

# Code of Conduct Policy

Leicestershire Partnership NHS Trust upholds a culture of openness, transparency, and honesty. In support of this, the Code of Conduct Policy provides guidance to employees on the action that should be taken if they are offered gifts and/or hospitality, or, where they find themselves in a situation where there is an actual or potential conflict of interest or perception of this in the eyes of the public.

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## Version Control and Summary of Changes

Version	Date	Comments (Description change and amendments)
9	November 2024	Update to include changes further to NHS England new guidance on managing conflicts of interest in the NHS issued on 17th September 2024.
8	February 2024	General refresh (including job titles) and guidance around FPPT and recording attendance at system level decision making meetings
7	August 2021	General update to condense and incorporate current legislation.
6	September 2018	Refresh and updated for LPT Declare
5.1	January 2018	Updated following internal audit (360 Assurance reference 1718/LPT/09 November 2017))
5	September 2017	Review against NHS England guidance on 'managing conflicts of interest in the NHS' effective from June 2017.
4	January 2017	Formatting and new policy template. Review of NHS England's consultation on proposals to strengthen the management of conflicts of interest.
3.7	October 2015	General update
3.6	July 2015	Update of local register holders in appendix C
3.5	June 2015	General update and removal of appendix H
3.4	November 2014	General update including Counter Fraud
3.3	April 2014	Clarification of flowchart in Figure 1 (p9). Inclusion of reference to Second Opinion Advice process (p45). Charitable Funds process (p14). Declaration of interests unrelated to work (p19)
3.2	October 2013	General update
3.1	August 2013	General update
3	April 2013	Reference to a designated Compliance Officer with specific responsibility for the Bribery Act in terms of reporting and monitoring, (included in Section 3.2, and in Appendix A. Inclusion of Monitoring of the Code arrangements. Inclusion of need to declare when receiving honorarium payments (in 8.2 Declarations, and in Appendix F. Inclusion of Appendix H – copy of pro forma within HR induction paperwork containing statement confirming understanding of Code.
2	May 2012	General update

**For further information contact:**

- Director of Governance and Risk
- Deputy Trust Secretary

**Equality Statement**

Leicestershire Partnership NHS Trust (LPT) aims to design and implement policy documents that meet the diverse needs of our service, population, and workforce, ensuring that none are placed at a disadvantage over others. It considers the provisions of the Equality Act 2010 and promotes equal opportunities for all. This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy, and maternity. If you require a copy of this policy in any other format please contact the Corporate Governance Team.

**Due Regard**

Analysis on the impact on equality (Due Regard) has been included in the review of the policy and an analysis of equality (assessment of impact) on existing and new policies in line with the Equality Act 2010 has been undertaken. This process will help to ensure that:

- Strategies, policies and procedures and services are free from discrimination
- LPT complies with current equality legislation
- Due regard is given to equality in decision making and subsequent processes
- Opportunities for promoting equality are identified

Please refer to due regard assessment (Appendix 4) of this policy

**Definitions that apply to this Policy**

Code of Conduct	The Code describes the standards of conduct, behaviour, and attitude that the public and people who use health and care services should expect. You are responsible for, and have a duty of care to ensure that your conduct does not fall below the standards detailed in the Code
Gifts and Hospitality	Gifts and Hospitality means anything of value that you give or accept, either directly or in kind. Any gift or hospitality you accept from someone should be something that you would be able to give them as a proper and appropriate business expense
Conflict of Interest	A situation in which the concerns or aims of two different parties are incompatible. Or a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.

## **1. Purpose of the Policy**

Leicestershire Partnership NHS Trust upholds a culture of openness, transparency, and honesty. In support of this, the Code of Conduct Policy provides guidance to employees on the action that should be taken if they are offered gifts and/or hospitality, or, where they find themselves in a situation where there is an actual or potential conflict of interest or perception of this in the eyes of the public. All staff should adopt a code of conduct which reflects the Trust's values and behaviors and adheres to the professional standards required.

## **2. Summary and scope of policy**

The Code of Conduct Policy (version 9) provides guidance on the action that should be taken if staff are offered gifts and/or hospitality, or, where they find themselves in a situation where there is an actual or potential conflict of interest or perception of this in the eyes of the public.

Do you know if you have a conflict of interest? If not, the Code of Conduct Policy will help or ask a member of the Corporate Governance Team.

Staff should use the LPT Staff Declarations website to submit a declaration:

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

The generic inbox for any queries is 'LPT Declare'.

