

### Management of conflicts of interest policy

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Intranet	<a href="#">Link to policy here</a>
Related policies	Counter Fraud, Bribery and Corruption Policy Speaking up policy, Private practice guidelines, Disciplinary policy and procedure

### Version control sheet

Version	Date	Author	Status	Comments
Version 1	June 2014	Assistant director of finance	Final	
Version 1.1	February 2017	Board secretary	Draft	Updated following LCFS review and in light of NHS England consultation document and published guidance (February 2017)
Version 1.2	February 2017	Board secretary	Draft	Incorporating comments from director of corporate affairs and joint policy working group
Version 3	January 2018	Board secretary	Final	Incorporating contents of NHS England's model policy and suggestions from joint policy working group
Version 4	September 2019	Board secretary	Draft	Minor amendments to reflect organisational change and LCFS recommendations
Version 5	May 2020	Board	Draft	Minor amendments to reflect LCFS recommendations
Version 6	September 2021	Trust Secretary	Draft	Further amendments to reflect LCFS recommendations. Peer benchmarking and other changes as observed by new in post Trust Secretary. Includes further review by LCSF
Version 7	September 2021		Draft	Resolved picky problems. Further amendments as suggested by Audit Committee
Version 8	January 2022		Final	Final tweaks for publication
Version 9	May 2022		Final	Minor amendments as regards reference to/role of RF charity – not re-approved
Version 10	May 2022		Final	Minor amendment to definition of decision-making staff to refer to non-agenda for change senior staff, other VSMs and consultants as required to complete declarations
Version 11	August 2022		Final	Addition 7.1.7 and under definition of decision maker: <i>Where employed by the Trust on an honorary contract from another NHS organisation, all decision makers will also be required to complete a Royal Free declaration given their duty of responsibility, for completeness of records, and given templates for declaration may vary between organisations</i> Outside employment: amend that approval requirement <u>includes</u> employment which relates to organisations which are likely to do business with the NHS
Version 12	September 2022		Final	Appendix templates removed where published on Civica Declare. Appendix renumbering
Version 13	March 2023		Final	Update as regards definition of sponsored research and link to the Integrated Research Application System (IRAS) – section 7.4. Updates to definitions of outside employment, sponsored research, and loyalty

Policy Reference Guide For quick reference, this table summarises the actions required by this policy. However, this does not negate the need for staff and others to be aware of and to follow the further detail set out in this policy. Not adhering to the policy could damage the reputation of the Trust

As a member of staff you must	The Trust will
<p><b>Know this policy</b> and follow it. Refer to <a href="#">NHS England guidance</a> for the rationale behind the policy.</p> <p><b>Seek guidance</b> if you are not sure what is required of you.</p> <p><b>Speak up</b> If you think the Trust is not living up to the policy.</p> <p>Regularly consider what interests you have and declare these as they arise. <b>If in doubt, declare.</b></p> <p>Use common sense and judgment to consider whether your interests could affect the way taxpayers money is spent.</p> <p><b>NOT</b> misuse your position to further your own interests or those close to you.</p> <p><b>NOT</b> be influenced, or give the impression that you have been influenced by outside interests or through the acceptance of gifts or hospitality.</p> <p><b>NOT</b> allow outside interests to inappropriately affect the decisions you make when using NHS resources.</p>	<p>Make this policy and the supporting processes as clear as possible to help staff understand what they need to do.</p> <p>Have in place a team or individual who will:</p> <ol style="list-style-type: none"> <li>1. <b>Keep this policy under review</b> to ensure the Trust is in line with guidance</li> <li>2. <b>Provide advice</b>, training and support for staff on how interests must be managed</li> <li>3. <b>Maintain register(s) of interests</b></li> <li>4. <b>Audit this policy</b> and its associated processes and procedures at least once every three years</li> </ol> <p><b>NOT</b> avoid managing conflicts of interest</p> <p><b>NOT</b> interpret this policy in a way which stifles collaboration and innovation with partners of the Trust.</p>

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The Trust is committed to the delivery of world-class care and expertise to both staff and patients, and our values of positively welcoming, actively respectful, visibly reassuring and clearly communicating are fundamental to the delivery of this. This policy has been developed with our values in mind, and is intended to be implemented within the spirit of these values.

## 1. Introduction

This policy sets out clear guidance to all employees on the declaration of interests and how to respond to offers of gifts, sponsorship and hospitality within the course of their duties. The policy outlines circumstances when gifts/hospitality may be accepted or must be declined and when a declaration must be made in the register, using the online declaration of interests form on Civica Declare.

## 2. Policy statement

- 2.1 The aim of this policy is to provide guidance about the appropriate management of actual and potential conflicts of interest. Having interests is not in itself negative, but not declaring and managing them is. The policy cannot cover or anticipate all situations or circumstances that might arise, staff are therefore asked to think about the principles in this policy and take a common sense approach; ask yourself if your approach might compromise your own or the Trust 's reputation. Further advice can be sought (see section 12 below.)
- 2.2 This policy follows guidance contained in the NHS England guidance on '*Managing conflicts of interest in the NHS*' (February 2017) and is also deemed to be an integral part of the Trust 's regulatory framework. The policy also reflects the requirements of the *Bribery Act 2010*.
- 2.3 Failure to comply with the requirements of this policy will render the employee liable to disciplinary action up to and including dismissal.
- 2.4 Under the Bribery Act 2010, it is a criminal offence for an employee to:
- offer, promise or give a bribe
  - request, agree to receive or accept a bribe
  - bribe a foreign public official to obtain or retain business
  - make a representation that is false for personal or other gain or that puts the Trust at risk of loss
- It is also a criminal offence for the Trust to fail to prevent bribery.
- 2.5 Bribery can be money, gifts, hospitality or anything else that may be of benefit to the person, which in turn creates a conflict between his/her own interests and the interests of those that he/she is expecting to be serving (e.g. the Trust and its patients). The maximum penalty for bribery is 10 years imprisonment for individuals engaging in bribery and an unlimited fine for the Trust.
- 2.6 The behavioural principles of this policy are intended to apply at all times when in Trust employment, including where representing the Trust at meetings and events hosted by other organisations.
- 2.7 This policy is in place to protect colleagues just as much as it is to protect the Trust , by ensuring their reputation and integrity remains intact and cannot be brought into question.

## Definition of terms used

- 3.1 **All employees:** Staff including bank staff, interim and temporary staff, staff on honorary contracts (clinical) and secondment agreements (non-clinical) and contractors and individuals employed via a personal services or company contract, prospective staff in recruitment and staff who actively participate in advisory groups especially with the pharmaceutical industry. For the purposes of this policy this includes Non-Executive Directors and governors.
- 3.2 **Decision making staff:** executive and Non-Executive Directors, governors, staff at Agenda for Change band 8d and above, non-agenda for change senior staff (including all other VSMs and all consultants) and other administrative and clinical staff who have the power to enter into contracts

on behalf of the Trust, administrative and clinical staff involved in decision making on purchasing of goods, medicines, medical devices or equipment and formulary decisions, authorised signatories (approvers) for the finance and purchasing system and members of advisory groups which contribute to direct or delegated decision making on provision of the Trust's service. For avoidance of doubt this definition is deemed to include any individual who participate in prescribing decisions in terms of clinical or financial evaluation for addition to the Trust formulary. It does not explicitly include any individual who subsequently issues a prescription to a patient as part of their role where they hold no other clinical or financial decision-making responsibility. Where employed by the Trust on an honorary contract from another NHS organisation, all decision makers will also be required to complete a Royal Free declaration given their duty of responsibility, for completeness of records, and given templates for declaration may vary between organisations

**3.3 Conflict of interest:** A set of circumstances by which a reasonable person would consider that an individual's ability to apply judgment 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. Such a conflict may be:

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

Staff may hold interests where they cannot see potential conflict. However, caution is always advisable because others may see it differently. It will be important to exercise judgment and to declare such interests where there is otherwise a risk of imputation of improper conduct. Source of advice and support are provided in section 12 below.

**3.4 Financial interests** – Where an individual may get direct financial benefit<sup>1</sup> from the consequences of a decision they are involved in making.

