

|                         |                                  |                     |           |
|-------------------------|----------------------------------|---------------------|-----------|
| <b>Report to:</b>       | <b>Public Board of Directors</b> | <b>Agenda item:</b> | <b>24</b> |
| <b>Date of Meeting:</b> | <b>27 September 2017</b>         |                     |           |

|                         |                                                                                                |
|-------------------------|------------------------------------------------------------------------------------------------|
| <b>Title of Report:</b> | <b>Declaration of Interests Policy</b>                                                         |
| <b>Status:</b>          | <b>For approval</b>                                                                            |
| <b>Board Sponsor:</b>   | <b>Claire Buchannan, Director of HR</b>                                                        |
| <b>Author:</b>          | <b>Xavier Bell, Board of Director's Secretary</b>                                              |
| <b>Appendices</b>       | <b>Appendix 1: Draft Declaration of Interests Policy<br/>Appendix 2: Decision Making Staff</b> |

## 1. Executive Summary of the Report

On 9 February 2019 NHSE released new guidance on managing conflicts of interest in the NHS. The guidance supersedes and extinguishes the Standards of Business Conduct for NHS staff (HSG (93)5).

NHS Trusts and NHS Foundation Trusts are required to have regard to this guidance through its incorporation into the NHS Standard Contract pursuant to General Condition 27, and are required to ensure their policies meet the standards in the guidance.

The attached policy (Appendix 1) has been drafted so as to clearly reflect the requirements of the NHSE guidance. It:

- Adopts the common principles and rules required for managing declarations of, and conflicts of interest;
- provides simple advice to staff and organisations about what to do in common situations; and
- supports good judgement about how interests should be approached and managed.

This policy will supersede the existing Trust policy statements on declarations of interest currently contained in the Standing Orders and Code of Expectations of Employees (note that the Standing Orders are being refreshed to ensure consistency).

In accordance with the requirements of the guidance the Trust has identified its 'decision making staff' (i.e. those staff that are more likely than others to have a decision making influence on the use of taxpayers' money, because of the requirements of their role). Details of these staff are set out in Appendix 2 (note this is still being validated by Divisions to ensure it is a complete list). These staff must make an annual declaration of interests which the Trust must publish on its website.

Declarations of interests will continue to be made via the intranet, and the declaration forms have been updated in order to be consistent with the guidance and new policy.

Management Board has approved the policy, and the Board of Directors is asked to ratify the policy.

## 2. Recommendations (Note, Approve, Discuss)

The Board of Directors is asked to ratify the attached policy.

|                                                                                                                                                                                                                                          |                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| <b>3.</b>                                                                                                                                                                                                                                | <b>Legal / Regulatory Implications</b>                                                                     |
| This policy implements new guidance released by NHSE in February 2017, and which came into force on 1 June 2017. The guidance is contractually binding on the Trust via the Standard NHS Contract.                                       |                                                                                                            |
| <b>4.</b>                                                                                                                                                                                                                                | <b>Risk (Threats or opportunities, link to a risk on the Risk Register, Board Assurance Framework etc)</b> |
| The policy implements binding NHS guidance. Should the guidance not be appropriately implemented there is a risk that the Trust will breach the terms of its contract with commissioners, and may attract increased regulatory scrutiny. |                                                                                                            |
| <b>5.</b>                                                                                                                                                                                                                                | <b>Resources Implications (Financial / staffing)</b>                                                       |
| N/A                                                                                                                                                                                                                                      |                                                                                                            |
| <b>6.</b>                                                                                                                                                                                                                                | <b>Equality and Diversity</b>                                                                              |
| This paper is compliant with the Trust's equality and diversity policies.                                                                                                                                                                |                                                                                                            |
| <b>7.</b>                                                                                                                                                                                                                                | <b>References to previous reports</b>                                                                      |
| N/A                                                                                                                                                                                                                                      |                                                                                                            |
| <b>8.</b>                                                                                                                                                                                                                                | <b>Freedom of Information</b>                                                                              |
| Private.                                                                                                                                                                                                                                 |                                                                                                            |

