

## Staff Code of Conduct

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| <b>CATEGORY:</b>                    | Policy   |
| <b>CLASSIFICATION:</b>              | Governance   |
| <b>PURPOSE</b>                      | To set out the standards of conduct and personal behaviour required from staff |
| <b>Controlled Document Number:</b>  | 962  |
| <b>Version Number:</b>              | 2.1  |
| <b>Controlled Document Sponsor:</b> | Deputy Foundation Secretary  |
| <b>Controlled Document Lead:</b>    | Director of Corporate Affairs  |
| <b>Approved By:</b>                 | Board of Directors   |
| <b>On:</b>                          | 29 <sup>th</sup> June 2017   |
| <b>Review Date:</b>                 | 29 <sup>th</sup> June 2020   |
| <b>Distribution:</b>                |  |
| • <b>Essential Reading for:</b>     | All staff  |
| • <b>Information for:</b>           | All staff  |

## **1. Introduction**

- 1.1 University Hospitals Birmingham NHS Foundation Trust (the 'Trust') upholds a culture of openness, transparency and honesty. In order to support this culture throughout the Trust, this Staff Code of Conduct (the 'Code') sets out the standards of conduct and personal behaviour required from staff. The Code also provides the necessary guidance and support to staff on the action that must be taken in the event where there is an actual or potential conflict of interest or perception of this in the eyes of the public.
- 1.2 Whilst it is fully anticipated that the standards contained in this Code will be complied with, the Trust considers an explicit Code of Conduct to be an essential guide for all staff, particularly for those who have recently joined the Trust or whose main contract of employment is with another organisation.
- 1.3 This Code must be read in conjunction with the Gifts, Hospitality and Sponsorship Policy.

## **2. Scope**

- 2.1 This Code of Conduct applies to all staff, including agency and bank staff. It additionally applies to those non-employees who are however engaged in delivering services or duties for the Trust, including bank/agency staff, locums, volunteers, students and those on honorary contracts. For the remainder of this document, for ease the term 'Staff' is used to refer to both employees and non-employees who are all required to adhere to this Code of Conduct.
- 2.2 The Code applies at all times when staff are carrying out Trust business or representing the Trust. This Code does not relate to activities undertaken in a personal capacity, except where the personal conduct could reasonably be regarded as bringing the Trust as a whole, its divisions, departments or a particular office into disrepute.
- 2.3 This Code provides instructions on those issues or matters which staff are most likely to encounter in carrying out their day to day duties. This Code provides the broad themes for expected conduct. It is not to be viewed as exhaustive, and is supplementary to (and therefore should be read in conjunction with) the following:
  - Trust vision and values
  - Trust Constitution
  - Acceptable Use Policy (email; intranet; social media; devices, etc.)
  - Being Open Policy
  - Data Protection and Confidentiality Policy

- Disciplinary Policy and Procedure
- Dress and Uniform Policy
- Gifts, Hospitality and Sponsorship Policy
- Grievance Policy
- Health and Safety Policy
- Media Policy
- Motor Vehicle Policy (formerly known as 'Fleet Policy')
- Prevention of Bullying and Harassment At Work Policy
- Recruitment and Selection Policy
- Standing Orders/Standing Financial Instructions (SFIs)
- Study Leave Policy
- Travel Expenses Policy (still in draft)
- Whistleblowing Policy

2.4 This Code has been designed to supplement rather than replace the codes of conduct and standards of behaviour defined by relevant professional bodies.

### 3. Guiding Principles and Values

3.1 In undertaking their roles and responsibilities all staff must abide by the 'seven principles of public life' as amended by the Committee on Standards in Public Life, 'Standards matter', January 2013. These seven principles apply to all individuals holding 'public office', which includes those working in the NHS:

#### 3.1.1 **Selflessness**

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

#### 3.1.2 **Integrity**

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

#### 3.1.3 **Objectivity**

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

#### 3.1.4 **Accountability**

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

### 3.1.5 **Openness**

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

### 3.1.6 **Honesty**

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

### 3.1.7 **Leadership**

Holders of public office should promote and support these principles by leadership and example.