**3.5 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.

**3.6 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.

**3.7 Indirect interests** -Where an individual has a close association<sup>2</sup> with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest who would stand to benefit from a decision they are involved in making.

**3.8 Gifts** – any item of cash or goods, or any service, which is provided for personal benefit, free of charge, or at less than its commercial value.

**3.9 Hospitality** –offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events, etc.

**3.10 Outside employment** – includes directorships, non-executive roles, self-employment, consultancy work, charitable Trust ee roles, political roles and roles within not-for-profit organisations, paid advisory positions and paid honorariums (for example speaking at conferences) which relate to bodies likely to do business with an organisation. Relevant directorships could also include of commercial entities where individual consultants wish to be a Principal Investigator (PI) on a related study.

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<sup>1</sup> A benefit may arise from the making of gain or avoiding a loss

<sup>2</sup> These associations may arise through relationships with close family members and relatives, close friends and associates, and business partners. A common sense approach must be applied to these terms. It would be unrealistic to expect staff to know of all the interests that people in these classes might hold. However, if staff do know of material interests (or could be reasonably expected to know about these) then these must be declared.

- 3.11 **Clinical private practice** – means private clinical practice that may be undertaken by clinicians outside of the terms and conditions of their employment with an NHS employer either for an external company or through a corporate vehicle established by themselves.
- 3.12 **Sponsored events** – events that are organised by individuals or organisations and where sources external to the NHS seek to offer to meet some or part of the costs of running the event.
- 3.13 **Funded research** – this is research carried out by individuals or organisations and where sources external to the NHS seek to offer to meet some or all of the costs of running this research.

The funder of the research may be one individual or organization, which could be the Trust, a university, or a commercial entity. The sponsor of the research may be different, which is the individual, organisation or group taking on the responsibility for securing the arrangements to initiate, manage and finance a research study.

Where the funder and sponsor differ, a separate contract will likely be in place to confirm the funding arrangements. A separate standard operating procedure for Research and Development provides further details.

- 3.14 **Sponsored posts** – positions in the Trust funded in whole or in part by organisations external to the NHS.
- 3.15 **Shareholdings** – 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 their organisation.
- 3.16 **Patents** – patents and other intellectual property rights held (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 their organisation.
- 3.17 **Donations** – charitable financial payment, which can be in the form of direct cash payment or through the application of a will or similar directive.
- 3.18 **Loyalty interests** – interests which an individual has in two or more organisations or bodies or individuals which might give rise to a conflict of interest with regards to their primary duty to the NHS. This could include people actively working in research with related applications for clinical trial.

#### 4. Equality statement

- 4.1 The Royal Free London NHS Foundation Trust is committed to creating a positive culture of respect for all individuals, including job applicants, employees, patients, their families and carers as well as community partners. The intention is, as required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the nine named protected characteristics of age, disability (including HIV status), gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. It is also intended to use the Human Rights Act 1998 to treat fairly and value equality of opportunity regardless of socio-economic status, domestic circumstances, employment status, political affiliation or trade union membership, and to promote positive practice and value the diversity of all individuals and communities.
- 4.2 This document forms part of the Trust's commitment, you are responsible for ensuring that the Trust's policies, procedures and obligation in respect of promoting equality and diversity are adhered to in relation to both staff and service delivery.

The equality analysis for this policy is attached at Appendix 7.

## **5. Scope and duties**

### **5.1 Scope**

This policy applies to all full-time and part-time employees of the Trust, prospective staff in recruitment and staff who actively participate in advisory groups especially with the pharmaceutical industry, Non-Executive Directors, governors, contracted and third parties (including agency staff), students, trainees, volunteers, secondees and other staff on placement with the Trust, and staff of partner organisations with approved access. It has been developed to ensure that all employees understand their responsibilities to declare all interests which may be in potential, actual or perceived conflict with their primary duty to the NHS and how to respond to offers of gifts, hospitality, sponsorship and donations.

### **5.2 Responsibility of the Trust Board**

- 5.2.1 Members of the board must review and update their interests prior to the start of each meeting.
- 5.2.2 The group chair, with members and support of the Trust Secretary, must review interests against each agenda item to determine whether they have any specific (i.e. relevant and material) interests which could potentially conflict with an agenda item. An interest is specific when it refers directly to the matter under discussion and non-specific where it does not refer directly to the matter under discussion.
- 5.2.3 The group chair (or group vice chair if materially conflicted) must advise on the appropriate management action (supported by the Trust Secretary) in cases where a conflict is identified, which will range from the person leaving the meeting, staying but not participating in discussion or staying and participating in the discussion.

### **5.3 Responsibility of the Audit Committee**

The Audit Committee is responsible for ratifying this policy and monitoring compliance with it to provide the board with assurance that standards of probity and propriety are being maintained. This will be done through six monthly review of the registers and any other reports brought to the committee on an exception basis.

### **5.4 Responsibilities of the Chief Finance Officer**

The group Chief Finance Officer is responsible for ensuring that the policy is implemented in the Trust.

The group Chief Finance Officer is the designated executive director lead on behalf of the Trust Board for the implementation of the Bribery Act 2010. This includes responsibility for ensuring that adequate procedures to prevent bribery are in place, including the appropriate collation, management and monitoring of declarations of interests, gifts and hospitality and training.

### **5.5 Responsibility of the Trust Secretary**

- 5.5.1 The Trust Secretary will ensure that all staff are reminded quarterly via normal Trust communication channels of the requirements of this policy and that a reminder is issued to decision making staff of the need to review the declarations they have made and, as appropriate update them or make a nil return.
- 5.5.2 The Trust Secretary will lead review of current policies to ensure compliance with any published guidance, provide as is required advice, training and support for staff on how interests must be managed (including for decision making), and internally lead internal audit at least every three years in conjunction with the Trust's internal audit supplier.



- 5.5.3 The Trust Secretary will undertake a six-monthly review of the online register of interests and gifts and hospitality, reporting detailed findings to the Audit Committee. This will include analysis both of compliance with the requirement to make declarations and the nature of the declarations made.
- 5.5.4 The Trust Secretary will maintain the Trust Board declaration of interests register and advise the group chair, group vice chair and chairs of other committees/meetings as to risk mitigation actions (i.e. impact on quorum, people leave, and restricted circulation of papers)
- 5.5.5 The Trust Secretary will also maintain registers of interest for other Trust s decision makers and the equivalent register for gifts, hospitality, fees, and sponsorship. The Trust Secretary may also notify Line Managers of conflicts declared to confirm mitigations, and/or in the case of complex conflicts, for a conflict management plan to be created and agreed.

## 5.6 Responsibilities of the Line Manager

Line Managers are responsible for:

- a) Ensuring that their staff are aware of the policy.
- b) Providing staff with advice about application of the policy.
- c) Review of declarations made by staff for whom they are responsible.

## 5.7 Responsibilities of all employees

- 5.7.1 All employees (as defined in section 3 above) must declare gifts, hospitality and other interests as set out in this policy at the earliest opportunity including prior to an event or meeting where it possible to do so (and at any event within 28 days) If staff are in any doubt about whether an interest is material, they must declare it so that it can be considered.:
- On appointment with the Trust and at least annually for decision making staff, thereafter when prompted (and which may form part of appraisal/job planning)
  - When they 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.
- 5.7.2 After expiry, an interest will remain on the register for a minimum of 12 months and a private record of historic interests will be retained for a minimum of six years. Such interests would not be subject to disclosure under freedom of information legislation after they cease to appear on published registers where an individual is known to have left the Trust.
- 5.7.3 The Trust fully supports wider transparency initiatives in healthcare and staff are encouraged to engage actively with these. Relevant staff are strongly encouraged to give their consent for payments they receive from the pharmaceutical industry to be disclosed as part of the Association of British Pharmaceutical Industry (ABPI) Disclosure UK initiative. These 'transfers of value' include payments relating to speaking at and chairing meetings, training services, advisory board meetings and fees and expenses paid to healthcare professionals. Details about the ABPI Disclosure UK scheme are at <http://www.abpi.org.uk/our-work/disclosure/Pages/disclosure.asp>. Any such payments must also be declared in accordance with this policy.
- 5.7.4 Staff must remain alert to the risk that gifts, hospitality and expenses may be used as a form of bribery, and so this must be considered in all circumstances in order to protect staff and the Trust from criminal prosecution. Where there is a suspicion that any offer may have a corrupt intention i.e. may constitute a bribe, it must be declined, declared and reported to the Local Counter Fraud Specialist (LCSF).
- 5.7.5 For staff who complete declarations centrally, these will automatically be copied to named Line Managers so that they are notified. The Trust Secretary may then make enquiries as to materiality and mitigations, and discharge duties as described under their responsibilities. There may be occasions where a disclosure process more distant from direct line management is required where there are specific sensitivities in relation to declarations. These will be handled on a case-by-case basis by escalation to the Trust Secretary.



