

CODE OF BUSINESS CONDUCT POLICY

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DOCUMENT CONTROL

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CONTENTS

Section	Summary of Section	Page
Doc	Document Control	2
Cont	Contents	3
1.	Introduction	5
2.	Purpose and Scope	5
3.	Duties and Responsibilities	5
4.	Explanation of Terms Used	7
5.	The Bribery Act (2010)	8
6.	Trust Code of Conduct	8
7.	Raising Concerns	8
8.	Counter Fraud Measures	9
9.	Declaration of Interests	9
10.	Gifts and Hospitality	10
11.	Personal Conduct	11
12.	Outside Employment and Private Practice	12
13.	Political Activities	12
14.	Commercial Sponsorship	12
15.	Suppliers and Contractors	13
16.	External Work and Projects	14
17.	Management Arrangements	14
18.	Equality Impact Assessment	14
19.	Training Requirements	15
20.	Monitoring Compliance and Effectiveness	15
21.	Relevant Care Quality Commission (CQC) Registration Standards	15
22.	References, Acknowledgements and Associated Documents	16

23.	Appendices	16
Appendix 1	Standards for Members of NHS Boards and Clinical Commissioning Groups in England (2012)	17
Appendix 2	Code of Conduct and Code of Accountability (2004)	19
Appendix 3	The Nolan Principles	20
Appendix 4	Declaration Of Interest Form	21
Appendix 5	Gifts and Hospitality Declaration Form	23
Appendix 6	Commercial Sponsorship Ethical Standards	24
Appendix 7	Application for Permission to Accept Commercial Sponsorship	31
Appendix 8	Guidance For Pharmaceutical Company Representatives On Trust Premises	32

1. INTRODUCTION

- 1.1 This policy sets out the public service values, which underpin the work of Somerset Partnership NHS Foundation Trust and to reflect current guidance and best practice to which all individuals within the Trust must have regard in their work for the organisation.
- 1.2 The Trust aspires to the highest standards of corporate behaviour and responsibility. All Trust staff are required to comply with this policy.
- 1.3 This policy and procedure is intended to
- make all staff aware of the Trust's expectations of their business conduct and corporate behaviour;
 - give staff the knowledge and information they need to protect themselves from situations that may draw criticism or even disciplinary action;
 - enable members of staff to express their concerns in an open and unthreatening way.
- 1.4 All staff must act with integrity in any business dealings as part of their employment with the Trust and uphold the principles of public life.
- 1.5 Any suspected fraudulent breach of this policy must be reported to, and will be investigated by, the Local Counter Fraud Specialist and may result in a criminal prosecution being commenced.
- 1.6 Your Local Counter Fraud Specialist is Aimee Newton who can be contacted by telephoning 0845 300 3333; 07867 526312; or emailing aimee.newton@nhs.net or aimee.newton@tiaa.co.uk

2. PURPOSE AND SCOPE

- 2.1 This policy applies to:
- Executive Directors;
 - Non-Executive Directors;
 - all Trust employees;
 - Governors;
 - third parties acting on behalf of the Trust under a contract;
 - students and trainees (including apprentices);
 - agency staff engaged by the Trust;
 - secondees.

3. DUTIES AND RESPONSIBILITIES

- 3.1 The **Chief Executive** is the Trust's designated "Accountable Officer" and has overall responsibility for ensuring the Trust operates efficiently, economically and with probity.

- 3.2 **Executive Directors, Associate Directors and Non-Executive Directors** are expected to behave in accordance with the Standards for Member of NHS Boards and Clinical Commissioning Groups (2012) as set out in Appendix 1.
- 3.3 **Heads of Division, Senior Managers and Service and Team Managers** are responsible for assisting Trust employees in complying with this policy by:
- ensuring this policy and its requirements are brought to the attention of employees for whom they are responsible, and those employees are aware of its implications for their work;
 - ensuring that their members of staff have a thorough understanding of the Trust's governance arrangements
- 3.4 **All members of staff** are expected to:
- ensure the interests of patients remain paramount at all times;
 - be impartial and honest in the conduct of their official business;
 - use the public funds entrusted to them to the best advantage of the service, always ensuring value for money;
 - not abuse their official position for personal gain or to benefit their family or friends;
 - not seek to advantage, or further, private business or other interests, in the course of their official duties;
 - be aware it is both a serious criminal offence under the Bribery Act 2010, and a disciplinary matter, to receive or give corruptly any fee, loan, gift, reward or other advantage in return for doing (or not doing) anything or showing favour (or disfavour) to any person or organisation;
 - understand failure to follow this policy may damage the Trust's reputation and its work and so may be viewed as a disciplinary matter, to be dealt with under normal employee relations procedures, and the result could include dismissal;
 - comply with the Code of Conduct and Code of Accountability in the NHS (second revision July 2004) as set out in Appendix 2;
 - act in accordance with the Nolan Principles as set out in Appendix 3.
 - report relevant interests that may potentially conflict with the work of the Trust in line with the guidance set out in Appendix 4
 - report hospitality and sponsorship they receive in line with the guidance and forms set out in Appendix 5;
 - ensure pharmaceutical company representatives on Trust premises comply with the guidance contained in Appendix 6;
 - comply with the Code of Openness and the Duty of Candour, in line with the Trust's Being Open and Duty of Candour Policy.

4. EXPLANATION OF TERMS USED

- 4.1 **Bribery** is generally defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.
- 4.2 **Commercial Sponsorship** is defined as including NHS funding from an external source, including funding of all or part of the cost 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 and buildings or premises.

