

Managing Conflicts of Interest Policy

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Version control

Version	Type of Change	Date	Revisions from previous issues
3	Review	August 2014	One minor change to add an indicative value to gifts that can be accepted (£30)
3a	No change	Jan 2017	Extended review date pending release of additional guidance by NHS England
4	Review	June 2018	Full review in accordance with NHSE guidance
5	Review	July 2020	Review – minor changes: <ul style="list-style-type: none"> • addition of section on gifts/donations to the Trust as a whole • update to job titles • Updates to forms to include line manager approval
6	Review	September 2023	Review – minor changes <ul style="list-style-type: none"> • How to declare an interest amended to Declare website

Equality Impact

Bolton NHS Foundation Trust strives to ensure equality of opportunity for all service users, local people and the workforce. As an employer and a provider of healthcare Bolton NHS FT aims to ensure that none are placed at a disadvantage as a result of its policies and procedures. This document has therefore been equality impact assessed to ensure fairness and consistency for all those covered by it regardless of their individuality. The results are shown in the Equality Impact Assessment (EIA).

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1. Policy Summary

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

As a member of staff you should...	As an organisation we will...
<ul style="list-style-type: none"> • Familiarise yourself with this policy and follow it. Refer to the guidance for the rationale behind this policy https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf • Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent • 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 	<ul style="list-style-type: none"> • Ensure that this policy and supporting processes are clear and help staff understand what they need to do. • Identify a team or individual with responsibility for: <ul style="list-style-type: none"> ○ Keeping this policy under review to ensure they are in line with the guidance. ○ Providing advice, training and support for staff on how interests should be managed. ○ Maintaining register(s) of interests. ○ Auditing this policy and its associated processes and procedures at least once every three years. • NOT avoid managing conflicts of interest. • NOT interpret this policy in a way which stifles collaboration and innovation with our partners

2. Introduction

Bolton NHS Foundation Trust (the 'organisation'), 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.

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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.

3. Key Terms

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

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

Interests fall into the following categories:

3.1 Financial interests:

Where an individual may get direct financial benefit (this may be a financial gain, or avoidance of a loss) from the consequences of a decision they are involved in making.

3.2 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.

3.3 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.

3.4 Indirect interests:

Where an individual has a close association (this may be a financial gain, or avoidance of a loss) 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

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they are involved in making. 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, this list is not exhaustive, if in doubt seek advice.

4. Responsibilities – Staff

The Trust utilises 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 include:

- All salaried employees
- All prospective employees – who are part-way through recruitment
- Contractors and sub-contractors; and
- Agency staff
- Volunteers and Governors.

4.1 Decision Making Staff

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

Decision making staff in the Trust are:

- Executive and Non-Executive Directors (or equivalent roles) who have decision making roles which involve the spending of taxpayers’ money
- Those at Agenda for Change Band 8c and above
- Administrative and clinical staff (of any band) who have the power to enter into contracts on behalf of their Trust
- Administrative and clinical staff (of any band) involved in decision making concerning the commissioning of service, purchasing of goods, medicines, medical devices or equipment, and formulary decisions.

5. Identification, declaration and review of interests

All staff should identify and declare material interests at the earliest opportunity (and in any event within 28 days). 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:

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

5.1 How to make a declaration

Declarations can be made online using the confidential Declare website established for this purpose

<https://boltonnhsft.mydeclarations.co.uk/home>

Further clarity about what you should declare and where you can make these declarations can be sought from the Director of Corporate Governance or the Local Counter Fraud Specialist

6. Proactive Review of Interests

All staff are made aware of the requirement to make a declaration on appointment, as part of the recruitment and induction process and/ or by their employment contract

The Trust will utilise its internal communication channels to make staff aware of the requirement to declare interests, including gifts and hospitality.

7. Maintenance of Registers

The Director of Corporate Governance will maintain the Registers of Interests and a Registers of Gifts and Hospitality for the Trust.

8. Publication

The Trust will publish its Register of Interests and Register of Gifts and Hospitality on a regular basis on the Trust website. Historic Registers of Interests and Registers of Gifts and Hospitality will be maintained for six years.

If staff have substantial grounds for believing that publication of their interests should not take place then they should contact the Director of Corporate Governance 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.

