

STANDARDS OF BUSINESS CONDUCT AND BEHAVIOUR POLICY

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DIRECTOR LEAD	Company secretary
AUTHOR	Company secretary
EQUALITY and HUMAN RIGHTS IMPACT ANALYSIS	120625-1
CONSULTATION	Head of Procurement, 2020 Head of Research & Development, 2020 Resourcing Manager, 2020 Senior L&D facilitator, 2020 JCNC, 2020
THIS DOCUMENT REPLACES	CP.2013.4 (Standards of business conduct & behaviour policy)
This document is available in alternative formats upon request, such as large print, electronically or community languages.	

RELATED POLICIES, CODES AND GUIDANCE	
Trust	National
Standing Orders, Standing Financial Instructions and the Scheme of Delegation	NHS Code of Conduct (Department of Health), Code of Conduct for NHS Managers (October 2002 Department of Health) and Code of Conduct for Private Practice – Guidance for NHS Medical Staff
Trust Disciplinary Policy and procedures	Department of Health, Commercial Sponsorship – Ethical Standards for the NHS
Raising concerns (Whistleblowing Policy)	The Fraud Act 2006
Counter-Fraud Policy	The Data Protection Act and Caldicott Guardian Principles
Medicines Management Policy for the Promotion of Medicines	Terms and Conditions – Consultants (England) 2003
Information Governance Policy and principles	The Bribery Act 2010
Policy for Visiting Medical & Dental Staff, Clinical Attachments, Students & other visitors	“Commercial Sponsorship – Ethical Standards for the NHS” (DoH Guidance)
Private Practice Policy	Association of British Pharmaceutical Industries (ABPI) Code of Practice
Procurement Policy	Chartered Institute of Purchasing and Supply Ethical Code
	Any relevant national professional code of conduct
	Managing Conflicts of Interest in the NHS 2017 (NHS England)

Document History and Control:

Version	Date Ratified	Brief summary of significant changes/ amendments	Author/ contributor
1	15/06/2009		Kathleen Anderson, Head of Corporate Affairs
2	27/02/2014	Additional guidance around registration of the offer and/or acceptance of gifts and around general compliance	Lois Howell, interim Head of Corporate Affairs
3	21/07/2016	Revised to make explicit that declarations and disclosure are required from budget holders and staff involved in tendering	Hilary Saunders, Deputy Company Secretary
4	20/07/2017	Updated to include NHS England national guidance for all staff and organisations on managing of interest (Publications Gateway Reference: 06419)	Hilary Saunders, Deputy Company Secretary
5	21/03/2018	Revised to ensure consistency in the way in which gifts of cash and vouchers are managed (S8.1.2). These may now be donated to the QVH Charity.	Hilary Saunders, Deputy Company Secretary
6	12/12/2018	Revised to expand scope (item 2.3). Decision making staff are now classed as those at AfC Band 8b and above, and consultants. Also amended to update contact details.	Hilary Saunders, Deputy Company Secretary
7	09/12/2020	Revised to further expand list of staff required to make a declaration to include Finance, Estates, Facilities, Procurement, Business Intelligence, IM&T, Contracts, Business Development, (as identified by relevant Heads of Department). Updated to reflect Trust's Private Practice policy and revised appendices	Hilary Saunders, Deputy Company Secretary
8	08/12/2021	Updated to reflect revised process for recording declarations on ESR, online training for decision makers, process for new starters	Clare Pirie, Director of communications and corporate affairs

9	26/07/2022	Updated to incorporate changes made to the NHS Standard Contract 2021/22 General Conditions which includes a requirement for NHS Providers to publish the name and position of any decision maker that fails to complete a declaration of interest or a nil return within the contract year.	Leonora May, Deputy Company Secretary
10	13/12/2023	Updated references to 'Audit Committee' to Audit & Risk Committee'	Leonora May, interim Company Secretary
11	04/09/2024	Changes made upon advice from the Trust's local counter fraud support: <ul style="list-style-type: none"> - Expansion of explanation of decision making staff - Duplicated information removed - Fit and proper person requirements for Board members included - Additional information included regarding outside employment and employment of friends and family 	Leonora May, Company Secretary

