auditors.
 - 10.6.2 Breaches could require action in one or more of the following ways:
 - i Clarification or strengthening of existing Policy, process and procedures.
 - ii Consideration as to whether HR/employment law/contractual action should be taken against staff or others.
 - iii Consideration being given to escalation to external parties. This might include referral of matters to external auditors, the NHS Counter Fraud Authority, the Police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies.
 - 10.6.3 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 or breaches.

CORPORATE POLICY – Conflicts of Interest Policy

10.6.4 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:

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

Learning and transparency concerning breaches

- 11.1 Reports on any breaches, the impact of these, and action taken will be considered by the Integrated Audit Committee.
- 11.2 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.
- 11.3 A Conflicts of Interest Policy Breach Reporting Form can be found in [Appendix 3 - Conflicts of Interest Breach Reporting Form - OTCGR283](#).

Monitoring and Review

What will be monitored	How/Method/Frequency	Lead	Reporting to	Deficiencies/ gaps Recommendations and actions
Policy review	Every year	Author	Integrated Audit Committee	The policy will be reviewed subject to new or amended pertinent legislation/ guidance published and/or evolution in best practice.
Breaches	As and when they arise	Company Secretary	Integrated Audit Committee	Appropriate action will be taken.
Assurance on Compliance – Assurance programme	Annually	Company Secretary	Integrated Audit Committee	

CORPORATE POLICY – Conflicts of Interest Policy

Training and Implementation

- 13.1 Information on the content of this policy is provided as part of the recruitment process.
- 13.2 The Company Secretary will send reminders to all staff on an annual basis about the need to declare interests and receipt of gifts and hospitality.

Equality Impact Assessment Statement and Tool

All public bodies have a statutory duty under The Equality Act 2010 (Statutory Duties) Regulations 2011 to provide “evidence of analysis it undertook to establish whether its policies and practices would further, or had furthered, the aims set out in section 149(1) of the Equality Act 2010; in effect to undertake equality impact assessments on all procedural documents and practices. Authors should use the Equality Impact Toolkit to assess the impact of the document.

In the first instance this will mean screening the document and, where the screening indicates, completing a full assessment. The Toolkit can be found on the Trust website <http://www.medway.nhs.uk/our-foundation-trust/publications/equality-and-diversity/equality-impact-assessments/>

A document will not be considered approved until the author has confirmed that the screening process has been carried out and where required a full impact assessment has been completed. Where a full assessment is completed this should be submitted along with the document for approval.

References

Document	Ref No
References:	
NHS England Managing Conflicts of Interest in the NHS	Publications Gateway Reference: 06419
Trust Associated Documents:	
Anti-Fraud, Bribery and Corruption Policy	
Freedom to Speak Up: Raising Concerns at Work - (Whistleblowing) Policy	
Disciplinary Policy	
Fit and Proper Persons Policy	
POLCF004 - CORPORATE POLICY - Standing Financial Instruction - SFI	
POLCGR131 - Charity and Fundraising Policy	
POLCGR075 - Research and Innovation Policy	
SOP0361 - Company Commercial Representatives Procedures	

CORPORATE POLICY – Conflicts of Interest Policy

Conflicts of Interests Breach Reporting Form - OTCGR283	
Conflict of Interests - Declaration of Gifts and Hospitality Form - OTCGR282	
Conflict of Interests - Declaration of Interest Form - OTCGR281	

CORPORATE POLICY – Conflicts of Interest Policy

5 Declaration of Interest Form – Appendix 1

Click here to view - [Conflict of Interests - Declaration of Interest Form - OTCGR281](#)

6 Declaration of Gifts and Hospitality Form – Appendix 2

Click here to view - [Conflict of Interests - Declaration of Gifts and Hospitality Form - OTCGR282](#)

7 Conflicts of Interests Breach Reporting Form – Appendix 3

Click here to view - [Conflicts of Interests Breach Reporting Form - OTCGR283](#)

CORPORATE POLICY – Conflicts of Interest Policy

Guidance on potential types of interests – Appendix 4

Types of interest	Description
Financial Interests	<p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations; • A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. • A management consultant for a provider; • In secondary employment; • In receipt of secondary income from a provider; • In receipt of a grant from a provider; • In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider • In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and • Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).
Non-Financial Professional Interests	<p>This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:</p> <ul style="list-style-type: none"> • An advocate for a particular group of patients; • A GP with special interests e.g., in dermatology, acupuncture etc. • A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared); • An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE); • A medical researcher.
Non-Financial Personal Interests	<p>This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:</p> <ul style="list-style-type: none"> • A champion for a provider; • A volunteer for a provider; • A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation; • Suffering from a particular condition requiring individually funded treatment; • A member of a lobby or pressure groups with an interest in health.
Indirect Interests	<p>This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). For example, this should include:</p> <ul style="list-style-type: none"> • Spouse / partner; • Close relative e.g., parent, grandparent, child, grandchild or sibling; • Close friend; • Business partner.

