

Standards of Business Conduct Policy	
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Note: This document has been assessed for any equality, diversity or human rights implications

Controlled document

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KEY POINTS OF THIS POLICY

This Policy is designed to protect you and keep you safe!

In adhering to this policy will help to ensure that we use NHS money wisely, providing best value for taxpayers and accountability to our patients for the decisions we take.

As a member of staff you should:	As an organisation we will:
<p>Familiarise yourself with this policy and follow it.</p> <p>Refer to the guidance for the rationale behind this policy: https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf</p> <p>Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent.</p> <p>Regularly consider what interests, you have and declare these as they arise. These must be declared and discussed with your line manager in the first instance. If in doubt, declare!</p> <p>Complete an annual declaration as part of the My Appraisal or revalidation process.</p> <p>Follow the policy and be aware of the perception in terms of gifts and hospitality offers.</p> <p>NOT misuse your position to further your own interests or those close to you</p> <p>NOT be influenced, or give the impression that you have been influenced by outside interests</p> <p>NOT allow private interests you have to inappropriately affect the decisions you make when using taxpayers' money</p>	<p>Ensure that this policy and supporting processes are clear and help staff understand what they need to do</p> <p>Identify a team or individual with responsibility for:</p> <ul style="list-style-type: none"> ○ Keeping this policy under review to ensure it is in line with the guidance. ○ Providing advice, training and support for staff on how interests should be managed. ○ Maintaining register(s) of interests. ○ Auditing this policy and its associated processes and procedures at least once every three years. <p>Help our staff manage conflicts of interest effectively</p> <p>NOT interpret this policy in a way which stifles collaboration and innovation with our partners</p>

1. INTRODUCTION

- 1.1. This policy is for all staff of the Royal Devon University Healthcare NHS Foundation Trust (the Royal Devon). It is based on the requirements of the Bribery Act 2010 and the Fraud Act 2006, the Trusts' contracts of employment, Code of Conduct and Guidance from Professional Bodies. It embodies the Seven Standards in Public Life, as outlined in the Nolan Principles (The Seven Principles of Public Life). This policy must be read in conjunction with your contract of employment.
- 1.2. The NHS is a public service funded from the public purse, therefore no member of staff, patient or visitor should benefit financially, either directly or indirectly from the NHS.
- 1.3. More and more information is being placed in the public domain and there is greater transparency about the way NHS bodies perform, keep patients safe and spend their money and this must withstand public scrutiny. It is therefore important that all staff fully declare both interests and offers of gifts and hospitality so that they remain above suspicion.
- 1.4. In August 2015 the Health Secretary announced that all NHS Hospitals and General Practitioner groups will be required to keep a list of every gift and payment from pharmaceutical companies to health service staff. Under the new 'sunshine rule' NHS personnel who receive such benefits from drug companies will have to declare them or face dismissal and/or prosecution under the Bribery Act 2010.
- 1.5. Failure to comply with this policy could result in criminal and/or disciplinary action.

2. PURPOSE

- 2.1. This policy will help our staff manage conflicts of interest risks effectively, and provide guidance and support to those staff whose work brings them into contact in a business sense, with outside companies and organisations of any sort.
- 2.2. Some sections of the policy apply to particular groups of staff, but the principles of the policy and the declaration of interests in particular, apply to **all** staff.
- 2.3. Implementation of this policy will ensure that:
 - Consistent principles and rules are introduced for business conduct and managing declarations of interest
 - There is simple advice available about what to do in common situations
 - Staff have a clear understanding of their obligation to declare interests, including offers of hospitality and offers of gifts
 - Staff are protected from legal action of personal scrutiny
 - The Trust will be able to demonstrate that it has taken suitable measures to prevent and deter fraud, bribery and corruption
 - We uphold the values of the Trust

3. DEFINITIONS

3.1. Public Office

The role of employees of publicly funded bodies. For example, elected members of local authorities, or members of the National Health Service.

3.2. Conflict of interest

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

A conflict of interest may be:

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

Staff may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently and perceived conflicts of interest can be damaging. All interests should be declared where there is a risk of perceived improper conduct.

3.3. Interests

Where an employee, or their close relative or associate, has a controlling and/or a financial interest in a business (including a private company, public sector organisation, other NHS employer and/or voluntary organisation) or in any other private activity or pursuit, which may compete for an NHS contract or NHS work to supply goods or services to the Trusts.

Interests fall into the following categories:

- **Financial interests** - Where an individual may get direct financial benefit¹ from the consequences of a decision they are involved in making
- **Non-financial professional interests** - Where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or promoting their professional career
- **Non-financial personal interests** - Where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit, because of decisions they are involved in making in their professional career
- **Indirect interests** - Where an individual has a close association² 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

Some examples are given in [Appendix A](#).

¹ This may be a financial gain, or avoidance of a loss.

² A common-sense approach should be applied to the term 'close association'. Such an association might arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners.

3.4. Staff

In our Trust we use the skills of many different people, all of whom are vital to our work. This includes people on differing employment terms, who for the purposes of this policy we refer to as 'staff' and are listed below:

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

3.5. Decision-making staff

Some staff are more likely than others to have a decision-making influence on the use of taxpayers' money because of the requirements of their role. For the purposes of this policy, these people are referred to as 'decision-making staff'. Decision-making staff in these organisations are:

- Executive and Non-Executive Directors
- Members of Advisory Groups which contribute to direct or delegated decision-making on the provision of taxpayer-funded services
- Those at Agenda for Change band 8A and above
- Senior Medical staff
- Administrative and clinical staff who have the power to enter into contracts on behalf of the organisation
- Administrative and clinical staff involved in decision-making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions, e.g. estates/facilities, procurement.
- Administrative and clinical staff who can recommend or influence the selection of suppliers, the placing of contracts or spending money via a formal process or otherwise.

Your manager will review your role and responsibilities using the decision-making staff assessment flowchart at [Appendix B](#) in the first instance. If your manager is still unsure, they can contact the Chief Finance Officer, Director of Governance or Local Counter Fraud Specialist for advice. Your manager will confirm if your role is classified as being a Decision-making member of staff.

In accordance with the NHS England Managing Conflicts of Interest in the NHS guidance all members of staff that have a decision-making influence on the use of taxpayers' money i.e. decision-making staff, will have their declarations of interests (including nil responses) published at least annually.

Those members of staff identified as decision-making staff should be aware that, as part of the organisation's Internal Audit programme or Counter Fraud reviews, checks on individuals may be carried out through Companies House, Google, social media and/or other available systems, (i.e. Experian) to provide added assurance that declarations are complete and accurate.

3.6. Standing Orders

A series of rules that govern how an organisation, usually its Board, is run. They detail how votes should be taken, the powers of the Chair, Chief Executive Officer and Directors and the procedures for a motion. In addition, Standing Orders can also apply instructions to wider staff groups.

3.7. Commercial in Confidence

This means that the recipient of such a document agrees to hold all information presented within it as confidential and agrees not to use or disclose, or allow to use or disclose, said information to unauthorised parties, directly or indirectly.

3.8. Code of Conduct

A set of rules outlining the responsibilities of, and proper practices for, an individual or organisation.

3.9. Public Sector Values

All those who work in the public sector should be aware of, and act in accordance with, the values specified by the NHS Code of Conduct for Boards:

- **Accountability** – Everything done by those who work in the organisation must be able to stand the tests of parliamentary scrutiny, public judgments on propriety and professional codes of conduct
- **Probity** – Absolute honesty and integrity should be exercised in dealing with NHS patients, assets, staff, suppliers and customers
- **Openness** – The organisation's activities should be sufficiently public and transparent to promote confidence between the organisation and its patients, staff and the public

4. DUTIES AND RESPONSIBILITIES OF STAFF

4.1. Chief Executive Officer (CEO)

As Accountable Officer, the CEO is responsible for ensuring the Trust conducts its business affairs and operates in line with this policy.

4.2. Role of the Chief Finance Officer

To work closely with the Local Counter Fraud Specialist on matters relating to potential conflicts of interest and/or fraudulent activities.