KEY MESSAGES

- 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.
- A 'conflict of interest' is "*a set of circumstances by which a reasonable person would consider that an individual's ability to apply judgement or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by another interest they hold.*"
- A conflict of interest may be **actual** (there is a material conflict between one or more interests) or **potential**, (there is the possibility of a material conflict between one or more interests in the future).
- Those staff identified by the Trust as 'decision making' are required, at least annually, to update their declarations of interest **OR MAKE A NIL RETURN**. The Trust will publish on its website the name and position of any decision making members of staff who have failed to complete a declaration of interest or NIL return at the end of the financial year,

As a member of staff you should:

- Familiarise yourself with this policy and follow it.
- Familiarise yourself with specific guidance in relation to gifts, hospitality, outside employment, shareholding, patents, loyalty interests, donations, sponsored events, research and posts, and clinical practice as set out in Section 7 of this policy.
- Regularly consider what interests you have and declare these as they arise. If in doubt, declare.
- **NOT** misuse your position to further your own interests or those close to you.
- **NOT** be influenced, or give the impression that you have been influenced by outside interests.
- **NOT** allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money.

Contents

1. Introduction	Page 6
2. Scope	Page 6
3. Duties	Page 8
4. Identification, declaration and review of interest	Page 9
5. Records and publication	Page 10
6. Management of Interests: General	Page 12
7. Management of Interests: Common Situations	Page 12
8. Management of Interests: Advice in specific contexts	Page 18
9. Training and awareness	Page 20
10. Equality	Page 20
11. Freedom of information	Page 20
12. Records Management	Page 20
13. Dealing with breaches	Page 20
14. Review	Page 22
15. Monitoring Compliance with the Document	Page 23
16. References	Page 24
17. Associated Documentation	Page 24

1. Introduction

Queen Victoria Hospital NHS Foundation Trust and the people who work with and for us, collaborate closely with other organisations, delivering high quality care for our patients.

These partnerships have many benefits and should help ensure that public money is spent efficiently and wisely, but there is a risk that conflicts of interest may arise.

Providing best value for taxpayers and ensuring that decisions are taken transparently and clearly, are both key principles in the NHS Constitution. We are committed to maximising our resources for the benefit of the whole community. As an organisation and as individuals, we have a duty to ensure that all our dealings are conducted to the highest standards of integrity and that NHS monies are used wisely so that we are using our finite resources in the best interests of patients. As such, and as set out in the Trust's Counter Fraud Policy, the Trust has a zero tolerance attitude towards fraud and bribery. Circumstances around gifts, hospitality and interests could be considered a bribe and all members of staff should consider this in all actions involving gifts, hospitality or interests to protect themselves and the Trust from criminal prosecution.

To comply with the Trust's Standards of Business Conduct and Behaviour Policy, all staff should maintain high standards of conduct at all times. All staff and any others carrying out any of the Trust's business in any capacity other than that of employee are expected to ensure that public confidence in their integrity is not harmed in any way.

This policy reinforces a range of national guidance relating to the conduct of business within the Trust and underpins the Trust's Constitution, Standing Orders and Standing Financial Instructions. It consolidates existing laws, regulations, conditions of service and guidance from a variety of sources and incorporates national guidance on managing conflicts of interest. The policy applies to all Trust employees, as well as Non-Executive Directors, Governors and all those who undertake work for the benefit of the Trust on a contract for services basis or under any other arrangement, as outlined in section 2.2.

This policy sets out broad principles and points of contact for staff with specific queries. Its purpose is to assist all staff to understand their responsibilities in relation to standards of business conduct and behaviour that apply within the Trust. This includes action to be taken with regard to conflicts of interest, gifts, hospitality, sponsorship, shareholdings and other ownership issues, patents, loyalty interests, secondary employment, and donations.

This policy is for the protection of the Trust, its staff and all those acting in connection with the business of the Trust against accusations or suspicion. This policy is designed to help staff manage the risk of perceived conflicts of interest by introducing consistent principles and rules, providing simple advice about what to do in common situations and supporting good judgement about how to approach and manage interests.

2. Scope

- 2.1 The policy explains how staff and all those to whom the policy applies are expected to deal with any conflicts of interest, confidential matters, gifts, offers of hospitality and sponsorship and the relationship between NHS work, private practice and fee paying services.
- 2.2 Employees must follow these requirements and it is important that employees understand that any breach will be viewed as a serious disciplinary matter, which could lead to an internal or Professional Regulatory Body dismissal, civil remedy or prosecution for a criminal offence.