If you have declared a conflict, have you and your line manager considered the following actions?

- Restrict your involvement in associated discussions and be excluded from decision making (has this been declared at the start of any pertinent meetings and is it included in the minutes?).
- Removal from the whole decision-making process.
- Removal of responsibility for an entire area of work.
- Removal from your role altogether if you are unable to operate effectively in it because the conflict is so significant

Are you worried that you, or someone you know has breached the code of conduct for declaring an interest? You need to tell your line manager and notify the Corporate Governance Team using the LPT Declare email address immediately. They will be in touch to help you or your colleague to make the necessary declarations.

The Code of Conduct Policy will help you to understand if you can accept any gifts or hospitality. If you need to declare anything, you need to use the LPT Declare system.

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

Declarations could include:

- Gifts or money, goods or services, or combinations of these
- A loan of money, goods or services, or combinations of these
- The receipt of beneficial terms that are not generally available regarding the purchase, lease or contracting of goods or services
- Receipt of goods including any type of equipment, including vehicles
- Invitations to events, travel, or accommodation, or work carried out to the employee's benefit

### **3. Introduction**

Public service values must be at the heart of the National Health Service. High standards of corporate and personal conduct based on a recognition that patients come first, have been a requirement throughout the NHS since its inception. Since the NHS is publicly funded, it must be accountable to the public for the services it provides and for the effective and economical use of public money. All NHS employees have a duty to conduct NHS business with probity, respond to employees, patients, and suppliers impartially, and achieve value for money from the public funds with which they are entrusted and to demonstrate high ethical standards of personal conduct. The Nolan Principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership are important elements of public services, delivering an ethical culture and legitimacy.

- Selflessness: Holders of public office should act solely in terms of the public interest.
- Integrity: Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- Objectivity: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
- Accountability: Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- Openness: Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing. Honesty: Holders of public office should be truthful.
- Leadership: Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Trust employees are expected to:

- Ensure that the interests of patients always remain paramount.
- Be impartial and honest in the conduct of their official business.
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money.
- Understand and uphold the Nolan principles detailed above to all areas of their work for and on behalf of the Trust.

### **4. The Bribery Act**

The Bribery Act 2010 makes it a criminal offence to bribe, or be bribed, by another person or organisation, by offering or requesting a financial or other advantage as a reward or incentive to perform a relevant function or activity improperly. Offences under the Bribery Act 2010 target individuals offering, requesting or accepting bribes, as well as organisations that fail to prevent bribery from occurring.

The penalties for any breaches of the Act are potentially severe. There is no upper limit on the level of fines that can be imposed, and an individual convicted of an offence can face a prison sentence of up to 10 years.

It is therefore vital that all NHS employees avoid situations where their judgement is affected, or seen to be affected, by external interests, gifts, hospitality, sponsorship or any other potential incentive.

All breaches of this policy will be investigated. Any incident that raises concerns about

bribery or corruption should be referred to the Trust's Counter Fraud Specialist or NHS Counter Fraud Authority who will act in accordance with the Trust's Fraud, Bribery and Corruption Policy. Contact details can be found in that policy.

Staff who are aware about actual breaches of the Code, or who are concerned that there has been, or may be, a breach, should report these concerns to their line manager in the first instance, or direct to the Director of Governance and Risk. In some instances, staff may wish to raise their concerns with the Trust's Freedom to Speak Up Guardian (see section 5 below), or via the 'Raising Concerns' tab on LPT Declare.

## **5. Freedom to Speak Up**

The Freedom to Speak Up Guardian has been appointed to work alongside leadership teams to support the Trust in being a more open and transparent place to work, where all staff are actively encouraged and enabled to speak up safely.

The identity of individuals who refer issues and do not wish to be identified will be protected except in cases where such protection might adversely affect patient care.

## **6. Declarations of interest**

For the purposes of this guidance a 'conflict of interest' is defined as:

"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 1 or more interests

**Potential** – there is the possibility of a material conflict between 1 or more interests in the future

Staff may hold interests for which they cannot see any potential conflict. However, caution is always advisable because others may see it differently. It will be important to exercise judgement and to declare such interests where there is otherwise a risk of imputation of improper conduct. 'Interests' can arise in a number of different contexts. A material interest is one which a reasonable person would take into account when making a decision regarding the use of taxpayers' money because the interest has relevance to that decision. A benefit may arise from the making of a gain or the avoidance of a loss.