4.3. Role of the Chief Medical Officer or their delegated authority

To annually check the data published by the Association of British Pharmaceutical Industry (ABPI) will be routinely checked by the Chief Medical Officer against the Trusts' Register of staff Interests. Check to be carried out by the Chief Medical Officer or their delegated authority.

4.4. Role of the Director of Governance

Delegated authority from the CEO to ensure on a day to day basis the organisation conducts its business affairs and operations in line with this policy.

- To provide independent advice and guidance to managers and staff in relation to this policy
- To ensure there is an up to date and effectively managed register of declarations of interests (Staff and Board of Directors) and register of gifts and hospitality
- To escalate any concerns relating to non-compliance of this policy to the CEO and support any investigations into actual or suspected breaches of this policy

4.5. Role of Procurement Staff

To ensure they maintain the highest standard of integrity in all business relationships in accordance with the Code of Conduct issued by the Chartered Institute of Procurement and Supply (CIPS) on 10 September 2013 and with current legislation including the Public Contracts Regulations 2015, the Bribery Act 2010 and any other Laws and Regulations as may be issued from time to time.

4.6. Role of Research and Development Director or their delegated authority

To provide advice and support to staff to ensure the Trust obtains a fair reward for the input provided in the case of collaborative research.

4.7. Role of the Audit Committee

The role of the Audit Committee is to review the processes in place to manage conflicts of interest and seek assurance by receiving reports from the Director of Governance, Internal Audit and the Local Counter Fraud Specialist as appropriate.

The Committee will also receive reports of breaches, their impact, and any actions taken to address breaches and manage risks.

4.8. Role of the Governance Co-ordinator

The Governance Co-ordinator is responsible for receiving declaration of interests (including offers of gifts and hospitality) and maintaining and monitoring the Trust's Registers of Interests (Staff and Board of Directors) and Register of Gifts and Hospitality. They will ensure the Registers will be published on the Trust's website as required.

4.9. Role of the Local Counter Fraud Specialist

The Local Counter Fraud Specialist is responsible for providing advice and guidance and investigating any concerns about potential or actual breaches of this policy where fraud, bribery and/or corruption may have occurred.

4.10. Role of the Head of Procurement

The Head of Procurement is responsible for reviewing and approving hospitality requests over £500, and reviewing all hospitality requests on a quarterly basis to minimise the risk of conflicts arising relating to procurement decisions and/or appointment of contractors/suppliers.

4.11. Role of Decision-making Staff

Decision-making staff are responsible for ensuring that they make declarations of interests annually (including nil responses) as part of their annual appraisal and prospectively as interests arise. These declarations of interest (including nil returns) will be published on the public website in the Register of Staff Interests.

4.12. Role of Line Managers

Line Managers are responsible for ensuring that all staff are aware of this policy and complete a declaration of interests form on appointment and annually as part of the My Appraisal or Revalidation process. Line Managers are required to approve the declaration on the form.

Line Managers must ensure new members of staff are aware of the location of all Trust policies, including this one during their induction, and that all new employees complete the declaration of interest form included in the new starters pack.

A copy of each declaration form must be held on the employee's personal file and an additional copy provided to them.

Where a conflict of interest is made known to them, or indeed where the Line Manager themselves have a conflict of interest, Line Managers must ensure that precise details of such interests are recorded on the declaration of interest form available on the staff intranet, HUB, [here](#) and suitable action is taken to mitigate the conflict.

Where the declaration involves a member of staff requiring time away from their normal role (to attend a sponsored event for example) the Line Manager must ensure this is signed off in the usual way in line with the relevant Annual Leave or Employee Training, Education and Development (Inc. Study Leave) Policy.

Line Managers should ensure compliance with the professional standards of the Chartered Institute of Purchasing and Supply, where they or their staff are in contact with suppliers and contractors, including external consultants. Areas of particular concern relate to those staff who are authorised to sign purchase orders or place orders for goods or services.

Line Managers must follow the Decision-Making Staff flow chart ([Appendix B](#)) for all new and existing members of staff. This will identify whether those members of staff are classified as decision-making staff and confirm whether their interests will be published on the organisation website in line with this policy.

4.13. Role of All Staff

It is the responsibility of **all staff** to comply with this policy and ensure they are not placed in a position which risks, or appears to risk, conflict between private interests and their employment.

Staff must:

- Ensure that the interests of the patients remain paramount at all times
- Be impartial and honest in the conduct of their official business
- Complete an annual declaration of interest as part of their annual appraisal
- Proactively declare interests at the point they become involved in decision-making; and
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money

It is also the responsibility of staff to ensure they do not:

- Abuse their official position for personal gain or to benefit their friends and family
- Seek to advantage or further provide personal business or other personal interests in the course of their official duties
- Promote their own or a friends or family members business to colleagues, staff or patients

If a member of staff has any doubts or concerns when dealing with outside companies, organisations or individuals, they should seek the advice of their line manager in the first instance. The Chief Finance Officer or the Director of Governance are always willing to provide advice on any of the issues covered in this policy.

5. DECLARATION AND REVIEW OF INTERESTS

5.1. Identification and declaration of interests

Where there is potential for interests to be relevant to the organisation, the interest should be declared and recorded in the Register held and maintained by the Governance Co-ordinator. Examples of interests which should be regarded as 'relevant' are shown below, although this list should not be regarded as exhaustive. Further guidance is given at [Appendix A](#).

- Directorships, including non-executive directorships, held in private companies or PLCs
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS
- Shareholdings and ownership interests in any publicly listed, private or not for profit company, business, partnership or consultancy, which are doing, or might reasonably be expected to do, business with the Royal Devon
- A position of authority in another NHS organisation, commercial, charity, voluntary, professional, statutory or other body which could be seen to influence your role
- A position on an advisory group or other paid or unpaid decision-making forum that could influence how Royal Devon 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
- Any connection with a private, public, voluntary or other organisation contracting for NHS services
- Any other commercial interest relating to any relevant decision to be taken by the organisation

Conflicts can occur because of interests held by a close family member, business partner, close friend or associate. If officers are aware of relevant interests (or could be reasonably expected to know about these) then these should be declared. In this context, a close family member is defined as:

- spouse or civil partner
- any other person with whom the individual cohabits
- children or step children spouse/partners' children or step children
- parents
- grandparents
- siblings

5.2. Declaring interests

All staff must complete, at the minimum, an annual declaration of interest as part of their My Appraisal or Revalidation process, using the relevant paperwork included in the online appraisal forms at learnplus.ndevon.swest.nhs.uk/login/index.php. Nil returns must also be submitted.

Where a staff member identifies a relevant interest outside of the annual declaration they must declare it at the earliest opportunity (and in any event within 28 days). If staff are in any doubt as to whether an interest is relevant then they should declare it, so that it can be considered. Declarations should be made:

- On appointment with the organisation
- When staff move to a new role or their responsibilities change significantly.
- At the beginning of a new project/piece of work
- As soon as circumstances change and new interests arise (for instance, in a meeting when interests staff hold are relevant to the matters in discussion)
- At least annually as part of the appraisal process

An electronic declaration of interests form is available on HUB [here](#), or alternatively the form at [Appendix C](#) can be completed. Examples of declarations of interest are available at [Appendix A](#) and on HUB.

Where the declaration requires time away from normal duties (to attend a sponsored event for example) the member of staff must ensure that this is signed off in the usual way in line with the relevant Annual Leave or Employee Training, Education and Development (Inc. Study Leave) policy.

Even if you do not think you have any interests to declare, it is important to complete a declaration form. A written declaration of 'no interests' will also be recorded. If in doubt complete a form.

When declaring an interest, a line manager will be the first point of contact for staff. They will discuss the interest with their staff and will confirm whether there is no conflict, a potential conflict or an actual conflict. A situation may arise when a line manager shares the same interest as a member of staff, in this instance the assessment of the declaration of interest must be escalated to the next senior line manager who does not share the interest. Should a line manager require advice or guidance on the assessment of interest they should contact the Director of Governance.

Once a line manager has assessed the declaration of interest and completed their section of the form, the electronic declaration of interests form should be submitted to the Governance Co-ordinator for review by the Director of Governance and inclusion in the Register of Staff Interests.

After expiry, an interest will move to a private record of historic interests, which will be retained indefinitely.