## 3.2 The NHS Constitution sets out key responsibilities for NHS staff:

3.2.1 To accept professional accountability and maintain the standards of professional practice as set by the appropriate regulatory body applicable to the profession or role;

3.2.2 To take reasonable care of health and safety at work for themselves, their team and others; and to co-operate with employers to ensure compliance with health and safety requirements;

3.2.3 To act in accordance with the express and implied terms of contract of employment;

3.2.4 Not to discriminate against patients and staff and to adhere to equal opportunities and equality and human rights legislation;

3.2.5 To protect the confidentiality of personal information that they hold; and

3.2.6 To be honest and truthful in applying for a job and in carrying out that job.

## 3.3 All staff must further commit to and support the Core principles of the NHS set out in the NHS Constitution:

3.3.1 The NHS provides a comprehensive service available to all.

3.3.2 Access to NHS services is based on clinical need, not an individual's ability to pay.

- 3.3.3 The NHS aspires to the highest standards of excellence and professionalism.
- 3.3.4 The NHS aspires to put patients at the heart of everything it does.
- 3.3.5 The NHS works across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population.
- 3.3.6 The NHS is committed to providing best value for taxpayers' money and the most effective, fair and sustainable use of finite resources.
- 3.3.7 The NHS is accountable to the public, communities and patients that it serves.

#### **4. Material Conflicts of Interest**

4.1 'Material' interests are categorised as follows:

- 4.1.1 Financial interests: Where staff may get direct financial benefit from the consequences of a decision they are involved in making. Staff are not expected to quantify the extent of their financial interest, merely the fact that one exists.
- 4.1.2 Non-financial professional interests: Where staff 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.
- 4.1.3 Non-financial personal interests: Where staff 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. This does not include concessionary agreements, for example, an NHS staff benefit scheme, negotiated by NHS management, or recognised staff interests, on behalf of all staff.
- 4.1.4 Indirect interests: Where staff have a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest and who would stand to benefit from a decision they are involved in making.

4.2 Staff must declare any 'material' conflicts of interests. A 'material' conflict is one which a reasonable person would take into account when

making a decision regarding the use of taxpayer's money because the interest has relevance to that decision. It covers a 'perceived', 'actual' or 'potential' conflict i.e. one where there is the possibility of a material conflict arising.

- 4.3 The following staff must submit annually, as a minimum, a declaration (or nil return if relevant):
- Staff on Consultant contracts; and
  - All staff (not just clinical staff) who are on AfC band 8d and above (or equivalent).

## 5. Declarations of Conflicts of Interest

- 5.1 Staff are required to make various declarations arising from the Gifts, Hospitality and Sponsorship Policy and this Code.
- 5.2 Where any conflicts may arise as set out within this Staff Code of Conduct or the Gifts, Hospitality and Sponsorship Policy, staff must declare on the Conflict of Interest Form the following:
- a) their name and role within the Trust;
  - b) a description of the nature of the conflict;
  - c) relevant dates; and
  - d) any other relevant information.
- 5.3 Staff involved in finance systems processes, including procurement, will be required to sign a separate no conflict of interest declaration; this will be recorded on the relevant finance system.
- 5.4 All interests of Decision Making Staff must be published. Decision Making Staff are identified as those members of staff who are likely to have influence on spending taxpayers' money.

## 6. Specific Declarations

- 6.1 There are certain situations where staff are expected to make a declaration. This includes the following:
- 6.1.1 **Company:** Any relationship with a named company with which the Trust might do business, including through the Trust's own subsidiaries. Such interests would include:
- ownership or part ownership;
  - share-holdings or other beneficial interest such as options, warrants etc.;
  - directorships (executive and non-executive);
  - paid employment; and/or

- partnerships, consultancy, or close family connection.