## Declarations of Interest

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|                              |                                      |
|------------------------------|--------------------------------------|
| <b>Reference Number:</b>     | 190                                  |
| <b>Author &amp; Title:</b>   | Xavier Bell<br>Trust Board Secretary |
| <b>Responsible Director:</b> | Claire Buchanan<br>Director of HR    |
| <b>Review Date:</b>          | June 2020                            |
| <b>Ratified by:</b>          | Management Board                     |
| <b>Date Ratified:</b>        | 23 August 2017                       |
| <b>Version:</b>              | 1.0                                  |

|                                        |                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Related Policies and Guidelines</b> | <ul style="list-style-type: none"> <li>• Managing Conduct Policy</li> <li>• Raising Concerns Policy</li> <li>• Standards of Business Conduct for NHS Staff</li> <li>• Code of Expectations of Employees</li> <li>• Recruitment &amp; Selection Policy</li> <li>• Commercial Advertising &amp; Sponsorship</li> <li>• Standing Financial Instructions</li> <li>• Standing Orders</li> </ul> |
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## Amendment History

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| Issue | Status | Date      | Reason for Change | Authorised  |
|-------|--------|-----------|-------------------|-------------|
| 1.0   | Draft  | June 2017 | New Policy        | Xavier Bell |
|       |        |           |                   |             |
|       |        |           |                   |             |
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# 1. Policy Summary

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From 1 June 2017 guidance on **Managing Conflicts of Interest in the NHS** (the 'guidance') comes into force. The 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.

## 1.1. Who does the guidance apply to?

- Clinical Commissioning Groups ('CCGs') via the statutory guidance to CCGs issued by NHS England.
- NHS Trusts and NHS Foundation Trusts - which include secondary care trusts, mental health trusts, community trusts, and ambulance trusts
- NHS England

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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/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf">https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf</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, even where no conflict exists. <b>If in doubt, declare.</b></li> <li>• <b>NOT</b> misuse your position to further your own interests or those close to you</li> <li>• <b>NOT</b> be influenced, or give the impression that you have been influenced by outside interests</li> <li>• <b>NOT</b> allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money</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 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>• <b>NOT</b> avoid managing conflicts of interest.</li> <li>• <b>NOT</b> interpret this policy in a way which stifles collaboration and innovation with our partners</li> </ul> |

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## 2. Policy Statements

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Royal United Hospitals Bath NHS Foundation Trust (“The Trust”), and the people who work with and for us, collaborate closely with other organisations, delivering high quality care for our patients.

These partnerships have many benefits and should help ensure that public money is spent efficiently and wisely. But there is a risk that conflicts of interest may arise.

Providing best value for taxpayers and ensuring that decisions are taken transparently and clearly, are both key principles in the NHS Constitution. We are committed to maximising our resources for the benefit of the whole community. As an organisation and as individuals, we have a duty to ensure that all our dealings are conducted to the highest standards of integrity and that NHS monies are used wisely so that we are using our finite resources in the best interests of patients.

### 2.1. Purpose of 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

Each and every member of staff is required to adopt and follow this policy at all times, failure to adhere will be managed in an appropriate manner in line with the Trust’s Managing Conduct Policy.

This policy should be considered alongside the other organisational policies set out on page 1.

## 3. Definition of Terms Used

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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.”

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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

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.

### 3.1. Interests

Interests fall into the following categories:

- **Financial interests:**  
Where an individual may get direct financial benefit<sup>1</sup> 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>2</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.

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<sup>1</sup> This may be a financial gain, or avoidance of a loss.

<sup>2</sup> A common sense approach should be applied to the term 'close association'. Such an association might arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners.

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## 4. Duties and Responsibilities

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### 4.1. Staff

At The Trust we use the skills of many different people, all of whom are vital to our work. This includes people on differing employment terms, who for the purposes of this policy we refer to as 'staff' and are listed below:

- All salaried employees
- All prospective employees – who are part-way through recruitment
- Contractors and sub-contractors
- Agency staff; and
- Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the organisation)

### 4.2. 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 this organisation are:

- Executive and Non-Executive Directors
- All staff on Band 8D and above  
(this includes Heads of Division, all Consultants and Clinical Leads)
- Divisional Heads of Nursing
- Divisional Accountants & Senior Finance Managers
- Senior Contracting Staff
- Divisional Specialty Managers and Heads of Service
- Procurement staff
- Senior Pharmacy staff
- Senior Estates staff
- Clinical Nurse Specialists
- Matrons/Clinical Nurse Leads

## 5. Identification, Declaration and Review of Interests

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### 5.1. Identification and 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

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material then they should declare it, so that it can be considered. Note that interests must be declared whether or not a conflict exists. 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).