5.3. Proactive review of interests and declarations of gifts and hospitality

At the time a member of staff completes a declaration of interest, at appointment or as part of their annual appraisal the line manager will review and discuss the declaration and identify any actions required. Following the line manager's submission of the declaration, the Director of Governance will conduct a further review. This process will be carried out on annual basis. This will include each member of staff completing a declaration form and signing to confirm that they have read and understood this policy.

Decision-making staff will also be prompted to review declarations and update or make a nil return as part of the standing agenda items at appropriate meetings.

Staff involved in procurement decisions should be required to review / access the Register of Staff Interests during the procurement process as part of a due diligence process. The purpose will be to identify any declarations made by employees with interests involving existing or prospective suppliers. This action will assist with either avoiding or identifying any potential breaches of conduct when procuring goods and / or services.

In addition, a number of corporate reviews will be undertaken, including:

- A quarterly review of hospitality declarations by the Head of Procurement to minimise the risk of conflicts arising relating to procurement decisions and/or appointment of contractors/suppliers
- Regular reviews of declared interests as part of the Trust's Internal Audit and/or Counter Fraud workplans
- An annual review will be taken by the Board of Directors of its Register of Interests

6. RECORDS AND PUBLICATION

6.1. Maintenance

The organisation will maintain an electronic Register of Interests, one for staff and one for the Board of Directors, which will be held securely with access restricted to the Chief Finance Officer, Director of Governance, Local Counter Fraud Specialist and Governance Co-ordinator.

6.2. Publication

The Trust will:

- Publish the interests declared by decision-making staff in the Register of Staff Interests (see [Appendix B](#))
- Refresh this information annually and as interests change
- Make this information available on the Trust's [public website](#)

If decision-making staff have substantial grounds for believing that the publication of their interests should not take place, then they should document their reasons within their completed declaration of interest form and explain the potential consequences of publication. The Director of Governance will review this request and confirm whether or not the interest is record on the public register. In exceptional circumstances, for instance where publication of information might put a member of staff at risk of harm, information may be withheld or redacted on public registers. However, this would be the exception and information will not be withheld or redacted merely because of a personal preference.

6.3. Wider transparency initiatives

The Royal Devon fully supports wider transparency initiatives in healthcare, and we encourage staff to engage actively with these.

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:

- 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

Data published by the ABPI will be routinely checked by the Chief Medical Officer or their delegated authority against the Trust’s Register of Interests to ensure that appropriate declarations are being made and transparency maintained. Any transfers of value recorded on the ABPI website which do not appear on the Trust’s Registers will be followed up by the Director of Governance and/or the Local Counter Fraud Specialist.

7. MANAGEMENT OF INTERESTS – GENERAL

7.1. If an interest is declared by a non-decision-making member of staff, but there is no current or potential risk of a conflict arising, then the decision must be recorded by the line manager and held on the member of staff’s personal file. The declaration will be recorded on the Register of Staff Interests.

7.2. Should a potential conflict of interest be recorded, this must be reviewed by the line manager periodically and in any case at least annually. If a material or actual conflict of interest is declared then the general management actions that could be applied include but are not limited to:

- 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

8. MANAGEMENT OF GIFTS, HOSPITALITY AND INTERESTS – COMMON SITUATIONS

- 8.1. This section sets out the principles and rules to be adopted by staff in common situations, and what information should be declared.

There are a number of common situations which can give rise to a risk of conflicts of interest. These include (but are not limited to):

- Gifts
- Hospitality
- Additional employment
- Shareholdings and other ownership interests
- Patents
- Loyalty interests
- Donations
- Sponsored events
- Research activity
- Sponsored posts
- Clinical private practice

Further advice and guidance are outlined below and is available in the NHS England document, [Managing Conflicts of Interest in the NHS](#), which came into effect on 1 June 2017. There are also a number of possible scenarios at [Appendix D](#) (gifts) and [Appendix E](#) (hospitality) for reference and guidance.

Staff should be aware that a gift, offer of hospitality, donation or other potential conflict of interest that is **declined** must also be declared. This is to ensure that any trends, e.g. a large number of patients offering gifts of cash to individual staff, can be addressed quickly and sensitively to avoid embarrassment and/or breaches of this policy.

8.2. Gifts

Staff must not accept gifts that may affect or be seen to affect their professional judgement, and they must also declare that it has been declined, as per 8.1.

8.3. Gifts from suppliers or contractors

- Gifts from potential or existing suppliers or contractors doing business with the organisations **must be declined**, whatever their value, and also declared as per 8.1.
- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6³ in total, and need not be declared.

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

- Staff must not ask for any gifts.
- Gifts of cash and vouchers to staff (or a staff family member/acquaintance) must always be declined, regardless of the value, and declared as per 8.1.
- 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).

³ The £6 value has been selected with reference to existing industry guidance issued by the ABPI: <http://www.pmcpcpa.org.uk/thecode/Pages/default.aspx>

- Gifts valued at over £50 should be treated with caution and can only be accepted on behalf of the organisation for payment into Charitable Funds or to be used for charitable fundraising. They must not be accepted in a personal capacity and must be declared on the declarations of gifts/hospitality form, [Appendix F](#)
- Modest gifts accepted under a value of £25 do not need to be declared
- Gifts valued between £25-£50 could be accepted but must be discussed and agreed with the line manager and do need to be declared by staff
- Multiple gifts from the same source over a 12-month period should be treated in the same way as single gifts over £25 where the cumulative value exceeds £50
- Managers and staff can seek further guidance regarding gifts at [Appendix D](#)
- **Any offers of inappropriate gifts (i.e. any gift from a supplier or a gift over £50 from a patient) should be reported to the Director of Governance**

If there is any doubt about the appropriateness of accepting a gift, staff should either politely decline or consult their line manager or the Director of Governance.

8.5. Wills/Bequests

Staff must not influence, in any way, a patient's decision to amend their Will so that they benefit from the amendment. Should a patient openly discuss their Will, staff should be discouraged from becoming involved and they should report the matter to their Line Manager in writing.

If staff have unknowingly been left a bequest in a Will, they should notify their Line Manager in writing. They should then ask themselves the following questions:

- Did I influence the deceased in any way?
- Did I treat the deceased in a preferential manner (or anyone else, e.g. a family member)?

If both answers are no, then the Bequest could be considered following approval from the Director of Governance.

Further advice can be obtained from the Director of Governance as required.

8.6. Hospitality

Staff must 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
- All hospitality over £500 must be approved by your Line Manager and the Head of Procurement prior to acceptance. And a declaration form completed and submitted ([Appendix F](#))
- 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 following approval by your Line Manager and the Head of Procurement.
- During a tender process hospitality may be accepted as part of a site visit. Hospitality thereafter **must not** be accepted until the tender has concluded
- Managers and staff can seek further guidance regarding possible hospitality situations at [Appendix E](#)
- **Any concerns of bribery or corruption should be reported to the Local Counter Fraud Specialist**

A quarterly summary of declarations relating to hospitality will be reviewed by the Head of Procurement to minimise the risk of conflicts arising relating to tendering and procurement processes. Any concerns will be reported to the Local Counter Fraud Specialist for further review.

8.7. Meals and refreshments

- Under a value of £25 - may be accepted and need not be declared
- Of a value between £25 and £75⁴ - 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 Trust's register of gifts and hospitality 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). Any value recorded as "not known" (or similar wording) will not be acceptable and returned for a reasonable estimate to be made

8.8. 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 copy of the course itinerary must accompany the claim form. A clear reason should be recorded on the organisation's register of gifts and hospitality 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

8.9. Secondary Employment

The Trust recognises that employees may wish to engage in additional employment or self-employment and that involvement of employees in these additional roles alongside their NHS role can be of mutual benefit. However, the Trust must be satisfied that there are no conflicts of interest or health and safety implications for the employee, their colleagues or patients, and that additional employment does not adversely affect their performance or attendance.