## 5.8 Responsibilities of decision-making staff

Because of their influence in the spending of taxpayers' money, decision making staff are required to update their declarations of interest or make a nil return at least annually. This also includes:

- a) Confirmation on electronic declaration as to known decision making rights at boards/committees/groups/meetings for consideration as to relevance and materiality to decision or action outcomes
- b) Further declaration at meetings through standing items to further confirm relevance and materiality to decision or action outcomes.
- c) Enhanced frequency of review and update of declarations especially for Trust Board members and standing invitees to ensure decision making is beyond reproach.
- d) Confirmation as to whether
  - a. Interests which are unchanged from what was declared less than three months ago
  - b. Interests which are unchanged from what was declared at the last annual review

They are also subject to the requirements for all staff (5.7.1 above).

## 5.9 Responsibility of the local counter fraud specialist

The LCFS is responsible for taking forward all anti-fraud and bribery work locally in accordance with national NHS Counter Fraud Authority functional requirements and reports directly to the Chief Finance Officer.

The LCFS works with key colleagues and stakeholders where concerns or suspicions in relation to actions potentially constituting an offence under the Bribery Act 2010, to investigate such allegations and to effectively respond to identified system weaknesses.

## 5.10 Declaration of interest oversight group

The Trust reserves judgment to determine both the materiality of any interest declared in relation to its business and the nature of any mitigating actions which may be required. The declaration of interest oversight group has delegated authority from the group executive management meeting to review declarations of interest where an actual, potential or perceived conflict has been identified and to agree how these conflicts of interest will be managed.

It can also review any discrepancy between Trust declared gifts, hospitality, fees, travel, accommodation and sponsorship from pharmaceutical companies and Disclosure UK (Association of the British Pharmaceutical Industry), in order to deem on escalation whether or not there should be management/regulatory intervention against the individuals, and if fraud or bribery is suspected, report concerns to the local counter fraud service.

The declaration of interest oversight group reports to the group executive management meeting and is chaired by the group chief medical officer. In exceptional circumstances where the oversight group agrees that a conflict cannot be managed / is not being managed appropriately a recommendation will be made to the Trust board.

## 6. General management actions

6.1 If a declared interest, gift or hospitality presents an actual or potential subsequent conflict of interest then management action is required, which will include the following:

- deciding that no action is warranted
- restricting an individual's involvement in discussions and excluding them from decision making
- removing an individual from the whole decision-making process
- removing an individual's responsibility for an entire area of work
- removing an individual from their role altogether if the conflict is so significant that they are unable to operate effectively in the role

Each case will be different and context-specific, and the Trust will always clarify the circumstances and issues with the individuals involved. Staff must maintain a written audit trail of information considered and actions taken.

## 7. Declaration of interests, gifts and hospitality

### 7.1 Outside employment and other honorarium fee paying work

7.1.1 Decision making staff including all consultants by default (but excluding Non-Executive Directors) must seek prior approval from their Line Manager and declare before taking up outside employment and/or fee generating work including employment which relates to organisations that do or are likely to do business with the NHS (e.g. including but not limited to pharmaceutical companies). Non-Executive Directors must discuss possible outside employment with the group chair to identify any potential conflict of interest and how to manage this.

7.1.2 Where an individual has existing outside employment this must be declared on appointment.

7.1.3 Outside employment where there is any potential for a conflict of interest to arise must be declared and recorded in the register of interests where substantive or on the register of gifts, hospitality, fees and sponsorship where one off/adhoc.

7.1.4 Where a potential conflict of interest is identified the general management actions at 6 above must be considered.

7.1.5 Where no conflict of interest is identified staff are free to take up outside employment where this is in line with their terms and conditions of employment. However, should the relationship between the Trust and the outside employer change such that there is a potential for conflict of interest, a declaration must be made at this stage.

7.1.6 **Honorarium fees.** Where participation at an event or conference is fee paying and it is delivered in working hours then there are two choices open to the member of staff which must be agreed with their Line Manager:

- The payment should be credited to the Trust
- The member of staff takes annual leave or unpaid leave and the payment is made to the member of staff as a private matter between the organisation making the payment and the individual member of staff. The member of staff remains responsible for any tax liability which arises. In these circumstances, the staff member must make it clear to the 3rd party organisation that they are undertaking the work as a private person and not as an employee or agent of the Trust and the work must not conflict with the aims and policies of the Trust.

Documenting whether a fee has been accepted will be included under "Please give details, including name of employer and value of work". If there is no fee, then this is to be stated. All such fees must be declared in advance given they will also be published on Disclosure UK by the Association of the British Pharmaceutical Industry (ABPI)

7.1.7 Where employed by the Trust on an honorary contract from another NHS organisation, all decision makers will also be required to complete a Royal Free declaration given their duty of responsibility, for completeness of records, and given templates for declaration may vary between organisations

### 7.2 Clinical private practice

7.2.1 Clinical staff must (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed):

- Seek prior approval<sup>3</sup> 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.
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:

As is also advised by the British Medical Association (BMA), consultant contracts only restrict private practice where this could diminish overall NHS services, rather than the services of a single employer.

#### 7.2.2 Declarations must include

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

7.2.3 Hospital consultants must not initiate discussions about providing their private professional services for NHS patients, nor must they ask other staff to initiate such discussions on their behalf.

7.2.4 Where clinical private practice gives rise to a conflict of interest then the general management actions outlined in this guidance must be considered and applied to mitigate risks.

7.2.5 Where a potential conflict of interest is identified the general management actions at 6 above must be considered and applied to mitigate risks.

### 7.3 Sponsored events and meetings

7.3.1 Sponsorship of events and meetings by appropriate external bodies (which could include pharmaceutical companies) must only be approved if a reasonable person would conclude that the event will result in clear benefit for the Trust and the NHS. Sponsorship of an event must be approved dependent on its value (see table below). It is not allowed for teaching sessions for junior doctors (specialist registrars and below) unless prior approval of the relevant consultant has been obtained. Any meetings providing information on anti-microbial or anti-fungal medications should be held in the presence of a Royal Free London NHS Foundation Trust Microbiology representative. 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.

7.3.2 During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.

7.3.3 No information must be supplied to the sponsor from which they could gain a commercial advantage, and information which is not in the public domain must not normally be supplied.

7.3.4 At the Trust's discretion, sponsors or their representatives may attend or take part in the event, but they must not have a dominant influence over the content or the main purpose of the event or meeting

7.3.5 The involvement of a sponsor in an event or meeting must always be clearly identified in the interest of transparency.

7.3.6 The event organiser must make it clear that sponsorship does not equate to endorsement of a company or its products and this must be made visibly clear on any promotional or other materials relating to the event or meeting.

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<sup>3</sup> These provisions already apply to hospital consultants by virtue of Paras.5 and 20, Sch. 9 of the Terms and Conditions – Consultants (England) 2003:) [https://www.nhsemployers.org/sites/default/files/media/Terms-and-Conditions-consultants-April-2018\\_0.pdf](https://www.nhsemployers.org/sites/default/files/media/Terms-and-Conditions-consultants-April-2018_0.pdf)

7.3.7 It is the responsibility of the senior Trust employee responsible for the event or meeting to make a declaration. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.

## **7.4 Funded research**

7.4.1 Funding sources for research purposes must be transparent. A definition of what constitutes funded research can be found under the definitions section of this policy.