At QVH 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 and locums
- Third parties acting on behalf of the Trust (such as secondees or those with an honorary contract)
- Board, committee, sub-committee and advisory group members (who may not be directly employed or engaged by the organisation)

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

At QVH, decision making staff are classed as those:

- Agenda for Change Band 8d and above and clinical equivalent
- Executive and non-executive directors
- Budget holders
- Members of the Finance, Estates, Facilities, Procurement, Business Intelligence, IM&T, Contracts and Business Development teams (as identified by Heads of Department);
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services
- Administrative and clinical staff who have the power to enter into contracts on the Trust's behalf, or who may be involved in decision-making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment and formulary decisions
- Clinical directors and divisional managers, senior directors reporting to an executive director, heads of departments or services, and all established consultant staff not already captured within the above

Decision-making staff are required, at least annually, to update their declarations of interest **OR MAKE A NIL RETURN.**

3. Duties

All staff working for or on behalf of the Trust, as outlined within section 2.2 of this policy, have a responsibility to ensure compliance with this policy and be aware of the potential for a conflict of interest while maintaining high ethical and professional standards at all times. Such situations must be carefully managed to ensure that the overall conduct of staff and any conflict of interest do not detrimentally impact on the NHS standards of, or public confidence in, the Trust.

All staff should be aware that whilst this policy specifically relates to business conduct, personal conduct during non-working hours which may constitute a breach will still be managed in accordance with the policy should it have negative reputational or financial consequences for the Trust.

Under this policy all Trust staff are expected to:

- Ensure that the interests of patients remain paramount at all times
- Be impartial and honest in the conduct of their official business
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money

In addition, all Trust staff has an individual responsibility to ensure they do not

- Abuse their official position for personal gain or to benefit their family friends
- Seek to advantage or further private business or other interests in the course of their official duties
- Ensure any personal conduct does not have or bring a negative perception of the Trust

It is also an offence under the Bribery Act 2010 for an employee to corruptly accept any inducement of reward for doing, or refraining from doing, anything in his/her official capacity or corruptly showing favour or disfavour in their handling of contracts.

The Trust is required to maintain proportionate adequate procedures to mitigate the risk of bribery, in accordance with the Bribery Act 2010. This includes the appropriate management of gifts, hospitality, sponsorship and interests and is applicable to all persons associated with the Trust, as outlined in this policy. The Trust fully supports this act and further information can also be found in the Trust's Counter Fraud Policy.

The corporate offence means that commercial organisations, including the NHS, will be exposed to criminal liability and punishable by an unlimited fine for failing to prevent bribery in the conduct of their business. It is therefore the policy of the Trust to conduct all of our business in an honest and ethical manner, implementing and enforcing effective systems to prevent bribery.

The Act is not intended to prevent genuine hospitality or similar business expenditure that is reasonable and proportionate, so organisations can continue to fund bona fide hospitality and promotional activity. However, it is expressly prohibited for a member of staff to accept any gift or benefit from an

organisation that is actively involved in a tender process with the Trust.
Therefore, it is the responsibility of every member of staff to:

- Act in accordance with this policy
- Treat with extreme caution any offers of gifts, favour, hospitality or token of goodwill made by suppliers, or potential suppliers of goods or services to the Trust
- Identify and declare material interests at the earliest opportunity

It is the responsibility of managers to:

- Act in accordance with this policy
- Ensure that staff under their responsibility are aware and adhere to the policy
- To consider and approve/decline requests to staff in accordance with the policy

It is expected that, through agreed procedures and, without fear of recrimination, employees will bring to the attention of their line manager, any impropriety or breach of procedure in line with the Raising Concerns (Whistleblowing) Policy. Please refer to section 13 for further information.

Statutory requirements ensure that certain types of information be made available to members of the Board of Directors and Council of Governors, auditors, NHS departments, service users and the public. In addition, the Trust also has guidance on relations with the public and the media, which includes guidance on information which can be regarded as open. Staff and all those persons to whom this policy applies must ensure that they are aware of this guidance and they must act accordingly. If staff are in any doubt, they must consult their immediate supervisor. No confidential information should be released to anyone without proper authorisation. If in doubt, staff should seek advice from the Caldicott Guardian and/or the lead for Information Governance.

External consultants (individuals or corporate bodies) will be required to sign the Trust's 'Confidentiality Undertaking for Commercial Consultants' document.