The term Secondary Employment could include but is not limited to:

- Working for another employer (Full time, part time, casual and zero hours contracts)
- Running a business
- Self-employment / Sole Trader
- Clinical private practice
- Involvement in a family business
- Consultancy
- Directorships
- Non-Executive Director roles

⁴ The £75 value has been selected with reference to existing industry guidance issued by the ABPI
<http://www.pmcpcpa.org.uk/thecode/Pages/default.aspx>

- Charitable work
- Political work
- Roles in not-for-profit organisations
- Paid advisory roles
- Paid honorariums

Staff must declare any existing secondary employment on appointment or when it arises. The declaration of interest form must be completed and as a minimum must contain the following information:

- Name of employer (or self-employed)
- Where the secondary work will be performed
- Days/hours expected to work (this is important to report and record, to ensure the employee does not breach Working Time Regulations. Further information on working hours, breaks, rest periods and opting out are available in the Working Time Policy)
- Nature of work performed and a description of duties
- Whether the work is paid or voluntary
- Managers will support employees to ensure that any proposed additional employment does not conflict with their duties with the Trust. Where a risk of conflict of interest arises, the general management actions outlined in this policy under Section 7 must be considered and applied to mitigate risks
- Should managers have any doubts in the assessment of a conflict, they should seek advice from either the Director of Governance or HR
- In cases where a conflict of interest arises and there are no available actions to mitigate the conflict, the additional employment must be discontinued or refused. Alternatively, the Trust's employment must cease
- Employees will notify their line manager in writing where changes arise within their additional employment
- Managers will review the declarations of additional employment at least annually or when employees have notified them of changes

Should an employee be subject to disciplinary proceedings with their additional employer, they must immediately report this to their line manager in writing, and no later than five working days from their notification. Line managers must seek advice from HR to confirm what action may need to be taken. Further information can be found in the Secondary Employment [checklist](#).

Where an employee is absent with sickness conditions, the general expectation is that they will not be suitable to work for their additional employer. Further guidance is available on HUB within the Attendance Management Policy (Eastern) and Maximising Attendance Policy (Northern).

8.10. Shareholdings and other ownership issues

Staff must 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 under Section 7 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.

8.11. 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 on-going, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation. Staff must 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 under Section 7 should be considered and applied to mitigate risks.

Any patents, designs, trademarks or copyright resulting from the work (e.g. research) of an officer carried out as part of their employment shall be the Intellectual property of the Royal Devon.

8.12. 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

8.13. Donations

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 donate 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.

8.14. Sponsored events

Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit to the organisations 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. Additionally, representatives must adhere to the requirements of the Trust's Commercial Representatives Policy.

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, advice can be sought from the Director of Governance.

Staff arranging sponsored events must declare this to the organisation prior to the event being held and seek endorsement from the Director of Governance. It may be necessary for the Director of Governance to seek additional information as necessary with regards to the appropriateness of the event/sponsorship.

8.15. Sponsored and Hosted research

Funding sources for research purposes must be transparent.

Any proposed research conducted on the Trust's sites or sponsored by the Trust to be delivered at any additional external sites must go through the relevant health research authority and other approvals process.

For sponsored and hosted studies there must be a written protocol and written contract between staff, the organisation, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services.

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

Staff must declare involvement with sponsored and hosted research to the Trust's Research Department regardless of the organisation they are conducting their research in.

8.16. Sponsored posts

External sponsorship of a post requires prior approval from the organisation. Approval should be sought via Human Resources and in consideration of any Commercial Processes (if applicable). It may also be necessary for such considerations to be taken via the Trust's Ethics Panel, prior to any sponsored posts being agreed.

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.

8.17. Sponsored training, development and education

In accordance with the Learning & Development Policy, to avoid any conflict or perceived conflict of interest, staff must discuss all potential opportunities with their line manager before any contact is made between external organisations including pharmaceutical industries to seek funding/sponsorship for training, development or education. Approval from the line manager must be sought before proceeding – and a Declaration of Interests form completed.

Similarly, any individuals must inform their line manager, discuss any implications and seek approval before proceeding with any opportunities if a direct approach is made by any external organisations (including pharmaceuticals). If there is the potential for any perceived or actual conflict of interest the offer must be declined.

Transparency is key – individuals must declare any acceptances or declines via the Declaration of Interest form - this approach could protect the individual and the relevant Trust with regards to any potential suggestions of improper behaviour. This will ensure that a record to mitigate any potential future challenge is held.

If Line Managers have any queries / concerns in relation the above they should contact their Clinical Director (or Executive Director if concerning corporate service lines) in the first instance. Escalations should then be made to the Chief Medical Officer and / or Chief Nursing Officer as necessary.

Any training and/or continued personal development to achieve professional qualifications aimed at enabling staff to fulfil their job requirement(s) must be discussed and agreed with the individual's line manager and the Learning and Development Team. Such discussions are normally held as part of the annual appraisal process, or in year depending on appraisal timing and should be formally recorded as part of this process.

It is acknowledged, that attendance at external events (such as conferences) to supplement understanding, or, to enable staff members to be briefed on latest practice, can be beneficial – again, any such proposed attendance must be discussed and agreed with the individuals line manager in advance, and declarations made accordingly to ensure transparency.

Before accepting any sponsorship, staff are asked to; stop, consider, check with their manager and make a declaration before attending/accepting – and, if in any doubt ask. Any proposal for a formal sponsorship commercial agreement (i.e. not for training, development or educational purposes) must be considered by the Executive Directors prior to being approved.

8.18. Clinical Private Practice

Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises⁵ 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 work⁶
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority Guidelines

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.

9. MANAGEMENT OF INTERESTS – ADVICE IN SPECIFIC CONTEXTS

9.1. Strategic decision-making groups

In common with other NHS bodies the Royal Devon 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. These groups include:

- Board of Directors and its Sub-Committees:
 - Audit Committee
 - Charity Sub-Committee
 - Remuneration Committee

⁵ 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](#)

⁶ These provisions already apply to Hospital Consultants by virtue of [Paras.5 and 20, Sch. 9 of the Terms and Conditions – Consultants \(England\) 2003](#)

- Governance Committee
- Specific Groups with responsibility for provision/procurement of equipment/medicines
- Drugs and Therapeutics Group
- Medical Equipment Prioritisation Group
- Medical Products 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 declarations of relevant material interests
- Members should take personal responsibility for declaring material interests at the beginning of each meeting and as they arise
- Any interests declared must be clearly documented in the minutes of the group/committee
- 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 clearly 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

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.

9.2. Managing conflicts of interest at meetings

All formal meetings, including the Board and its Committees, must have a standing agenda item at the beginning of each meeting to determine whether anyone has any conflict of interest to declare in relation to the business to be transacted at the meeting. The Rules of Procedure/Standing Orders and all Committee terms of reference will incorporate this requirement. Any new interests declared at the meeting should be included in the relevant register of interest as soon as practicable after the meeting.

In the event that the chair of the meeting has a conflict of interest, the vice chair is responsible for deciding the appropriate course of action to manage conflicts of interests. If the deputy chair is also conflicted, then the remaining non-conflicted voting members of the meeting should unanimously agree how to manage the conflict(s).

When a member of the meeting (including the chair or deputy chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or deputy chair or remaining non-conflicted members where relevant as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:

- Where the chair has a conflict of interest, deciding that the deputy chair (or another non-conflicted member of the meeting if the deputy chair is also conflicted) should chair all or part of the meeting

- Requiring the individual who has a conflict of interest (including the chair or deputy chair if necessary) not to attend the meeting
- Ensuring that the individual does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict
- Requiring the individual to leave the discussion while the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s)
- Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s)
- Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be an appropriate course of action where it is decided that the declared interest is either immaterial or not relevant to the matter(s) under discussion
- Conflicts of interest arising at a Board meeting must be managed in accordance with the requirements of the Standing Orders/Rules of Procedure

In all cases however, a quorum must be present for the discussion and decision; and interested parties cannot be counted in determining whether the meeting is quorate for that item.

All decisions under a conflict of interest must be recorded by the meeting secretariat and clearly reported in the minutes of the meeting. The minutes will include:

- Who has the interest
- The nature and extent of the conflict
- An outline of the discussion
- The actions taken to manage the conflict and
- Evidence that the conflict was managed as intended

To support chairs in their role, the secretariat will provide access to details of any conflicts which have already been made by members of the group.

9.3. 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.

Procurement Lead, Service Lead/Executive Sponsor involved in procurement decisions must review/access the Register of Interests during the procurement process to avoid any potential breaches of conduct when procuring goods and services.