5. THE BRIBERY ACT (2010)

- 5.1 The Bribery Act came into effect on 1 July 2011. The maximum penalty for bribery is ten years imprisonment, with an unlimited fine. In addition the Act introduces a corporate offence of failing to prevent bribery by an organisation not having adequate preventative procedures in place.
- 5.2 The Trust must show it has procedures and protocols in place to prevent bribery. The corporate offence is not a stand-alone offence, but always follows from a bribery and/or corruption offence committed by an individual associated with the company or organisation in question.
- 5.3 As a result, the Trust will commit sufficient time and resources to the development and embedding of an appropriate anti-bribery programme to include:
- a commitment to carry out business fairly, honestly and openly;
 - a commitment to zero tolerance towards bribery;
 - the consequences of breaching the policies for employees and managers;
 - the avoidance of doing business with others who do not commit to doing business without bribery as a 'best practice' objective;
 - the protection and procedures for confidential reporting of bribery (whistleblowing);
 - to support key individuals and departments involved in the development and implementation of the Trust's bribery prevention procedures.
- 5.4 The Trust has a responsibility to ensure all its staff are made aware of their duties and responsibilities arising from the Bribery Act 2010. Under this Act there are four offences:
- bribing, or offering to bribe, another person;
 - requesting, agreeing to receive, or accepting a bribe;
 - bribing, or offering to bribe, a foreign public official;
 - failing to prevent bribery.
- 5.5 All Trust staff are required to be aware of the Bribery Act 2010 and should also refer to the Trust's Courter Fraud Policy (which includes Anti-Fraud, Bribery and Corruption for further guidance in relation to this.

6. TRUST CODE OF BUSINESS CONDUCT

6.1 As a consequence of the business codes of conduct referred to above and set out in appendices to this policy, and in addition to professional codes for regulated staff, (e.g. GMC, RCN, NMC) all staff and independent contractors working for the Trust are expected to:

- act impartially in all their work;
- refuse gifts, benefits, hospitality or sponsorship of any kind which might reasonably be seen to compromise their personal judgement or integrity, and to avoid seeking to exert influence to obtain preferential consideration. All such gifts should be returned and hospitality refused;
- declare and register gifts, benefits, or sponsorship of any kind, in accordance with time limits agreed locally, (provided that they are worth at least £25), whether refused or accepted. In addition gifts should be declared if several small gifts worth a total of over £100 are received from the same or closely related source in a twelve month period;
- declare and record financial or personal interest (e.g. company shares, research grant) in any organisation with which they have to deal, and be prepared to withdraw from those dealings if required, thereby ensuring that their professional judgement is not influenced by such considerations;
- make it a matter of policy that offers of sponsorship that could possibly breach the Code be reported to the Trust Board;
- not misuse their official position or information acquired in the course of their official duties, to further their private interests or those of others;
- ensure professional registration (if applicable) and/or status are not used in the promotion of commercial products or services;
- beware of bias generated through sponsorship, where this might impinge on professional judgement and impartiality;
- neither agree to practice under any conditions which compromise professional independence or judgement, nor impose such conditions on other professionals.

7. RAISING CONCERNS

7.1. We expect every member of staff to speak up about genuine concerns in relation to criminal activity, breach of a legal obligation (including negligence, breach of contract or breach of administrative law), miscarriage of justice, danger to health and safety or the environment, and the cover up of any of these in the workplace.

7.2 The Trust has developed a Whistleblowing (Raising Concerns) policy which sets out its arrangements for raising and handling staff concerns. The procedure for reporting specific concerns relating to fraud are described below.

8. COUNTER FRAUD MEASURES

- 8.1 We are committed to the NHS Protect Counter Fraud Strategy – to reduce fraud in the NHS to a minimum, keep it at that level and put funds stolen by fraud back into patient care. Therefore, consideration has been given to the inclusion of guidance with regard to the potential for fraud and corruption to occur and what action should be taken in such circumstances during the development of this procedural document. The Trust has a Counter Fraud (which includes Anti-Fraud, Bribery and Corruption) Policy that includes a response plan with which staff should make themselves familiar.
- 8.2 Trust staff should never use their position to gain financial advantage. The Trust is keen to prevent fraud and encourages staff with concerns or reasonably held suspicions about potentially fraudulent activity or practice, to report these. Trust staff should inform the Local Counter Fraud Specialist and/or the Director of Finance and Business Development immediately, unless the Director is implicated. If that is the case, they should report it to the Chair or Chief Executive, who will decide on the action to be taken.
- 8.3 Trust staff can also call the [NHS Fraud and Corruption Reporting Line](#) on free phone 0800 028 40 60. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting the NHS. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.
- 8.4 Anonymous letters and telephone calls are occasionally received from individuals who wish to raise matters of concern, but not through official channels. While the suspicions may be erroneous or unsubstantiated, they may also reflect a genuine cause for concern and will always be taken seriously. The Director of Finance and Business Development, in consultation with the Local Counter Fraud Specialist, will make sufficient enquiries to establish whether or not there is any foundation to the suspicion that has been raised.
- 8.5 Trust staff should not ignore their suspicions, investigate themselves or tell colleagues or others about their suspicions.

9. DECLARATION OF INTERESTS

- 9.1 We have in place principles and procedures to minimise, manage and register potential conflicts of interests which could be deemed or assumed to affect the decisions we make as a Trust Board and as employees of the Trust. These could include awarding contracts, procurement, policy, employment and other decisions.
- 9.2 Trust staff should not allow their judgement or integrity to be compromised. We should be, and be seen to be, honest and objective in the exercise of their duties and should understand fully their terms of appointment, duties and responsibilities.
- 9.3 Meeting these requirements is mandatory in order to identify and manage current or potential conflicts which may arise between the interests of the Trust and the personal interests, associations and relationships of its staff or representative family members.

- 9.4 Failure to follow these provisions relating to the declaration of interests may constitute the criminal offence of fraud and will be investigated by the Local Counter Fraud Specialist, as an individual could be gaining unfair advantages or financial rewards for themselves or a family member/friend or associate.
- 9.5 All Trust staff must declare any interest, either on appointment or when the interest is acquired, which may directly or indirectly give rise to an actual or potential conflict of interest or duty. Such interests, and potential conflicts of interest, include personal and indirect interests. Details of the kinds of things to declare are set out in Appendix 4.
- 9.6 The Trust is required to maintain a register of interests to record formally the declarations of interest of Trust Board members. Reporting requirements for members of the Council of Governors are as laid down in Section 7 of Annex 7 to the Foundation Trust's Constitution V6. Reporting requirements for board members are laid down in section 8 of the Board of Directors Standing Orders, included as Annex 8 of the Foundation Trust's Constitution V6.
- 9.7 All staff are required to record with the Trust, in the interests of transparency, any financial interest, employment or business relationship that could potentially conflict with this Trust policy.
- 9.8 A Declaration of Interest form, available via the Trust's Intranet, (see Appendix 4), must be completed and forwarded to the Director of Finance. All Executive Directors and senior managers (Band 8A and above) will be required to complete an annual declaration of interests form, including a nil return. Any breach of the requirements to disclose, as set out in this policy, may be subject to investigation and potential disciplinary action.