A declaration of interest(s) form is available on The Trust's internal website at:

[http://webserver/staff\\_resources/about/Form\\_declaration\\_of\\_interest/form.asp](http://webserver/staff_resources/about/Form_declaration_of_interest/form.asp)

A declaration of gifts and hospitality form is available on The Trust's internal website at:

[http://webserver/staff\\_resources/about/Form\\_declaration\\_of\\_gifts-hospitality/form.asp](http://webserver/staff_resources/about/Form_declaration_of_gifts-hospitality/form.asp)

Declarations should be submitted using the web-based forms linked above. Any enquiries should be made to the Trust Board Secretary.

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.

## 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.

This process will be led by the Trust Board Secretary. Decision making staff are reminded that this annual prompt does not detract from the personal obligation to declare any interests or changes to existing interests in a timely manner in accordance with this policy.

## 6. Records and Publication

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### 6.1. Maintenance

The organisation will maintain the following registers:

- A Register of Interests; and
- A Register of Gifts & Hospitality

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All declared interests that are material will be promptly transferred to the registers by the Trust Secretary or a member of the Executive Secretariat.

## 6.2. Publication

We will:

- Publish the interests declared by decision making staff in the Register of Interests and the Register of Gifts & Hospitality;
- Refresh this information annually;
- Make this information available on the Trust website and/or by contacting the Trust Board Secretary

In some cases it might not be appropriate to publish information about the interests of some decision making staff, or their personal information might need to be redacted.

If decision making staff have substantial grounds for believing that publication of their interests should not take place then they should contact the Trust Board Secretary 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

The 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:

<http://www.abpi.org.uk/our-work/disclosure/about/Pages/default.aspx>

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## 7. Management of Interests – General

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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 the 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

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This section sets out the principles and rules to be adopted by 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.

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>3</sup> in total, and need not be declared.

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.

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<sup>3</sup> The £6 value has been selected with reference to existing industry guidance issued by the ABPI: <http://www.pmcpa.org.uk/theCode/Pages/default.aspx>

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- Gifts valued at over £25 should be treated with caution and only be accepted on behalf of The Forever Friends Appeal (registered with the Charities Commission for England & Wales Charity No. 1058323) not in a personal capacity. These should be declared by staff and should be communicated to The Forever Friends Appeal immediately.
- Modest gifts accepted under a value of £25 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 £25 where the cumulative value exceeds £25.

### 8.1.1 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).

## 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.

Meals and refreshments:

- Under a value of £25 - may be accepted and need not be declared.
- Of a value between £25 and £75<sup>4</sup> - may be accepted and must be declared.
- Over a value of £75 - should be refused unless (in exceptional circumstances) senior approval is given (with a clear justification recorded). A clear reason should be recorded on the organisation's register(s) of interest as to why it was permissible to accept.
- Justifications provided may be challenged, and failure to give a justification may result in further investigation and potential disciplinary action against the staff involved.

<sup>4</sup> The £75 value has been selected with reference to existing industry guidance issued by the ABPI  
<http://www.pmcpa.org.uk/theCode/Pages/default.aspx>

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- A common sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or a reasonable estimate).

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.

### 8.2.1 What should be declared

- Staff name and their role with the organisation.
- The nature of the hospitality (e.g. who is providing the hospitality, a description of the hospitality, 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).

## 8.3. 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.

### 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.

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- 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, or which is in or might reasonably be expected to be in competition 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)

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## 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 (including charitable 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.

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### 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 health research authority or other approvals process.
- 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.

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### 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.

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## 8.11. Clinical private practice

Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises<sup>5</sup> including:

- Where they practise (name of private facility).
- What they practise (specialty, major procedures).
- When they practise (identified sessions/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 commitments take precedence over private work.<sup>6</sup>
- 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.

### 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).

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<sup>5</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 advice at work/contracts/consultanttermsandconditions.pdf](https://www.bma.org.uk/-/media/files/pdfs/practical%20advice%20at%20work/contracts/consultanttermsandconditions.pdf)

<sup>6</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 advice at work/contracts/consultanttermsandconditions.pdf](https://www.bma.org.uk/-/media/files/pdfs/practical%20advice%20at%20work/contracts/consultanttermsandconditions.pdf)

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## 9. Management of Interests – Advice in Specific Contexts

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### 9.1. Strategic decision making groups

In common with other NHS bodies the 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:

- Members of the Board of Directors and all Board Committees
- Members of Management Board and any sub-groups
- Purchasing Department Staff
- Pharmacy Department Staff

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.

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.

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## 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.

## 10. Dealing with Breaches

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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 to the Trust Board Secretary, the Director of Finance or the local counter fraud team.