Further information is available in the Commercial Representatives Policy. Staff should contact the Procurement Team for advice.

9.4. Awarding of contracts

Staff who are in contact with suppliers and contractors, particularly if they are authorised to sign purchase orders, specify, negotiate or place contracts for goods, services or materials should adhere to the professional standards laid down in the ethical code of the Chartered Institute of Purchasing and Supply (CIPS).

- Competition between prospective contractors or suppliers must be fair and open. No organisation should be given an advantage over its competitors with each new contract being awarded solely on merit
- Care should be taken to ensure that any information which could be deemed 'commercial in confidence' and which might prejudice the principle of a purchasing system based on fair competition is not disclosed. This applies to where private competitors or other NHS providers are concerned. This practice should not, however, be too restrictive. The term does not apply to things such as service delivery and activity levels, which should be publicly available. This should also not affect the free exchange of data for medical audit purposes
- Invitations to tender will include advice to tenderers of the potential consequences of offering inducements to employees of the Trusts
- The Procurement Regulations set out the law on public procurement. Their purpose is to open up the public procurement market and comply with international agreements on access. Furthermore, Government has set out the need for greater transparency across its operations to enable the public to hold public bodies and politicians to account. This transparency agenda has implications for the publication of public sector contract and spend information. To ensure compliance with these laws and policies the Trusts expect that all Procurement activity relating to the purchase of goods and services must be directed through the Head of Procurement

9.5. Preferential treatment in private transactions

Individual staff must not seek to accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have official dealings on behalf of the Trust. *(This does not apply to concessionary agreements negotiated with companies by management, or by recognised staff interests on behalf of all staff – for example, staff benefit schemes).*

10. CONDUCT IN THE WORK ENVIRONMENT

- 10.1. Each employee must comply with the Trust's policies ensuring that there is an environment free of discrimination and harassment with regard to race, sexual orientation, colour, national or ethnic origin, religion, marital status, family status, age or disability. Harassment may occur in a variety of ways and may in some circumstances be unintentional. Regardless of intent, such conduct is not acceptable.
- 10.2. The Trusts acknowledge there are times when monies are collected from other staff members for:
- Tea / coffee / milk
 - Staff leaving gifts
 - Staff celebration gifts, e.g. marriage / birth etc.
- 10.3. Where this occurs, to ensure transparency and protect all staff, it is recommended:
- At least two staff members are responsible and have oversight for the collection of monies and the purchase of items

- A free collection service is used, e.g. Gift Round, meaning the organiser does not have to handle and store physical cash or disclose their personal bank details and can transparently account for monies raised and gifts purchased
- Maintain a clear record of money received and money spent

10.4. The Trusts do not recommend sharing personal bank details with any members of staff in a 1:1 or group email.

11. FAILURE TO ADHERE TO THE STANDARDS OF BUSINESS CONDUCT

11.1. It is important that all staff comply with this policy and associated policies. If any Trust employee fails to declare interests and hospitality as defined above, or participates in a decision-making practice where special favour is shown to unfairly award a contract, or abuse their official position or gain knowledge for the purpose of benefit to themselves or others then they may (dependent on circumstances) be subject to disciplinary and /or criminal action in accordance with the Trust's Disciplinary and Appeal Policy and / or Counter Fraud, Bribery and Corruption Policy.

12. DEALING WITH BREACHES

12.1. There will be situations when conflicts of interest 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.'

12.2. Identifying and reporting breaches

Staff members have a clear duty to voice complaints if they feel concerned about maladministration, breaches of this policy or other concerns about business ethics.

- Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or may have been, a breach, should report these concerns as soon as possible to the Chief Finance Officer, Director of Governance, Freedom to Speak Up Guardian or Local Counter Fraud Specialist.
- Every individual has a responsibility to do this. For further information about how concerns should be raised, staff should refer to the Whistleblowing (How to Raise a Concern) Policy or speak to a Freedom to Speak up Guardian.
- If a person has any suspicions or concerns regarding fraud, bribery or corruption then they should immediately notify one of the following:
 - Chief Finance Officer (01271 349563 or 07970 753572)
 - Local Counter Fraud Specialist (07824 606899)
 - NHS Counter Fraud Authority: Fraud & Corruption Reporting Line (0800 028 40 60 and online at <https://cfa.nhs.uk/reportfraud>)
- Any member of staff who reports any suspicions, or instances of maladministration should be aware of the protection afforded under the Trust's Whistleblowing (How to Raise a Concern) Policy. All staff members are encouraged to read this before raising any concerns. For the avoidance of doubt, nothing in this policy affects the rights of staff provided under the Whistleblowing (How to Raise a Concern) Policy.

12.3. Taking action in response to breaches

On receipt of information about potential breaches, the Line Manager / Director of Governance will inform the Chief Executive Officer who will decide on appropriate action. This will normally be in the form of an investigation as set out in the Counter Fraud, Bribery and Corruption Policy.

The organisation 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 below

Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the Trusts and could involve organisational leads for staff support (e.g. Human Resources), fraud/bribery/corruption (e.g. Local Counter Fraud Specialist), 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 Counter Fraud Authority, the Police, statutory health bodies (such as NHS England/NHS Improvement or the CQC), and/or health professional regulatory bodies

Where appropriate, a report or recommendation will be made to the Board of Directors, which is responsible for ensuring that high standards of corporate governance and personal behaviour are maintained across the whole organisation.

12.4. Sanctions

Inappropriate or ineffective management of interests can have serious implications for the organisation and staff. There will be occasions where it is necessary to consider the imposition of sanctions for breaches. The Trust is committed to a Just and Learning culture.

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 criminal prosecution under fraud and bribery legislation
- Civil action to recover any losses due to fraud, bribery and or corruption

12.5. Learning and transparency concerning breaches

Reports on breaches, their impact, and actions taken to address breaches and minimise risks arising will be considered by the Audit Committee.

To ensure that lessons are learnt and management of interests can continually improve, anonymised information on breaches, their impact, and actions taken will be published on the Trust's Intranet as appropriate, or made available for inspection by the public on request.

13. TRAINING

- 13.1. Training is included within the Trust's Counter Fraud eLearning Package. In addition, fraud awareness presentations can be delivered by the Local Counter Fraud Specialist. To arrange a session call 01392 356034 or 07824 606899.

In the meantime, or if you have any questions, advice and guidance can be sought through the Chief Finance Officer, Director of Governance, or the Local Counter Fraud Specialist.

14. LEGISLATION

- 14.1. This policy is linked to two key pieces of legislation:

- The Fraud Act 2006
- The Bribery Act 2010

The Fraud Act 2006

The Fraud Act 2006 came into effect on 15 January 2007 and specifically deals with the general offence of fraud. It deals with three major types of offence:

- Fraud by false representation (section 2)
- Fraud by failing to disclose information (section 3)
- Fraud by abuse of position (section 4).

The emphasis in fraud offences is on the conduct of the person allegedly committing the fraud, the intent of that person and the consequences of their conduct or actions.

The Bribery Act 2010

The Bribery Act 2010 came into force on 1 July 2011. The aim of the act is to tackle bribery and corruption in the private and public sector.

The Act defines the following key offences with regards to bribery:

- Active bribery (offering, promising or giving a bribe)
- Passive bribery (requesting, agreeing to receive or accepting a bribe)
- Bribery of a foreign public official

The Act also sets out a corporate offence of failing to prevent bribery by an organisation not having adequate preventative procedures in place.

15. ARCHIVING ARRANGMENTS

- 15.1. This policy will be reviewed in three years unless an earlier review is required. This will be led by the Director of Governance.

16. PROCESS FOR MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF THE POLICY

- 16.1. In order to monitor compliance with this policy, the auditable standards will be monitored as follows:

No	Minimum Requirements	Evidenced by
1	% compliance with annual declaration of interests via appraisal process	Workforce data
2	% uptake of staff training	Workforce data
3	Number of suspected breaches	Local Counter Fraud Reports to Audit Committee
4	Three-yearly review of compliance with the policy	Internal Audit Review
5	Annual testing/review of declarations	Annual report to Audit Committee
6	Staff will be reminded of this policy annually via the news page on HUB and BOB	Report of visits to section via Communications AND Minutes/Notes of Team meetings Notices on HUB Comms Cells communication
7	All managers should reinforce the need for vigilance and adherence to Policy to their staff	Minutes of team meetings Communications on Comm Cells

16.2. Frequency

In each financial year, the Director of Governance will action the above to ensure this policy has been adhered to and a formal report will be written and presented to the Audit Committee.