6.1.2 **Secondary Employment:** This is employment and other engagements, outside of formal employment arrangements, which includes, but is not limited to, the following 'paid' activities:

- self-employment
- consultancy work
- lectures/paid honorariums
- political roles
- position of authority held in another public body, trade union, charity, not-for profit organisation, voluntary body, professional body or other association
- Sitting on advisory groups or other paid decision making forums with whom the Trust does (or potentially) does business
- Paid honoraria with a company which may do business with the Trust

6.1.3 Where a staff member is offered fees for the provision of other "Secondary Employment" (as defined above) which may have a bearing on their official duties, or draw on their official experience, the individual's line manager must be informed on appointment and written authority be obtained as follows:

- a) From the appropriate Divisional Director or Director of Operations for staff within the operational divisions;
- b) the appropriate Executive Team Director for all other staff; or
- c) the Chief Executive for all Executive Team Directors.

6.1.4 Any approval should be in writing and recorded on the individual's personal file. As part of the approval process, the relevant Director will require assurance that:

- a) the individual concerned is not making use of his/her NHS employment to further their private interests
- b) any outside work does not interfere with the performance of their NHS duties
- c) any outside work will not damage the Trust's reputation
- d) their hours worked across all employment does not exceed the 48-hour limit of the Working Time Directive unless the member of staff has chosen to opt out of this. Where staff have chosen to opt out of the Working Time

Directive they will also need to provide assurance that they are adhering to the statutory required rest breaks.

6.1.5 Where a potential conflict of interest is identified, a judgement must be taken as to the appropriate action, including:

- a) Declining permission to take up outside employment;
- b) Amending an employee's duties to remove the risk of conflict of interest; or
- c) Putting in place additional safeguards to mitigate the risk of conflict of interest e.g. absencing the employee from any decisions relating to their outside employer or competitor organisations.

6.1.6 Where no conflict of interest is identified staff will be able to take up outside employment in line with their terms and conditions of employment with the Trust.

6.1.7 Medical and Dental Staff may undertake private practice in accordance with their respective Terms and Conditions of Service. However, they have an obligation to ensure that any 'Programmed Activity' as per their primary contract of employment with the Trust takes precedence.

6.1.8 If the work carried out is part of the employee's normal duties, or could reasonably be regarded as falling within the normal duties of the post and is carried out during the normal working hours of that employee, then any fee must be made payable to the Trust and the relevant divisional Finance Manager be informed.

6.1.9 **Loyalty interests:** This includes the following 'unpaid' activities:

- Holding a position of authority in a voluntary, NHS organisation, commercial, charity, professional, statutory or other (advisory/decision making) body with which the Trust is (potentially) making business
- Any involvement in joint working arrangements with Clinical (or other) Suppliers with whom the Trust does (or potentially does) business
- Political roles
- Close affiliation with relatives, friends and associates/business partners who have decision making powers and who do business with the Trust
- Radio or TV interviews about Trust business

6.1.10 **Intellectual Property:** The Trust will ensure that it is in a position to identify potential intellectual property rights, as and when they arise, so that it can protect and exploit them properly,



and thereby ensure that it receives any rewards or benefits e.g. royalties in respect of work commissioned from third parties, or work carried out by their employees in the course of their NHS duties. Most intellectual property rights are protected by statute; the Trust will build appropriate specifications and provisions into the contractual arrangements, which it enters into before the work is commissioned, or begins. The Trust will seek legal advice if in any doubt in specific cases.

6.1.10.1 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 the Trust, must be declared. Staff must notify their line manager and seek prior permission from the Trust's Corporate Affairs Team before entering into any agreement with bodies regarding product development, research, work on pathways, etc. where this impacts on the Trust's own time, or uses its equipment, resources or Intellectual Property rights.

