



**Bradford Teaching Hospitals**  
NHS Foundation Trust

**Conflicts of Interest Policy for  
Bradford Teaching Hospitals NHS  
Foundation Trust**

## Document control

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<b>Target audience</b>	All Staff
<b>Summary</b>	Ensure that BTHFT use NHS money wisely, providing best value for taxpayers and are publicly accountable to patients for the decisions staff take.
<b>Changes since last revision</b>	<ol style="list-style-type: none"> <li>1) Minor changes to committee names and points of contact</li> <li>2) Change to the decision-maker parameter from band 8d and above to band 8a and above under section 4.4 and 11.</li> <li>3) Updated URL to the MES Declare website under section 1 and 4.</li> <li>4) Revised job title of Director of Governance and Corporate Affairs under section 5.1 and 17 to Associate Director of Corporate Governance/Board Secretary</li> <li>5) Addition of publication of decision makers who do not submit a declaration during the contract year under section 6.2</li> <li>6) Updated URL for ABPI under section 6.3</li> <li>7) Updated URL to Freedom to Speak Up Raising Concerns (Whistleblowing) Policy at section 10.1</li> <li>8) Removed reference to the Conflicts of Interest Working Group at section 11</li> <li>9) Changes to the frequency of reporting under section 16.</li> <li>10) Added Appendix A – Flowchart for the receipt of gifts</li> <li>11) Added Appendix B – Flowchart for the receipt of hospitality</li> </ol>
<b>Monitoring arrangements</b>	Declarations made online are reviewed on a monthly basis. Bi-annual reports are submitted to the Executive Team meeting. Annual reports are submitted to the Audit Committee.
<b>Training requirements</b>	The policy will be available on the BTHFT Intranet. All new starters will be informed of the declarations system and the availability of the policy. Global email communications throughout the year will remind staff about their duties.
<b>Equality Impact Assessment</b>	<p>This Policy was assessed in April 2022 to determine whether there is a possible impact on any of the nine protected characteristics as defined in the Equality Act 2010. The policy has also been assessed to determine whether it impacts on human rights against the FREDA principles (Fairness, Respect, Equality, Dignity, Autonomy).</p> <p>It has potential impact on the following:</p>

**Disability** – It is recognised that some staff may require support, have specific needs or be unable to understand or read the text of this policy. In such instances it will be explained on a one-to-one basis by the Department responsible for this policy or, the manager of the member of staff. Any support will be provided in confidence.

It is also recognised that the provision of supporting materials and ‘easy read’ communications throughout the year explaining what staff should and should not do would be of benefit to all staff

The policy has been found not to impact on:

- Race
- Age
- Gender - This policy applies equally to women and men
- Marriage and civil partnership
- Sexual Orientation
- Religion and belief
- Gender reassignment
- Maternity/ Pregnancy
- Other relevant groups

An initial Equality Impact Assessment has identified there are no equality implications identified that are not already mitigated and this is not a policy that will work to advance EDI. A full equality impact assessment was not required. This assessment will be reviewed when the policy is next updated or sooner if evidence of further impact emerges.

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## 1. Introduction

In 2017 NHS England (NHSE) issued revised guidance on Managing Conflicts of Interest in the NHS applicable to all CCG's, NHS Trusts and NHS Foundation Trusts.

Every year the taxpayer entrusts NHS organisations with over £110 billion to care for millions of people. This money must be spent well and free from undue influence. The public rightly expect the highest standards of behaviour in the NHS and for it to act responsibly as custodians of taxpayer money.

To deliver high quality and innovative care organisations need to work collaboratively with other organisations and wider partners across the system. Partnership working brings many benefits, but also creates the risk of conflicts of interest. Decisions involving the use of NHS funds should never be influenced by outside interests or expectations of private gain, but it is recognised that conflicts of interest are unavoidable in complex systems.

NHS staff should be empowered to use good judgement in managing conflicts of interest effectively, and need to be safeguarded so they can continue to work innovatively with partners whilst also providing transparency to the taxpayer.

This guidance:

- Introduces common principles and rules for managing conflicts of interest;
- Provides simple advice to staff and organisations about what to do in common situations;
- Supports good judgement about how interests should be approached and managed;
- Sets out the issues and rationale behind the policy.

In addition to this guidance further information is available on the NHSE website at:

- <https://www.england.nhs.uk/ourwork/coi/>

At BTHFT all conflicts of interest are declared through the online BTHFT My Declarations system:

- <https://bthft.mydeclarations.co.uk/home>

Information on using and accessing this system is available through the staff intranet pages.