16.3. Undertaken by

The Director of Governance.

16.4. Dissemination of Results

At the Governance Committee which is held every two months and the Audit Committee which is held five times per year.

16.5. Recommendations / Action Plans

Implementation of the recommendations and action plan will be monitored by the Governance Committee, which meets every two months.

Any barriers to implementation will be risk-assessed and added to the risk register.

Any changes in practice needed will be highlighted to Trust staff via the Governance Leads' cascade system.

17. REFERENCES

- ABPI: The Code of Practice for the Pharmaceutical Industry (2014)
<http://www.abpi.org.uk/our-work/disclosure/about/Pages/default.aspx>
- ABHI Code of Business Practice
- Bribery Act 2010. London: Stationery Office. Available at:
www.legislation.gov.uk/ukpga/2010/23/contents
- Code of Conduct for NHS Managers 2002
- Code of Conduct and Code of Accountability in the NHS (second revision, July 2004).
- Code of Practice on Openness in the NHS
- Competition and Markets Authority guidelines
https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf
- Copyright, Designs and Patents Act 1988. London: Stationery Office. Available at
www.legislation.gov.uk/ukpga/1988/48/contents
- Ethical code of the Institute of Procurement and Supply: www.cips.org/documents/
- European Union (EU) Procurement Directives and Regulations
- Fraud Act 2006
- Freedom of Information Act 2000
- National Health Service Act 2006 & the Health and Social Care Act 2012
- NHS Constitution
- NHS England, Managing Conflicts of Interest in the NHS – Guidance for staff and organisations (2017)
- NHS Standard Contract 2017-19 (GC27)
- Nolan Principles: <http://www.public-standards.gov.uk/about-us/what-we-do/the-seven-principles/>
- Patents Act 1977. London Stationery Office. Available at
www.ipo.gov.uk/patentsact1977.pdf
- [Ethical code of the chartered institute of purchasing and supply](#)

18. APPENDICES

- [Appendix A](#) – Examples of potential conflicts of interest
- [Appendix B](#) – Decision-Making Staff Flowchart
- [Appendix C](#) – Declaration of interests form
- [Appendix D](#) – Examples of possible scenarios – gifts
- [Appendix E](#) – Example of possible scenarios – hospitality
- [Appendix F](#) – Declaration of gifts/hospitality form
- [Appendix G](#) – Frequently Asked Questions
- [Appendix H](#) – Communication Plan
- [Appendix I](#) – Equality Impact Assessment Tool

APPENDIX A – EXAMPLES OF POTENTIAL CONFLICTS OF INTEREST

Financial: may obtain a financial benefit as a result of a decision they are involved in, e.g.

- Trust Director or Senior Manager also working for a Trust supplier

Non-financial - Professional: may obtain a non-financial benefit such as increasing their professional reputation, e.g.

- An advocate for a particular group of patients
- A clinician with a special interest

Non-financial - Personal: may benefit personally in ways not directly linked to their professional career and no direct financial benefit, because of decisions they are involved in making in their professional career, e.g.

- A member of a lobbying or pressure group with an interest in health and care

Loyalty: 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, e.g.

- Close family members, relatives, friends and associates

Example -

A clinician wishes to include a new drug, manufactured by a company with which he has links (e.g. company shares, research grant) in the relevant Trust Formulary.

Action - The relevant Trust committee should require declarations of interest from clinicians submitting proposals for new products to be added to formularies and ensure the decision is based on clinical and cost effectiveness information. Similarly, members of the committee should declare interests relating to issues on which they are making decisions.

Example –

A clinician delivers training or consultancy services (outside of their normal working hours) for a company for which they receive remuneration and/or hospitality.

Action - The clinician must complete two declarations: one declaring an interest in the company; and one declaring the receipt of payment and/or hospitality.

Example –

A pharmaceutical industry representative wishes to present the case for a new product being included on the relevant Trust Formulary.

Action - The Trust should establish and adopt a reasonable policy on approaches from industry representatives. Industry representatives should be required to sign up to compliance with such a policy before being given access to any meetings.

Example –

The Trust receives a receipt of offer from a company to provide training of staff.

Action - Employers should be careful to ensure that staff members are not subjected to undue pressure by sponsors of training, to alter their own activity to accord with sponsors' wishes, where these are not backed up by appropriate evidence. Training provided by industry may be above board if it is unbiased, has mutual benefit for both the NHS and the sponsoring company, is evidence based and the hospitality is appropriate. However, participants should assess whether they may be influenced unduly and also bear in mind what benefits the company might derive (e.g. exposure to NHS, professional contacts, potential allies to use later, names of whom to influence, often without the participants' knowledge). Offers should be passed to, and logged by, the Director of Governance.

Example –

A manufacturer of colostomy equipment offers to sponsor a stoma nurse post in an NHS Trust.

Action - The Trust should not accept the sponsorship if it would require the stoma nurse to recommend the sponsor in preference to other clinically appropriate appliances, nor if it requires the relevant Trust to recommend patients to use a particular dispensing service or withhold information about other products. Existing contracts containing any such provisions should, where possible, be urgently renegotiated.

Example - A pharmaceutical company offers to provide starter packs at a discounted price.

Action - This type of sponsorship is acceptable, but should always be declared in order to void any suspicion that subsequent prescribing might be inappropriate and linked to the provision of starter packs.

Example - A Board member's spouse works in a peripheral clinic, the future of which is under debate.

Action - This should be declared, and the member should not participate in the decision.

Example –

A Human Resources Manager giving advice to the Remuneration Committee about managerial pay.

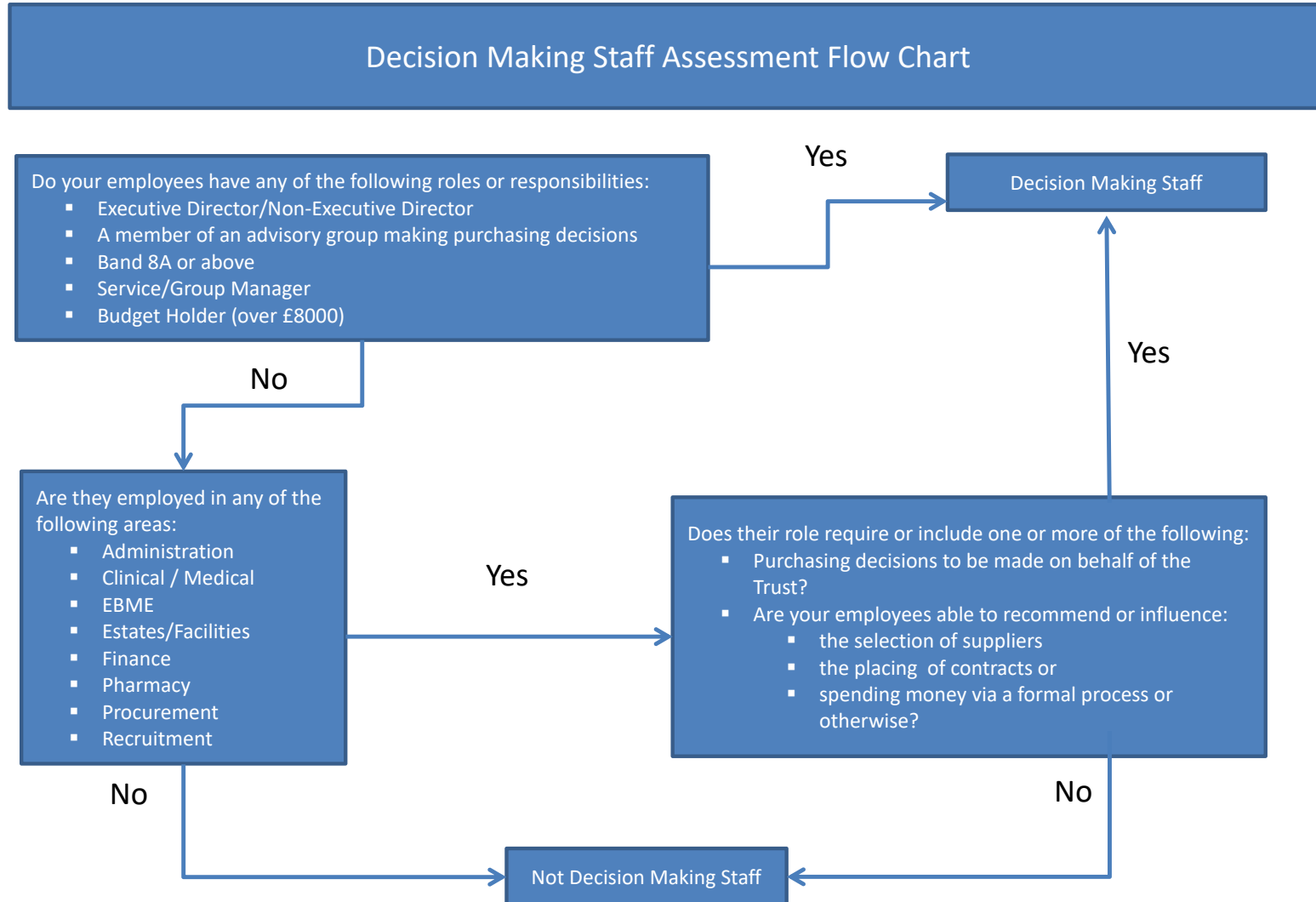
Action – This should be clearly declared as the outcome of the decision would affect their own situation.