Staff and all those persons to whom this policy applies who obtain any information in the course of employment or other service to the Trust, must not use such information for personal gain or benefit, nor should they pass on such information to others who might use it in such a way. In addition, official positions previously or currently held by any person must not be abused to obtain preferential rates for private deals.

Where information is covered by any statutory provisions, such as the Freedom of Information Act or the General Data Protection Regulations (GDPR) these must also be adhered to and the Trust's policies in that regard must be adhered to.

Disclosure & Barring Service (DBS) checks will be undertaken on all appropriate staff, as defined within DBS and NHS guidance. With agreement from staff side groups, retrospective checks may also be undertaken, but only if the member of staff falls within the criteria indicated by NHS guidance.

Board members and Directors will also be asked to confirm that they remain a Fit and Proper Person in accordance with Regulation 5 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

4. Identification, declaration and review of interests

4.1 Identification and declaration of interests (including gifts and hospitality)
Whilst the off-duty hours of employees or other persons covered by this policy are their own concern, all employees and others covered by this policy should ensure that their private interests do not come before their job or duty to the Trust and they should not put themselves in a position where their private interests conflict with their job duty to the Trust.

4.1.1 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.

4.1.2 All staff should identify and declare material interests at the earliest opportunity (and in any event within 28 days of the interest, gift or hospitality arising). If staff are in any doubt as to whether an interest is material then they should declare it, so that it can be considered.

Declarations should be made:

- On appointment with the organisation (within one week of starting work);
- When staff move to a new role or their responsibilities change significantly;

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.

- At the beginning of a new project/piece of work, for example a procurement;
- 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); and
- Those staff identified as 'decision making' are required, at least annually, to update their declarations of interest **OR MAKE A NIL RETURN**

4.1.3 If staff need to make a declaration, they should first speak to their line manager to agree how the actual or perceived conflicts they are about to declare will be managed. They should then log onto ESR via the website <https://my.esr.nhs.uk/> (or via the app) to make their declaration.

4.1.4 If staff require further clarification with regard to guidance, they should contact the Deputy Company Secretary in the Corporate Affairs Team.

4.1.5 The Corporate Affairs team maintains a Register of Interests for all staff. The information from the declaration return will be entered onto the Register of Interests. After expiry, an interest will remain on register(s) for a minimum of 6 months and a private record of historic interests will be retained for a minimum of 6 years.

4.2 Proactive review of interests: The Trust will prompt decision making staff annually, via its staff newsletter *Connect*, to review declarations they have made and, as appropriate, update them or make a nil return. There is a process of reminders and escalation to ensure that all decision making staff comply with this requirement. Members of the Council of Governors will be contacted directly by the Deputy Company Secretary with a reminder to update their declarations at the beginning of each financial year.

5. Records and publication

5.1 Maintenance

5.1.1 The organisation will maintain one central register of interests through the ESR system, which will include interests, gifts and hospitality.

5.2 Publication

5.2.1 The Trust will:

- Publish the interests declared by decision-making staff.
- Refresh this information annually.
- Make this information available on the QVH website.

5.2.2 **In line with the NHS Standard Contract 2021/22 General Conditions (full length) the Trust is required to publish the name and position of any decision making staff that failed**

to complete a declaration of interest or NIL return within the financial year.

- 5.2.3 If decision making staff have substantial grounds for believing that publication of their interests should not take place then they should contact the Director of Communications and Corporate Affairs to explain why. In exceptional circumstances, for instance where publication of information might put a member of staff at risk of harm, information may be withheld or redacted on public registers. However, this would be the exception and information will not be withheld or redacted merely because of a personal preference

5.3 Wider transparency initiatives

- 5.3.1 Queen Victoria Hospital NHS FT fully supports wider transparency initiatives in healthcare, and we encourage staff to engage actively with these.
- 5.3.2 Relevant staff are required 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. The granting of consent for disclosure does not negate the requirement to declare these payments to the Trust in accordance with this policy.