#### **6.1.11 Clinical Private Practice**

6.1.11.1 Where any conflicts may arise staff must declare the following:

- a) Name of private facility where they practice;
- b) The speciality/major procedures in which they practice;
- c) When they practice to include identified sessions and time committed; and

6.1.11.2 Staff must not initiate conversations about private work with patients during the course of their Trust employment.

#### **6.1.12 Strategic Decision Making Groups**

6.1.12.1 The interests of staff involved in Strategic Decision Making Groups must adopt the following principles:

- a) The Chair must consider any known interests of staff members in advance, and commence each meeting by asking for any declarations of interest;
- b) Members of these Groups must take personal responsibility for declaring any material interests at the beginning of each meeting and throughout as they may arise;
- c) Any new interests identified must be added the Declarations of Interest Register; and

- d) The Vice Chair (or other non-conflicted member) will chair all or part of the meeting if the Chair has an interest which may prejudice their judgement.

6.1.12.2 Furthermore, where a staff member has an actual or potential interest, the Chair must consider the following approaches and ensure that the reason for the chosen action is recorded within the minutes of the meeting or other record of the same:

- a) Requiring the staff member to not attend the meeting;
- b) Excluding the staff member from receiving meeting papers relating to their interest;
- c) Excluding the staff member from all or part thereof the discussion and decision making process;
- d) Noting the nature and extent of the interest, but judging it appropriate to allow the staff member to remain and participate; and/or
- e) Removing the staff member from the group or process altogether.

6.1.12.3 The default response will not always be to exclude staff members with interests as this may have a detrimental effect on the quality of the decision being made. Good judgement must be used to ensure the proportionate management of the risk.

### **6.1.13 Purchase of goods and services**

6.1.13.1 When signing off contracts (this includes approving an award decision) on behalf of the Trust, staff need to assure themselves that they are acting within the authorisation levels as set out in the associated Scheme of Delegation.

6.1.13.2 Procurement of all goods and services for the Trust must be carried out in accordance with the associated Procurement Policy, Standing Orders and Standing Financial Instructions and, where relevant, advice must be sought from the Procurement Team.

6.1.13.3 All staff who are in contact with suppliers and contractors (including external consultants), and in particular those who are authorised to approve Purchase Orders, or procure and award contracts for goods, materials or services are expected to adhere to professional procurement standards and the Bribery Act 2010.

6.1.13.4 Fair and open competition between prospective contractors or suppliers for NHS contracts is a requirement of Standing Orders, Standing Financial Instructions, the Procurement Policy, the EU Directives on Public Procurement, and EU Treaty principles which require transparency, equal treatment and appropriate and fair competition. This means that:

- a) No private or public company, firm or voluntary organisation which may bid for NHS business must be given any advantage over its competitors, such as advance notice of NHS requirements. This applies to all potential contractors, whether or not there is a relationship between them and the Trust, such as a long-running series of previous contracts.
- b) Each new contract must be awarded solely on merit in accordance with the Trust SFIs, Standing Orders, Procurement Policy, and relevant procedures.
- c) No special favour may be shown to current or former employees or their close relatives or associates in awarding contracts to private or other businesses run by them or employing them in a senior or managerial capacity.
- d) Contracts must be won in fair competition against other tenders and scrupulous care must be taken to ensure that the selection process was conducted impartially, and that staff who are known to have a relevant interest play no part in the selection.

6.1.13.5 A conflict of interest may also arise where a member of staff is aware that they will not be impartial to a certain company (e.g. for personal reasons).

6.1.13.6 Staff who dishonestly abuse their position in the procurement of goods and services may also be guilty of the offence of fraud by abuse of position according to section 4 of the Fraud Act 2006. Even when bias does not occur, a lack of transparency in the declaration and management of a conflict of interest can lead to the perception that wrongdoing exists leading to potential disciplinary proceedings.

**6.1.14 Gifts, Hospitality and Sponsorship (including sponsored events, sponsored posts and sponsored research) – see associated Policy.**

6.2 For all interests not captured above, the following test applies: “Would an external observer, knowing the facts of the situation, reasonably think that:

- the person might be influenced by the interest;
- the interest prejudice the interests of the Trust; and/or
- the interest bring the Trust into disrepute?”