10. GIFTS AND HOSPITALITY

- 10.1 With the exception of items of little value (less than £25) such as diaries, calendars, flowers and small tokens of appreciation (including seasonal gifts), which may be accepted, all offers of gifts should be declined. In cases of doubt, advice should be sought from your line manager. A 'gift' is defined as any item of goods, or any service, which is provided for personal benefit at less than its commercial value.
- 10.2 Any personal gift of cash or cash equivalents (e.g. tokens) must be declined whatever its value.
- 10.3 Trust staff should:
- complete a report on the Gifts/Hospitality Register and submit to their line manager and/or an executive director offers that could possibly breach the code within two weeks of receiving the offer;
 - return promptly any unacceptable gifts, with a letter politely explaining the terms of this policy and stating that you are not allowed to accept them.
- 10.4 Staff should exercise discretion in accepting offers of hospitality from contractors, other organisations or individuals concerned with the supply of goods or services. Modest hospitality provided in normal and reasonable circumstances during the course of working visits may be acceptable,

although it should be on a similar scale to that which the Trust might offer in similar circumstances, e.g. hospitality provided at meetings, events, seminars. In cases of doubt, advice should be sought from your line manager.

- 10.5 Staff should be especially cautious of accepting small items of value, or hospitality over that afforded in a normal meeting environment (i.e. beverages) during a procurement process or from bidders/potential bidders. This avoids any potential claim of unfair influence, collusion or canvassing.
- 10.6. Care should be taken when providing hospitality. Avoid providing hospitality at non-business locations unless there is a clear need to do so – this should be agreed in advance by the responsible director. Any hospitality provided should be modest.
- 10.7 A Register of Hospitality form needs to be completed and forwarded to the Trust Secretary for inclusion on the register, within a month of receiving the hospitality/sponsorship (for example, a pharmaceutical company paying for a team away day).
- 10.8 The form is available on the Trust intranet (and a copy is attached as Appendix 5).

11. PERSONAL CONDUCT

Lending or borrowing

- 11.1 The lending or borrowing of money between staff should be avoided, whether informally or as a business, particularly where the amounts are significant.
- 11.2 Staff should never lend money to or borrow money from patients whether informally or as a business, whether the amounts are small or significant.
- 11.3 It is a particularly serious breach of Trust policy for any member of staff to use their position to place pressure on someone in a lower pay band, a business contact, or a member of the public to loan them money.

Gambling

- 11.4 No member of staff may bet or gamble when on duty or on Trust premises, with the exception of small lottery syndicates or sweepstakes related to national events such as the World Cup or Grand National among immediate colleagues.

Trading on official premises

- 11.5 Trading on Trust premises is prohibited, whether for personal gain or on behalf of others. Canvassing within the office by, or on behalf of, outside bodies or firms (including non-Trust interests of staff or their relatives) is also prohibited. Trading does not include small tea or refreshment arrangements solely for staff.

Collection of money

- 11.6 With line management agreement, collections may be made among immediate colleagues and friends to support small fundraising initiatives, such as raffle tickets and sponsored events. Permission is not required for

informal collections amongst immediate colleagues on an occasion like retirement, marriage or a new job.

Bankrupt or insolvent staff

- 11.7 Any member of staff who becomes bankrupt or insolvent must inform their line management and Human Resources as soon as possible. Staff who are bankrupt or insolvent cannot be employed in posts that involve duties which might permit the misappropriation of public funds or involve the handling of money.

Arrest or conviction

- 11.8 A member of staff who is arrested and refused bail or convicted of any criminal offence must inform their line management and Human Resources.

12. OUTSIDE EMPLOYMENT AND PRIVATE PRACTICE

- 12.1 Employees of the Trust (depending on the details of their contract as regards outside employment and private practice) are required to inform the Trust if they are engaged in or wish to engage in outside employment in addition to their work with the Trust. The purpose of this is to ensure the Trust is aware of any potential conflict of interest with their Trust employment. Examples of work which might conflict with the business of the Trust include:

- employment with another NHS body;
- employment with another organisation which might be in a position to supply goods/services to the Trust;
- self-employment, including private practice, in a capacity which might conflict with the work of the Trust or which might be in a position to supply goods/services to the Trust.

- 12.2 Permission to engage in outside employment/private practice will be required and the Trust reserves the right to refuse permission where it believes a conflict will arise. Any unauthorised work will be investigated by the Local Counter Fraud Specialist and may lead to a criminal prosecution being commenced.

13. POLITICAL ACTIVITIES

- 13.1 Any political activity should not identify an individual as a Trust employee. Conferences or functions run by a party political organisation should not be attended in an official capacity, except with prior written permission from an executive director.

14. COMMERCIAL SPONSORSHIP

- 14.1 Trust staff may accept commercial sponsorship for courses, conferences, post/project funding, meetings and publications if they are reasonably justifiable and in accordance with the principles set out in this policy.
- 14.2 The Trust is mindful of its responsibilities under the Commercial Sponsorship Ethical Standards for the NHS – published by the Department of Health (DoH) in November 2000 which requires NHS Organisations to produce local

policies in relation to commercial sponsorship with clear policy statements, codes of practice in working with sponsors, and codes of conduct for Board, members and staff. These arrangements need to be in line with the Trust's Standing Orders, Reservation and Delegation of Powers and Standing Financial Instructions.