**Financial interest** – 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 with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest who would stand to benefit from a decision they are involved in making.

These associations may arise through relationships with close family members and relatives, close friends and associates, and business partners.

A common-sense approach should be applied to these terms. It would be unrealistic to expect staff to know of all the interests that people in these classes might hold. However, if staff do know of material interests (or could be reasonably expected to know about these) then these should be declared.

All staff have responsibility for identifying and declaring any actual, potential, or perceived conflicts of interest; this should be done at the earliest opportunity (and in any event within 28 days). All staff are required to seek advice immediately if they intend to take up a new interest, activity or relationship that may possibly create, or be perceived to create, a conflict of interest, or if an existing one develops in such a way. If staff are in any doubt as to whether an interest is material then they should declare it, so that it can be considered.

The Trust maintains the LPT Staff Declarations website which contains all declared interests. This will allow members of the public to view the register of declarations, thus providing transparency and accountability in compliance with NHS England guidance.

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).

Staff should use the LPT Staff Declarations website to submit a declaration - <https://lpt.mydeclarations.co.uk/home>. The generic inbox for any queries is 'LPT Declare'.

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.

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 the Code of Conduct, these people are referred to as 'decision making staff'. Decision making staff in this organisation are defined as:

- Executive and Non-Executive Directors
- Members of advisory groups which contribute to direct or delegated decision making on the provision of taxpayer funded services
- Staff who are members of system level decision making groups
- Those at Agenda for Change band 8d and above or equivalent salary and those staff on VSM contracts
- Administrative and clinical staff who have the power to enter contracts on behalf of the Trust
- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions.



Decision making staff will be prompted at least annually to review declarations they have made and, as appropriate, update them or make a nil return. If decision making staff have substantial grounds for believing that publication of their interests should not take place, then they should email 'LPT Declare' 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.

## **6.1 Fit and Proper Persons**

The Care Quality Commission (CQC) introduced requirements regarding the 'Fit and Proper Person Tests' for Directors in November 2014, which became law from 1 April 2015. The Fit and Proper Person Test has been further revised and all of the new requirements are in force from 31<sup>st</sup> March 2024. The test is a regulation to ensure that providers meet their obligations to only employ individuals who are fit for their role and to ensure that appropriate steps have been taken to ensure they are of good character, are physically and mentally fit, have the necessary qualifications, skills and experience for this role and can supply certain information (including a Disclosure and Barring Service (DBS) check and full employment history, if required).

When recruited to posts that are subject to Fit and Proper Person checks, directors have had the Fit and Proper Person checks discharged in line with the LPT Recruitment and Selection and DBS policies. Those posts subject to the Fit and Proper Person checks include;

- All Executive Directors
- All non-executive Directors

The Human Resources Department undertakes several checks as part of an annual cycle for the defined staff group of directors appointed by LPT. At the time of establishing the LPT Fit and Proper Persons Register, the Board defined that there would be an annual self-declaration against compliance. The annual declaration is sponsored by the Chair and produced by the HR & Corporate Governance Departments.

## **6.2 Management of Interests**

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

Staff who declare material interests should make their line manager or the person(s) they are working to aware of their existence. They should also maintain a written audit trail of action taken.

An example of interests is provided in Appendix A

## 7. Gifts and Hospitality

Staff should not ask for, or accept gifts or hospitality that may affect, or be seen to affect, their professional judgement.

Gifts and hospitality refer to a wide range of activities, but can be considered as:

- Gifts or money, goods or services, or combinations of these
- A loan of money, goods or services, or combinations of these
- The receipt of beneficial terms that are not generally available regarding the purchase, lease or contracting of goods or services
- Receipt of goods including any type of equipment, including vehicles
- Invitations to events, travel, or accommodation, or work carried out to the employee's benefit

In all the instances contained in the definitions above, employees should declare gifts and hospitality and sponsorship on the LPT Declare system as per section 4

### 7.1 Gifts

A gift means any item of cash or goods, or any service, which is provided for personal benefit, free of charge, or at less than its commercial value.

#### **Gifts from suppliers or contractors:**

Gifts from suppliers or contractors doing business (or likely to do business) with an organisation should be declined, whatever their value. Subject to this, low-cost branded promotional aids may be accepted where they are under the value of a common industry standard of £6 in total and need not be declared. The £6 value has been selected with reference to the Association of the British Pharmaceutical Industry's (ABPI) Code of practice for the pharmaceutical industry 2021.