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 refer to the Trust's Raising Concerns 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.

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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.

## 10.2. 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 HR/employment law/contractual action should be taken against staff or others.
- 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:

- Employment law action against staff, which might include:
  - Informal action (such as reprimand, or signposting to training and/or guidance).
  - Formal disciplinary action (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.

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- Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

### **10.3. Learning and transparency concerning breaches**

Reports on breaches, the impact of these, and action taken will be considered by the Non-Clinical Governance Committee at least annually.

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 on the Trust’s website as appropriate, or made available for inspection by the public upon request.

## **11. Monitoring Compliance**

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It is an individual’s responsibility to ensure that they comply with this policy; however, managers also have a responsibility to ensure that their staff complete declarations of interest as appropriate and it is recommended that this topic feature as a regular item on team meeting agendas as a reminder to staff.

Decision making staff will be prompted to review and update their declarations annually, or make a nil return, with the Trust Board Secretary having responsibility to ensure that this process is followed.

The Non-Clinical Governance Committee will consider compliance with this policy at least annually.

## **12. Review**

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This policy will be subject to a planned review every three years as part of the Trust’s Policy Review Process. It is recognised however that there may be updates required in the interim arising from amendments or release of new regulations, Codes of Practice or statutory provisions or guidance from the Department of Health or professional bodies. These updates will be made as soon as practicable to reflect and inform the Trust’s revised policy and practise.

## **13. Training**

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Managers are responsible for ensuring all their staff receive the type of initial and refresher training that is commensurate with their role(s).

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Staff must refer to the Mandatory Training Profiles, available on the intranet, to identify what training in relation to Conflicts of Interest in the NHS is relevant for their role and the required frequency of update. Further information is available on the statutory and mandatory training web pages about each subject and the available training opportunities.

The Mandatory Training Policy identifies how training non-attendance will be followed up and managed and is available on the intranet.

Training statistics for mandatory training subjects are collated by the Learning & Development team, and are reported to the Strategic Workforce Committee. Staff must keep a record of all training in their portfolio.

All staff and managers can access their mandatory training compliance records via the Trust's mandatory reporting tool (STAR) available on the intranet.

## **14. Associated Documentation**

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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)

Managing Conduct Policy

Raising Concerns Policy

Standards of Business Conduct for NHS Staff

Code of Expectations of Employees

Recruitment & Selection Policy

Commercial Advertising & Sponsorship

Standing Financial Instructions

Standing Orders

|                                               |                             |
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# Document Control Information

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## Ratification Assurance Statement

Dear \_\_\_\_\_

Please review the following information to support the ratification of the below named document.

Name of document: \_\_\_\_\_

Name of author: \_\_\_\_\_

Job Title: \_\_\_\_\_

I, the above named author confirm that:

- The Policy presented for ratification meets all legislative, best practice and other guidance issued and known to me at the time of development of the Policy;
- I am not aware of any omissions to the Policy, and I will bring to the attention of the Executive Director any information which may affect the validity of the Policy presented as soon as this becomes known;
- The Policy meets the requirements as outlined in the document entitled Trust-wide Policy for the Development and Management of Policies (v4.0);
- The Policy meets the requirements of the NHSLA Risk Management Standards to achieve as a minimum level 2 compliance, where applicable;
- I have undertaken appropriate and thorough consultation on this Policy and I have documented the names of those individuals who responded as part of the consultation within the document. I have also fed back to responders to the consultation on the changes made to the Policy following consultation;
- I will send the Policy and signed ratification checklist to the Policy Coordinator for publication at my earliest opportunity following ratification;
- I will keep this Policy under review and ensure that it is reviewed prior to the review date.

**Signature of Author:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Name of Person Ratifying this policy:** \_\_\_\_\_

**Job Title:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

### To the person approving this policy:

Please ensure this page has been completed correctly, then print, sign and **post this page only** to: The Policy Coordinator, Apley House, (E5), Royal United Hospital  
The **whole policy** must be sent electronically to: [ruh-tr.policies@nhs.net](mailto:ruh-tr.policies@nhs.net)

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## Consultation Schedule

| <b>Name and Title of Individual</b>        | <b>Date Consulted</b> |
|--------------------------------------------|-----------------------|
| Victoria Downing-Burn, Deputy Director, HR | 08/06/2017            |
| Simon Wade, Deputy Director, Finance       | 08/06/2017            |
| Claire Buchanan, Director of HR            | 08/06/2017            |
| Executive Team & Heads of Division         | 20/07/2017            |
|                                            |                       |
|                                            |                       |
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|                                            |                       |
|                                            |                       |
|                                            |                       |

