

**COMMERCIAL REPRESENTATIVES AND THEIR DEALINGS WITH
SOMERSET PARTNERSHIP NHS FOUNDATION TRUST POLICY**

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Applies to:	Officers that meet with commercial representatives

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DOCUMENT CONTROL

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1. INTRODUCTION

- 1.1 The aim of this policy is to put the relationship between the staff of the trust and suppliers on a sound and professional footing, and to provide suppliers and their commercial representatives with information on how they are expected to behave and what behaviour they can expect from the Trust staff.

2. PURPOSE & SCOPE

- 2.1 Somerset Partnership NHS Foundation Trust appreciates and recognises the role that it's current and future suppliers play in supporting health practitioners in providing safe, effective and economic products and services to the patients in their care, and other staff working within the NHS in the delivery of their duties.
- 2.2 This policy will be made available to the Trust's suppliers via the Trust website link to Procurement.
- 2.3 The policy covers all areas and units of the Trust and employees working within the trust.
- 2.4 The Trust's staff are aware of this procedure so that if direct contact is made between an individual member of staff and a commercial representative, the procedure is followed.
- 2.5 The Trust has adopted a zero tolerance stance on non-compliance with this policy from both staff and suppliers. Failure to follow the agreed process outlined in this document will result in Suppliers being refused entry to Trust premises, possible termination of contracts and loss of business.

Failure to follow this policy by staff may result in action under either the Disciplinary or Capability policies.

3. DUTIES AND RESPONSIBILITIES

General

- 3.1 It is recognised that, in addition to providing information to health practitioners, the prime function of representatives is to promote and sell their products and services. This function should be carried out in a proper and ethical manner and not contravene Trust, NHS ABPI Code of Practice or government policies.
- 3.2 The representative must have the permission of the relevant Health Establishment's Senior Staff member to be on that site.
- 3.3 When on Trust sites all representatives must comply with all appropriate policies, procedures and guidelines and any instructions given to them by an authorised member of staff in the event of an emergency situation arising – e.g. a fire or major incident.

Visits to the Trust's Establishments

- 3.4 Representatives may **not** enter any Trust area (including wards and out-patient areas) or visit any member of staff or manager without a prior appointment.
- 3.5 A representative arriving with an appointment must report to the relevant Health Establishment main reception on arrival on site. The receptionist will ask the

representative to sign in using the representative visit log and will issue a visitor's badge (where a badge system is utilised). Following signing in they may not enter any area without the accompaniment of relevant staff. On leaving the Trust site the representative must return the badge to main reception and sign out of the log.

- 3.6 Representatives should respect their position as a visitor to the trust and comply with security regulations by wearing a visitor's badge at all times whilst on site.
- 3.7 Representatives for soft facilities management (FM) and estates must initially contact their key representative in Estates, who will ensure that the relevant Establishment is aware of their appointment.
- 3.8 Commercial representatives may only seek appointments with senior members of the clinical staff *, but may request an open meeting with the staff in a group. (*Junior clinical staff includes medical staff below the level of specialist registrar; pharmacy staff below Band 7 and nursing staff below Band 6). The emphasis in such meetings must be educational and not exclusively promotional.

Promotional Activity

- 3.9 Representatives should be well informed about the products that they are promoting. In addition, standard technical, and where appropriate, clinical data, including information on product effectiveness or comparative efficacy should be available. It is desirable for this information to be provided prior to any meeting. Price comparisons should not be used, unless they are approved by the Procurement Department (YDH), or by Medicines Management if this involves medicines prices
- 3.10 Where any teaching and/or promotional activity is being considered, representatives must seek prior approval from the Procurement Department (YDH) before making further arrangements. The intent of such activity must not contravene/challenge existing Trust policies, procedures and formularies.
- 3.11 Promotional leaflets and posters produced by suppliers may not be distributed or displayed in clinical areas. Posters and leaflets supporting clinical procedures must not be used or displayed before agreement from departmental leads.
- 3.12 Commercial representatives must **not** discuss with staff any Trust policies unless invited to do so as part of a clinical review. This is particularly important when such policies relate to the selection and use of products. Trust formularies and pharmaceutical products may only be discussed with the Chief Pharmacist or Deputy Chief Pharmacist. Misrepresentation of this information within or outside the trust will be construed as a deliberate attempt to contravene the Trust's policy.
- 3.13 Similarly, commercial representatives for pharmaceutical companies must **not** inform staff about the Trust formulary and prescribing policies and pharmaceuticals to be used, except with the written permission of the Chief Pharmacist. Misrepresentation of this information within or outside the trust will be construed as a deliberate attempt to contravene the Trust policy.
- 3.14 Pricing information must not be discussed with clinical staff (apart from the Chief Pharmacist or Deputy Chief Pharmacist) without prior approval of the Procurement Department (YDH). Prices or offers should be submitted to the Procurement Department (YDH) for review. No trust staff should enter into any

contractual arrangements or price comparisons; this is completed by the Procurement Department (YDH).