#### **Gifts from other sources (eg patients, families, service users):**

- Gifts of cash & vouchers should always be declined.
- Staff should not ask for any gifts, regardless of value
- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of an organisation (ie to an organisation's charitable funds), not in a personal capacity. Staff should declare such gifts and provide a clear reason as to why it was considered permissible to accept the gift, alongside the actual or estimated value
- Modest gifts 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

It is understood that, on occasions, patients choose to donate for the direct benefit of

the staff. In such circumstances, formal records must be kept, and any balances should always be held in a charitable fund, which must be opened for this purpose with appropriate controls for withdrawals. Such funds must not be kept informally in the ward/department nor should they be held in the name of an individual member of staff.

Gifts or donations of medical equipment will need reviewing by the medical devices team before they are accepted. This is to ensure that the equipment is fit for purpose, it is standard equipment used by the Trust and can be maintained by one of our contracted maintenance providers. In addition to this an analysis of any ongoing costs can be performed and accounted for. Equipment accepted into the Trust will then be added to the relevant database to ensure it is managed correctly. Please refer to section 5.7 of the medical devices policy and appendices 21 and 23.

## **7.2 Hospitality**

Hospitality means offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events, etc.

- Hospitality must only be accepted when there is a legitimate business reason, and it is proportionate to the nature and purpose of the event.
- 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 may be accepted and must be declared. The £75 value has been selected with reference to existing industry guidance issued by the ABPI
- Over a value of £75 should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the register 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).

### **Travel and accommodation:**

- Modest offers to pay some or all 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 register of interest as to why it was permissible to accept travel and accommodation of this type.

### **Pharmaceutical:**

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

### **Use of Trust monies for gifts, hospitality and entertainment:**

The use of Trust monies for gifts, hospitality and entertainment, including for example hospitality at meetings or events, should be carefully considered to ensure it is capable of justification as reasonable in the light of the general practice in the NHS. Expenditure on gifts, hospitality or entertainment is the responsibility of management and is open to be challenged. Ill-considered actions can damage the Trust's reputation.

## **8 Duties within the Organisation**

This policy applies to all employees (permanent and temporary), consultants and contractors (including sub-contractors), agency staff or any other individual working or acting on behalf of the Trust whilst completing business transactions or representing the Trust.

All new employees will be made aware of the Trusts Code of Conduct Policy and their contractual obligations in complying with the policy at the Corporate Induction which they will be required to attend.

It is the responsibility of all staff to ensure that they do not;

- abuse their official position for personal gain or to benefit their family or friends
- seek to advantage or further private business or other interests, in the course of their official duties
- breach any statutory legislation or Trust policies whilst conducting business on behalf of the organisation

### **Director of Corporate Governance**

To report all declared breaches of the Code of Conduct to the Trust Board on an annual basis.

## **9 Training**

There is no training requirement identified within this policy.

## **10 Monitoring Compliance and Effectiveness**

<b>Ref</b>	<b>Minimum Requirements</b>	<b>Evidence for Self-assessment</b>	<b>Process for Monitoring</b>	<b>Responsible Individual / Group</b>	<b>Frequency of monitoring</b>
1	Review of compliance with LPT Declare	Decision Makers have updated their declaration	Review by the Corporate Governance Team	Director of Governance	At least annually
2	Follow up action on any breaches reported within LPT Declare	Action is recorded and closed following any declared breaches	Review by the Corporate Governance Team	Acting Director of Governance	At least annually

## 11 Standards/Performance Indicators

TARGET/STANDARDS	KEY PERFORMANCE INDICATOR
Well Led CQC Inspection Outcome	Rated as Inadequate / Requires Improvement / Good or Outstanding. This policy supports a rating of Good or above

## 12. References and Bibliography

The Code is underpinned by the Trust's Disciplinary Policy and Procedure. It also reflects the NHS England model policy content on "Managing Conflicts of Interest in the NHS" issued in 2017, and updated on 17<sup>th</sup> September 2024

The Trust's Raising Concerns at Work (Whistleblowing) Policy and Procedure encourages staff not to turn a blind eye or to remain silent, but to accept their responsibilities for the Trust's interests and to voice genuinely held concerns about fraud, bribery and corruption. All instances of fraud, bribery and corruption will be dealt with in accordance with the standards defined in the NHS Anti-Fraud Manual and the Trust's Counter Fraud Policy.