The following people have submitted responses to the consultation process:

| <b>Name and Title of Individual</b>        | <b>Date Responded</b> |
|--------------------------------------------|-----------------------|
| Victoria Downing-Burn, Deputy Director, HR | 22/06/2017            |
| Tim Craft, Medical Director                | 20/07/2017            |
| Discussed by Executive Team                | 25/07/2017            |
|                                            |                       |
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| <b>Name of Committee/s (if applicable)</b> | <b>Date of Committee</b> |
|--------------------------------------------|--------------------------|
| Management Board                           | 23 August 2017           |
|                                            |                          |
|                                            |                          |

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## Equality Impact: (A) Assessment Screening

|                                             |  |
|---------------------------------------------|--|
| 1. Title of document/service for assessment |  |
| 2. Date of assessment                       |  |
| 3. Date for review                          |  |
| 4. Directorate/Service                      |  |
| 5. Approval Committee                       |  |

|                                                                                                                                                              |               |                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|------------------|
| <b>6. Does the document/service affect one group less or more favourably than another on the basis of:</b>                                                   |               |                  |
| <b>Protected characteristic:</b>                                                                                                                             | <b>Yes/No</b> | <b>Rationale</b> |
| • Age                                                                                                                                                        |               |                  |
| • Disability                                                                                                                                                 |               |                  |
| • Gender reassignment                                                                                                                                        |               |                  |
| • Pregnancy and maternity                                                                                                                                    |               |                  |
| • Race                                                                                                                                                       |               |                  |
| • Religion and belief                                                                                                                                        |               |                  |
| • Sex                                                                                                                                                        |               |                  |
| • Sexual orientation                                                                                                                                         |               |                  |
| • Marriage and civil partnership                                                                                                                             |               |                  |
| <b>7. If you have identified potential discrimination, are the exceptions valid, legal and/or justified?</b>                                                 |               |                  |
| <b>8. If the answers to the above question is 'no' then adjust the element of the document / service to remove the disadvantage identified.</b>              |               |                  |
| <b>9. If neither of the above is possible, take no further action until you have contacted your EIA Divisional / Directorate link for review and support</b> |               |                  |

|                                                                      |  |
|----------------------------------------------------------------------|--|
| <b>Signature of person completing the Equality Impact Assessment</b> |  |
| <b>Name</b>                                                          |  |
| <b>Time</b>                                                          |  |
| <b>Date</b>                                                          |  |

|                                                                                 |  |
|---------------------------------------------------------------------------------|--|
| <b>Chair of decision making Board / Group / Committee approval and sign off</b> |  |
| <b>Name</b>                                                                     |  |
| <b>Time</b>                                                                     |  |
| <b>Date</b>                                                                     |  |

|                |               |
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## Equality Impact: (B) Full Analysis

### Note:

Only complete this section if you answered **YES** to any of the questions in the **Equality Impact: (A) Screening Assessment**

Equality Analysis is a process of systematically analysing a new or existing policy or service to identify what impact or likely impact it will have on different groups within the community. The primary concern is to identify any discriminatory or negative consequences for a particular group or sector of the community. Equality Analysis can be carried out in relation to service delivery as well as employment policies and strategies.

This template has been developed to use as a framework when carrying out an Equality Analysis on a policy, service or function. It is intended that this is used as a working document throughout the process, with a final version including the action plan section being published on the Royal United Hospital, Bath NHS Trust website.

| 1. Identify the aims of the policy or service and how it is implemented. |                                                                                                                                                                                                                                                                                                 |                 |
|--------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
|                                                                          | Key questions                                                                                                                                                                                                                                                                                   | Answers / Notes |
| 1.1                                                                      | Briefly describe purpose of the service/policy including <ul style="list-style-type: none"> <li>● How the service/policy is delivered and by whom</li> <li>● If responsibility for its implementation is shared with other departments or organisations</li> <li>● Intended outcomes</li> </ul> |                 |
| 1.2                                                                      | Provide brief details of the scope of the policy or service being reviewed, for example: <ul style="list-style-type: none"> <li>● Is it a new service/policy or review of an existing one?</li> <li>● Is it a national requirement?.</li> <li>● How much room for review is there?</li> </ul>   |                 |
| 1.3                                                                      | Do the aims of this policy link to or conflict with any other policies of the Trust?                                                                                                                                                                                                            |                 |

|                |               |
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## 2. Consideration of available data, research and information