8.1 Wider transparency initiatives

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

Relevant staff are strongly encouraged to give their consent for payments they receive from the pharmaceutical industry to be disclosed as part of the Association of British

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

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

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

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

Staff must also disclose the above information on the relevant Trust Register of Interest or Register of Gifts and Hospitality.

9. Management of Interests - General

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

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

Staff who declare material interests should also make their line manager or the person(s) they are working to aware of their existence as soon as possible once this material interest has been established.

9.1 Management of Interests –common situations

The following paragraphs (10 – 20) set out the principles and rules to be adopted by staff in recognisable situations, and what information should be declared.

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10. Gifts

Staff should not accept gifts that may affect, or be seen to affect, their professional judgement.

Gifts from suppliers or contractors doing business (or likely to do business) with the Trust 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 £6 (existing industry standard) in total, and need not be declared.

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

- Gifts of cash and vouchers to individuals should always be declined.
- Staff should not ask for any gifts.
- Gifts valued at over £50 should be treated with caution and only be accepted, wherever possible should be accepted on behalf of the Trust, not in a personal capacity. These should be declared by staff via the Trust register
- Modest gifts accepted under a value of £50 do not need to be declared but should be shared with team colleagues where practical e.g. box of chocolates or biscuits
- 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.

10.1 Gift declaration – what should be declared

- Staff name and their role with the organisation.
- A description of the nature and value of the gift, including its source.
- Date of receipt.
- Any other relevant information (e.g. circumstances surrounding the gift, who and why the gift was offered, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

11. Hospitality

Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement.

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

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

Meals and refreshments:

- Under a value of £30 - may be accepted and need not be declared.
- Of a value of between £30 and £50 may be accepted and must be declared.
- Over a value of £50 - should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the organisation’s Register(s) of Gifts and Hospitality as to why it was permissible to accept.
- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or a reasonable estimate).

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 Trust itself might not usually offer, need approval by senior staff, (e.g. by the responsible Executive Director, Corporate or Divisional Head of Service) should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on Register of Gifts and Hospitality as to why it was permissible to accept travel and accommodation of this type. A non-exhaustive list of examples includes:
 - offers of business class or first class travel and accommodation (including domestic travel)
 - offers of foreign travel and accommodation.

11.1 Hospitality Declaration – what should be declared

- Staff name and their role with the organisation.
- The nature and value of the hospitality including the circumstances.
- Date of receipt.
- Was annual leave authorised and taken to attend
- 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)

12. Outside Employment (including self-employment)

Staff must declare any existing outside employment on appointment and any new outside employment when it arises. This includes self-employment, agency or bank work at other organisations and running or assistance in private practice.

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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 or self-employment.

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

Staff are advised that working for a secondary employer or in self-employment, whilst absent from work due to being medically certified unfit is not permitted, unless under the direction of medical advice with agreement from the Occupational Health Department and the Line Manager. Where an employee is suspected of secondary employment or self-employment working whilst absent due to sickness these matters will be investigated

12.1 Outside Employment - What should be declared

- Staff name and their role with the organisation.
- The nature of the outside employment or self-employment
- 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).

13. Clinical Private Practice

Consultants and associate specialists employed under the Terms and Conditions of Service of Hospital Medical and Dental Staff are permitted to carry out private practice or other work for the private sector, providing they do not do so within the time they are contracted to the Trust.

Any work should be subject to the conditions outlined in **“A Guide to the Management of Private Practice in the NHS.”** Consultants who have signed new contracts with the relevant Trust within the Group will be subject to the terms applied to private practice in those contracts.

Clinical staff should declare all private practice on appointment and any new private practice when it arises

This should include:

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

Clinical staff should (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed).

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- Seek prior approval of their Trust before taking up private practice
- Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work.

Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:

Hospital Consultants should not initiate discussions about providing their Private Professional Services for NHS patients, nor should they ask other staff to initiate such discussions on their behalf.

Clinical staff must seek agreement for their NHS Medical Secretary or any other NHS support staff to support their private practice and must declare details of NHS staff they pay to support their clinical private practice. Secretarial or support staff employed in this manner must also make their own declaration of additional employment.

13.1 What should be declared – Clinical Private Practice

- Staff name and their role with the organisation.
- A description of the nature of the private practice (e.g. what, where and when staff practise, sessional activity, etc.).
- Relevant dates.
- 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).

14. Shareholdings and other ownership issues

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.

14.1 What should be declared – shareholdings and ownership

- Staff name and their role with the organisation.
- 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).