- 14.3 More detailed guidance on commercial sponsorship is provided in Appendix 6 of this policy and the application form for commercial sponsorship is included in Appendix 7.
- 14.4 Guidance for pharmaceutical representatives on trust premises is set out in Appendix 8.
- 14.5 Commercial sponsorship considerations are also linked to Trust responsibilities under the Anti-Bribery Act. The Trust will, in addition to the arrangements set out in Appendices 6-8, ensure any potential or existing commercial sponsor has suitable anti-bribery measures in place as required by the Act.

15. SUPPLIERS AND CONTRACTORS

- 15.1 All Trust staff who are in contact with suppliers and contractors (including external consultants), and in particular those who are authorised to sign purchase orders or enter into contracts for goods and services, are expected to adhere to professional standards in line with those set out in the Code of Ethics of the Chartered Institute of Purchasing and Supply.
- 15.2 All Trust staff must treat prospective contractors or suppliers of services to the Trust equally and in a non-discriminatory way and act in a transparent manner.
- 15.3 Trust staff involved in the awarding of contracts and tender processes must take no part in a selection process if a personal interest or conflict of interest is known. Such an interest must be declared to the Secretary to the Trust using the form provided as soon as it becomes apparent. Trust staff should not at any time seek to give undue advantage to any private business or other interests in the course of their duties.
- 15.4 The Trust has duties under European and UK procurement law and Trust staff must comply with standing financial instructions (SFIs) in relation to all contract opportunities with the Trust.
- 15.5 Trust staff must not seek, or accept, preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of the Trust. This does not apply to officers' and members' benefit schemes offered by the NHS or trade unions.
- 15.6 Trust staff invited to visit organisations to inspect equipment (e.g. software or training aids) for the purpose of advising on its purchase will be reimbursed for their travelling expenses in accordance with the travel expenses policy laid down by the Trust. Such expenses should not be claimed from other organisations to avoid compromising the purchasing decisions of the Trust.
- 15.7 Every invitation to tender to a prospective bidder for Trust business must require each bidder to give a written undertaking, not to engage in collusive tendering or other restrictive practice and not to engage in canvassing the Trust, its employees or officers concerning the contract opportunity tendered.

- 15.8 Offers of pro bono work from prospective bidders for Trust business should be politely refused.

16. EXTERNAL WORK AND PROJECTS

- 16.1 As a general principle any financial gain resulting from external work where use of Trust time or title is involved (e.g., speaking at training events/conferences, writing articles etc.) and/or which is connected with Trust business will be forwarded to the Secretary to the Trust.
- 16.2 Any patents, designs, trademarks or copyright resulting from the work (e.g., research) of an employee of the Trust carried out as part of their employment by the Trust shall be the Intellectual Property of the Trust.
- 16.3 Approval from the appropriate line manager should be sought prior to entering into an obligation to undertake external work connected with the business of the Trust, e.g. writing articles for publication, speaking at conferences.
- 16.4 Where the undertaking of external work, gaining patent or copyright or the involvement in innovative work, benefits or enhances the Trust's reputation or results in financial gain for the Trust, consideration will be given to rewarding employees subject to any relevant guidance for the management of Intellectual Property in the NHS issued by the Department of Health.

17. MANAGEMENT ARRANGEMENTS

- 17.1 Trust staff should be aware that a breach of this policy could render them liable to action being taken against them under the Trust's employee relations procedures which could lead to the termination of their employment or position with the Trust.
- 17.2 Trust staff who fail to disclose any relevant interests, outside employment or receipt of gifts or hospitality as required by this policy or the Trust's Standing Orders and Standing Financial Instructions may be subject to disciplinary action which could, ultimately, result in the termination of their employment or position with the Trust. The matter may also be reported to, and investigated by, the Local Counter Fraud Specialist.
- 17.3 The Secretary to the Trust will be responsible for maintaining the register of interests, holding the hospitality register and reviewing the implementation of this policy.

18. EQUALITY IMPACT ASSESSMENT

- 18.1 All relevant persons are required to comply with this document and must demonstrate sensitivity and competence in relation to the nine protected characteristics as defined by the Equality Act 2010. In addition, the Trust has identified Learning Disabilities as an additional tenth protected characteristic. If you, or any other groups, believe you are disadvantaged by anything contained in this document please contact the Equality and Diversity Lead who will then actively respond to the enquiry.

19. TRAINING REQUIREMENTS

- 19.1 All Trust staff will receive training on counter fraud and security as part of their corporate induction training.

20. MONITORING COMPLIANCE AND EFFECTIVENESS

20.1 Monitoring arrangements for compliance and effectiveness

- monitoring of counter fraud activities and the Register of Gifts and Hospitality will be undertaken through regular reports to the Audit Committee;
- breaches of the Code of Conduct resulting in financial impact for the Trust will be reported on an exception basis to the Audit Committee;
- any disciplinary action taken as a consequence of breaches of the Code of Conduct will be monitored through the Our Partnership Group.

20.2 Responsibilities for conducting the monitoring

- the Director of Strategy and Corporate Affairs will be responsible for monitoring the effectiveness of the policy and for reporting concerns or issues to the Trust Board.

20.3 Methodology to be used for monitoring

- incident reporting and monitoring;
- reports of the Counter Fraud Service to the Audit Committee;
- review of the Register of Gifts and Hospitality by the Audit Committee;
- reports of disciplinary processes to the Our Partnership Group and the Trust Board.

21. RELEVANT CARE QUALITY COMMISSION (CQC) REGISTRATION STANDARDS

- 21.1 Under the **Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3)**, the **fundamental standards** which inform this procedural document, are set out in the following regulations:

Regulation 17: Good governance
Regulation 19: Fit and proper persons employed

- 21.2 Under the **CQC (Registration) Regulations 2009 (Part 4)** the requirements which inform this procedural document are set out in the following regulations:

Regulation 11: General

22. REFERENCES, ACKNOWLEDGEMENTS AND ASSOCIATED DOCUMENTS

22.1 References

The **Code of Conduct and Code of Accountability in the NHS (second revision July 2004)**: (http://www.nhsbsa.nhs.uk/Documents/Sect_1_-_Codes_of_Conduct_Acc.pdf)

Standards for Members of NHS Boards and CCGs in England (2012): <http://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-for-members-of-nhs-boards-and-ccgs-2013.pdf?sfvrsn=2>)

The Nolan Principles: [The 7 principles of public life - Publications - GOV.UK](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/222222)

The Bribery Act (2010): <http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf>

Commercial Sponsorship: Ethical Standards for the NHS: http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/dr_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4076078.pdf.