## 2. Policy Summary

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

As a member of staff you should...	As an organisation we will...
<ul style="list-style-type: none"> <li>• Familiarise yourself with this policy and follow it. Refer to the guidance for the rationale behind this policy: <a href="https://www.england.nhs.uk/ourwork/coi/">https://www.england.nhs.uk/ourwork/coi/</a></li> <li>• Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent.</li> <li>• Regularly consider what interests you have and declare these as they arise. If in doubt, declare.</li> <li>• NOT misuse your position to further your own interests or those close to you.</li> <li>• NOT be influenced, or give the impression that you have been influenced by outside interests.</li> <li>• NOT allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money.</li> <li>• Act in accord with the NHS Code of Conduct.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that this policy and supporting processes are clear and help staff understand what they need to do.</li> <li>• Identify a team or individual with responsibility for:               <ul style="list-style-type: none"> <li>○ Keeping this policy under review to ensure they are in line with the guidance.</li> <li>○ Providing advice, training and support for staff on how interests should be managed.</li> <li>○ Maintaining a register(s) of interests.</li> <li>○ Auditing this policy and its associated processes and procedures at least once every three years.</li> </ul> </li> <li>• NOT avoid managing conflicts of interest.</li> <li>• NOT interpret this policy in a way which stifles collaboration and innovation with our partners.</li> </ul>

## 3. Purpose and Scope of the Policy

This policy will help our staff manage conflicts of interest risks effectively. It:

- Introduces consistent principles and rules
- Provides simple advice about what to do in common situations.
- Supports good judgement about how to approach and manage interests

This policy should be considered alongside these other organisational policies:

- Foundation Trust's Freedom to Speak Up Raising Concerns (Whistleblowing) policy,
- Foundation Trust's Policy on Anti-Fraud, Bribery and Corruption
- Foundation Trust's Incident Reporting and Investigation Policy
- Foundation Trust's Disciplinary Policy and Procedure
- Disciplinary, Capability, Ill Health and Appeals Policy and Procedure for Doctors and Dentists
- Grievance Policy and Procedure
- Information Governance Policies and Guidelines

- Personal Responsibility Framework

## 4. Definitions

### 4.1. Conflict of Interest

A 'conflict of interest' is:

“A set of circumstances by which a reasonable person would consider that an individual’s ability to apply judgement or act, in the context of delivering commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by another interest they hold.”

A conflict of interest may be:

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

### 4.2. Interests

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

- **Financial interests:** Where an individual may get direct financial benefit from the consequences of a decision they are involved in making.
- **Non-financial professional interests:** Where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or promoting their professional career.
- **Non-financial personal interests:** Where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit, because of decisions they are involved in making in their professional career.
- **Indirect interests:** Where an individual has a close association <sup>1</sup>with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest and could stand to benefit from a decision they are involved in making.

NHSE have published some frequently asked questions for specific staff groups (clinical, medical and managers) on the issues posed and how the guidance applies to them, available at [www.england.nhs.uk/ourwork/coi](http://www.england.nhs.uk/ourwork/coi)

### 4.3. Staff

At BTHFT we use the skills of many different people, all of whom are vital to our work. This includes people on differing employment terms. This policy is applicable to all staff, and for the purpose of this policy this is defined as:

- All salaried employees;
- All prospective employees – who are part-way through recruitment;

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<sup>1</sup> A common sense approach should be applied to the term 'close association'. Such an association may arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners.

- Contractors and sub-contractors;
- Staff in Honorary roles;
- Agency staff; and
- Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the organisation).

#### **4.4. Decision Making Staff**

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

Decision making staff in BTHFT are:

- Executive and non-executive directors (or equivalent roles) who have decision making roles which involve the spending of taxpayers' money
- Members of advisory groups which contribute to direct or delegated services
- Those at Agenda for Change band 8a and above, and Consultants
- Administrative and clinical staff that have the power to enter into contracts on behalf of their organisation
- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions

### **5. Identification, declaration and review of interests**

#### **5.1. Identification & declaration of interests (including gifts and hospitality)**

All staff should identify and declare material interests at the earliest opportunity (and in any event within 28 days). If staff are in any doubt as to whether an interest is material then they should declare it, so that it can be considered. Declarations should be made:

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

Declarations of interest should be completed online at <https://bthft.mydeclarations.co.uk/home>. Log in details will be emailed to staff.

Queries on the policy should be raised with your Line Manager in the first instance.

Queries on accessing the online system should be raised with the corporate governance team [Conflictof.interest@bthft.nhs.uk](mailto:Conflictof.interest@bthft.nhs.uk)

After expiry, an interest will remain on register(s) for a minimum of 6 months and a private record of historic interests will be retained for a minimum of 6 years.

The Associate Director of Corporate Governance/Board Secretary has responsibility for implementing the guidance.

The appropriate Executive Director, depending on the query, will give advice on materiality of the interest.



## **5.2. Proactive review of interests**

We will prompt decision making staff annually to review declarations they have made and, as appropriate, update them or make a nil return. Decision making staff will be required to provide evidence that they have reviewed and updated their declarations at their annual appraisal.

## **6. Records and publication**

### **6.1. Maintenance**

The organisation will maintain a single register of interests on the MES Declare system, broken down into the eleven different categories. All declared interests will be stored on the system.

### **6.2. Publication**

An up to date register of interests declared by decision making staff will be accessible to the public on the MES Declare website. The organisation will publish the name and position of any decision making staff who has not completed a declaration of interest or submitted a nil return in respect of that contract year, as required by NHSE.

If decision making staff have substantial grounds for believing that publication of their interests should not take place then they should contact the Corporate Governance Team to explain why. In exceptional circumstances, for instance where publication of information might put a member of staff at risk of harm, information may be withheld or redacted on public registers. However, this would be the exception and information will not be withheld or redacted merely because of a personal preference.

### **6.3. Wider transparency initiatives**

Bradford Teaching Hospitals NHS Foundation Trust fully supports wider transparency initiatives in healthcare, and we encourage staff to engage actively with these.