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15. Patents

- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are 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 Trust 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.

15.1 What should be declared - patents

- Staff name and their role with the organisation.
- A description of the patent.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, detail of any approvals given to depart from the terms of this policy)

16. Loyalty interests

Loyalty interests should be declared by staff involved in decision making where they:

- Hold a position of authority in another NHS Trust 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 the Trust 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 Trust does business with the Trust in which close family members and relatives, close friends and associates, and business partners have decision-making responsibilities.

16.1 What should be declared – Loyalty interests

- Staff name and their role with the organisation.
- Nature of the loyalty interest.
- Relevant dates.

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- 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).

17. Donations

- Donations made by suppliers or bodies seeking to do business with the Trust should be treated with caution and not routinely accepted. In exceptional circumstances, they may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value
- 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 Trust if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the 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.

17.1 What should be declared - donations

The Trust will maintain records in line with the above principles and rules and relevant obligations under charity law.

18. Sponsored events

- Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit for the Trust, 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.

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- 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.

18.1 What should be declared – sponsored events

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

19. Sponsored research

- 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 sponsoring 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 sponsored research to the organisation.

19.1 What should be declared - sponsored research

- The Trust will retain written records of sponsorship 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 sponsored research.
 - Relevant dates.
 - Other relevant information (e.g. what, if any, benefit the sponsor derives from the sponsorship, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

20. Sponsored posts

- External sponsorship of a post requires prior approval from the organisation.
- Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.

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- Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. This should be audited for the duration of the sponsorship. Written agreements should detail the circumstances under which organisations have the ability to exit sponsorship arrangements if conflicts of interest which cannot be managed arise.
- Sponsored post holders must not promote or favour the sponsor’s products, and information about alternative products and suppliers should be provided.
- Sponsors should not have any undue influence over the duties of the post or have any preferential access to services, materials or intellectual property relating to or developed in connection with the sponsored posts.

20.1 What should be declared – sponsored posts

- The Trust will retain written records of sponsorship 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 sponsor, in line with the content in the rest of this policy.

Management of Interests – advice in specific contexts

21. Strategic Decision Making Groups

The Trust utilises a robust assurance framework and committee structure to make key strategic decisions about things such as:

- Entering into (or renewing) large scale contracts
- Awarding grants
- Making procurement decisions
- Selection of medicines, equipment, and devices
- The interests of those who are involved in these committees should be well known so that they can be managed effectively

The interests of those who are involved in these groups should be well known so that they can be managed effectively.

22. Committees 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).

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- The vice chair (or other non-conflicted member) should chair all or part of the meeting if the chair has an interest that may prejudice their judgement

If a member has an actual or potential interest, the chair should consider the following approaches and ensure that the reason for the chosen action is documented in minutes or records:

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

The default response should not always be to exclude members with interests, as this may have a detrimental effect on the quality of the decision being made. Good judgement is required to ensure proportionate management of risk.

23. Procurement

Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law, to ensure there is no discrimination against or in favour of any provider. Procurement processes should be conducted in a manner that does not constitute anti-competitive behaviour - which is against the interest of patients, service users and the public.

Those involved in procurement exercises for and on behalf of the Trust should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of procurement processes. At every stage of procurement steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.

24. Confidentiality Agreement

Prior to or in entering a contract with an organisation/s, parties may wish to disclose to each other certain confidential information in relation to the purpose of the contract. In these circumstances, to ensure each party maintains the confidentiality of the information it will be necessary to complete a Confidentiality Agreement to comply with strict terms and conditions in connection with the disclosure and use of confidential information. A template 'Confidentiality Agreement' is at Appendix one of this policy; advice if required should be sought from the Director of Corporate Governance.

25. Dealing with breaches

There may be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of

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the deliberate actions of staff or other organisations. For the purposes of this policy these situations are referred to as ‘breaches’.

25.1 Identifying and reporting breaches

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 Director of Corporate Governance or the Local Counter Fraud officer

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. For further information about how concerns should be raised, follow the procedure highlighted in the:-

- Anti-Fraud, Bribery and Corruption Policy and Response Plan
- Raising Concerns Policy (Whistleblowing Policy)

The Trust will investigate each reported breach according to its own specific facts and merits, and give relevant parties the opportunity to explain and clarify any relevant circumstances.