Standards of Business Conduct for NHS Staff (http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Healthserviceguidelines/DH_4017845).

Code of Practice on Openness in the NHS: [\[ARCHIVED CONTENT\] UK Government Web Archive – The National Archives](http://www.nationalarchives.gov.uk/ukgovernmentwebarchive/)

22.2 Cross reference to other procedural documents

Being Open and Duty of Candour Policy

Counter Fraud (which includes Anti-Fraud, Bribery and Corruption) Policy

Development & Management of Organisation-wide Procedural Documents Policy and Guidance

Untoward Event Reporting Policy and procedure

Whistleblowing (Raising Concerns) Policy

All current policies and procedures are accessible in the policy section of the public website (on the home page, click on 'Policies and Procedures'). Trust Guidance is accessible to staff on the Trust Intranet.

23. APPENDICES

23.1 For the avoidance of any doubt the appendices in this policy are to constitute part of the body of this policy and shall be treated as such.

STANDARDS FOR MEMBERS OF NHS BOARDS AND CLINICAL COMMISSIONING GROUPS IN ENGLAND (2012)

- 1.1 The Standards set out a code of conduct for executive and non-executive leaders to ensure they understand and be committed to the practice of good governance and to the legal and regulatory frameworks in which they operate. In the NHS in England. The standards aim to put care and compassion at the heart of leadership and governance. They cover personal behaviours, technical competences and business practices:

Personal behaviour

- 1.2 Leaders are asked to commit to the values of the NHS Constitution, promoting equality and human rights in the treatment of patients, their families and carers, the community, colleagues and staff, and in the design and delivery of services
- 1.3 As individuals they must understand both the extent and limitations of their personal responsibilities. In particular, applying the following values in their work and relationships with others:
- **Responsibility:** being fully accountable for their work and the decisions they make, for the work and decisions of the board, including delegated responsibilities, and for the staff and services for which they are responsible;
 - **Honesty:** acting with honesty in all their actions, transactions, communications, behaviours and decision-making, and will resolve any conflicts arising from personal, professional or financial interests that could influence or be thought to influence their decisions as board members;
 - **Openness:** being open about the reasoning, reasons and processes underpinning their actions, transactions, communications, behaviours and decision-making and about any conflicts of interest;
 - **Respect:** treating patients, their families and carers, the community, colleagues and staff with dignity and respect at all times;
 - **Professionalism:** taking responsibility for ensuring they have the relevant knowledge and skills to perform as a board member and reflect on and identify any gaps in knowledge and skills, and will participate constructively in appraisal of themselves and others while adhering to any professional or other codes;
 - **Leadership:** leading by example in upholding and promoting these Standards, and use them to create a culture in which their values can be adopted by all;
 - **Integrity:** acting consistently and fairly by applying these values in all actions, transactions, communications, behaviours and decision-making, and always raise concerns about harmful behaviour or misconduct by others.

Technical competence

1.4 Leaders must seek:

- excellence in clinical care, patient safety, patient experience, and the accessibility of services;
- make sound decisions individually and collectively
- long term financial stability and the best value for the benefit of patients, service users and the community.

Business practices

1.5 Leaders must seek:

- to ensure their organisation is fit to serve its patients, and the community;
- be fair, transparent, measured, and thorough in decision-making and in the management of public money;
- be ready to be held publicly to account for their organisation's decisions and for its use of public money.

CODE OF CONDUCT AND CODE OF ACCOUNTABILITY (2004)

The Code of Conduct and Code of Accountability in the NHS (second revision July 2004) sets out the following three public service values which are central to the work of the Trust:

- **Accountability** - everything done by those who work in the NHS must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct;
- **Probity** - there should be an absolute standard of honesty in dealing with the assets of the Trust: integrity should be the hallmark of all personal conduct in decisions affecting patients, officers and members and suppliers, and in the use of information acquired in the course of NHS duties;
- **Openness** - there should be sufficient transparency about NHS activities to promote confidence between the Trust and its staff, patients and the public.

THE NOLAN PRINCIPLES

The seven principles of public life are set out below:

- **Selflessness:** Holders of public office should take decisions 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.
- **Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- **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.
- **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.
- **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.
- **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.
- **Leadership:** Holders of public office should promote and support these principles by leadership and example.

APPENDIX 4

SPECIMEN DECLARATION OF INTEREST for the period xx-xx

Full Name:	Job Title:	Team/Ward/Service:
<p><u>Nature of interest</u></p> <p>A. Consultancies and/or direct employment:</p> <p>B. Fee paid work</p> <p>C. Shareholdings</p> <p>D. Fellowships / trusteeships & membership of voluntary bodies:</p> <p>E. Any other personal interests not covered above</p> <p>F. Non-personal interests:</p> <p>I confirm the information provided is a full, accurate and complete list of all my interests that require declaration to the Trust. I acknowledge any changes in these declarations must be notified to the Trust as soon as they occur. I will provide the Trust with further details of any interest declared if required.</p> <p>I am also aware that any hospitality received or offered must be notified to the Trust on the appropriate declaration form as soon as possible. I am aware the information provided by me will also be shared with the LCFS and/or NHS Protect.</p>		<p><u>Details</u></p>
Signature:		Date:

Notes

Declaring interests helps to avoid public concern that external links and relationships might unduly influence the work of Somerset Partnership NHS Foundation Trust. It ensures such interests are openly and publicly declared.