These “transfers of value” include payments relating to:

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

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

<http://www.abpi.org.uk/our-work/disclosure/about/Pages/default.aspx>

6. Management of Interests: General

- 6.1 If an interest is declared but there is no risk of a conflict arising then no action is warranted. However, if a material interest is declared then the general management actions that could be applied include:
- 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

- 6.2 Each case will be different and context-specific, and Queen Victoria Hospital NHS FT will always clarify the circumstances and issues with the individuals involved. Staff should maintain a written audit trail of information considered and actions taken and the decision will be recorded on the Register of Interests.
- 6.3 Staff who declare material interests should always make their line manager or the person(s) they are working to aware of their existence.
- 6.4 The Corporate Affairs team will work closely with the Procurement Team to ensure that declarations declared as part of a tender exercise are recorded on the Trust registers. Furthermore, the Register of Interest will also be shared with the Procurement team to ensure that all actual or potential conflicts of interest are identified.

7. Management of Interests: Common Situations

7.1 Gifts

Staff should be aware that an offer of gifts or hospitality may constitute a bribe, and this should be considered in all circumstances in order to protect themselves and the Trust from criminal prosecution.

It is expressly prohibited for a member of staff to accept any gift or benefit from an organisation that is actively involved, or likely to be involved, in a tender process with the Trust.

Furthermore, staff should not accept gifts that may affect, or be seen to affect, their professional judgement or the outcome of business transactions.

7.1.1 Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the organisation should be declined, whatever their value.
- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6³ in total, and need not be declared.

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

- Gifts of cash and vouchers to individuals should always be declined. However, when declining, staff are permitted to suggest the option of donating cash or vouchers to the QVH Charity.
- Staff should not ask for any gifts.
- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of the Trust, and not in a personal capacity. These should be declared by staff, along with a statement of how the gift has been disposed of. Such gifts could be shared with all staff in the team or donated to the Trust's charity.
- Gifts valued between £25 and £50 should be declared.

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

- Modest gifts accepted under a value of £25 do not need to be declared.
- A common sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).
- Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

7.1.3 What should be declared?

- Recipients name and role within the Trust.
- A description of the nature and value of the gift, including its source.
- Date of receipt.
- Details of previous gifts offered by the source
- Whether the offer was accepted or declined
- Reasons for accepting or declining the offer
- Any other relevant information (e.g. circumstances surrounding the gift, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

7.2 Hospitality

7.2.1 Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement or the outcome of business transactions.

Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.

Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This can be accepted, and must be declared, if modest and reasonable. Executive approval must be obtained.

On occasion it might be appropriate for professional relationship reasons to accept hospitality to a purely social event. In this instance, the event should be attended in the member of staff's own time, taking annual leave as necessary. The invitation should be recorded in the Register of Interest whether accepted or declined.

The Trust may provide hospitality for meetings, conferences and workshops with other organisations where there is a genuine business reason. This hospitality should be modest and appropriate to the occasion and subject to Executive Director approval.

7.2.2 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, whether accepted or declined.
- Over a value of £75 - should be refused unless (in exceptional circumstances) executive approval is given. A clear reason should be recorded on the

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

organisation's register(s) of interest as to why it was permissible to accept. Even where declined, the offer must be declared.

- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or an estimate that a reasonable person would make to its value).

7.2.3 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 executive staff, should only be accepted in exceptional circumstances, and must be declared. Even where declined, the offer must be declared.
- A clear reason should be recorded on the organisation's register(s) of interest as to why it was permissible to accept travel and accommodation of this type. A non-exhaustive list of examples includes:
 - offers of business class or first class travel and accommodation (including domestic travel)
 - offers of foreign travel and accommodation.

7.2.4 What should be declared?

- Recipients name and role within the Trust.
- The nature and value of the hospitality including the circumstances.
- Date of receipt.
- Details of previous hospitality offered by the source
- Whether the offer was accepted or declined
- Reasons for accepting or declining the offer Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

Any payment that is received for speaking at conferences etc. (sometimes referred to as an Honorarium) in Trust time should be paid to the Trust.

7.3 Outside employment

Staff must not engage in outside employment which may conflict or be detrimental to their NHS work. This includes engaging in other work when claiming occupational sick pay from the Trust or working for another organisation during the hours they are employed by the Trust. This may be considered a breach of policy. A referral may also be made to the Trust's Local Counter Fraud Specialist for investigation on whether this constitutes as criminal offence which could result in prosecution under the Fraud Act, 2006. In either case a breach of this kind may result in dismissal for gross misconduct and/or referral to a professional body.