7.4.2 Any proposed research must go through the appropriate Health Research Authority and Trust approvals process. This is described within a separate standard operating procedure for Research and Development, which also refers to related commercial and confidential terms associated with such funded research.

7.4.3 There must be a written protocol and written contract between the health professional(s) and/or the institutes at which the study will take place and the funding organisation, which specify the nature of the services to be provided and the payment for those services.

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

7.4.5 Funding of such research must be declared.

7.4.6 For the purposes of this policy, such declarations through registers held by the Trust shall specifically relate to those funded research agreements where:

- an individual has a direct personal interest to top up initial funding externally received, above the agreed budget for the research.
- There is otherwise a potential or actual direct personal benefit from the outcome of the research study.

Therefore, such declarations would confirm if the individual declaring undertakes consultancy work for sponsor or funder, holds shares or holds any intellectual property. Any declarations of shareholders shall under the Trust's directorships template as well as sponsorship template.

7.4.6 Descriptions of research within such declarations will be kept non-specific to protect commercial terms, so would not include reference numbers such as for the Integrated Research Application System (IRAS).

7.4.7 IRAS is a collaborative initiative and a single system for applying for the permissions and approvals for health and social care / community care research in the UK. Details of conflicts of interest are included as a question in core study information.

7.4.8 Any research under this policy which does not meet the definition given above shall be recorded on IRAS but not through publicly accessible registers held by the Trust.

## **7.5 Sponsored posts and projects (aka joint working agreements)**

7.5.1 The Department of Health Document "Commercial Sponsorship – Ethical Standards for the NHS" dated November 2000 defines commercial sponsorship as including:  
*"NHS funding from an external source, including funding of all or part of the costs of a member of staff, NHS research, staff, training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs (including trips abroad), provision of free services (speakers), buildings or premises."*

7.5.2 Joint working can be separately defined as situations, where for the benefit of patients; organisations pool skills, experience and / or resources for the joint development and implementation of patient-centred projects and share a commitment to successful delivery. Joint working agreements and management arrangements are conducted in an open and transparent manner.

- 7.5.3 Collaborative work with external organisations, especially pharmaceutical companies, can be beneficial in terms of improving quality of care for patients so long as
- (1) Sponsorship or joint working arrangements and conflicts of interest are managed and mitigated appropriately.
  - (2) The interests of individual patients must be protected including confidentiality, principles of Caldicott and data protection
  - (3) Sponsorships or research arrangements are ethical and compliant with the ABPI Code of Practice for the Pharmaceutical Industry and related bribery legislation and policies.
- 7.5.4 Prior to entering into an agreement regarding the commercial sponsorship of a post formal approval must be sought according to the value of the sponsorship (see below) and the sponsorship arrangement declared. Advice must also be sought from procurement.
- 7.5.5 Rolling sponsorship of posts must be avoided unless appropriate checkpoints are put in place to review and confirm the appropriateness of arrangements continuing.
- 7.5.6 Arrangements regarding the commercial sponsorship of a post must only be entered where there is written confirmation that the sponsorship will have no effect on purchasing decisions.
- 7.5.7 Sponsored health professionals must not be involved in the promotion of specific products.
- 7.5.8 Sponsors must not have any influence over the duties of the post or have any preferential access to any services, materials or intellectual property relating to or developed in connection with the sponsored role.
- 7.5.9 Sponsored posts and projects must be declared. A clear reason must be recorded as to why it was deemed acceptable, alongside the actual or estimated value.
- 7.5.10 All sponsorship of posts and/or joint working arrangements will be reported to both the drugs and therapeutics committee and the Audit Committee following approval in line with value thresholds as specified in Appendix 2. Authors of the agreement or proposal for sponsored post as submitted for approval must ensure this is so. This also ensures appropriate application of governance process, not to approve proposals.
- 7.5.11 Details of sponsored projects and research initiatives will be recorded in a clear and open manner in the Trust 's annual report.
- 7.5.12 All staff (employed by and associated with the Trust ) involved in setting up and implementing joint projects with the Pharmaceutical Industry or other sponsoring organisations will record all their involvement in papers requesting approval of application along with details of any conflicts of interest identified and mitigated, whether material or immaterial.
- 7.5.13 All offers of sponsorship (whether accepted or declined) must be declared so that they can be included on the relevant Trust register.
- 7.5.14 Authorisation levels for sponsorships – please refer to appendix 2.
- 7.5.15 If sponsors receive benefits directly linked to the event or meeting then the support must be subject to VAT, i.e. the correct proportion of the monies received must be accounted for to HMRC. If the sponsor gives the money without requiring anything in return then the monies can be regarded as a donation. If it is thought that this would be the case, further advice should be sought from the group Chief Finance Officer.
- 7.5.16 Unless advice has been given to the contrary it must be assumed that the sponsorship is subject to VAT and in order to account for this correctly, an invoice should be sent to the sponsor showing the amount of the sponsorship and then adding VAT.

7.5.17 This will apply only in circumstances where the Trust is direct recipient of sponsorship monies for re-distribution. If a sponsor is invoiced by and pays a third supplier direct (e.g. a venue or caterer), then VAT will be included onto the invoice given the commercial status of both businesses and so the above becomes irrelevant. Where this is anticipated to be the case, it should for avoidance of doubt be indicated on the sponsorship application.

## **7.6 Shareholdings**

7.6.1 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 their organisation.

7.6.2 There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit Trust s.

7.6.3 Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest the general management actions at 6 above must be considered and applied to mitigate risks.

## **7.7 Patents**

7.7.1 Staff must 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 their organisation.

7.7.2 Staff must seek prior approval in line with thresholds 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. Advice may also be sought from the group commercial team.

7.7.3 Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this guidance must be considered and applied to mitigate risks.

## **7.8 Donations**

7.8.1 Acceptance of donations made by suppliers or bodies seeking to do business with the Trust must be treated with caution and not routinely accepted. In exceptional circumstances, and with the prior agreement of the Line Manager, a donation from a supplier (which may be in the form of funding or an grant award) may be accepted but must always be declared. A clear reason must be recorded as to why it was deemed acceptable, alongside the actual or estimated value.

7.8.2 Staff must not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the Trust, or is being pursued on behalf of the Royal Free Charity or other charitable body and is not for their own personal gain.

7.8.3 Staff must obtain prior approval from their Line Manager if in their professional role they intend to undertake fundraising activities on behalf of a charitable campaign other than associated with the Royal Free Charity. If in doubt as to whether this may cause a conflict, advice must be sought from the sources of advice at 11 below.

7.8.4 Donations, when received, must be made to a specific charity registered in England and Wales (never to an individual). Receipts will be issued on request.

7.8.5 Staff wishing to make a donation to a registered charity in lieu of a professional fee they receive may do so, subject to ensuring that they take personal responsibility for ensuring that any tax liabilities related to such donations are properly discharged and accounted for.

7.8.6 Where donations are from a private individual their identity will not be disclosed if they not wish it to be, but the Charity needs to have the name of the donor as it cannot receive anonymous donations. The Charity, however, will keep the details of the donor as confidential and it will not use them for any marketing activity.

## 7.9 Loyalty interests

7.9.1 Decision making staff must declare the following:

- 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 their 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 with whom close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

7.9.2 Where holding loyalty interests gives rise to a conflict of interest then the general management actions at 6 above must be considered and applied to mitigate risks.

7.9.3 Requests to participate on advisory boards, fee paid or not, must be considered carefully on a case-by-case basis, especially requests received from pharmaceutical companies. All offers, including those from public authorities such as universities or educational academies, must be declared whether accepted or declined with confirmation and approval by a senior manager (i.e. Line Manager, head of department, divisional director of operations, Trust Secretary). Approval must occur prior to acceptance.

## 7.10 Gifts

Staff must not accept gifts that may affect, or be seen to affect, their professional judgment.

### 7.10.1 Gifts from suppliers

7.10.1.1 Gifts from suppliers or contractors doing business (or likely to do business) with the Trust must be declined, whatever their value.