Declaring an interest would not necessarily preclude an individual from undertaking an external activity, whether Personal or Non-Personal, but it might mean they would not be able to take part in certain parts of a process where there could be a conflict of interest. As a result, for example, an individual may be asked to leave the room during certain parts of a meeting. Examples of particular interests that should be regarded as relevant are:

- directorships, including Non-Executive Directorships held in private companies or PLCs;
- ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS;
- majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS;
- a position of authority in a charity or voluntary organisation in the field of health and social care or contracting for NHS services; and
- research funding/grants that may be received by an individual or his/her department.

Interests may come about through:

- financial interests (for example, where someone involved has significant shareholdings or voting rights in a company or partnership);
- decisions affecting individuals who share the interests of Trust staff – for example, family members or members of societies, clubs or other organisations;
- acceptance of hospitality from current or prospective business contacts;
- acceptance of gifts.

A family member may include:

- a partner (someone who is married to, a civil partner or someone with whom the Trust staff member lives in a similar capacity);
- a parent or parent-in-law;
- a son or daughter or stepson or step daughter;
- the child of a partner;
- a brother or sister;
- a brother or sister of the staff member's partner;
- a grandparent and/ or a grandchild;
- an uncle or aunt, nephew or niece;
- the partners of the above.

REGISTER OF HOSPITALITY/SPONSORSHIP/GIFTS

NAME:	
GRADE/POSITION:	
BASE:	
DETAILS OF HOSPITALITY/SPONSORSHIP RECEIVED (incl Value):	
VALUE:	
SOURCE OF HOSPITALITY/SPONSORSHIP (e.g. Name of Organisation):	
DATE RECEIVED:	
AUTHORISED BY:	
DATE AUTHORISED:	
REASON FOR AUTHORISATION:	

Once authorised by line manager please send form to:
 Secretary to the Trust, Mallard Court

COMMERCIAL SPONSORSHIP ETHICAL STANDARDS**1. INTRODUCTION**

- 1.1 NHS Organisations are increasingly being offered Commercial Sponsorship particularly from within the Pharmaceutical Industry. The Trust is mindful of its responsibilities under the Commercial Sponsorship Ethical Standards for the NHS – published by the Department of Health (DoH) in November 2000 which requires NHS Organisations to produce local policies in relation to commercial sponsorship.

2. BACKGROUND

- 2.1 The “New NHS: Modern and Dependable” document recognised there can be mutual benefit in sponsorship arrangements with organisations external to the NHS, but only if they are agreed within a framework with the necessary safeguards and checks.
- 2.2 Commercial Sponsorship Ethical Standards for the NHS requires NHS bodies to have formal arrangements, with clear policy statements, codes of practice in working with sponsors, and codes of conduct for Board, members and staff.
- 2.3 These arrangements are in line with the Trust’s Standing Orders, Reservation and Delegation of Powers and Standing Financial Instructions.

3. KEY PRINCIPLES

- 3.1 Clinical and professional decisions must always be made in the best interests of patients and the Trust. Involvement of a commercial sponsor should not compromise the Trust or any member of staff in undertaking their duties within the NHS;
- 3.2 Any relationship must respect and safeguard confidential patient information;
- 3.3 No agreements are permissible which lead to higher costs or reduce the quality of service to patients in other parts of the NHS. Only projects which have a positive impact for patients and the service will be acceptable;
- 3.4 All agreements with a commercial sponsor will be handled in an open and transparent manner as befits a publicly funded body and are open to scrutiny and be a matter of public record;
- 3.5 Any relationship must put patients first;
- 3.6 No agreements will be entered into with sponsors whose products or services are prejudicial to health or conflict with the principles and objectives of the NHS and the Trust;
- 3.7 No agreements will be entered into with organisations whose business or function is ethically unacceptable to the Trust, its staff or the public;
- 3.8 The Trust will ensure any potential sponsor has in place appropriate anti-bribery measures as defined by the Anti-Bribery Act.

3.9 In areas such as clinical trials, or commissioning, there is sufficient distance between the commercial sponsor and the clinicians involved in the day-to-day operation of the clinical trial/commissioning decision, to ensure no undue influence is exerted to promote a particular company's product or service.

4. SPONSORSHIP ARRANGEMENTS

4.1 All sponsorship arrangements will be subject to prior written agreement between authorised Trust officers and prospective sponsors;

4.2 All sponsorship agreements must be in writing and must clearly specify the benefits to the NHS, the Trust or patient. The benefits to the sponsor must also be explicit;

4.3 Training events which rely heavily on the use of sponsored materials should be discouraged, unless they promote good practice agreed to by the Trust. Service Level Agreements with training agencies must include a clause which requires the approval of the Trust to the use of commercially sponsored materials;

4.4 All members and officers of the Trust who are taking part in sponsored projects must comply with both the Trust and their own professional codes of conduct; All pharmaceutical companies entering into sponsorship agreements must comply with the ABPI code of practice. All sponsorship agreements with pharmaceutical companies valued in excess of £500 will require the advice of the Trust's Medical Director or Head of Medicines Management to confirm they conform to Trust agreed protocols.

4.5 Where such collaborative partnerships involve a pharmaceutical company then the proposed arrangements must comply fully with the Medicines (Advertising) Regulations 1994 (regulation 21 'Inducements and hospitality' attached at annex B). Any person who contravenes regulation 21(1) is guilty of an offence, and liable, on summary conviction to a fine not exceeding £5000, and on conviction on indictment to a fine, or to imprisonment for a term not exceeding two years, or both. Anyone contravening regulation 21(5) is also guilty of an offence and liable, on summary conviction to a fine not exceeding £5000.' The MCA Guidelines on Promotion and Advertising set out the standards to be followed.

4.6 Trust staff should only accept individual opportunities sponsored by pharmaceutical companies when approved by the Chief Operating Officer for sponsorship £500 - £4999. All sponsorship over £5000 is subject to prior approval by the Trust;

4.7 These arrangements do not apply to Personal gifts of less than £25 per gift e.g. gifts of post-it pads, pens etc. However gifts should be declared if several small gifts worth a total of over £100 are received from the same or closely related source in a 12 month period. Income generation schemes will be logged separately by the Trust.