- #### 7.3.1
- Staff should declare any existing outside employment on appointment and any new outside employment when it arises.
 - Medical secretaries or other staff supporting the undertaking of private practice work should also ensure they are fully compliant with the Trust's Private Practice policy and complete and return a disclosure of information regarding private practice and private practice support as set out under Appendix 3 of the Private Practice policy.

- Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks.
- Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from the organisation to engage in outside employment.
- Medical and dental staff must declare to the Trust their private practice activities including through job planning and the annual ESR declaration.
- It is also the responsibility of each member of staff to inform their manager any existing outside employment on appointment and any new outside appointment when it arises. It is for the manager to determine whether the employment could lead to a potential conflict of interest, taking advice from the Executive Director if necessary. Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks. Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from the Trust to engage in outside employment.

7.3.2 The organisation may also have legitimate reasons within employment law for knowing about outside employment of staff, even when this does not give rise to risk of a conflict.

7.3.3 What should be declared?

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

7.4 Shareholdings and other ownership issues

- 7.4.1
- Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the organisation.
 - Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.
 - There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

7.4.2 What should be declared

- Nature of the shareholdings/other ownership interest.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

7.5 Patents

- 7.5.1
- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation.

- Staff should seek prior permission from the organisation before entering into any agreement with bodies regarding product development, research, work on pathways etc., where this impacts on the organisation's own time, or uses its equipment, resources or intellectual property.
- Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

7.5.2 What should be declared?

- A description of the patent.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy)

7.6 Loyalty interests

7.6.1 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.

7.6.2 What should be declared?

- .Nature of the loyalty interest.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

7.7 Donations

- 7.7.1**
- Donations made by suppliers or bodies seeking to do business with the organisation should be treated with caution and not routinely accepted. In exceptional circumstances, if an individual believes that it is appropriate or necessary to accept a donation of this type, they may be accepted but should always be declared. Advance Executive Director approval must be sought and documented, and a clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.
 - Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the organisation, or is being pursued on behalf of the organisation's own registered charity or other charitable body and is not for their own personal gain.
 - Staff must obtain permission from the organisation if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the organisation's own.
 - Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.

- Staff wishing to make a donation to a charitable fund in lieu of receiving a professional fee may do so, subject to ensuring that they take personal responsibility for ensuring that any tax liabilities related to such donations are properly discharged and accounted for

7.7.2 What should be declared?

- Nature of the donation.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).
- QVH NHS FT will maintain records in line with the above principles and rules and relevant obligations under charity law.

7.8 Sponsored events

All sponsorship is to be approved by the relevant Executive Director. The acceptance of commercial sponsorship should not in any way compromise any purchasing decisions or be dependent on the purchase or supply of goods or services.

- 7.8.1**
- Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit 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.
 - The involvement of a sponsor in an event should always be clearly identified.
 - Staff within the organisation involved in securing sponsorship of events should make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event.
 - Staff arranging sponsored events must declare this to the organisation.

7.8.2 What should be declared?

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

7.9 Funded research

- 7.9.1**
- Funding sources for research purposes must be transparent.
 - Any proposed research must go through the relevant health research authority or other approvals process.
 - There must be a written protocol and written contract between staff, the organisation, and/or institutes at which the study will take place and the funding organisation, which specifies the nature of the services to be provided and the payment for those services.

- The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
- Staff should declare involvement with funded research to the organisation.

7.9.2 What should be declared?

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

7.10 Funded posts

- 7.10.1**
- External funding of a post requires prior approval from the organisation.
 - Rolling funding of posts should be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.
 - Funding of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing or prescribing and dispensing habits. This should be audited for the duration of the funding. Written agreements should detail the circumstances under which organisations have the ability to exit funding arrangements if conflicts of interest which cannot be managed arise.
 - Funded post holders must not promote or favour the funder's products, and information about alternative products and suppliers should be provided.
 - Funders 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.

7.10.2 What should be declared?

- The organisation will retain written records of funding of posts, in line with the above principles and rules.
- Staff should declare any other interests arising as a result of their association with the funder, in line with the content in the rest of this policy.