Relevant staff are strongly encouraged to give their consent for payments they receive from the pharmaceutical industry to be disclosed as part of the Association of British Pharmaceutical Industry (ABPI) Disclosure UK initiative. These “transfers of value” include payments relating to:

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

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

<https://www.abpi.org.uk/reputation/disclosure-uk/>

## **7. Management of interests - general**

If an interest is declared but there is no risk of a conflict arising then no action is warranted. However, if a material interest is declared then the general management actions that could be applied include:

- restricting staff involvement in associated discussions and excluding them from decision making
- removing staff from the whole decision making process
- removing staff responsibility for an entire area of work
- removing staff from their role altogether if they are unable to operate effectively in it because the conflict is so significant

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

Staff who declare material interests should make their line manager or the person(s) they are working to aware of their existence.

## 8. Management of interests – common situations

This section sets out the principles and rules to be adopted by all staff in common situations, and what information should be declared.

### 8.1. Gifts

- Staff should not accept gifts that may affect, or be seen to affect, their professional judgement. The rejected gifts should still be registered.

#### 8.1.1. Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the organisation should be declined, whatever their value.
- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6<sup>2</sup> in total, and need not be declared.

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

- Gifts of cash and vouchers to individuals should always be declined.
- Staff should not ask for any gifts.
- Gifts valued at over £50 should be politely but firmly declined. Where this is not possible, staff should discuss this with their line manager, and declare the gift.
- Gifts accepted under a value of £50 do not need to be declared.
- A common sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value).
- Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

#### 8.1.3. What should be declared

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

See Appendix A for the flowchart for the receipt of gifts.

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<sup>2</sup> The £6 value has been selected with reference to existing industry guidance issued by the ABPI: <http://www.pmcpcpa.org.uk/thecode/Pages/default.aspx>

## 8.2. Hospitality

- Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement.
- Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.
- Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This can be accepted, and must be declared, if modest and reasonable. Senior approval must be obtained.

### 8.2.1. Meals and refreshments:

- Under a value of £25 - may be accepted and need not be declared.<sup>3</sup>
- Of a value between £25 and £75 - may be accepted and must be declared.
- Over a value of £75 - should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the organisation's register(s) of interest as to why it was permissible to accept.
- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or a reasonable estimate).

### 8.2.2. Travel and accommodation:

- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared.
- Offers which go beyond modest, or are of a type that the organisation itself might not usually offer, need approval by senior staff, should only be accepted in exceptional circumstances, and must be declared. A clear reason should be recorded on the organisation's register(s) of interest as to why it was permissible to accept travel and accommodation of this type. A non- exhaustive list of examples includes:
  - offers of business class or first class travel and accommodation (including domestic travel)
  - offers of foreign travel and accommodation.
  - provision of hospitality

The provision of hospitality by the Foundation Trust to representatives of other organisations should not be excessive and should be appropriate to the circumstances. Any hospitality should normally be provided on site at the Foundation Trust and must be recorded.

Provision of hospitality off site or by the Foundation Trust to employees of the Trust must be recorded (except in the case of working lunches, training courses etc., which do not need to be recorded) and may only be authorised by a Divisional General Manager, Director or Divisional Clinical Director with the approval of the Chief Executive or Finance Director.

Should a member of staff be unsure whether the provision of hospitality is appropriate, advice should be sought from their Line Manager.

### 8.2.3. What should be declared

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

See Appendix B for the flowchart for the receipt of hospitality.

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<sup>3</sup> The £75 value has been selected with reference to existing industry guidance issued by the ABPI <http://www.pmcpc.org.uk/thecode/Pages/default.aspx>

### **8.3. Outside Employment**

- Staff should declare any existing outside employment on appointment and any new outside employment when it arises.
- Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks.
- Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from the organisation to engage in outside employment.

The organisation may also have legitimate reasons within employment law for knowing about outside employment of staff, even when this does not give rise to risk of a conflict. Examples include where this may raise health and safety concerns, for example overtiredness due to excessive hours of work.

Consultants (and Associate Specialists) employed under the Terms and Conditions of Service of Hospitals Medical and Dental Staff are permitted to carry out private practice subject to the conditions outlined in the handbook "A Guide to the Management of Private Practice in the NHS". (See also PM(79)11). Consultant staff within the Foundation Trusts will be subject to the terms applying to private practice in their contracts and to Schedule 9 of their terms and conditions of service.

Hospital doctors and dentists in training should not undertake internal or external locum work outside their contracts where such work would result in them exceeding the maximum hours of work permissible.

#### **8.3.1. What should be declared**

- Staff name and their role with the organisation.
- The nature of the outside employment (e.g. who it is with, a description of duties, time commitment).
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

### **8.4. Shareholdings and other ownership issues**

- Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the organisation.
- Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.
- There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

#### **8.4.1. What should be declared**

- Staff name and their role with the organisation.
- Nature of the shareholdings/other ownership interest.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

### **8.5. Patents**

- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation),

including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation.