Monitoring data and other information should be used to help you analyse whether you are delivering a fair and equal service. Please consider the availability of the following as potential sources:

- **Demographic** data and other statistics, including census findings
- Recent **research** findings (local and national)
- Results from **consultation or engagement** you have undertaken
- Service user **monitoring data** (including ethnicity, gender, disability, religion/belief, sexual orientation and age)
- Information from **relevant groups** or agencies, for example trade unions and voluntary/community organisations
- Analysis of records of enquiries about your service, or **complaints** or **compliments** about them
- Recommendations of **external inspections** or audit reports

|     | Key questions                                                                                                                                                 | Data, research and information that you can refer to |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|
| 2.1 | What is the equalities profile of the team delivering the service/policy?                                                                                     |                                                      |
| 2.2 | What equalities training have staff received?                                                                                                                 |                                                      |
| 2.3 | What is the equalities profile of service users?                                                                                                              |                                                      |
| 2.4 | What other data do you have in terms of service users or staff? (e.g results of customer satisfaction surveys, consultation findings). Are there any gaps?    |                                                      |
| 2.5 | What engagement or consultation has been undertaken as part of this EIA and with whom?<br>What were the results?                                              |                                                      |
| 2.6 | If you are planning to undertake any consultation in the future regarding this service or policy, how will you include equalities considerations within this? |                                                      |

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### 3. Assessment of impact: 'Equality analysis'

Based upon any data you have considered, or the results of consultation or research, use the spaces below to demonstrate you have analysed how the service or policy:

- Meets any particular needs of equalities groups or helps promote equality in some way.
- Could have a negative or adverse impact for any of the equalities groups

|            |                                                                                                                                                                                            | Examples of what the service has done to promote equality | Examples of actual or potential negative or adverse impact and what steps have been or could be taken to address this |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| <b>3.1</b> | <b>Gender</b><br>Identify the impact/potential impact of the policy on women and men. (Are there any issues regarding pregnancy and maternity?)                                            |                                                           |                                                                                                                       |
| <b>3.2</b> | <b>Transgender</b><br>Identify the impact/potential impact of the policy on transgender people                                                                                             |                                                           |                                                                                                                       |
| <b>3.3</b> | <b>Disability</b><br>Identify the impact/potential impact of the policy on disabled people (ensure consideration of a range of impairments including both physical and mental impairments) |                                                           |                                                                                                                       |
| <b>3.4</b> | <b>Age</b><br>Identify the impact/potential impact of the policy on different age groups                                                                                                   |                                                           |                                                                                                                       |
| <b>3.5</b> | <b>Race</b><br>Identify the impact/potential impact on different black and minority ethnic groups                                                                                          |                                                           |                                                                                                                       |
| <b>3.6</b> | <b>Sexual orientation</b><br>Identify the impact/potential impact of the policy on lesbians, gay, bisexual & heterosexual people                                                           |                                                           |                                                                                                                       |
| <b>3.7</b> | <b>Religion/belief</b><br>Identify the impact/potential impact of the policy on people of different religious/faith groups and also upon those with no religion.                           |                                                           |                                                                                                                       |
| <b>3.8</b> | <b>Marriage/Civil Partnership</b><br>Identify the impact/potential impact of the policy                                                                                                    |                                                           |                                                                                                                       |
| <b>3.9</b> | <b>Pregnancy/Maternity</b><br>Identify the impact/potential impact of the policy                                                                                                           |                                                           |                                                                                                                       |

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#### 4. Royal United Hospital, Bath Equality Impact Assessment Improvement Plan

Please list actions that you plan to take as a result of this assessment. These actions should be based upon the analysis of data and engagement, any gaps in the data you have identified, and any steps you will be taking to address any negative impacts or remove barriers. The actions need to be built into your service planning framework. Actions/targets should be measurable, achievable, realistic and time framed.

| Issues identified | Actions required | Progress milestones | Officer responsible | By when |
|-------------------|------------------|---------------------|---------------------|---------|
|                   |                  |                     |                     |         |
|                   |                  |                     |                     |         |
|                   |                  |                     |                     |         |
|                   |                  |                     |                     |         |

#### 5. Sign off and publishing

Once you have completed this form, it needs to be 'approved' by your Line Manager or their nominated officer. Please ensure that it is submitted to the body ratifying your policy or service change with your report/proposal. Keep a copy for your own records.

**Signed off by:**

**Date:**

Document name:

Ref.:

Issue date:

Status:

Author:

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