Example –

A physician who is a part owner in a nursing home where the Trust sometimes places patients

Action – This should be declared.

APPENDIX B – DECISION-MAKING STAFF FLOWCHART



APPENDIX C – DECLARATION OF INTERESTS FORM

All staff are required to declare any interests they hold external to their Royal Devon University Healthcare NHS Foundation Trust employment. Nil declarations are required.

Should you hold more than one interest, please list each one on the form. Examples of declarations can be found on HUB.

SECTION A – TO BE COMPLETED BY MEMBER OF STAFF	
All staff are required to declare ANY interests they hold external to their Royal Devon University Healthcare NHS Foundation Trust employment. Nil declarations are required. This form should be completed electronically and submitted via email to your Line Manager for review (approve or decline the declaration), retain a copy, and send a copy to the Governance Co-ordinator:	
Name:	
Role:	
Department:	
Site:	
Declaration Title:	
Declaration Detail (see required info below): <small>(NOTE - If you do not have any interests to declare, you should state 'None' in the adjacent box and declaration title). See Appendix A for examples of declarations and page 20 for detail required related to Secondary Employment.</small>	
Date of Interest Acquired:	
DECLARATION:	
In completing this declaration of interest form, I confirm that I have read and understood the requirements set out in the Standards of Business Conduct Policy. The declared information provided above is complete and accurate. I acknowledge that any changes in these declarations must be notified in writing to my line manager as soon as practicable, but no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then I may be subject to civil, criminal, internal disciplinary and/or professional regulatory action.	
Signed:	
Dated:	

SECTION B – Decision-Making Staff – please tick the relevant box below I am a Decision-Making Member of Staff: Yes <input type="checkbox"/> No <input type="checkbox"/> <small>(see Section 3.5, 4.11 and Appendix B of Standards of Business Conduct Policy for more details)</small> If you are a Decision-Making Member of Staff, please complete the section below.
To be completed by decision-making staff only
I do / do not [delete as applicable] give my consent for this information to be published on the public website. If consent is NOT given please give reasons below:

SECTION C – TO BE COMPLETED BY LINE MANAGER

(Note: If a line manager shares the same interest as the employee’s declared interest, the review and assessment must be completed by the next line manager who does not hold the same interest).

Name:	
Role:	
Department:	
Assessment of Declaration:	
Declaration of Interest Status:	The declared interest is (delete as applicable): A CONFLICT OF INTEREST with their employment A POTENTIAL CONFLICT OF INTEREST with their employment NOT A CONFLICT OF INTEREST with their employment.
Can the conflict of interest be managed? (If applicable) Note: for Sponsorship Posts and Clinical Private Practice include action to be taken.	If yes, detail mitigating actions below. If no, report to the Director of Governance immediately.
DECLARATION:	
In completing this declaration of interest form, I confirm that I have read and understood the requirements set out in the Standards of Business Conduct Policy. The declared information has been thoroughly discussed and my assessments have been completed to the best of my knowledge. I confirm that I do not hold any shared interests with the employee declaring this interest. I am aware that if I intentionally withhold information then civil, criminal, internal disciplinary and/or professional regulatory action may occur.	
Signed:	
Dated:	

SECTION D – DATA PROTECTION STATEMENT

NOTE: The information submitted will be held by the **Royal Devon University Healthcare NHS Foundation Trust** for personnel or other reasons specified on this form and to comply with the organisation’s policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 2018. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000, Data Protection Act 2018 and published in registers that the Trust holds.

APPENDIX D – EXAMPLES OF POSSIBLE SCENARIOS – GIFTS

Example –

A mother who recently attended the Maternity unit gives a box of chocolates to the receptionist and asks that it be given to the staff on the unit.

Action – This can be accepted without making a declaration.

Example –

A patient attends the Emergency Department. He attempts to give a receptionist a £50 gift voucher and asks if his case can be prioritised.

Action – This must not be accepted and must be reported as a declined gift.

Example –

A patient is discharged after receiving stroke rehabilitation treatment. They speak to an HCA and say: “Here’s £100, put it towards the department’s Christmas Do.”

Action – The HCA must declare this to their line manager in the first instance. If the Line Manager deems it appropriate the gift may be accepted. If accepted the gift must be used for the intended purpose and paid into the department/ward trust fund and a declaration made.

Example –

A pharmaceutical industry representative has a meeting with a Pharmacist. The representative brings some biscuits to have during the meeting.

Action – This can be accepted without making a declaration.

Example –

A medical devices industry representative offers a procurement officer an all-expenses-paid holiday if they award a contract to them.

Action – This must be categorically declined. The offer must still be reported as a declined gift and the Trust’s Local Counter Fraud Specialist must be informed.

Example –

A member of staff is left some money or specified items in a patient’s Will.

Action – Upon notification the member of staff must notify their line manager. The staff member confirms that they neither influenced the deceased nor treated them preferentially. The manager makes enquires with other members of staff and this is supported, the manager subsequently notifies the Director of Governance for their approval. It is agreed that the staff member can accept the bequest.

Example –

A member of staff is left some money in a patient’s Will. Family members of the deceased had concerns that the member of staff acted inappropriately. And this is supported by comments made by other staff members.

Action – The Local Counter Fraud Specialist should be contacted immediately.

APPENDIX E – EXAMPLES OF POSSIBLE SCENARIOS – HOSPITALITY

Example –

A medical devices industry representative offers to conduct some training for orthopaedic surgeons at a local restaurant after normal working hours. Immediately following the training course, they have offered to pay for the attendees to have dinner, the cost of the dinner is in line with Trust subsistence rates. This has been arranged via the clinical lead surgeon.

Action – The clinical lead surgeon would need to declare this offer to the Medical Director for their approval. The approval would then need to be registered on the Trust's hospitality register. After the event the entry would need to be updated with the details of all attendees. There would not be a requirement for each individual attendee to submit a separate declaration.

Example –

A pharmaceutical industry representative invites a member of staff to a prestigious event (sporting, film, music, theatre, special conference, product launch etc.)

Action – This cannot be accepted. In some circumstances you might wish to agree to attend on the proviso that you meet the costs yourself. However, tickets to such events are often 'valued' at significantly higher than the face value on the ticket. In all cases, the invitation must be discussed with your line manager; and the decision must be agreed in advance with the Director of Governance.

Example –

A medical devices industry representative invites a registrar to attend an intensive cadaveric training course over 3 days. The representative has stated that their company will cover the costs for accommodation and subsistence and said that the luxury hotel has spa facilities and golf course which can be used by residents.