- Staff should seek prior permission from the organisation before entering into any agreement with bodies regarding product development, research, work on pathways etc., where this impacts on the organisation's own time, or uses its equipment, resources or intellectual property.
- Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

#### 8.5.1. What should be declared

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

## 8.6. Loyalty interests

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

- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be seen to influence decisions they take in their NHS role.
- Sit on advisory groups or other paid or unpaid decision making forums that can influence how an organisation spends taxpayers' money.
- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners.
- Are aware that their organisation does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

#### 8.6.1. What should be declared

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

## 8.7. Donations

- Donations made by suppliers or bodies seeking to do business with the organisation should be treated with caution and not routinely accepted. In exceptional circumstances they may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.
- Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the organisation, or is being pursued on behalf of the organisation's own registered charity or other charitable body and is not for their own personal gain.
- Staff must obtain permission from the organisation if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the organisation's own.
- Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.

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

#### 8.7.1. What should be declared

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

### 8.8. Sponsored events

- Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefit the organisations and the NHS.
- During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.
- No information should be supplied to the sponsor from whom they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.
- At the organisation's discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event.
- The involvement of a sponsor in an event should always be clearly identified.
- Staff within the organisation involved in securing sponsorship of events should make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event.
- Staff arranging sponsored events must declare this to the organisation.

#### 8.8.1. What should be declared

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

### 8.9. Sponsored research

- Funding sources for research purposes must be transparent.
- Any proposed research must go through the relevant NHS approval process and comply with the Research Governance framework.
- There must be a written protocol and written contract between staff, the organisation, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services.
- The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
- Staff should declare involvement with sponsored research to the organisation.

#### 8.9.1. What should be declared

- The organisation will retain written records of sponsorship of research, in line with the above principles and rules.
- Staff should declare:
  - Their name and their role with the organisation.
  - Nature of their involvement in the sponsored research.
  - Relevant dates.
- Other relevant information (e.g. what, if any, benefit the sponsor derives from the sponsorship, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

## 8.10. Sponsored posts

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

### 8.10.1. What should be declared

- The organisation will retain written records of sponsorship of posts, in line with the above principles and rules.
- Staff should declare any other interests arising as a result of their association with the sponsor, in line with the content in the rest of this policy.

## 8.11. Clinical private practice

Clinical staff should declare all private practice on appointment, and/or any new private practice<sup>4</sup> when it arises including:

- Where they practise (name of private facility).
- What they practise (specialty, major procedures).
- When they practise (identified sessions/time commitment). If no regular session(s) then the average weekly time commitment.

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

- Seek prior approval of their organisation before taking up private practice.
- Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS<sup>5</sup> commitments take precedence over private work.
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:

[https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment\\_Order\\_amended.pdf](https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf)

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

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<sup>4</sup> Hospital Consultants are already required to provide their employer with this information by virtue of Para.3 Sch. 9 of the Terms and Conditions – Consultants (England) 2003: [https://www.bma.org.uk/-/media/files/pdfs/practical\\_adviceat\\_work/contracts/consultanttermsandconditions.pdf](https://www.bma.org.uk/-/media/files/pdfs/practical_adviceat_work/contracts/consultanttermsandconditions.pdf)

<sup>5</sup> These provisions already apply to Hospital Consultants by virtue of Paras.5 and 20, Sch. 9 of the Terms and Conditions – Consultants (England) 2003: [https://www.bma.org.uk/-/media/files/pdfs/practical\\_adviceat\\_work/contracts/consultanttermsandconditions.pdf](https://www.bma.org.uk/-/media/files/pdfs/practical_adviceat_work/contracts/consultanttermsandconditions.pdf)

#### 8.11.1. What should be declared

- Staff name and their role with the organisation.
- A description of the nature of the private practice (e.g. what, where and when staff practise, sessional activity, etc).
- Relevant dates.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

## 9. Management of interests – advice in specific contexts

### 9.1. Strategic decision making groups

In common with other NHS bodies, Bradford Teaching Hospitals NHS Foundation Trust uses a variety of different groups to make key strategic decisions about things such as:

- Entering into (or renewing) large scale contracts.
- Awarding grants.
- Making procurement decisions.
- Selection of medicines, equipment, and devices.

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

- Board of Directors
- Finance and Performance Committee
- Executive Management Team

These groups should adopt the following principles:

- Chairs should consider any known interests of members in advance, and begin each meeting by asking for declaration of relevant material interests.
- Members should take personal responsibility for declaring material interests at the beginning of each meeting and as they arise.
- Any new interests identified should be added to the organisation's register(s).
- The vice chair (or other non-conflicted member) should chair all or part of the meeting if the chair has an interest that may prejudice their judgement.
- Authorising limits as per the scheme of delegation.

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

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

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

### 9.2. Procurement

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



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

Further information on procurement is available on the Foundation Trust's intranet at the following address: <http://nww.bradfordhospitals.int/departments/finance/procurement/Pages/AboutUs.aspx>

## **10. Dealing with breaches**

There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or other organisations. For the purposes of this policy these situations are referred to as 'breaches'.

### **10.1. Identifying and reporting breaches**

Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns in line with the Foundation Trust's Freedom to Speak Up Raising Concerns (Whistleblowing) policy, which is available here: <https://intranet.bradfordhospitals.nhs.uk/download/252/human-resources-organisational-development/9542/pp52-2020-freedom-to-speak-up-raising-concerns-whistleblowing-policy.pdf>

To ensure that interests are effectively managed, staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this. For further information about how concerns should be raised are set out in the Freedom to Speak Up Policy.