4.8 Formal Trust meetings should not be the subject of sponsorship agreements. Sponsorship for local training may be acceptable subject to the necessary authorisations.

- 4.9 Projects which involve the use of clinical guidelines or protocols prepared by sponsors should only be agreed following advice from the Trust's professional advisors.
- 4.10 Projects which involve the exchange of patient information should seek the advice of the Trust's Caldicott Guardian. Further guidance relating to compliance with data protection and data confidentiality may be obtained from the Information Governance Lead.
- 4.11 All staff, including Trust members, involved in the development of a sponsorship agreement must declare any prior interest in terms of previous sponsorship or relationship to any of the individual sponsors in question.
- 4.12 Sponsors should not advertise the Trust's participation in their project as an endorsement to their product, packages or company without specific written permission of the Trust. The Trust should agree the nature of any endorsement or linked publication.
- 4.13 Any proposed collaboration should be without prejudice to any of the Trust's Standing Orders, Reservation and Delegation of Powers and Standing Financial Instructions, and within the spirit and letter of the Department of Health guidance and relevant codes of practice.
- 4.14 Commercial organisations must not be in breach of article 85 (1) of the EC treaty which prohibits agreements preventing, restricting or distorting competition or section 21 (1) of the Competition Act 1980 which makes it unlawful to engage in practice preventing, restricting or distorting competition in the supply and acquisition of goods.
- 4.15 All agreements must include a 'break' clause enabling the termination of the agreement at short notice, or immediately if necessary.
- 4.16 Sponsors should be informed that any sponsorship arrangement will have no effect on purchasing decisions with the Trust.
- 4.17 Sponsorship agreements which involve several sponsors are to be preferred to those which involve a single sponsor.
- 4.18 All sponsors should be provided with copies of this policy document before draft arrangements are agreed.

5. MANAGEMENT ARRANGEMENTS

- 5.1 A register of sponsorship agreements will be maintained by the Secretary to the Trust.
- 5.2 The register will be open to inspection by the public. The register will record those proposals which were submitted and approved or not approved.
- 5.3 The Secretary to the Trust will make an annual report to the Trust each year. Copies of the register will be made available on the Trusts public website.

6. WRITTEN AGREEMENTS

- 6.1 All sponsorship agreements will be subject to written agreements. A proforma is available in Appendix D and should be completed in every case.

- 6.2 Completion of the proforma alone will usually be sufficient for low value proposals.
- 6.3 Higher value proposals will need to be accompanied by additional supporting information and may need to be the subject of a formal contract. Details of levels are included below; if advice is required this should be sought from the Secretary to the Trust.

7. APPROVAL/AUTHORISATION

- 7.1 Authorisation procedures for projects are detailed below.
- 7.2 Sponsorship arrangements involving amounts less than £25 need not be declared or registered. The £25 limit will apply to each sponsorship arrangement i.e. if more than one member of staff attends a training event valued at £20 per person the event should be recorded as the total sponsorship arrangement if in excess of £25.
- 7.3 Projects under £500 value can be authorised by a Director/Head of Division of the Trust. Following authorisation, Directors should forward the proforma to the Secretary to the Trust for entry in the Register.
- 7.4 All projects valued at £500 and above will be authorised by the Chief Operating Officer and will, where appropriate, be subject to the advice of the Medical Director or Head of Medicines Management as set out above.
- 7.5 Projects valued in excess of £5,000 require prior approval by the Trust Board.
- 7.6 In making their decisions, the Chief Operating Officer and Directors/Heads of Division will confirm proposals meet the requirements of this policy and that the appropriate professional advice has been sought.
- 7.7 If there is any ambiguity or concern about the interpretation of this policy and its associated procedures then the advice of the Secretary to the Trust should be sought in all cases.

8. EXTRACT FROM THE MEDICINES (ADVERTISING) REGULATIONS 1994

Inducements and hospitality

(1) Subject to paragraphs (2) and (4), where relevant medicinal products are being promoted to persons qualified to prescribe or supply relevant medicinal products, no person shall supply, offer or promise to such persons any gift, pecuniary advantage or benefit in kind, unless it is inexpensive and relevant to the practice of medicine or pharmacy.

(2) The provisions of paragraph (1) shall not prevent any person offering hospitality (including the payment of travelling or accommodation expenses) at events for purely professional or scientific purposes to persons qualified to prescribe or supply relevant medicinal products, provided that -

- (a) Such hospitality is at a reasonable level,
- (b) It is subordinate to the main scientific objective of the meeting, and
- (c) It is offered only to health professionals.

(3) Subject to paragraph (4), no person shall offer hospitality (including the payment of travelling or accommodation expenses) at a meeting or event held for the promotion of relevant medicinal products unless -

- (a) Such hospitality is reasonable in level,
- (b) it is subordinate to the main purpose of the meeting or event, and
- (c) the person to whom it is offered is a health professional.

(4) Nothing in this regulation shall affect measures or trade practices relating to prices, margins or discounts which were in existence on 1st January 1993.

(5) No person qualified to prescribe or supply relevant medicinal products shall solicit or accept any gift, pecuniary advantage, benefit in kind, hospitality or sponsorship prohibited by this regulation.