6.3 If the answer to any or all of the questions is ‘yes’, then a declaration must be made. Certain interests might fall into more than one category. The declaration should be made in a way which exposes any potential, actual or perceived conflict in the most meaningful way.

6.4 Staff must be aware that the obligation to disclose arises as soon as staff become aware of any potential, actual or perceived ‘material’ conflict. Therefore staff must not wait until there is an actual conflict, but must disclose it as soon as possible and within 28 days of the conflict arising or them having knowledge of the potential or perceived conflict, whichever is the soonest. In case of doubt, the presumption is always in favour of declaring an interest. Additional advice can be sought from the Corporate Affairs Team, HR, or Procurement (where applicable).

6.5 Failure to declare a conflict of interest as set out within this Staff Code of Conduct and/or the associated Gifts, Hospitality and Sponsorship Policy may result in disciplinary action against the member of staff.

6.6 Where the Corporate Affairs department has doubts as to whether a declared ‘potential’ or ‘perceived’ conflict might amount to an ‘actual’ significant conflict of interest, it will alert the senior management which might take appropriate action to mitigate any associated risk. This may include:

- informal employment law action such as reprimand or signposting to training and/or guidance; or
- formal employment law action such as a formal written warning, the requirement for additional training, re-arrangements of duties, re-deployment, demotion or dismissal;
- referring incidents to regulators or contractual action.

6.7 Staff will be required to cooperate with the Trust in managing any actual or potential conflicts of interest. Failure to cooperate may result in disciplinary action.

## **7. Maintenance and Publication of the Conflicts of Interest Register**

7.1 The conflicts of interest declaration form can be accessed here:

For the QE site:

1.1.1 Staff must declare all gifts, hospitality or other inducements received by or offered to staff by or on behalf of:

- any manufacturer, distributor;

- vendor of pharmaceuticals, medical devices, consumables; or
- equipment

of a type which is or could be used in the delivery of the Services; and any other actual or potential conflicts of interest on their part in relation to the delivery of the Services.

The conflicts of interest declaration form can be accessed here:

For the QE site:

<http://uhbhome/conflict-of-interest-declaration.htm>

For the HGS site:

<http://sharepoint10/sites/governance/SitePages/conflict%20of%20interest.aspx>

- 7.2 A separate compulsory register of interests exists for the Council of Governors; this is managed by the Governor Liaison and Membership Officer.
- 7.3 The main register of conflict of interests is managed by the Deputy Foundation Secretary who will decide whether the entries have to be transferred onto the 'public' register following consultation with the Director of Corporate Affairs.
- 7.4 The public register will be updated annually and published on the Trust internet excluding any exceptions (see section 9 below).
- 7.5 The Trust will not use information provided on the pro-forma for any other purpose than maintaining the Register.

## **8. Additional Declarations**

- 8.1 In addition to the Declaration of Conflicts of Interest listed above, there may be further circumstances requiring Declarations to be made.

### **8.2 Lectures/Interviews**

- 8.2.1 Certain other provisions apply specifically to the provision of lectures or interviews. A lecturer/interviewee should ensure that the audience is made aware of whether they are speaking on behalf of the Trust or in a private capacity.

- 8.2.2 It may not always be clear whether an individual is acting in a private capacity or as a representative of the Trust. An individual will be deemed to be acting in a private capacity where he/she is invited to speak because of his/her position within the Trust but is expected to express his/her personal thoughts and opinions on a subject. It is acknowledged that this may be a grey area and, in cases of doubt, staff should consult the respective Director (see 6.1.3).
- 8.2.3 Where an individual gives a lecture in a private capacity on a matter unrelated to the NHS and the individual's job or profession (e.g. a hobby), he/she does not have to seek permission from the relevant Director. In these circumstances, the individual should avoid referring to his/her official position with the Trust.
- 8.2.4 Staff involved in appointment panels must disclose any interest when involved in decisions relating to the appointment of candidates. Failure to disclose such a relationship may render the appointment process void. Where a member of the appointment panel is related to any candidate, steps should be taken to ensure at least one member of the panel is independent.