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

### **10.2. Following investigation the organisation will:**

- Decide if there has been or is potential for a breach and if so what the severity of the breach is.
- Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum.
- Consider who else inside and outside the organisation should be made aware
- Take appropriate action as set out in the next section.

### **10.3. Taking action in response to breaches**

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

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

- Clarification or strengthening of existing policy, process and procedures.
- Consideration as to whether formal HR processes should be instigated.
- Consideration being given to escalation to external parties. This might include referral of matters to external auditors, NHS Protect, the Police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies.

Inappropriate or ineffective management of interests can have serious implications for the organisation and staff. There will be occasions where it is necessary to consider the imposition of sanctions for breaches.

Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrongdoing or fault then the organisation can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:

- Informal action against staff (such as reprimand, or signposting to training and/or guidance).
- Formal disciplinary action against staff (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal).
- Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be.
- Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach.
- Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

#### **10.4 Learning and transparency concerning breaches**

Reports on breaches, the impact of these, and action taken will be considered by CBU Management and /or Executive Team, as and when these may occur.

To ensure that lessons are learnt and management of interests can continually improve, anonymised information on breaches, the impact of these, and action taken will be prepared and published as appropriate, or made available for inspection by the public upon request.

#### **10.5 Civil Sanctions**

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

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

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

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

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

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

## 11. Roles and Responsibilities

- Staff at band 8A or above, and consultants, must make a declaration within 28 days of the introduction of this policy, including a nil-declaration.
- All other staff with a conflict of interest must make a declaration within 28 days of the introduction of this policy.
- Managers are responsible for providing support to staff as necessary, including where questions on the materiality of an interest arise or where staff need support to understand requirements.
- Directorate Managers are responsible for ensuring their staff complete their declarations as required.
- The Corporate Governance team are responsible for providing advice on the policy to others in the organisation.
- The Corporate Governance team are responsible for the proactive engagement with staff to raise awareness of potential conflict/s, how to make a declaration, when approval must be sought, and to encourage staff to make a declaration within 28-days.
- Staff throughout the organisation will be reminded of their area of obligation to adhere to the Foundation Trusts policy during their annual appraisal.

## 12. Impact Assessments for this policy

### 12.1. Equality Impact Assessment

#### Equality Impact Assessment

This Policy was assessed in April 2022 to determine whether there is a possible impact on any of the nine protected characteristics as defined in the Equality Act 2010. The policy has also been assessed to determine whether it impacts on human rights against the FREDAs principles (Fairness, Respect, Equality, Dignity, Autonomy).

It has potential impact on the following:

**Disability** – It is recognised that some staff may require support, have specific needs or be unable to understand or read the text of this policy. In such instances it will be explained on a one-to-one basis by the Department responsible for this policy or, the manager of the member of staff. Any support will be provided in confidence.

It is also recognised that the provision of supporting materials and 'easy read' communications throughout the year explaining what staff should and should not do would be of benefit to all staff

The policy has been found not to impact on:

- Race
- Age
- Gender - This policy applies equally to women and men
- Marriage and civil partnership
- Sexual Orientation

- Religion and belief
- Gender reassignment
- Maternity/ Pregnancy
- Other relevant groups

An initial Equality Impact Assessment has identified there are no equality implications identified that are not already mitigated and this is not a policy that will work to advance EDI. A full equality impact assessment was not required. This assessment will be reviewed when the policy is next updated or sooner if evidence of further impact emerges.

## **12.2. Privacy Impact Assessment**

All data is hosted in the UK and the provider of the online system – MES Declare - has a compliant IG Toolkit and ISO27001 certification.

Confidentiality and data protection and business continuity arrangements are acceptable.

In exceptional circumstances, for instance where publication of information might put a member of staff at risk of harm, information may be withheld or redacted on public registers. However, this would be the exception and information will not be withheld or redacted merely because of a personal preference. This is an NHS England policy that will be implemented by all English Trusts.

### **12.3. Financial Impact Assessment**

Financial approval was obtained for investment in the online system. The making of declarations should be subsumed into the existing workloads of affected staff.

### **13. Being Open and Duty of Candour**

There are no implications associated with the Being Open framework in relation to this policy.

### **14. Patient and public involvement**

Patients and the public were not involved in writing this policy. However, this policy provides transparency to patients and the public about any conflicts of interest and provides assurance that decisions involving the use of NHS funds are not influenced by outside interests or expectations of private gain.

### **15. Training requirements**

The policy will be available on the BTHFT Intranet. All new starters will be informed of the declarations system and the availability of the policy. Global email communications throughout the year will remind staff about their duties.

## 16. Monitoring arrangements

<b>Requirement</b> to be monitored	<b>Process</b> to be used for monitoring e.g. audit	Responsible individual / committee for <b>carrying out</b> monitoring	<b>Frequency</b> of monitoring	Responsible individual / committee for <b>reviewing the results</b>	Responsible individual / committee for <b>developing an action plan</b> where required	Responsible individual / committee for <b>monitoring the action plan</b> where required
Decision Maker Compliance	Reporting from the MES Declare system	Corporate Governance Manager	Bi-Annual	Executive Team	Corporate Governance Manager	Corporate Governance Manager
Decision Maker Compliance	Reporting from the MES Declare system	Corporate Governance Manager	Annual	Audit Committee	Corporate Governance Manager	Corporate Governance Manager

## **17. Review arrangements**

This policy will be reviewed in two years unless an earlier review is required. This will be led by the Associate Director of Corporate Governance/Board Secretary.