7.11 Clinical private practice

This section should be read in conjunction with the Trust's Private Practice policy

- 7.11.1** Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises⁵ including:

⁵ Hospital Consultants are required to provide their employer with this information by virtue of Para.3 Sch. 9 of the Terms and Conditions – Consultants (England) 2003: <https://www.bma.org.uk/>

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

- 7.11.2 Clinical staff should (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed):
- Seek prior approval of their organisation before taking up private practice.
 - Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work.⁶
 - Regarding private practice, appropriate employees must apply the terms of the Consultant Contract 2003, concerning Doctors' engagement in private practice and the Trust's Private Practice policy.
 - The Code of Conduct for Private Practice – Guidance for NHS Medical Staff highlights what is expected.
 - The Terms and Conditions – Consultants (England) 2003.
 - Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:
https://assets.publishing.service.gov.uk/media/542c1543e5274a131400c56/Non-Divestment_Order_amended.pdf
- 7.11.3 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 behalf⁷.
- 7.11.4 What should be declared ⁸
- A description of the nature of the private practice (e.g. what, where and when staff practise, sessional activity, etc).
 - Relevant dates and times.
 - Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy)
 -

7.12 Employment of friends and family

- 7.12.1 Potential members of staff must declare any current or previous relationship to employees of the Trust, as the employment of relatives may constitute a conflict of interest and must be declared. Failure to make a declaration leading to a conflict of interest may result in disciplinary action

/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf and the Trust's Private Practice policy

⁶ These provisions apply to Hospital Consultants by virtue of Paras.5 and 20, Sch. 9 of the Terms and Conditions – Consultants (England) 2003: https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf) and the Trust's Private Practice policy

⁷ See Trust's Private Practice policy,

⁸ See Appendix 1 of Trust's Private Practice policy (contract template)

- 7.12.2 It may not be acceptable for staff members in relationships to work within the same department and in each case advice must be sought from the Human Resources Department.
- 7.12.3 It is not acceptable for members of staff in relationships to act as supervisor or manager, whether in a direct or indirect sense, to one another.
- 7.12.4 An employee may not shortlist, interview, appoint, promote, review performance or terminate employment of a person related to them.

8. Management of Interests: Advice in specific contexts

8.1 Strategic decision making groups

- 8.1.1 In common with other NHS bodies QVH NHS FT 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.
- 8.1.2 The interests of those who are involved in these groups should be well known so that they can be managed effectively. At QVH these groups are the Board of Directors, committees of the Board of Directors, and the Hospital Management Team.
- 8.1.3 These groups should adopt the following principles:
 - Chairs should consider any known interests of members in advance, and begin each meeting by asking for declaration of relevant material interests.
 - Members should take personal responsibility for declaring material interests at the beginning of each meeting and as they arise.
 - Any new interests identified should be added to the organisation's register(s) and monitored in accordance with this policy.
 - 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.
- 8.1.4 If a member has an actual or potential interest the chair should consider the following approaches and ensure that the reason for the chosen action is documented in minutes or records:
 - 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.
- 8.1.5 The default response should not always be to exclude members with interests, as this may have a detrimental effect on the quality of the decision

being made. Good judgement is required to ensure proportionate management of risk.

8.2 Procurement

- 8.2.1 Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law, to ensure there is no discrimination against or in favour of any provider. Procurement processes should be conducted in a manner that does not constitute anti-competitive behaviour - which is against the interest of patients and the public.
- 8.2.2 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.
- 8.2.3 Regular reconciliation exercises are undertaken between declarations made to the Procurement Team and the Corporate Affairs team. If you require additional advice in this respect, please refer to the Trust's '*Procurement*' policy, '*Suppliers & Commercial Representatives Policy & Procedure*' or contact the Trust's Head of Procurement.

9. Training and Awareness

Staff are notified in writing of these requirements upon joining the organisation and the local induction checklist requires the line manager to confirm this has been discussed and that 'decision making staff' have made a declaration. The need for declarations is covered in corporate induction. The policy is available on the trust's intranet site (Qnet). In addition, regular reminders will be included in the staff publication 'Connect' throughout the year. Staff in a role identified as needing to make a declaration will receive a reminder from ESR on an annual basis.

10. Equality

This policy and protocol has been equality impact assessed in accordance with the Trust's impact assessment toolkit. Completed assessments are available upon request from qvh.eqia@nhs.net.

11. Freedom of Information

Any information that belongs to the Trust may be subject to disclosure under the Freedom of Information Act 2000. This act allows anyone, anywhere to ask for information held by the Trust to be disclosed (subject to limited exemptions). Further information is available in the Freedom of Information Act Trust Procedure which can be viewed on the Trust Intranet.