Following investigation the Trust will:

- Decide if there has been or is potential for a breach and if so the what 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 Trust should be made aware
- Take appropriate action as set out in the next section.

25.2 Taking action in response to breaches

Action taken in response to breaches of this policy will be in accordance with the procedures of the Trust and could involve organisational leads for staff support (e.g. Human Resources), fraud (e.g. Local Counter Fraud Specialist), members of the management or executive teams and organisational auditors.

Breaches could require action in one or more of the following ways:

- Clarification or strengthening of existing policy, process and procedures.
- Consideration as to whether HR/employment law/contractual action should be taken against staff or others.
- Consideration being given to escalation to external parties. This might include referral of matters to external auditors, the NHS Counter Fraud Authority (NHSCFA) from 3/7/17, the Police, statutory health bodies (such as NHS

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England, NHS Improvement or the CQC), and/or health professional regulatory bodies.

- Inappropriate or ineffective management of interests can have serious implications for the organisation. There will be occasions where it is necessary to consider the imposition of sanctions for breaches.
- Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then the Trust can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:
 - 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.

Further advice and information on the consequences of breaches and the range of potential sanctions is shown at Appendix two.

25.3 Learning and transparency concerning breaches

Reports on breaches, the impact of these, and action taken will be considered by the Trust Audit Committee, as part of the regular review of ways in which staff can raise issues about possible improprieties in matters of financial reporting and control, clinical quality, patient safety or other matters

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 made available for inspection by the public upon request

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TEMPLATE CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is dated on the day that the last party has signed the Agreement between:

Bolton NHS Foundation Trust and,
 (ADDITIONAL PARTNER'S AS REQUIRED)

BACKGROUND

The Parties wish to disclose to each other certain information in relation to (the “**Confidential Information**”). ENTER THE PURPOSE OF THE AGREEMENT (the “**Purpose**”). Each Party wishes to ensure that the other Party maintains the confidentiality of its Confidential Information and, therefore, the Parties have agreed to comply with the following terms and conditions in connection with the disclosure and use of Confidential Information.

AGREED TERMS

1.0 THE CONFIDENTIAL INFORMATION

- 1.1 The Confidential Information includes all information disclosed or made available, directly or indirectly, in any form by a Party or its affiliates (the “**Disclosing Party**”) to the other Party (the “**Recipient**”), including but not limited to: (i) the fact that discussions are taking place concerning the Purpose and the status of those discussions; (ii) any confidential or proprietary information, data or opinions communicated or disclosed by either Party, including any information, data or opinions relating to the Disclosing Party’s business practices, its products (including but not limited to chemical structures, biological data, formulation recipes, technology), clinical study programme documentation, plans or relationships, or any of its processes, operations and/or intellectual property; (iii) any information or analysis derived from the Confidential Information; (iv) any other information or material that the Disclosing Party indicates is confidential.
- 1.2 In consideration of the Disclosing Party disclosing or making its Confidential Information available to the Recipient, the Recipient shall keep the Confidential Information confidential at all times and maintain it securely. The Recipient shall not without the Disclosing Party’s prior written consent: (i) use the Confidential Information in any way except for the Purpose; (ii) publish, make available or disclose any Confidential Information to any third party; (iii) copy the Disclosing Party’s Confidential Information except as strictly necessary for the Purpose; or (iv) disclose that there is any relationship between the Parties.
- 1.3 The Recipient will notify the Disclosing Party immediately of any loss or compromise of the Confidential Information and shall cooperate with the Disclosing Party’s reasonable instructions in order to minimise the consequences of the same.
- 1.4 The confidentiality obligations of each Party shall continue for a period of ten (10) years from the date of this Agreement, or until the Parties enter into a separate agreement relating to the Purpose which addresses the use of the Confidential

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Information. Termination of this Agreement shall not affect any accrued rights or remedies.

- 1.5 After completion of the Purpose, termination of this Agreement, or at the Disclosing Party’s request, the Recipient shall cease all use of the Confidential Information. The Recipient shall promptly (i) return or, at the Disclosing Party’s option, destroy all Confidential Information and all documents and materials containing any Confidential Information; (ii) use reasonable
- 1.6 Endeavours to erase all Confidential Information from its computer systems; and (iii) confirm to the Disclosing Party in writing that it has complied with the requirements of this Clause.