## **18. Associated Documentation and References**

- Managing Conflicts of Interest in the NHS. NHS England. Available here: <https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf>
- Freedom of Information Act 2000
- ABPI: The Code of Practice for the Pharmaceutical Industry (2014)
- ABHI Code of Business Practice
- NHS Code of Conduct and Accountability (July 2004)
- BTHFT Freedom to Speak Up Raising Concerns (Whistleblowing) Policy (2020)
- BTHFT Anti-Fraud, Bribery and Corruption Policy (2021)

## **19. Appendices**

Appendix A – Flowchart for the receipt of gifts

Appendix B – Flowchart for the receipt of hospitality

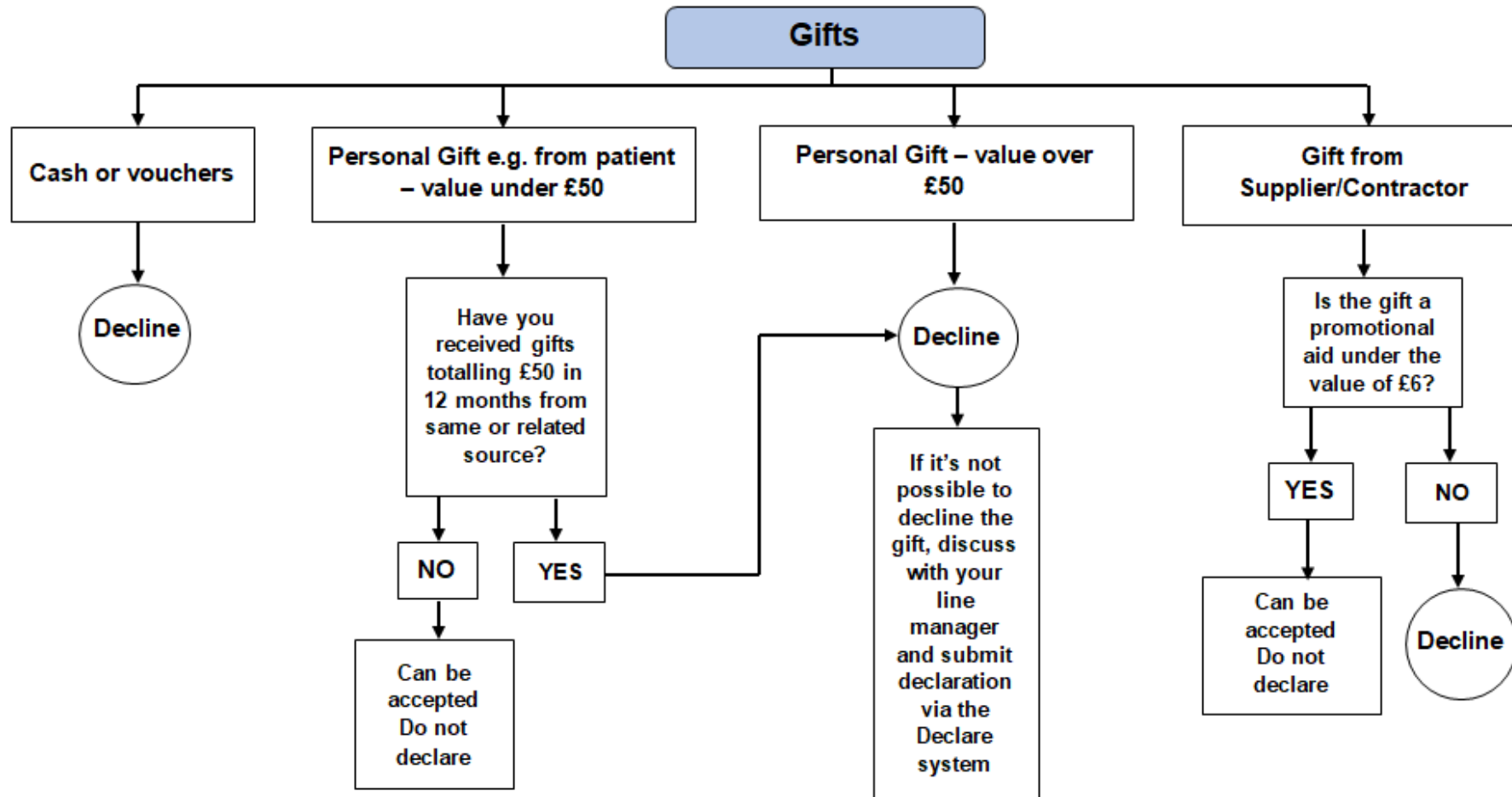
Appendix C – Supporting Information: The Nolan Principles

Appendix D – Personal Relationships at Work

Appendix E – Code of Conduct

Appendix F – Guidance for Consultants and Medical Secretaries in private secretarial work