12. Records Management

Records are created or received in the conduct of the business activities of the Trust and provide evidence and information about these activities. All records are also corporate assets as they hold the corporate knowledge about the Trust. The Trust has a Records Management Policy for dealing with records management. Compliance with and the application of this policy will ensure that the Trust's records are complete, accurate and provide evidence of and information about the Trust's activities for as long as is required.

13. Dealing with breaches

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

13.1 Identifying and reporting breaches

- 13.1.1 Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns to the Freedom to Speak up Guardian (FTSU) or via the Local Counter Fraud Specialist (LCFS), in line with current processes. Contact details can be found in the Raising Concerns (Whistleblowing Policy) and the Counter Fraud Policy
- 13.1.2 To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this. All expressions of concern will be treated confidentially and staff will not be penalised in any way. For further information about how concerns should be raised via the related policies listed at the front of this document, in particular Raising concerns (Whistleblowing Policy) and the Counter-Fraud Policy
- 13.1.3 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.
- 13.1.4 Following investigation the organisation will:
 - Decide if there has been or is potential for a breach and if so what the severity of the breach is.
 - Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum.
 - Consider who else inside and outside the organisation should be made aware
 - Take appropriate action as set out in the next section.

13.2 Taking action in response to breaches

- 13.2.1 Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the organisation and could involve organisational leads for staff support (e.g. Human Resources), fraud (e.g.

Local Counter Fraud Specialists), members of the management or executive teams and organisational auditors.

- 13.2.2 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.
- 13.2.3 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.
- 13.2.4 Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then the organisation can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:
- Employment law action against staff, which might include
 - Informal action (such as reprimand, or signposting to training and/or guidance).
 - Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
 - Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be.
 - Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach.
 - Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

13.3 Learning and transparency concerning breaches

- 13.3.1 Reports on breaches, the impact of these, and action taken will be considered by the Audit and Risk committee on an annual basis.
- 13.3.2 To ensure that lessons are learnt and management of interests can continually improve, anonymised information on breaches, the impact of these, and action taken will be prepared and can be made available for inspection by the public upon request.

14. Review

This policy will be reviewed in three years' time. An earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.

15. Monitoring Compliance with this Policy

Activity being monitored	Methodology to be used for monitoring	Responsibility for monitoring	Frequency of monitoring and reporting	Process for review and improvement
Accuracy of declarations	Workforce to run ESR Dol report for review by EMT	Director of Communications and Corporate Affairs	Annual	Exec directors will be asked to review the names of those in their directorate looking for any staff they are aware should have made a declaration and for gaps in existing declarations. This will only pick up things of which the director is aware.
Accuracy of declarations	Spot check of 5% of declarations seeking confirmation from relevant line manager that they recognise the declaration	Director of Communications and Corporate Affairs	Annual	This process is intended to check that declarations have been properly signed off by line managers. The checking process could be extended to more declarations if non-compliance is significant.
Accuracy of declarations	Spot check of 5% of declarations against Companies House register of company directors	Director of Communications and Corporate Affairs	Annual	This process will identify staff who are company directors and we can check that they have declared this.
Breaches	Resulting breaches identified through monitoring to be reported to the following: <ul style="list-style-type: none"> Executive Management Team Audit and Risk committee 	Director of Communications and Corporate Affairs	Ad-hoc	Consideration of any changes needed to policy or process. Consideration of any formal action to be taken, including disciplinary and professional reporting where appropriate.

16. References

NHS England Managing Conflicts of Interest in the NHS: Guidance for staff and organisations 2017

<https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf>

Publications Gateway Reference: 06419

Terms and Conditions – Consultants (England) 2003

General Data Protection Regulations (GDPR)

17. Associated Documentation

- Freedom of Information Act 2000
- NHS Code of Conduct and Accountability (July 2004)
- The Fraud Act 2006
- The Bribery Act 2010
- ABPI: The Code of Practice for the Pharmaceutical Industry (2014)
- ABHI Code of Business Practice
- Code of Conduct for Private Practice – Guidance for NHS Medical Staff
- The Code of Conduct for NHS Managers
- The Data Protection Act and Caldicott Guardian Principles
- “Commercial Sponsorship – Ethical Standards for the NHS” (DoH Guidance)
- Chartered Institute of Purchasing and Supply Ethical Code
- The NHS Standard Contract 2021/22