7.10.1.2 Subject to this, low cost branded promotional aids may be accepted where they are under the value of a common industry standard of £6 in total and need not be declared, although staff must consider if the acceptance can be justified. This is in line with existing industry guidance issued by the ABPI: <http://www.pmcpsa.org.uk/thecode/Pages/default.aspx>

7.10.1.3 Gifts of cash or cash equivalent must always be declined but must be declared ( e.g. gift cards, lottery tickets, and personal cheques, whatever the value).

7.10.1.4 Staff must not accept gifts or rewards that may affect, or be seen to affect, their professional judgment or if acceptance of a gift could affect or be perceived to affect the outcome of a business transaction. Staff must always ask themselves if a gift is excessive, or if it could be construed as being able to influence a decision or cast doubt on the integrity of a decision.

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

7.10.2.1 Gifts of cash and vouchers to individuals must always be declined, but offers must be declared. (e.g. gift cards, lottery tickets, and personal cheques, whatever the value). If patients or members of the public wish to make donations in the form of cash or cheques, they must be asked to make a donation to the Charity <https://www.royalfreecharity.org/>. A receipt will be issued on request. Wherever possible the donor should be encouraged to have a direct relationship with the charity to address such matters as data protection and gift aid etc.



7.10.2.2 Staff must not ask for any gifts.

7.10.2.3 Gifts valued at over £50 must be treated with caution and only be accepted on behalf of the Charity not in a personal capacity. These must be declared by staff with the donor informed. Receipt of any gift over £50 must be confirmed and approved by a senior manager (i.e. Line Manager, head of department, divisional director of operations, Trust Secretary). Such gifts may then be raffled. In exceptional circumstances alternative arrangements for distribution of gifts may be made, such as sharing among Trust teams as is deemed appropriate at the time. This is only where the Charity deems it does not have ability to distribute and to avoid waste of gifts (e.g. hamper foodstuffs).

7.10.2.4 Modest gifts accepted under a value of £50 do not need to be declared.

7.10.2.5 A common sense approach must 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).

7.10.2.6 Multiple gifts from the same source over a 12-month period must be treated in the same way as single gifts over £50 where the cumulative value exceeds £50. This means that when the cumulative value exceeds £50 each of the gifts must be declared. The section of the declaration template titled "Reason for accepting / declining gift" to be used to indicate each of the gifts received and the approximate dates over the preceding 12 months.

7.10.2.7 What must be declared

- Staff name and their role with the Trust.
- A description of the nature and value of the gift, including its source.
- Date of receipt.
- Details of previous gifts offered or accepted by this source (e.g patient, family, service user)
- Whether the offer was accepted or not
- 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)

7.10.2.8 The same principles as above apply with regard to foreign officials and dignitaries where not a supplier (e.g. where there is offer of gifts in relation to treatment through the private patients service)

## **7.11 Hospitality**

7.11.1 Hospitality includes, but is not limited to, offers of transport, refreshments, meals, accommodation, etc.

7.11.2 Staff must not ask for or accept hospitality that may affect, or be seen to affect, their professional judgment.

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

7.11.4 Particular caution must 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. (for example, a drink and sandwich during a visit or a working lunch) . Prior confirmation and approval by a senior manager must be completed and declared prior to receipt. (I.e. Line Manager, head of department, divisional director of operations, Trust Secretary)

- 7.11.5 Staff must be particularly cautious about accepting hospitality during a procurement exercise; any hospitality accepted must be declared and must be approved by the appropriate executive director prior to acceptance.
- 7.11.6 Invitations to sporting and entertainment events, tickets for non-work-related meals or events, holidays (including accommodation) and free first class travel (rail or air fare) must always be declined and declared. It is better to declare an offer of hospitality if you are not sure whether you are required to do so or whenever the hospitality could affect or be perceived to affect the outcome of a business transaction.
- 7.11.7 Hospitality up to the value of £25 (per person) may be accepted and need not be declared.
- 7.11.8 Hospitality with a value between £25-75 (per person) may be accepted and must be declared even if declined. Hospitality over a value of £75 must be refused unless (in exceptional circumstances) it is confirmed and approved prior to receipt by a senior manager (i.e. Line Manager, head of department, divisional director of operations, Trust Secretary). A clear reason must be recorded in the register of gifts, hospitality, fees and sponsorship as to why it was permissible to accept.
- 7.11.9 A common sense approach must be adopted to the valuing of meals and refreshments (using an actual amount, if known, or estimate that a reasonable person would make as to its value)
- 7.11.10 The same principles must be applied when the Trust is offering hospitality to others (e.g. visitors or guests, i.e. modest in nature, and secondary and proportionate to the event.
- 7.11.11 Hospitality should not normally be provided for internal management/staff meetings. These should be limited to sandwiches, fruit, tea/coffee and fruit juice where refreshments are considered necessary based on a reasonable judgment as to whether it is appropriate (for example meetings or short courses through lunch with no break or outside of normal working hours)
- 7.11.12 What must be declared
- Staff name and their role with the Trust.
  - A description of the nature and value of the hospitality, including its source.
  - Date of receipt.
  - Details of previous hospitality offered or accepted by this source (e.g. patient, family, service user)
  - Whether the offer was accepted or not
  - 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. 12 **Travel and accommodation**

- 7.12.1 Offers of modest amounts to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared. Thresholds of £150 for each are deemed to apply.
- 7.12.2 Offers which go beyond modest (i.e. above £150 each) or are of a type that the organisation itself might not usually offer, must only be accepted in exceptional circumstances, and must be declared. All such offers must have prior confirmation and approval by a senior manager and be declared prior to receipt. (I.e. Line Manager, head of department, divisional director of operations, Trust Secretary). A clear reason must be recorded on the organisation's register of gifts, hospitality, fees and sponsorship as to why it was permissible to accept travel and accommodation of this type. A non-exhaustive list of examples includes:
- Offers of business or first-class travel and accommodation (including domestic travel)
  - Offers of foreign travel and accommodation

## **7.13 Pro-Bono work**

7.13.1 Any pro-bono work that is, any work undertaken voluntarily and without payment or at a reduced fee, which is completed by an organisation must not affect any future tender decisions. When any pro-bono work is offered to the Trust, this must be subject to review and must be approved prior to commencement by the group Chief Finance Officer.

7.13.2 Pro-Bono Work – What should be declared? The Trust will retain a written record of Pro-Bono Work in line with the principles and rules described elsewhere within this policy.

## **7.14 Awards and prizes**

7.14.1 If staff are approached by an outside organisation or individual about the offer of an award or prize which is in any way connected to their official duties, they must seek advice from the Trust Secretary before accepting it. Staff will normally be allowed to accept the award, subject to consideration of propriety or risk of public scrutiny, and provided the award is: offered in recognition of personal achievement and is not or cannot be construed as a gift or inducement or payment for a professional or personal advantage to which other rules apply. Acceptance need not be declared providing prior advice has been sought from the Trust Secretary.

## **7.15 What must be declared**

- Staff name and their role with the organisation.
- The nature and value of the hospitality including the circumstances.
- Date of receipt.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

## **8. Procurement**

8.1 The North London Partners Procurement Shared Service (PSS) is responsible for all procurement and buying issues as well as management of stores and distribution. All PSS staff are required to declare their interests by their employing authority. PSS will be provided with access to the register of interests for the management of procurement processes.

8.2 At every stage of procurement steps must be taken to identify and manage conflicts of interest to protect the integrity of the process. The PSS must therefore keep full and robust records to ensure that they have a clear audit trail of how conflicts of interest have been identified and managed.

8.3 This will include obtaining information about previously declared interests of those involved in the procurement process and staff who participate in evaluation panels must make a declaration prior to the commencement of the tender exercise.

8.4 The chair and any members of procurement evaluation panels must not have any specific direct or indirect financial or non-financial, loyalty interests or family interests.

8.5 Panel chairs must review members' interests prior to commencement of the tender exercise and take appropriate action (which might involve exclusion from the panel)

8.6 Any panel member who has, or is judged by the chair to have, interests that compromise or could be seen to compromise their objectivity must withdraw from the process. Failure to do this could result in the procurement process being declared invalid and possible suspension of the relevant member from the Trust.