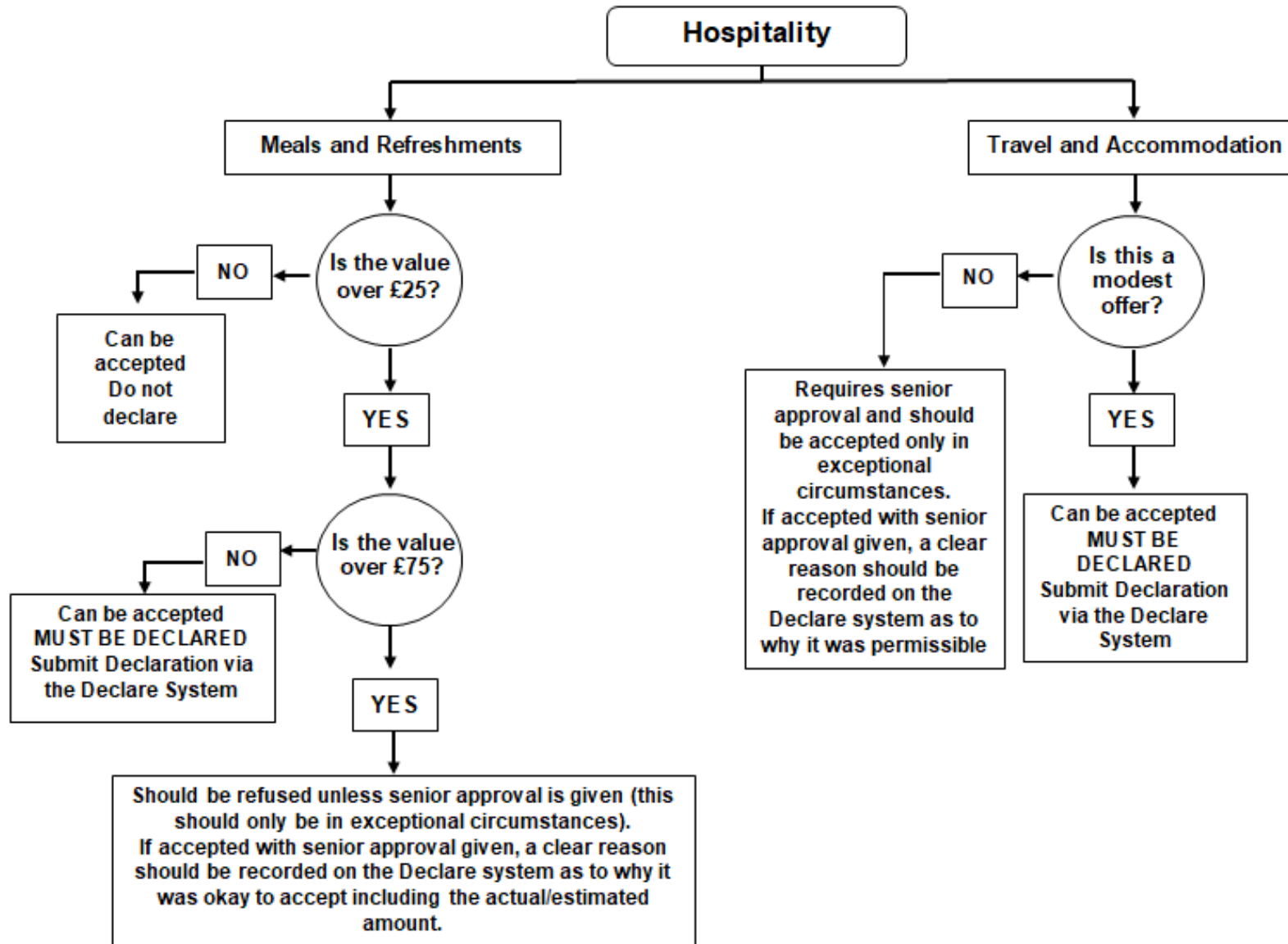
Appendix A: Flowchart for the receipt of gifts



**Need to make a declaration?** You must do this within 28 days of receipt of the gift by visiting: <https://bthft.mydeclarations.co.uk/>



Appendix B: Flowchart for the receipt of hospitality



## **Appendix C – Supporting Information: The Nolan Principles.**

### THE SEVEN PRINCIPLES OF PUBLIC LIFE SET OUT BY THE COMMITTEE ON STANDARDS IN PUBLIC LIFE (THE NOLAN PRINCIPLES)

#### **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 performance of their official duties.

#### **Objective**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for awards or 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 the decisions and actions 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 D – Personal Relationships at Work**

For the purposes of this policy a personal relationship is one between employees who work together and who are married/civil partners, co-habiting, dating, immediate family members or any other individuals regarded as having a familial or Personal Relationship.

The Trust recognises that employees who work together may form personal friendships and in some cases Personal Relationships. Whilst it does not wish to interfere with these Personal Relationships, and it will presume that the relationship will not affect employees, it is necessary for the Trust to ensure that all employees behave in an appropriate and professional manner at work.

Personal Relationships at work may unintentionally impair operational efficiency or affect the integrity of service delivery. Examples of potential areas of concern are:

- Involvement with recruitment, selection, discipline, grievance.
- Inflexibility, for example with regards to annual-leave, duties, location etc.
- Difficulties in team building, other staff may fear favouritism.
- Can affect the working environment, cause discomfort or affect public or staff perception of fairness, impartiality or objectivity.
- Failure to adhere to, impose or report breaches of obligations under the Standards of Business Conduct for NHS Staff.