### 8.3 Work undertaken for professional bodies

- 8.3.1 If an employee, other than a member of medical or dental staff, wishes to serve as an office bearer with a professional body of which he/she is a member, the individual's line manager must be informed and written authority be obtained as follows:
- a) from the appropriate Divisional Director or Director of Operations for staff within the operational divisions;
  - b) the appropriate Board Director for all other staff;
  - c) the Chief Executive for all Executive Directors.
- 8.3.2 Any approval should be in writing and recorded on the individual's personal file. As part of the approval process, the approving Director will require assurance that the individual's duties as an office bearer with the professional body:
- a) will not interfere with his/her duties with the Trust, and
  - b) will not damage the Trust's reputation.
- 8.3.3 Provided that the individual's activities in respect of the professional organisation will not interfere unreasonably with his/her duties and the duties of any relevant support staff,

permission to act as an office bearer for a professional organisation will not be unreasonably withheld.

8.3.4 Medical and Dental Staff may undertake private practice in accordance with their respective Terms and Conditions of Service. However, they have an obligation to ensure that any 'Programmed Activity' as per their primary contract of employment with the Trust takes precedence.

8.3.5 The following matters will be agreed in writing before the individual takes up his/her duties with the professional body:

- a) The time off to be granted to allow the individual to fulfil his duties with the professional body;
- b) Whether this time off is to be paid or unpaid;
- c) The extent to which expenses will be met by the Trust in respect of travel and subsistence relating to the individual's work for the professional body;
- d) The nature and extent of any support to be provided by the Trust in terms of secretarial duties, access to email/internet, photocopying, printing and faxes etc;
- e) Whether the costs of this support are to be charged to the professional body or met by the Trust.

8.3.6 Unless the individual's job description requires membership with the professional body in question, the Trust will not pay or reimburse the costs of subscriptions to this professional body. It is the responsibility of each individual to meet the cost of his/her membership of the relevant organisation(s).

8.3.7 If an individual wishes to apply for study leave to attend an event organised by a professional body of which he/she is a member or any other event as part of a programme of continuing professional development, he/she should submit a formal application for study leave to his/her line manager/Head of Department/Director in line with the Study leave policy.

8.3.8 Any associated travel expenses might be approved in line with the Trust's Travel Expenses policy.

#### 8.4 Staff facing criminal charges

8.4.1 The Trust expects staff facing criminal charges to give notice of this without delay to their line manager, regardless of whether they feel it is relevant or not. In the event that a member of staff discloses information of a serious nature, advice must be sought from Human Resources as to the action to be taken.

## **9. Exceptions**

Where a member of staff believes that to publish their conflict of interest must not be published as to do so may give rise to a real risk of harm or is prohibited by law, they must make representations to Corporate Affairs. In such instances the member of staff's name and/or other information may be redacted from the published register.

## **10. Breaches of this Code**

- 10.1 Any breaches of this Code will be investigated jointly by Corporate Affairs, Human Resources and other appropriate Division/area. Where appropriate, the Trust will report any breaches by regulated healthcare professionals to the relevant regulator if it believes that the staff member has acted improperly, so that these concerns can be investigated.
- 10.2 The associated Disciplinary Policy and Procedure will be followed and may result in a referral to the Local Counter Fraud Specialist for a potential criminal investigation.
- 10.3 Staff have a responsibility to speak up about actual or suspected breaches of this policy by others. Legitimate and genuine concerns about conflicts of interest and other financial integrity or business conduct issues may be raised through the Trust's Freedom to Speak up Guardian or through application of the associated Policy for Raising Concerns in the Public Interest (Whistleblowing) and Procedure.