CORPORATE POLICY – Conflicts of Interest Policy

Guidance on the acceptance of gifts, hospitality and sponsorship – Appendix 5

GIFT/ HOSPITALITY	Acceptable**	Approval Required	Declarable
Low value promotional gifts such as: diaries/calendars under £6.00	Yes*	No	No
Gifts of cash or gift vouchers (any amounts) - persons offering cash should be advised of the existence of the Trust's Charity as an alternative.	No - to be declined**	N/A	Yes, regardless of value
Token gifts given at a courtesy visit/ VIP visit	Yes*	N/A	Only if considered greater than £25.00 in value
Infrequent working breakfast	Yes*	N/A	Only if considered greater than £25.00 in value
Infrequent working lunch	Yes*	N/A	Only if considered greater than £25.00 in value
Biscuits, chocolates, flowers, alcohol from patients/relatives/friends of patients	Yes*	N/A	Only if considered greater than £50.00 in value
Other forms of commercial sponsorship including drug company sponsorship for example to attend a conference, study leave	N/A	Yes	Yes
Holiday accommodation	No - to be declined **	N/A	Yes
Gifts/ equipment offered by contractors/ potential suppliers	No - to be declined**	N/A	Yes

* Acceptable where the gift/ hospitality does not create a sense of obligation or constitute an incentive or bribe.

** Where it is felt that declining the gift will cause offence, approval should be sought on how best to handle receipt of the gift – for example by submitting it to a team fund/ raffling the gift etc. Under such circumstances, the fear of causing offence should not create a conflict of interest for the recipient.

CORPORATE POLICY – Conflicts of Interest Policy

The Nolan Principles - Appendix 6

Medway NHS Foundation Trust will operate within a governance framework which reflects best practice within the NHS. In particular it will adopt the seven principles of public life, determined by the Nolan Report. It will also from time to time develop mission statements, corporate values, codes of conduct and other governance statements.

Nolan Principles: - the seven principles of public life

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so to gain financial or other material benefits for themselves, their family or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

CORPORATE POLICY – Conflicts of Interest Policy

Some Frequently Asked Questions – Appendix 7

QUESTIONS	ANSWERS
Do I still have to fill in a form if I refuse a gift - if so which form exactly?	You are required to complete a form for refusal of a gift of a greater value than £25.00 and should use the form Declaration of Gifts and Hospitality Form - OTCGR282 to do so. Make your declaration within 10 days.
I am a nurse and a patient I recently treated has sent me a £60 gift token – what should I do?	You should politely decline the gift saying that it is not appropriate for you to accept it. You should complete the form at Appendix 2 , noting that you declined the gift and return the form to the Company Secretary. In circumstances where you believe that by declining the gift, you will cause offence, you should speak with your line manager and/ or the Company Secretary to agree a way of handling the gift so that a conflict does not occur for yourself. You may agree to use the gift to purchase an item for the ward, or donate to the Trust's Charity. You may wish to write to the person donating the gift, advising them of the decision taken. Under such circumstances, you should note on the form how receipt of the gift has been handled.
Is the upper limit for the value of gifts the same irrespective of what sort of gift it is?	No. Some gifts or offers of hospitality by contractors or gifts to your friends/ relatives should not be accepted regardless of the value of the gift. A list of such examples is provided under Appendix 2 .
What happens if I don't know the value of a gift?	Most staff will be able to attempt to judge the value of the gift. If in doubt, they should seek advice from their line manager/ company secretary.
Do I have to declare the cost of accommodation and/or flights if I am an invited lecturer at a conference? What if I don't know their value?	You would need to declare that you accepted the accommodation/ flights to attend the conference, using the form Declaration of Gifts and Hospitality Form - OTCGR282 . Make your declaration within 10 days,
I oversee a contract with an external company. The contract is due for tendering in the next few months. The headquarters of the company we currently contract with has written to me offering a substantial charitable donation to the Trust. What shall I do?	You should discuss the offer with the Company Secretary, who will review and take the matter up with an Executive Director. The Executive Director will discuss the donation with the Chief Executive and the Chairman. The Chief Executive may wish to seek guidance from staff before reaching a recommendation. In many cases, issues may often be resolved by clear disclosure.

Further questions and answers on 'Managing conflicts of interest in the NHS: Q&A for NHS Provider managers' published by NHS England can be found [here](#).