## Appendix 1 Examples of Interests

### Financial interest:

Where an individual may get direct financial benefits (a benefit may arise from the making of gain or avoiding a loss) from the consequences of a decision their organisation makes.

This could include:

- a director (including a non-executive director) or senior employee in another organisation which is doing or is likely to do business with an organisation in receipt of NHS funding
- a shareholder, partner or owner of an organisation which is doing, or is likely to do business with an organisation in receipt of NHS funding
- someone in outside employment
- someone in receipt of secondary income
- someone in receipt of a grant
- someone in receipt of other payments (eg honoraria, day allowances, travel or subsistence)
- someone in receipt of research sponsorship

### Non-financial professional interests:

Where an individual may obtain a non-financial professional benefit (a benefit may arise from the making of gain or avoiding a loss) from the consequences of a decision their organisation makes, such as increasing their professional reputation or status or promoting their professional career. This could include situations where the individual is:

- an advocate for a particular group of patients
- a clinician with a special interest
- an active member of a particular specialist body
- undertaking a research role, particularly sponsored research
- an advisor for the Care Quality Commission or National Institute of Health and Care Excellence

### Non-financial personal interests:

This is where an individual may benefit (a benefit may arise from the making of gain or avoiding a loss) personally from a decision their organisation makes in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit.

This could include, for example, where the individual is:

- a member of a voluntary sector board or has a position of authority within a voluntary sector organisation
- a member of a lobbying or pressure group with an interest in health and care
- Indirect interests:
  - This is where an individual has a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest who would stand to benefit (a benefit may arise from the making of gain or avoiding a loss) from a decision they are involved in making. This would include:
    - close family member and relatives
    - close friends and associates
    - business partners

A common-sense approach should be applied to these terms. It would be unrealistic to expect staff to know of all the interests that people in these classes might hold. However, if staff do know of material interests (or could be reasonably expected to know about them) then these should be declared.

### Employment

All 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.

Staff involved in making appointments should ensure that these are made based on merit alone. It is unlawful to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. To avoid any possible accusation of bias, staff should not be involved in an appointment where they are related to an applicant or have a close personal relationship outside work. Any such relationship should be declared to the line manager whether or not the employee is involved in the appointment process.

Staff should not be involved in decisions relating to discipline, promotion or pay adjustments, or any other employment matter, for any other employee who is a relative, partner, or close friend.

Candidates making applications for any appointment with the Trust are required to disclose in writing whether, to their knowledge, they are related to any employee of the Trust. Failure to disclose such a relationship may disqualify a candidate and, if he/she is appointed, may render him/her liable to instant dismissal. Upon appointment, a new starter will receive an automatic email from LPT Declare with their login details to register any declarations they may have.

The Trust's Standing Orders require Directors and every Officer of the Trust to disclose to the Trust Board any relationship with a candidate of whose candidature he/she is aware.

### **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.

### **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 their 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.

### **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 a member of, or regularly attend LLR or other system level meetings of organisations, committees or groups that have decision making powers or are strategic decision-making groups.
- 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.

### **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, Raising Health, 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 donate 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.

### **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.



## **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 (please refer to the Trust's R&D guidelines).

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.

## **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 can 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.

## **Commercial sponsorship for collaborative partnerships**

Where collaborative partnerships involve a pharmaceutical company, staff should be aware of the requirements of Part 14 of the Human Medicines Regulations 2012 ("the Regulations" – SI 2012/1916), which sets out general definitions relevant to advertising and contains rules on the contents of advertisements and promotions.

Specific issues may arise where there are opportunities for the Trust or individual employees to enter co-operative arrangements with pharmaceutical companies. The following guidelines should be observed:

- the partnership activity should support the overall objectives and priorities of the Trust,
- these activities should show tangible benefits to individual patient management,
- the work should support the activities and decisions of the Trust,
- the overall aim of the partnership should be considered and take account of the need for probity and transparency,
- the agreement should take account of the programme's clinical effectiveness and of the strict requirements regarding patient confidentiality,
- any benefits offered or obtained should be documented in the Register,
- 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.

Proposed arrangements with pharmaceutical companies must be brought to the attention of your line manager (Medical Director in the case of medical staff) for review prior to agreement.

If publications are sponsored by a commercial organisation, they should have no influence

over the content of the publication.

The company logo can be displayed on the publication, but no advertising or promotional information should be displayed.

The publication should contain a disclaimer which states that sponsorship of the publication does not imply that the Trust endorses any of the company's products or services.

