

<b>Report to:</b>	<b>Public Board of Directors</b>	<b>Agenda item:</b>	<b>16</b>
<b>Date of Meeting:</b>	<b>29 March 2017</b>		

<b>Title of Report:</b>	<b>Declarations of Interest in the NHS</b>
<b>Status:</b>	<b>For information</b>
<b>Board Sponsor:</b>	<b>James Scott, Chief Executive</b>
<b>Author:</b>	<b>Helen Mullinger, Board of Directors' Secretary</b>
<b>Appendices</b>	<b>Appendix A: Guidance: Managing Conflicts of Interest in the NHS (circulated electronically)</b>

<b>1. Executive Summary of the Report</b>
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The report provides the Management Board with an overview of the new guidance on managing conflicts of interest in the NHS.

<b>2. Recommendations (Note, Approve, Discuss)</b>
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Management Board is asked to note the guidance and the timetable for actions arising as a result. The guidance comes into force on the **1<sup>st</sup> June 2017**.

<b>3. Legal / Regulatory Implications</b>
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The Trust is required to manage its declaration of interests in line with the guidance issued.

Failure to manage conflicts of interest could lead to criminal proceedings for offences such as fraud, bribery and corruption pursuant to the Fraud Act 2006 and the Bribery Act 2010.

Service Condition 24 – known as the ‘standards for providers’ – in the NHS standard contract outlines procedures for NHS providers for dealing with fraud, bribery and security management risks.

<b>4. Risk (Threats or opportunities, link to a risk on the Risk Register, Board Assurance Framework etc)</b>
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The corporate offence of failing to prevent bribery (Bribery Act 2010) applies to NHS organisations. There are risks to reputation and, depending on the nature of the offence, possibly financial risks of failing to adequately protect the Trust.

<b>5. Resources Implications (Financial / staffing)</b>
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Staff time is required to implement the guidance and manage the process.

<b>6. Equality and Diversity</b>
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NA

<b>7. References to previous reports</b>
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N/A

<b>8. Freedom of Information</b>
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Public

# Managing Conflicts of Interest in the NHS

## Briefing Note

### 1. Background

NHS England published new guidance in February following a consultation ending in December 2016. The new guidance builds upon the current regime of management of conflicts of interest and emphasises the need for robust systems and processes in place, particularly in respect of doctors, both GPs (for CCGs) and consultants (for trusts). The guidance applies to both Trusts and Foundation Trusts and intends to standardise the process for conflicts of interest across the NHS. The guidance will be incorporated within the standard NHS Contract pursuant to General Condition 27.

**The guidance comes into force on the 1<sup>st</sup> June 2017**

### 2. Key Points to Note

The guidance covers gifts, hospitality, outside employment, shareholding and other ownership interests, patents, loyalty interests, donations, sponsorship (including research and posts) and clinical private practice. The guidance sets out the risks and issues posed in each of these scenarios and the principles and rules organisations should adopt to manage them. It also clarifies the types of interests that may occur: financial, non-financial, personal and indirect interests.

The guidance is consistent with existing good practice in that organisations are responsible for making staff aware of their obligation to declare any interests and an organisation's obligation to record and publish a register of interests.

- Some staff, due to the requirement of their role, are more likely than others to have a decision-making influence on the use of taxpayer's money. Organisations are required to define these '**decision-making staff**'. Updates to declarations of interest or a 'nil return' is required of these staff on an annual basis.
- Trusts will be required to **publish a register** of the interests declared by '**decision-making staff**'. The register is required to be published in a prominent place on the Trust's website. There is scope, under certain circumstances for an individual to request that information on them is not available publicly. The current Trust register was reviewed and updated in January 2017. Staff whose interests are required to be published will be given the opportunity to review the information held prior to publication.
- Organisations will be required to keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of **procurement** processes.
- **Breaches**, or situations where interests are not identified, declared or managed appropriately should be investigated and judged on its own merits.

- Trusts are required to review and **audit** the process every three years as part of the internal audit programme.

**Board members are requested to familiarise themselves with the content of the guidance attached in Appendix A.**

### 3. Next Steps and Actions

There are a number of actions required to ensure the Trust is compliant with the guidance on the 1<sup>st</sup> June 2017. The table below sets out these actions. A template policy document will be provided in March by NHS England. This will be used as the basis for the Trust's revised policy.

Action	Who	When by
Briefing on new guidance provided to Management Board (information only item)	HM	March 2017
Briefing for Trust Board	HM	March 2017
Review current policy and processes	HM	End April 2017
Revise declaration templates	HM	End April 2017
Identification of decision making staff	HM/Human Resources	End April 2017
Publish new policy based on guidance template	HM	Mid-May 2017
Communication of new guidance and publication of register.	HM/Comms team	June onwards
Annual update of register	HM	Complete January 2018

### 4. Other declarations

Staff in the Trust that are also subject to wider transparency initiatives such as the Association British Pharmaceutical Industry (ABPI) Disclosure UK scheme. Awareness of these will be included in the declaration guidance. The disclosures under the ABPI scheme are monitored by the Board of Directors' Secretary. Last year a significant number of entries against the RUH required correcting.

Consultant declaration of private income was considered as part of the consultation but this has been dropped from the final guidance. Doctors are still required to declare any private work but are not required to disclose the level of income earned.