- 8.7 Expert advisors can be engaged at the discretion of the panel chair – but efforts must be made to ensure that they do not have a conflict of interest.
- 8.8 As regards single tender waivers in lieu of formal tender competition, these must also document declared interests relevant to Trust employees arranging or linked to contract award (e.g. especially where consultants hold direct and material financial interests in suppliers). It is not a given that contracts awarded to companies owned by Trust employees is precluded, so long as the necessary and appropriate evidence of the process followed prior to award has been obtained and recorded as is described here.
- 8.9 If necessary, the Trust may prohibit the award of a contract where the integrity of the award has been, or appears to have been, affected by a conflict. If the contract has already been awarded, the Trust may, if necessary, seek to terminate the contract, and/or consider action as appropriate in accordance with the Trust 's disciplinary policy and Counter Fraud, Bribery and Corruption Policy.
- 8.10 Gifts, hospitality, payment or expenses must be declined whenever these could affect or be perceived to affect the outcome of business transactions.

## **9. Publication and communication**

- 9.1 The policy will be made available on the Trust 's intranet. Managers are responsible for ensuring that all staff are compliant. Managers and staff seeking help and advice on the application of this policy must contact the nominated person (refer to section 12 reporting concerns and queries).
- 9.2 Information about declarations of interests, gifts or hospitality is disclosable if requested under the Freedom of Information Act. The individual concerned will be consulted in accordance with the Act prior to publication.
- 9.3 The Trust will publish information about interests, gifts and hospitality declared by decision making staff annually on its website. This will include decision making staff along with the action taken to manage the perceived/potential/actual risks associated with these conflicts.
- 9.4 Staff will be provided with an opportunity to make representations that information on their interests is not to be published. This will allow for, in exceptional circumstances, an individual's name and/or other information to be redacted from any publicly available registers where the public disclosure of information could give rise to a real risk of harm or is prohibited by law. If decision making staff have substantial grounds for believing that publication of their interests should not take place then they should declare this and it will be reviewed by the Trust Secretary. Information will not be withheld or redacted merely because of a personal preference.
- 9.5 As well as taking these steps, organisations must seek to ensure that staff who are subject to wider transparency initiatives such as the ABPI Disclosure UK scheme are aware of and comply with them: <http://www.abpi.org.uk/our-work/disclosure/Pages/disclosure.aspx>: The Trust will also cross reference declarations for accuracy to other open source data, e.g. Companies House.
- 9.6 A flowchart for how declarations are processed and published in shown at appendix 5
- 9.7 In accordance with data protection legislation, register publication shall automatically exclude details of third parties referred to under indirect interests given the explicit consent under legislation that would otherwise be required. It will also exclude staff who are known to have left the Trust. A Data Protection Impact Assessment (DPIA) is included at appendix 7 to describe the legal basis for processing data and such matters as data retention arrangements.

## **10. Monitoring compliance and management of interests in specific contexts**

## 10.1 Monitoring arrangements

The table below sets out how the Trust will monitor the delivery of the policy. Additional work may be commissioned to meet organisational needs. Where a lack of compliance is found the relevant group, committee or individual will identify required actions, allocate responsible leads, and target completion dates. An assurance report will subsequently be presented to show how any gaps have been addressed.

What in the policy is going to be monitored	Monitoring method	Who will lead the monitoring	How often?	Where will it be reported for assurance?
That the procedures set out in the policy have been followed including the completion of the register(s) and annual declarations	Audit	Trust Secretary	Quarterly	Audit Committee group executive management meeting
Cross referencing with other published registers of interest, for example Disclosure UK – the database of sponsorship maintained by the Association of the British Pharmaceutical Industry (ABPI)	Audit	Local Counter Fraud Specialist	Annual	Audit Committee group executive management meeting
Breaches	Audit	group chair finance officer (supported by the Local Counter Fraud Specialist)	Quarterly	Audit Committee – through the regular reports of the LCFS – where fraud is the issue.
Breaches	Audit	Trust Secretary	Annually	Audit Committee – through the raising concerns annual review
Training and awareness	Audit	Local Counter Fraud Specialist	Six monthly	Audit Committee group executive management meeting

## 10.2 Strategic decision-making groups

10.2.1 In common with other NHS bodies Royal Free uses a variety of different groups to make key strategic decisions about things such as:

1. Entering into (or renewing) large scale contracts.
2. Awarding grants.
3. Making procurement decisions.
4. Selecting medicines, equipment, and devices.

The interests of those who are involved in these groups must be well known so that they can be managed effectively. At the Royal Free these groups are:

1. Trust board

2. clinical standards and innovation committee
3. finance and investment committee
4. people committee
5. population health committee
6. group access committee
7. council of governors
8. drugs and therapeutics committee
9. All Established Tender Panels
10. Consultant Recruitment Panels
11. remuneration committee
12. nominations committee
13. Any other committees or meetings as are added to this list

10.2.2 These groups must adopt the following principles when conducting their business:

1. Chairs (with support of their secretariat and/or the Trust Secretary) consider any known interests of members in advance, and begin each meeting by asking for declaration of relevant material interests.
2. Members must take personal responsibility for declaring material interests at the beginning of each meeting and as they arise. Any new interests identified must be added to relevant(s).
3. The group vice chair (or other non-conflicted member) must chair all or part of any meeting if the chair has an interest that may prejudice their judgment.
4. If a declaration is made during a meeting then the individual concerned must remove themselves from the meeting when the Committee discusses topics that relate to the declared subject matter.
5. If an individual has an actual or potential interest the committee chair must consider the following approaches and ensure that the reason for the chosen action is documented in minutes or records:
  - a. Requiring the individual to not attend the meeting.
  - b. Excluding the individual from receiving meeting papers relating to their interest.
  - c. Excluding the member from all or part of the relevant discussion and decision.
  - d. Noting the nature and extent of the interest, but judging it appropriate to allow the member to remain and participate.
  - e. Removing the individual from the group or process altogether.
6. Action taken will be based on an appropriate judgment as to whether the declared conflict is:
  - a. trivial and does not create a real danger of conflict of interest and duty or bias or the appearance of bias
  - b. does not create a real danger of conflict of interest and duty or bias, but might reasonably cause others to think it could influence a decision
  - c. creates a real danger of conflict of interest and duty or bias (that is, the interest affects him/her, or a person or business connected to him/her, more than the generality affected by the decision)

10.2.3 The default response should not always be to exclude individuals with interests, as this may have a detrimental effect on the quality of the decision being made. Good judgment is required to ensure proportionate management of risk. These principles and subsequent action as regards individuals applies equally to those as members with voting rights and those as standing invitees or in attendance without voting rights.

As regards minutes, the following is to be recorded:

1. To whom the conflict relates
2. Whether the conflict is deemed material or immaterial to an outcome or decision
3. Whether the conflict is actual or potential
4. What action is to be taken to mitigate risk
5. If this action affects ability to reach an outcome or decision (e.g. impact on quorum)
6. If a meeting is adjourned and reconvened in order to ensure a quorum.

## 11. Dealing with breaches

- 11.1 Breaches to this policy will be investigated in accordance with the Trust 's disciplinary policy and Counter Fraud, Bribery and Corruption Policy as appropriate. Concerns that are not related to potential criminal behavior will be investigated, decided, kept confidential where appropriate and reported.
- 11.2 Any concerns or allegations relating to fraud or bribery must be reported to the Local Counter Fraud Specialist (LCFS) and workforce department. Details of how to contact the LCFS are on Freenet at this link - [LCFS](#)
- 11.3 Where a manager has reason to suspect that a fraud may have taken place they must take no further action as any subsequent investigation undertaken by a counter fraud officer may be compromised by inappropriate action at this stage.
- 11.4 On no account must the employee be spoken to or interviewed until advised to do so by Local Counter Fraud
- 11.5 Interviews conducted by the Local Counter Fraud Specialist may be under caution and in these situations the individual is entitled to independent legal advice. Civil or criminal proceedings may ensue may ensue if an offence has occurred.
- 11.6 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 must be taken against staff or others
  - Consideration being given to escalation to external parties, which might include external auditors, NHS Counter Fraud Authority, the Police, statutory NHS regulators or health professional regulatory bodies.
- 11.7 Sanctions must not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrongdoing or fault then the Trust can and will consider the range of available sanctions, 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, requirement for additional training, rearrangement of duties, redeployment, demotion or dismissal.
  - Reporting incidents to the external parties listed above for them to consider whether to take further investigations or sanctions.
  - 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, which could result in a maximum sentence of 10 years imprisonment and/or a fine
- 11.8 To ensure that lessons are learnt and management of interests can continually improve, anonymized information on breaches, the impact of these and action taken will be published via the relevant Trust communications channels.