1.7 EXCEPTIONS AND PERMITTED DISCLOSURES

- 1.8 The confidentiality obligations set out in this Agreement shall not apply to information that is: (i) generally available to the public other than as a result of any breach of this Agreement by the Recipient; (ii) obtained from a third party who had the full right to disclose it; (iii) lawfully in the Recipient’s possession (with full rights to disclose) before its disclosure under this Agreement; (iv) was developed independently by or for the Recipient without reference to the Confidential Information; or (v) has been approved for release by the Disclosing Party; or is required to be disclosed under the provisions of the Freedom of Information Act 2000.
- 1.9 The Recipient may retain one (1) copy of the Confidential Information for lawful purposes provided it obtains consent from the Disclosing Party, such consent not to be unreasonably withheld.
- 1.10 The Recipient may disclose the Confidential Information to those of its officers, employees, consultants and professional advisors (“**Representatives**”) who need to know such Confidential Information for the Purpose, provided that it (i) informs those Representatives of the confidential nature of the Confidential Information before disclosure; (ii) ensures that all such Representatives maintain the confidentiality of all such Confidential Information in accordance with the provisions of this Agreement; and (iii) remains liable for any unauthorised disclosure of Confidential Information by any of its Representatives as if it had made such disclosure itself.
- 1.11 The Recipient may disclose the Confidential Information to the extent required by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided always that: (i) to the extent it is legally permitted to do so, it gives the Disclosing Party as much notice of such disclosure as possible; and (ii) it complies with the Disclosing Party’s reasonable directions for taking legally available steps to resist or narrow such requirement (at the Disclosing Party’s reasonable expense), and in any event restricts the disclosure to only those parts of the Confidential Information lawfully required to be disclosed.

1.12 RIGHTS TO AND ACCURACY OF CONFIDENTIAL INFORMATION

- 1.13 All rights, title and interest in and to the Confidential Information (including all intellectual property rights) shall remain the exclusive property of the Disclosing Party or its licensors. No rights in respect of the Confidential Information are granted to the Recipient other than those set out in this Agreement.

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1.14 The Disclosing Party does not give any representation or warranty concerning the Confidential Information, its accuracy or its completeness, and neither the Disclosing Party nor any of its Representatives accept any liability to the Recipient for the accuracy or completeness of any of the Confidential Information or for any opinions, errors, omissions or misstatements contained in the Confidential Information.

1.15 GENERAL

1.16 The Recipient acknowledges that damages alone would not be an adequate remedy for the breach of any of the terms of this Agreement, and that, without prejudice to any other rights and remedies it may have, Disclosing Party shall be entitled to the granting of equitable relief (including without limitation injunctive relief) concerning any threatened or actual breach of any of the provisions of this Agreement.

1.17 Neither Party may assign, sub-license or otherwise transfer any or all of its rights or obligations under this Agreement without the prior written consent of the other Party.

1.18 This Agreement constitutes the entire agreement between the Parties and supersedes all prior written or oral agreements or understandings with respect to the subject matter of this Agreement.

1.19 Any amendment or modification to this Agreement must be in writing and signed by authorised representatives of each Party.

1.20 If any provision of this Agreement is held by any court or other competent authority to be invalid or unenforceable in whole or in part, this Agreement shall continue to be valid as to its other provisions and the remainder of the affected provision.

1.21 This Agreement is made under the laws of England and shall be subject to the non-exclusive jurisdiction of the English Courts regardless of place of execution or place of performance.

1.22 This Agreement may be executed in two or more counterparts, each of which will be deemed an original and all of which will together be deemed to constitute one agreement. The Parties agree that the execution of this Agreement by exchanging PDFs of wet-ink signatures shall have the same legal force and effect as the exchange of original signatures, and that in any proceeding arising under or relating to this Agreement.

1.23 Notwithstanding the date of this Agreement, this Agreement is deemed to take effect on (ENTER DATE).

AGREED by the Parties on the dates indicated below

SIGNED for and on behalf of

SIGNED for and on behalf of

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

(ENTER DETAILS FOR ALL PARTNERS)

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Disciplinary sanctions

Staff who fail to disclose any relevant interests or who otherwise breach Bolton NHS Foundation Trust rules and policies relating to the management of conflicts of interest are subject to investigation and, where appropriate, to disciplinary action. This may include:

- Employment law action which might include:
- Informal action – such as reprimand or signposting to training and/or guidance.
- Formal action – such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion or dismissal.
- Referring incidents to regulators.
- Contractual action against organisations or staff.