The principles in this policy have been devised to safeguard the objectivity and fairness of employees where they are in a personal relationship with a junior/senior. It also seeks to prevent the perception of bias/favouritism, whether mistaken or correct.

The policy will apply to all employees regardless of their job or level of seniority.

As a matter of policy:

- Recruiting managers should seek to avoid recruiting new staff or existing staff into a post where the individual has a personal relationship with a line manager or direct subordinate in the same department.
- It is not appropriate for any employee to sit on an interview panel or take any part in a recruitment selection process in circumstances where they are in a Personal Relationship with one of the candidates.
- Any employee who embarks on a Personal Relationship with a colleague working in the same department must declare the relationship to his/her Manager immediately if they are in a position of influence or are the manager of the person with whom they are having a relationship. If the relationship is between a manager/supervisor and an employee whom he/she supervises, the relationship should be declared to a senior manager. The information declared will be recorded on the personal files of both employees and treated in strict confidence.
- In order to avoid a situation in which an employee has managerial authority over another with whom he/she is having a Personal Relationship, the Trust may elect to transfer one or both of the employees involved in the relationship to a job in other departments or Clinical Business Units. In these circumstances, the Trust will consult both of the employees and seek to reach a satisfactory agreement regarding the transfer of one or both of them

- In such a situation if it is not possible to transfer at least one of the employees (for example if no suitable vacancies exist, or if an employee refuses to transfer), the Trust reserves the right to require alternative arrangements to be put in place in relation to appraisals, recruitment, discipline and decisions which relate to pay.
- Similar principles apply to an employee who begins a Personal Relationship with a contractor or supplier. If the employee's job allows him/her authority over the contractor or supplier (for example if the employee has the authority to decide to whom to award contracts), the relationship must be declared to the employee's manager immediately. In these circumstances, the Trust reserves the right to transfer the employee following consultation with him/her.
- Any employee who is involved in a Personal Relationship with a colleague, contractor, client, customer or supplier must not allow their relationship to influence his/her conduct whilst at work. Intimate behaviour during work time, for example kissing or other displays of affection, is expressly prohibited. This rule applies during all working time, irrespective of location.
- Where the Trust acquires evidence that a relationship between employees is having a negative effect either in the workplace amongst staff or third parties it reserves the right to take appropriate action to resolve the situation. In situations where employees are unwilling to agree to alternative arrangements such as a transfer or change in reporting line the Trust may consider terminating one or both employees' contracts of employment.
- If employees are found not to have complied with the terms of this policy the Trust reserves the right to take action pursuant to its disciplinary policy.

## Appendix E – Code of Conduct

Staff and independent contractors working in the NHS should adhere to the following:

- 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 12 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 Board through their line manager;
- 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 practise under any conditions which compromise professional independence or judgement, nor impose such conditions on other professionals.

## **Appendix F – Guidance for Consultants and Medical Secretaries on private secretarial work**

### **1. Introduction**

In accordance with the Trust's Policy of Business Conduct for NHS Staff it has been agreed that some further guidance should be issued to Consultants and their medical secretaries to ensure that there is no conflict between NHS/private work in so far as it concerns medical secretaries.

### **2. Examples of how medical secretaries can be involved in this kind of work are as follows:-**

- Telephone queries from private patients requesting the Consultant to ring/contact them have to be dealt with (usually in relaying a message to the Consultant), and sometimes vice versa.
- Patients who were previously seen in the private sector and transferred to the NHS invariably have their private records photocopied by the NHS secretary for the NHS records and vice versa.
- Patients attending for private procedures, e.g. extracorporeal lithotripsy, have to be admitted, and their operation notes typed up and relevant investigations ordered by the NHS secretary.
- Private Patients undergoing investigations in Bradford Teaching Hospitals.
- Private work carried out by medical secretaries in their own time/home will on occasions overlap to NHS time, due to private patients changing to the NHS.

### **3. Work that secretaries should not undertake in NHS time is as follows:-**

- Undertaking private work in NHS time e.g. typing and receiving separate remuneration for this unless the patient is a Bradford Teaching Hospitals private patient.
- Telephone calls which are remunerated for should be done in the secretaries own time unless they cannot be avoided e.g. private patient wishes to contact Consultant urgently.
- Typing of CVs and theses for junior doctors
- Typing of Category 2 Medical Reports, an e.g. would be work for the criminal injuries compensation board, work required for life insurance purposes etc.
- Other typing of a personal nature.
- Undertaking private work e.g. typing/phone calls whilst on sick leave from the NHS as this may constitute fraud and may have implications for both secretary and Consultant
- in relation to receipt of SSP and HMRC.

### **4. Declaration of Interest**

Medical secretaries, as with any other member of the Trust staff, should declare in writing to their General Manager any financial interest or relationship which may potentially affect Trust Policies or decisions in accordance with the Policy of Business Conduct. In addition they are required to complete an on line declaration for inclusion in the central register and can do so at:

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

Failure to declare or comply with the guidance may result in disciplinary action. Examples where a declaration should be made are as follows, a new recruit who has an existing job in private practice; a new Consultant who asks their NHS Medical Secretary to do their private work.