## **12. Reporting concerns and queries**

- 12.1 Staff who are unsure of their responsibilities under this policy or whether to make a declaration are encouraged to ask their Line Manager for guidance.
- 12.2 Any member of staff who has concerns or suspicions in relation to actions potentially constituting an offence under the Bribery Act are encouraged to report their concerns to the Trust 's Local Counter Fraud Specialist at [mark.kidd@nhs.net](mailto:mark.kidd@nhs.net) or 07528 970251 or Group Chief Finance Officer as soon as possible. Alternatively they can contact NHS CFA at [0800 028 4060](tel:08000284060) or <https://cfa.nhs.uk/reportfraud>



In addition staff can raise concerns anonymously around conflicts of interest through the Trust 's Speaking Up policy and procedure, further information on Freenet

12.3 In the event of queries, please contact:

Russell Carpenter (Trust Secretary) on ext. 39520 or russell.carpenter@nhs.net

12.4 In addition there are some examples of common situations which staff may encounter and how to deal with them at Appendix 5.

### 13. Review

The policy will be reviewed, as a minimum, every two years

### 14. References

NHS England Managing conflicts of interest in the NHS – guidance for staff and organisations.

Bribery Act 2010

Fraud Act 2006

Commercial Sponsorship: Ethical Standards for the NHS (November 2000) Department of Health.

## Appendix 1

### Legal Framework and Principles

#### ***Bribery Act 2010***

The Bribery Act 2010, which repeals existing corruption legislation, has introduced the offences of offering and or receiving a bribe. It also places specific responsibility on organisations to have in place sufficient and adequate procedures to prevent bribery and corruption taking place. Under the Act bribery is defined as "Inducement for an action that is illegal, unethical or a breach of Trust. Inducements can take the form of gifts, loans, fees, rewards or other privileges."

Corruption is broadly defined as the offering or the acceptance of inducements, gifts, favours, payments or benefit in kind which may influence the improper action of any person; corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another. To demonstrate the organisation has sufficient and adequate procedures in place, and to demonstrate openness and transparency, all staff members are

required to comply with the requirements of the gifts , gratuities, interests, benefits, hospitality and sponsorship policy for Royal Free London NHS Foundation Trust.

There is a standalone counter fraud and bribery policy which makes reference to the paying and receiving of bribes, bribery through intermediaries, facilitation payments, documents and records, joint ventures and consortia, agents and other intermediaries, contractors and suppliers, recruitment processes and employment contracts, gifts and hospitality and political, charitable and cultural donations and contributions.

For a more detailed explanation, see the Counter Fraud and Bribery Policy. If members of staff wish to report any concerns or allegations they must contact the Local Counter Fraud Specialist. Additionally, NHS Standing Orders and European Commission Directives on Public Purchasing for Works and Supplies require fair and open competition between companies to whom they may or may have official dealings as the part of their work with the Trust.

### ***Fraud Act 2006***

It is also an offence under Section 3 of the Fraud Act 2006 for an employee to fail to disclose information to an employer to make a gain for themselves or another to cause a loss or expose the Trust to the risk of loss. Additionally, Section 4 of the same Act provides that it is also an offence for an employee who occupies a position in which they are expected to safeguard or not act against the financial interests of the , to abuse that position to cause a loss or expose the Trust to the risk of loss.

For further information please find the attached link below: The full guidance can be found at <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-guidance.pdf> whilst the quick-start version can be found at <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-quick-start-guide.pdf>

## Appendix 2

### SPONSORSHIP AUTHORISATION LEVELS

Includes events, meetings, posts, projects and patents

*Note: these same thresholds are deemed to apply to research funding/grant approval*

	Less than £25	£25 - £500***	£500 - £24999****	£25000+
No authorisation required but staff must report to Line Manager and Director.*	X			
No entry required in Trust gifts, hospitality, fees and sponsorship register	X			
Line Manager Authorisation only required (and final decision).		X		
Entry required in Trust gifts, hospitality, fees and sponsorship register – completed agreement copied to the Trust Secretary		X	X	X
<b>Endorsement</b>				
1. Line Manager			X	X
2. Chief Pharmacist**			X	X
3. Chief Finance Officer or group chief executive officer				X
<b>Authorisation</b>				
4. Line Manager				
5. Chief Pharmacist **				
6. group Chief Finance Officer or group chief executive officer			X	
7. drugs and therapeutics committee				
8. group executive management meeting				X
9. Trust board				X (this is reporting only)

Supporting notes:

\*These exclude sponsorship for departmental meetings or teaching sessions for junior doctors (specialist registrars and below) unless prior approval of the relevant consultant has been obtained.

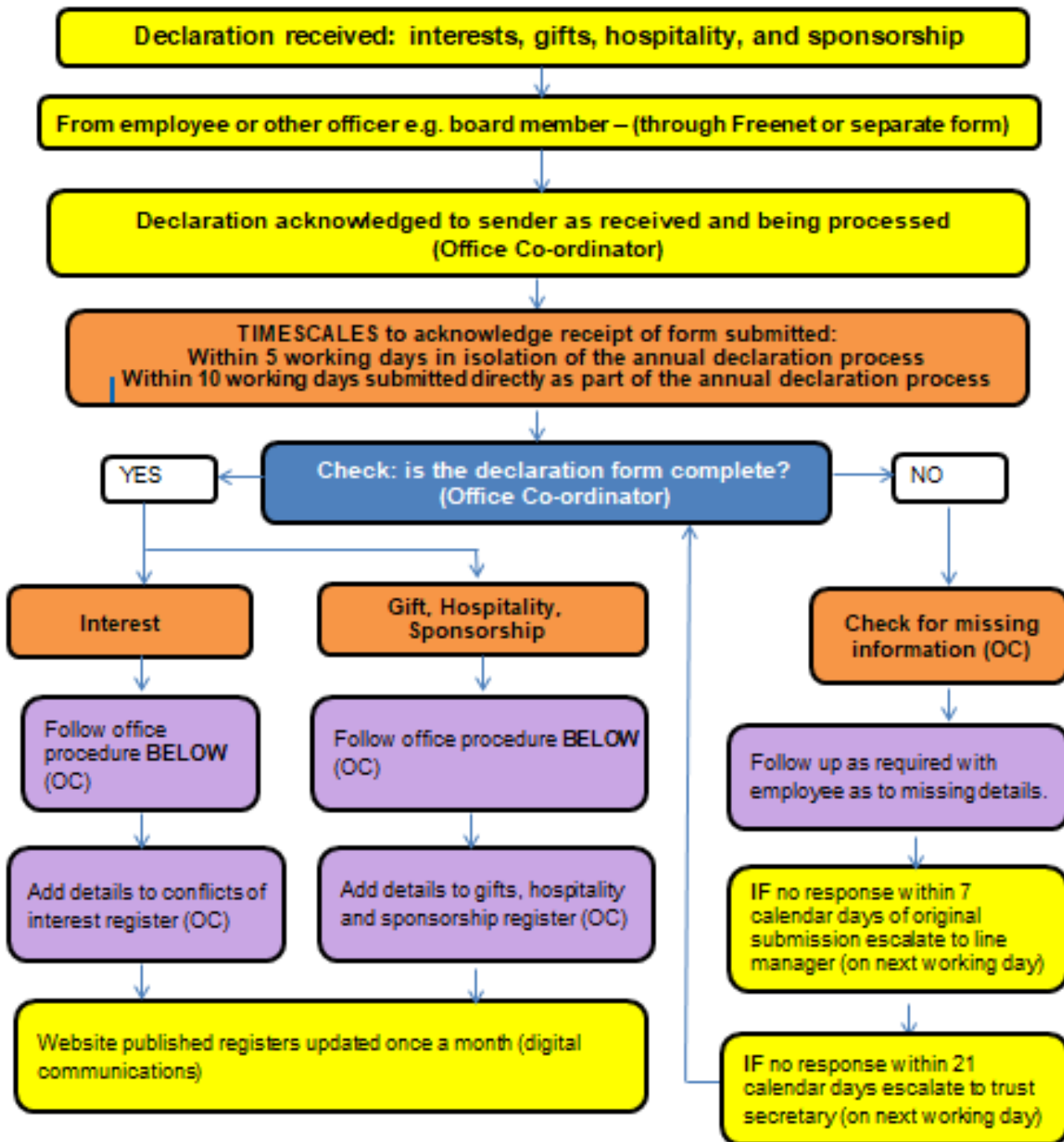
\*\* Having assessed the offer against published best practice guidance prior to endorsement or authorisation.