Code of Ethics

- 3.15 In Line with national guidance and UK legislation, Trust staff should be aware of the Standards of Business Conduct for NHS Staff. Commercial representatives should note the following points:-

Suppliers must not attempt to influence business decision-making by offering hospitality to staff. The frequency and scale of any hospitality accepted will be managed openly and with care by the Trust. Detailed guidance on all forms of commercial sponsorship is covered in the Code of Business Conduct Policy.

- 3.16 For the purposes of this policy, commercial sponsorship is defined as including: NHS funding from an external source, including funding of all or part of the costs of a member, NHS research, staff training, pharmaceuticals, equipment, meeting rooms, cost associated with meetings, meals, gifts, hospitality, hotel and transport costs (including trips abroad), provision of free services (speakers), building or premises.

Samples

- 3.17 No Samples should be left with wards or departments. These will be obtained by the Procurement Department (YDH) who will manage the process in line with relevant policy and procedures. Samples must be for reference only and not used for trial purposes.
- 3.18 Samples may be delivered directly to clinical leads once the Procurement Department (YDH) has requested them from the relevant company.

Medical Samples are not to be used clinically

- 3.19 Medicine / pharmaceutical samples (including medicated dressings) **must never** be left with medical or nursing staff. All discussion regarding the possible use of drug samples must be reviewed by the Chief Pharmacist who may well veto their use, bearing in mind that new medicines use must be approved by the Trust's Medicines Oversight Group first.
- 3.20 Samples for the Facilities Department must be left with the appropriate member of the Facilities Department. The representative must make it clear as to whether the sample is to be returned after a period of time or it is a free sample.
- 3.21 All samples must be free from obligation and must, where appropriate, be issued with supporting information and data sheets.

Product Evaluations

- 3.22 Product evaluations for non-medicine related products, if agreed with the Procurement Department (YDH), will be time limited and will be carried out in specific areas, not across the trust. Trust product evaluation paperwork must be completed and returned to the Procurement Department (YDH) at the end of the evaluation.
- 3.23 Commercial representatives must not enter into any agreements in relation to the evaluation of products without prior discussion with the Procurement Department (YDH) who will liaise with the clinical leads.

- 3.24 The trust requires that the majority of medical equipment is commissioned via Medical Electronics (ME) at Yeovil District Hospital NHS Foundation Trust (YDH). This includes the majority of equipment on loan (for evaluation or testing), equipment on loan (not for evaluation or testing), free issues and free issues (for evaluation and testing). Under no circumstances should medical equipment be delivered directly to a ward / department. The exceptions being:
- 3.24.1 Equipment for blood testing and pathology equipment, which will be commissioned by the Chief Pharmacist or Deputy Chief Pharmacist.
- 3.24.2 Negative Pressure Wound Therapy pumps and equipment, which will be commissioned by the Tissue Viability Service Manager.
- 3.24.3 Bariatric equipment, including hired bed frames and hired mattresses, which will be commissioned by Ward Matrons or Ward Sisters.
- 3.25 No pharmaceutical product evaluations are to be undertaken without prior approval of the Chief Pharmacist or Deputy Chief Pharmacist.
- 3.26 Review / evaluation of products to be placed on the Wound Formulary or Specialist Formulary (used within Somerset Partnership NHS Foundation Trust and is adopted by Somerset CCG for use in primary care) must be carried out by the Wound Formulary Group, which has input from the Procurement Department (YDH). This may include liaison with commercial representatives. The Clinical Lead for Wound Care Products is the Tissue Viability Service Manager, who would be the lead contact for Company representatives regarding commercial meeting, price discussions and approving training programmes; this could include clinical support from Company Clinical Support Staff/Representatives and they are aware that there is a strict “hands off” approach to Company Representatives providing such support.

Contracts and placing orders

- 3.27 Commitment to contract for, or purchase goods and services can only be entered into via the authorised manager from the Procurement Department (YDH), Facilities Department or Medicines Management, or by the raising of an official Trust Purchase Order. Suppliers must not deliver goods or provide a service without first receiving an official Trust Purchase Order. No ‘verbal’ contracts will be entered into and no payments will be made if goods are left and used without an official order number.
- 3.28 All goods (donated or otherwise) and services offered to the trust will be procured against the standard NHS Conditions of Contract; these include conditions which are also applicable to items supplies on loan which will require an Indemnity Agreement being signed by both a supplier and the Trust.
- 3.29 For the purpose of signing contracts and agreements for the purchase / hire / leasing of goods and services, the first point of contact should be the authorising manager from either the Procurement Department (YDH) or Facilities Department or Medicines Management, who will process this with the appropriate manager.
- 3.30 The trust hopes that the association between the Somerset Partnership NHS Foundation Trust and its suppliers will be a constructive one. Clarification of any issues arising from the policy and procedures may be sought from, the Procurement Department (YDH) via procurementdept@ydh.nhs.uk.