9. RESEARCH AND DEVELOPMENT

- 9.1 Exceptionally, in the case of non-commercial research and development (R&D) originated or hosted by NHS providers, commercial sponsorship may be linked to the purchase of particular products, or to supply from particular sources. This should be in accordance with the guidance at paragraph 28 of HSG (97) 32 *Responsibilities for meeting Patient Care Costs Associated with Research and Development in the NHS*.¹ Where there is industry collaboration in such studies, companies may alternatively make a contribution towards the study's costs, rather than supply of product.
- 9.2 Any funding for research purposes should be transparent. There should be no incentive to prescribe more of any particular treatment or product other than in accordance with the peer reviewed and mutually agreed protocol for the specific research intended. When considering a research proposal, whether funded in whole or part by industry, NHS bodies will wish to consider how the continuing costs of any pharmaceutical or other treatment initiated during the research will be managed once the study has ended.
- 9.3 Separate Guidelines exist for pharmaceutical company Sponsored Safety Assessment of Market Medicines (SAMM) which remain in force.
- 9.4 Where R&D is primarily for commercial purposes, NHS providers are expected to recover the full cost from the commercial company on whose behalf it is carried out. (HSG (97) 32, paragraph 7). An industry-sponsored trial should not commence until an indemnity agreement is in place; see the guidelines in HSC (96) 48 *NHS Indemnity, Arrangements for Clinical Negligence Claims in the NHS*. A standard form of indemnity agreement, agreed with ABPI, can be found at Annex B of that guidance.
- 9.5 The NHS should benefit from commercial exploitation of intellectual property derived from R&D that the NHS has funded, or for which it has been funded, even where the intellectual property itself is owned by people outside the NHS. NHS bodies should ensure that an agreement to this effect is included in any contracts concerning R&D. The guidelines in HSC 1998/106 *Policy Framework for the Management of Intellectual Property within the NHS from R&D* should be followed.

10. EXAMPLES OF POTENTIAL CONFLICT

10.1 It may be helpful to give some examples of the sorts of situation you could encounter and how they could be dealt with. These are given below:

- *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.* Trust committee (e.g. Drug and Therapeutics Committee) should require declarations of interest from clinicians submitting proposals for new products to be added to formularies and ensure the decision is based on clinical and cost effectiveness information;
- *a pharmaceutical industry representative wishes to present the case for a new product being included on a Trust Formulary.* The Trust should establish and adopt a reasonable policy on approaches from industry representatives. Industry representatives should be required to sign up to compliance with such a policy before being given access to any meetings;
- *offer from a company to provide for training of staff.* Employers should be careful to ensure that staff are not pressurised by sponsors of training, to alter their own activity to accord with sponsors' wishes, where these are not backed up by appropriate evidence. Training provided by industry may be above board if it is unbiased has mutual benefit for both the NHS and the sponsoring company, is evidence based and the hospitality is appropriate. However participants should assess whether they may be influenced unduly and also bear in mind what benefits the company might derive (eg exposure to NHS, professional contacts, potential allies to use later, names of who to influence, often without the participants realising);
- *a manufacturer of ostomy equipment offers to sponsor a stoma nurse post in an NHS Trust.* The Trust should not accept the sponsorship if it would require the stoma nurse to recommend the sponsor's in preference to other clinically appropriate appliances, nor if it requires the Trust to recommend patients to use a particular dispensing service or withhold information about other products. Existing contracts containing any such provisions should, where possible, be urgently renegotiated.
- *a manufacturer of a particular type of Nicotine Replacement Therapy offers to provide their product at a reduced rate to a Health Action Zone or a HA.* This arrangement is acceptable **provided that** there is a clear clinical view that these products are appropriate to particular patients **and** there is no obligation to also prescribe these products to other patients for whom an alternative product would be at least as beneficial.
- *a pharmaceutical company offers to provide starter packs at a discounted price.* This type of sponsorship is acceptable, but should always be declared in order to avoid any suspicion that subsequent prescribing might be inappropriate and linked to the provision of starter packs.

- *a catering company offers to provide discounted products to an NHS Trust.* This agreement is acceptable, but should be routinely declared to the Health Authority.
- *high tech home health care provider offers to supply equipment at reduced rate in return for business linked to a specific product.* Health authority contract negotiators should advise the company that any contract will not prejudice the provision of the most appropriate service to patients, and will not bear any relation to other contracts.
- *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 should attend and the travel costs incurred should be paid for by the trust, unless the Chief Executive/Director of Finance gives approval for the potential supplier to take responsibility for the costs. Such decisions should be taken at least at Director of Finance level.

Application: Permission to Accept Commercial Sponsorship

Please complete the form below and then pass to the relevant Director for approval. If approval is given, send a copy of the form, once signed by the Director, to the Secretary to the Trust.

Detail of staff

Name

Role:

Place of Work:

E-mail

Tel-No

Details of proposed sponsorship, including details of proposed sponsor

Approval by relevant Director:

Name

Role:

Signature and Date

Any comments

Please return this form to the Secretary to the Trust, Somerset Partnership NHS Foundation Trust

**GUIDANCE FOR PHARMACEUTICAL COMPANY REPRESENTATIVES
ON TRUST PREMISES**

1. Representatives must at all times maintain a high standard of ethical conduct in the discharge of their duties and must comply with all relevant requirements of the Code of Practice for the Pharmaceutical Industry.
2. Visits by representatives to Trust premises should be made only to keep a prior appointment or to make such an appointment.
3. Representatives should respect their position as visitors to Trust premises and should sign in the visitors' book.
4. Representatives must not employ any inducement or subterfuge to gain an interview. No fee should be paid or offered for the grant of an interview.
5. Representatives are not allowed to tour the Trust premises looking for staff and are not to enter clinical areas without a prior appointment.
6. Meetings with representatives should not be conducted in clinical areas where patients, carers or non-Trust staff are present.
7. Appointments between representatives and staff members must not take place in public areas such as corridors or waiting areas.
8. Representatives must not be admitted to any trust areas where there is likely to be confidential patient information on display or being discussed.
9. The Drugs and Therapeutics Group expect new products to be approved by the group prior to use for patients under the care of the Trust.
10. Medicines must not be advertised directly to patients under any circumstances.
11. Samples of medicines and dressings must not be left in Trust premises or used to treat patients of the Trust under any circumstances.
12. When teaching or hospitality is provided by a pharmaceutical company, a Trust hospitality/sponsorship form must be completed and sent to the finance department within a month. The person responsible is outlined below:
 - the staff member organising an event is responsible for completing the form on behalf of all attendees. This includes lunches and away days;
 - the staff member receiving individual sponsorship to attend a meeting/conference or who attends a pharmaceutical company organised external event is personally responsible for completing the form.
13. It is the responsibility of all staff to notify the Medical Director/Deputy Medical Director or Chief Pharmacist of any action by a representative which is in breach of this guidance. If considered potentially fraudulent the matter should be referred to the LCFS for investigation.