Professional regulatory sanctions

Statutorily regulated healthcare professionals who work for, or are engaged by, this Trust are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest. This Trust will consider reporting statutorily regulated healthcare professionals to their regulator if they believe that they have acted improperly, so that these concerns can be investigated. These healthcare professionals should be made aware that the consequences for inappropriate action could include fitness to practise proceedings being brought against them, and that they could, if appropriate be struck off by their professional regulator as a result.

Information and contact details for the healthcare professional regulators are accessible from the Professional Standard Authority website:

<http://www.professionalstandards.org.uk/what-we-do/our-work-with-regulators/find-a-regulator>

Civil sanctions

If conflicts of interest are not effectively managed, this Trust may face civil challenges to decisions it makes – for instance if interests were not disclosed that were relevant to the bidding for, or performance of contracts. In extreme cases, staff and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

Criminal sanctions

Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for the Trust concerned and linked organisations, and the individuals who are engaged by them.

The Fraud Act 2006 created a criminal offence of fraud and defines three ways of committing it:

- Fraud by false representation
- Fraud by failing to disclose information and
- Fraud by abuse of position.

In these cases an offender's conduct must be dishonest and their intention must be to make a gain or a cause a loss (or the risk of a loss) to another. Fraud carries a maximum sentence of 10 years imprisonment and/or a fine and can be committed by a body corporate.

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The Bribery Act 2010 makes it easier to tackle this offence in public and private sectors. Bribery is generally defined as giving or offering someone a financial or other advantage to encourage a person to perform certain activities and can be committed by a body corporate. Commercial organisations (including NHS bodies) will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery.

The offences of bribing another person or being bribed carries a maximum sentence of 10 years imprisonment and/or a fine. In relation to a body corporate the penalty for these offences is a fine.

This Trust does not, and will not, pay bribes or offer improper inducements to anyone for any purpose; nor will it accept bribes or improper inducements. It is important that all employees, contractors and agents are aware of the standards of behaviour expected of them contained in this policy.

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EQUALITY IMPACT ASSESSMENT TOOL

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

		Yes/No	Comments
1.	Does the document/guidance affect one group less or more favourably than another on the basis of:		
	Race	No	
	Ethnic origins (including gypsies and travellers)	No	
	Nationality	No	
	Gender (including gender reassignment)	No	
	Culture	No	
	Religion or belief	No	
	Sexual orientation	No	
	Age	No	
	Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are there any valid exceptions, legal and/or justifiable?	N/A	
4.	Is the impact of the document/guidance likely to be negative?	No	
5.	If so, can the impact be avoided?	N/A	
6.	What alternative is there to achieving the document/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action?	N/A	

If you have identified a potential discriminatory impact of this procedural document, please refer it to your divisional E and D lead together with any suggestions as to the action required to avoid/reduce this impact.

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Document Development Checklist

Type of document	Managing Conflicts of Interest Policy
Lead author:	Sharon Katema, Director of Corporate Governance
Is this new or does it replace an existing document?	Replaces previous version
What is the rationale/ Primary purpose for the document	To define the processes in place for declaring and recording any potential conflict of interest
What evidence/standard is the document based on?	Statutory requirement
Is this document being used anywhere else, locally or nationally?	Statutory requirement
Who will use the document?	Trust staff
Is a pilot run of the document required? (optional)	No
Has an evaluation taken place? What are the results? (optional)	No – review of existing policy with minimal changes
What is the implementation and dissemination plan? (How will this be shared?)	Review of existing policy.
How will the document be reviewed? (When, how and who will be responsible?)	The regulations will be reviewed regularly with the policy updated as required.
Are there any service implications? (How will any change to services be met? Resource implications?)	No
Keywords (Include keywords for the document controller to include to assist searching for the policy on the Intranet)	Declaration, conflict of interests, secondary employment, gifts, hospitality, bribery act, sponsorship
Staff/stakeholders consulted	No material change
If the document refers to a medicine, has the reference been reviewed by the senior divisional pharmacist.	N/A
EIA	Completed by Sharon Katema Director of Corporate Governance

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Signed and dated By validating officer	Signed:  Designation: Fiona Noden Chief Executive Date: 22/11/23
Signed and dated By ratifying officer	Signed:  Designation: Assistant Director of Clinical Governance Date: 13 th December 2023

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