- 3.31 Under the Public Interest Disclosure Act 1998 and Health Guidance HSC1999/198, all contractors on this Trust are obliged to disclose to the employer where a malpractice has occurred, is occurring or is likely to occur. Please seek guidance under the Trust's Whistleblowing policy.
- 3.32 Master Indemnity registers will be checked by the Procurement Department (YDH).

4. TABLE OF ROLES AND RESPONSIBILITIES

Executive Directors

Signing off of specific requests as identified within the policy above.

Heads of Departments

Ensuring implementation and adherence to the policy.

Ensuring that all new staff are made aware of this policy.

Procurement (YDH)

Monitoring and evaluation of the policy is the responsibility of the Head of Procurement, working closely with Departmental Heads and the Head of Costing, Income & Systems.

Monitoring safeguard reports and initiating investigations with clinical leads.

Use established Procurement processes to ensure policy adhered to when assessing products and equipment.

Clinical Directors

Signing off of specific requests as identified within the policy above

All Trust Staff

To adhere to the policy

5. TRAINING REQUIREMENTS

The Trust will work towards all staff being appropriately trained in line with the organisation's Staff Mandatory Training Matrix (training needs analysis). All training documents referred to in this policy are accessible to staff within the Learning and Development Section of the Trust Intranet.

6. EQUALITY IMPACT ASSESSMENT

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.

7. MONITORING COMPLIANCE AND EFFECTIVENESS

Representative breaches of the policy will be reported via Datix and monitored by Head of Procurement (YDH) working closely with Departmental Heads and the Head of Costing, Income & Systems.

The responsibility for ensuring the full implementation of this policy lies with Heads of Departments and senior clinical staff.

Monitoring and evaluation of the policy is the responsibility of the Head of Procurement, working closely with Departmental Heads and the Head of Costing, Income & Systems.

Head of Procurement will report breaches of the policy through the Medical Devices and Trust audit committees.

8. COUNTER FRAUD

The Trust is committed to the NHS Protect Counter Fraud Policy – 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.

9. CARE QUALITY COMMISSION (CQC) KEY LINES OF ENQUIRY (KLOE)

The KLOE replace the CQC standards and outcomes which inform this procedural document. The five KLOEs, which focus on outcomes, are:

- Safe
- Effective
- Caring
- Responsive
- Well-Led

Further details can be found on the CQC website.

Relevant National Requirements

Commercial Sponsorship – Ethical Standards for the NHS' guidance paper issued by the Department of Health in December 2000

Bribery Act 2010

10. REFERENCES, ACKNOWLEDGEMENTS AND ASSOCIATED DOCUMENTS

10.1 Acknowledgements

Policy adapted from Yeovil District Hospital NHS Foundation Trust, Policy for Commercial Representatives (updated October 2013)

10.2 **Cross reference to other procedural documents**

Disciplinary Policy

Code of Business Conduct Policy

Standing Financial Instructions and Scheme of reservation and delegation of power

Counter Fraud policy

Control of Contractors Policy and Guidance

Learning Development and Mandatory Training Policy

Medical Devices Policy

Medicines - Medicines Policy

Record Keeping and Records Management Policy

Risk Management Policy

Staff Mandatory Training Matrix (Training Needs Analysis)

Untoward Event Reporting 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.

11. **APPENDICES**

11.1 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.

Appendix A Guidance for all suppliers to SPFT

Guidance for All Suppliers to Somerset Partnership NHS Foundation Trust Premises

- ❖ Yeovil District Hospital NHS Foundation Trust (YDH) Procurement Department, as the provider of Procurement services, is the first point of contact for current, new and potential suppliers
- ❖ All suppliers must sign in at the relevant Health Establishment Main Reception and wear a visitors badge at all times, where a badge system is utilised
- ❖ Trust staff should seek advice and support from the YDH Procurement Department where there are issues, concerns or queries
- ❖ Visiting Wards/Departments or 'Cold Calling' without permission from the relevant Health Establishment Senior staff member or an appointment is Strictly Forbidden
- ❖ Orders for goods and services must not be solicited from Trust Staff – Only official orders issued by the authorised budget holder shall be recognised
- ❖ Pricing and Commercial discussions should only be conducted in conjunction with the YDH Procurement Department; excepting Medicines Management involving medicines prices, or Tissue Viability Service Manager for wound care products
- ❖ Trust staff must not be offered samples of products unless by prior agreements with the YDH Procurement Department
- ❖ Business gifts must not be offered and will not be accepted (other than items of a small intrinsic value)
- ❖ Items of medical equipment loaned to the Trust will be subject at all times to our EBME procedures including indemnity arrangements. These must be notified to Medical Electronics at YDH
- ❖ Ensure professionalism and courtesy are shown and reciprocated at all times

Procurement Department YDH – procurementdept@ydh.nhs.uk

Commercial Representatives and their dealings with the Somerset Partnership NHS Foundation Trust Policy