Action – The Trust acknowledges that a training course of this nature may be highly beneficial for the attendee and also the Trust and may be accepted (further guidance can be sought in the policies - Study Leave for Consultants, Staff and Associate Grade Doctors / Training and Study Leave). However, the offer of accommodation is not proportionate to NHS standards and would have to be declined.

Example –

An industry representative has requested to display a stand providing educational material at the next governance meeting. The company have offered to provide lunchtime refreshments.

Action – If the offer is accepted, the point of contact for the Trust liaising with the industry representative must make a declaration. It is important to note that any requests from other companies within the same field of industry are given the opportunity to display a stand.

APPENDIX F – DECLARATION OF AN OFFER OF GIFT(S)/HOSPITALITY FORM

SECTION A – TO BE COMPLETED BY MEMBER OF STAFF	
<p>This form must be completed if in connection with your official duties you are offered any form of gift, hospitality or sponsorship whether ACCEPTED or DECLINED from a third party, as outlined in paragraphs 8.14 - 8.17 of the Standards of Business Conduct Policy. This form should only be completed electronically and submitted via email to your Line Manager for review (approve or decline the declaration at Section B), retain a copy, and send a copy to the Governance Co-ordinator:</p>	
Name:	
Role:	
Department:	
Site:	
Description of Gift/Hospitality:	
Value of Gift/Hospitality: <small>Actual (if known) or estimated</small>	
Date(s) of receipt:	
Other information: <small>e.g. circumstances surrounding the gift</small>	
DECLARATION:	
<p>In completing this declaration in receipt of an offer of a gift(s)/hospitality form, I confirm that I have read and understood the requirements set out in the Standards of Business Conduct Policy. The declared information provided above is complete and accurate. I acknowledge that any changes in these declarations must be notified in writing to the Royal Devon University Healthcare NHS Foundation Trust as soon as the change is known. I am aware that if I do not make full, accurate and timely declarations then I may be subject to civil, criminal, internal disciplinary and/or professional regulatory action.</p>	
Signed:	
Dated:	

SECTION B – TO BE COMPLETED BY LINE MANAGER

(Note: If a line manager shares the same offer of gift(s)/hospitality as the employee’s declared gift(s)/hospitality, the review and assessment must be completed by the next line manager who does not hold the same offer).

Name:	
Role:	
Department:	
Assessment of Declaration:	
Declaration of Gift/Hospitality Assessment:	The declared gift/hospitality is (delete as applicable): A CONFLICT OF INTEREST with their employment and is REJECTED . NOT A CONFLICT OF INTEREST with their employment and is APPROVED .
Details of any approvals given by the Director of Governance to depart from the terms of the Standards of Business Conduct Policy?	
DECLARATION:	
In completing this declaration of interest form, I confirm that I have read and understood the requirements set out in the Standards of Business Conduct Policy. The declared information has been thoroughly discussed and my assessments have been completed to the best of my knowledge. I confirm that I have not been offered the same gift(s)/hospitality as the employee declaring this offer. I am aware that if I intentionally withhold information then civil, criminal, internal disciplinary and/or professional regulatory action may occur.	
Signed:	
Dated:	

SECTION C – DATA PROTECTION STATEMENT

NOTE: The information submitted will be held by the **Royal Devon University Healthcare NHS Foundation Trust** for personnel or other reasons specified on this form and to comply with the organisation’s policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 2018. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000, Data Protection Act 2018 and published in registers that the Trusts hold.

APPENDIX G – FREQUENTLY ASKED QUESTIONS

To help staff members understand what they need to do and how the guidance applies to them, NHS England have published some short question and answer guides for key staff groups:

- [Q&A for NHS Provider Managers](#)
- [Q&A for Clinical Staff](#)
- [Q&A for Medical Staff](#)

These and other useful information are also available on the Trust's intranet page for Conflicts of Interest at the following web address:

<https://royaldevonstaff.nhs.uk/corporate-governance>

Further information on managing conflicts of interest can be found through the NHS England website at: www.england.nhs.uk/ourwork/coi

If you have any concerns regarding a conflict of interest, please raise with your Line Manager in the first instance, if not appropriate you can raise with the Director of Governance or the Trust's Freedom to Speak Up Guardians. Information about the Freedom to Speak up Guardians and how to raise a concern with them can be found on the Trust's intranet page at the following web address:

<https://royaldevonstaff.nhs.uk/freedom-to-speak-up-guardians>

In the meantime, if you have any questions or queries on the guidance in this policy, please contact the Director of Governance or the Local Counter Fraud Specialist for advice.

APPENDIX H – COMMUNICATION PLAN

COMMUNICATION PLAN

The following action plan will be enacted once the document has gone live.

Staff groups that need to have knowledge of the strategy/policy	All staff at Royal Devon University Healthcare NHS Foundation Trust
The key changes if a revised policy/strategy	Full review of policy, harmonising with NDHT policy and including additional content as required. Line managers to sign off forms and declining of gifts also needs to be declared. Gifts/hospitality must be declared and approved prior to acceptance.
The key objectives	Help staff manage conflicts of interest risks effectively, and provide guidance and support to those staff whose work brings them into contact in a business sense, with outside companies and organisations of any sort.
How new staff will be made aware of the policy and manager action	As part of the recruitment process as documentation required for employment
Specific issues to be raised with staff	All staff should be made aware of the policy/strategy, particularly decision-making staff and those involved in procurement and tendering. Particular attention should be drawn to the requirement to declare all relevant conflicts including secondary employment and how these will be recorded.
Training available to staff	Support can be obtained from the Fraud Specialist and Director of Governance
Any other requirements	
Issues following Equality Impact Assessment (if any)	No negative impacts
Location of hard / electronic copy of the document etc.	Electronic copies to be held on the intranet

APPENDIX I – EQUALITY IMPACT ASSESSMENT TOOL

Name of document	Standards of Business Conduct Policy
Division/Directorate and service area	Chief Executive Officer
Name, job title and contact details of person completing the assessment	Melanie Holley, Director of Governance
Date completed:	21 November 2016

The purpose of this tool is to:

- **identify** the equality issues related to a policy, procedure or strategy
- **summarise the work done** during the development of the document to reduce negative impacts or to maximise benefit
- **highlight unresolved issues** with the policy/procedure/strategy which cannot be removed but which will be monitored, and set out how this will be done.

1. What is the main purpose of this document?

To inform all Trust staff of the provisions, directives and implications of their conduct as Trust employees, in relation to external businesses.

2. Who does it mainly affect? (Please insert an “x” as appropriate:)

Carers Staff Patients Other (please specify)

3. Who might the policy have a ‘differential’ effect on, considering the “protected characteristics” below? (By differential we mean, for example that a policy may have a noticeably more positive or negative impact on a particular group e.g. it may be more beneficial for women than for men)

Please insert an “x” in the appropriate box (x)

Protected characteristic	Relevant	Not relevant
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sex - including: Transgender, and Pregnancy / Maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Religion / belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Sexual orientation – <i>including:</i> <i>Marriage / Civil Partnership</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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4. **Apart from those with protected characteristics, which other groups in society might this document be particularly relevant to...** (e.g. those affected by homelessness, bariatric patients, end of life patients, those with carers etc.)?

None

5. **Do you think the document meets our human rights obligations?**

Feel free to expand on any human rights considerations in question 6 below.

A quick guide to human rights:

- **Fairness** – *how have you made sure it treat everyone justly?*
- **Respect** – *how have you made sure it respects everyone as a person?*
- **Equality** – *how does it give everyone an equal chance to get whatever it is offering?*
- **Dignity** – *have you made sure it treats everyone with dignity?*
- **Autonomy** – *Does it enable people to make decisions for themselves?*

6. **Looking back at questions 3, 4 and 5, can you summarise what has been done during the production of this document and your consultation process to support our equality / human rights / inclusion commitments?**

Equality & Diversity Manager
JSCNC
Policy Expert Panel
Board of Directors

7. **If you have noted any ‘missed opportunities’, or perhaps noted that there remains some concern about a potentially negative impact** please note this below and how this will be monitored/addressed.

“Protected characteristic”:	
Issue:	
How is this going to be monitored/ addressed in the future:	

Group that will be responsible for ensuring this carried out:	
--	--