\*\*\* where this relates to a sponsorship, this is the threshold per sponsor, not per event. Where related to a speaking or participation fee, this comprises the total offered by the organiser.

\*\*\*\* Any sponsorship arrangement above £15k will also be formally reported to the group executive management meeting

All sponsorship is declarable for inclusion on the Trust gifts, hospitality, fees and sponsorship register. The financial thresholds aligned to hospitality and gifts do not apply to sponsorship.

Appendix 3 Declaration management and publication process



## Appendix 4 Office procedure for new declarations of interest, gifts, hospitality and sponsorship

**This procedure is default for all declarations, whether submitted as part of annual review process or at any other time**

No	Task/Action	By
1.	<p>Check name against the decision makers list and/or medical staff list as downloaded at the time of the check and record on the spread sheet that declaration has been made.</p> <p>Note: decision makers list relates only to those staff on PECOS who can approve requisitions, and does not include all others who may be defined as decision makers for the purpose of implementing this procedure.</p>	Office Co-ordinator
2.	Add details from declaration into register of interests (email address, job title, staff group, division). Give month and year in 11 month times when reminder will be issued for further update.	Office Co-ordinator
3.	<p>Check for any positive declaration made and if so categorise email as <b>red</b> – this is so that the Trust Secretary can review all declarations.</p> <p>Declarations may require <b><u>urgent escalation and review</u></b> in circumstances (which may also require immediate follow up action with individuals and Line Managers) including but not limited to:</p> <ol style="list-style-type: none"> <li>1. Ownership of companies by Trust staff named as Trust suppliers so as to ensure due diligence of the contract award process (It is not a given that contracts awarded to companies owned by Trust employees is precluded, so long as the necessary and appropriate evidence of the process followed prior to award has been obtained and recorded)</li> <li>2. Outside employment declared after it has already started with no evidence of confirmation and approval in advance</li> <li>3. Gifts, hospitality and sponsorship declared long after it has already been accepted with no evidence of confirmation and approval in advance</li> <li>4. Uncertainty as to whether the Trust Group has any relationship with the offeror in order to implement appropriate measures to manage actual or perceived conflicts arising.</li> </ol>	Office Co-ordinator
4.	Any positive declaration to be forwarded to the named Line Manager with the standard email. Tick the email to indicate that this has been done	Office Co-ordinator
5.	Review responses from Line Managers. If no concerns then tick, otherwise mark blue Trust Secretary to review	Office Co-ordinator
6.	<p>Check declaration made against the policy and take following action:</p> <ul style="list-style-type: none"> <li>• no action – in line with policy</li> <li>• clarify/pursue with individual</li> <li>• clarity/pursue with Line Manager</li> </ul> <p>Categorise email as <b>green</b> when dealt with</p>	Trust Secretary
7.	Review responses from managers flagged as <b>red</b> . Categorise as <b>green</b> when dealt with <b>and recorded on the relevant register</b> .	Trust Secretary
8.	<b>Conflicts of interest declarations only:</b> 11 months after declaration made, send reminder that this is an annual requirement, using email template below. Use original declaration email to forward.	Office Co-ordinator

## EXAMPLES OF SOME COMMON SITUATIONS

Below are some examples of the sorts of situation you might encounter and how they must be dealt with:

*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 Trust formulary.*

The Trust's drugs and therapeutics committee requires declarations of interest from clinicians submitting proposals for new products to be added to formularies and ensures the decision is based on clinical and cost effectiveness information.

*A company offers to provide training of staff*

Care must be taken to ensure that staff are not unduly influenced by the sponsors to change their own practice unless this is backed up by appropriate evidence. Training provided by industry must be unbiased, have mutual benefit for both the NHS and the sponsoring company, be evidence-based and provide no or modest hospitality. However, organisers and participants must assess whether they may be influenced unduly and also bear in mind what benefits the company might derive (e.g. exposure to NHS staff contact details often without the participants realising).

*A manufacturer of ostomy equipment offers to sponsor a stoma nurse post in the Trust.*

Acceptance will require approval at group level and advice from procurement. Prior written confirmation is required that the sponsorship will have no effect on purchasing decisions. Sponsored health professionals must not promote specific products and must provide information about alternative products and suppliers. All sponsored posts must be declared.

*A grateful patient's relative wants to give a cash gift of £100 to staff as a thank you for the care provided.*

This must be politely declined and the relative asked to make a donation to the Barnet, Chase Farm or Royal Free Charity instead.

*A patient wants to make a gift of a necklace to a nurse as a thank you*

Gifts up to the value of £50 can be accepted and need not be declared. If you do not know the value of the jewellery, take a common sense approach – if necessary use an estimate that a reasonable person would make. If the jewellery is worth more than £50 then it will need to be declined or donated to the Charity and must be declared.

*A manufacturer offers to pay the travelling costs or accommodation costs for clinicians invited to a conference to view medical products.*

Only clinicians with a specific interest in the products must attend. Modest travel and accommodation costs may be accepted and must be declared. Offers which go beyond modest need approval by senior staff, must only be accepted in exceptional circumstances and must always be declared.

*Offer from a company to pay for hospitality/speakers/venue for a meeting.*

Hospitality must be secondary to the purpose of the meeting and must only extend to those whose role makes it appropriate for them to attend. It must be made clear to the company that sponsorship does not equate to endorsement of the company or their products and this must be clear on all promotional material relating to the event. All such offers must be declared.

**Appendix 6 Equality analysis**

<b>Equality Group</b>	<b>Identify negative impacts</b>	<b>What evidence, engagement or audit has been used?</b>	<b>How will you address the issues identified?</b>	<b>Identifies who will lead the work for the changes required and when?</b>	<b>Please list positive impacts and existing support structures</b>
<b>Age</b>	None identified	Corporate administrative document	N/A	N/A	This policy complies with the requirements introduced within the Equality Act 2010. It ensures that all staff are treated equally in relation to the receipt of gifts, hospitality and potential conflicts of interests
<b>Disability</b>	None identified	Corporate administrative document	N/A	N/A	
<b>Gender Reassignment</b>	None identified	Corporate administrative document	N/A	N/A	
<b>Marriage and Civil Partnership</b>	None identified	Corporate administrative document	N/A	N/A	
<b>Pregnancy and maternity</b>	None identified	Corporate administrative document	N/A	N/A	
<b>Race</b>	None identified	Corporate administrative document	N/A	N/A	
<b>Religion or Belief</b>	None identified	Corporate administrative document	N/A	N/A	
<b>Sex</b>	None identified	Corporate administrative document	N/A	N/A	



<b>Equality Group</b>	<b>Identify negative impacts</b>	<b>What evidence, engagement or audit has been used?</b>	<b>How will you address the issues identified?</b>	<b>Identifies who will lead the work for the changes required and when?</b>	<b>Please list positive impacts and existing support structures</b>
<b>Sexual Orientation</b>	None identified	Corporate administrative document	N/A	N/A	
<b>Carers</b>	None identified	Corporate administrative document	N/A	N/A	

<b>Equality Analysis completed by:</b>	<b>Organisation</b>	<b>Date</b>
	Board Secretary, Chief Executive's Office	September 2019
	Audit Committee	September 2019