### **Clinical private practice**

Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises<sup>1</sup> including:

- Where they practice (name of private facility).
- What they practice (specialty, major procedures).
- When they practice (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>2</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/N\\_on-Divestment\\_Order\\_amended.pdf](https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/N_on-Divestment_Order_amended.pdf)

Clinicians 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. Medical Staff should refer to the Guidance for LPT Consultant Medical Staff on Private Practice and Fee-Paying Services available from Medical Staffing/HR Dept.

### **Strategic decision-making groups**

In common with other NHS bodies LPT 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. These groups should adopt the following principles:
  - o Chairs should consider any known interests of members in advance and begin each meeting by asking for declaration of relevant material interests.
  - o Members should take personal responsibility for declaring material interests at the beginning of each meeting and as they arise.
  - o Any new interests identified should be added to the organisation's register(s).
  - o 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.
  - o Terms of reference for such groups should refer to the organisation's policy and procedures for managing conflicts of interest and should set out any specific requirements which apply to the group

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.

### **Procurement decisions:**

Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law. Procurement processes should be conducted in the best interest of patients.

The Procurement team 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.

The provider selection regime (PSR) came into force on 1 January 2024. The PSR is a set of rules for procuring health services which are designed to be a more flexible and proportionate decision-making process for selecting providers to deliver healthcare services. Organisations need to comply with the PSR when arranging for the provision of “relevant health care services, either on their own or as part of a “mixed procurement”.

Organisations need to take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement processes under The Health Care Services (Provider Selection Regime) Regulations 2023 (‘PSR Regulations’). The definition of conflicts of interest for the purposes of the PSR is set out in regulation 21(2)(a) of the PSR Regulations[4].

Organisations need to comply with the rules on public procurement set out in the Public Contracts Regulations 2015 (‘PCR’) when arranging for the provision of goods and services that are not “relevant health care services”, unless they form part of a “mixed procurement,” which meets the test for the application of the PSR. The Procurement Act 2023 (‘Procurement Act’) is expected to come into force later in 2024, at which point it will replace the PCR.

### **Potential Sanctions**

#### **Disciplinary sanctions:**

Staff who fail to disclose any relevant interests or who otherwise breach an organisation’s rules and policies relating to the management of conflicts of interest are subject to investigation and, where appropriate, to disciplinary action. This may include:

#### **Employment law action such as:**

informal action – such as reprimand or signposting to training and/or guidance  
 formal action – such as formal warning, the requirement for additional training, re-arrangement of duties, redeployment, demotion or dismissal  
 referring incidents to regulators  
 contractual action against organisations or staff  
 where the staff member is not a direct employee, review of their appointment to the role that has given rise to the conflict

#### **Professional regulatory sanctions:**

Statutorily regulated healthcare professionals who work for, or are engaged by, organisations are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest. Organisations should consider reporting statutorily regulated healthcare professionals to their regulator if they believe that they have acted improperly, so that these concerns can be investigated. These healthcare

professionals should be made aware that the consequences for inappropriate action could include fitness to practise proceedings being brought against them, and that they could, if appropriate be struck off by their professional regulator as a result.

Information and contact details for the healthcare professional regulators are accessible from the Professional Standards Authority for Health and Social Care's website.

### **Civil sanctions:**

If conflicts of interest are not effectively managed, organisations could face civil challenges to decisions they make – for instance if interests were not disclosed that were relevant to the bidding for, or performance of contracts. If a decision-maker has a conflict of interest, then the decision is also potentially vulnerable and could be overturned on judicial review. In extreme cases, staff and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

### **Criminal 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, and the individuals who are engaged by them.

The Fraud Act 2006 created a criminal offence of fraud and defines 3 ways of committing it:

- fraud by false representation
- fraud by failing to disclose information
- 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 a 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 accepting a bribe 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.

### **Reputational consequences:**

A failure to manage conflicts of interest (including the perception of such a failure) can lead to reputational damage and undermine confidence in the integrity of the decision-making process and give the impression that the organisation or individual has not acted in the public interest.

## Appendix 2 The NHS Constitution

The NHS will provide a universal service for all based on clinical need, not ability to pay. The NHS will provide a comprehensive range of services

<b>Shape its services around the needs and preferences of individual patients, their families and their carers</b>	X
<b>Respond to different needs of different sectors of the population</b>	X
<b>Work continuously to improve quality services and to minimise errors</b>	X
<b>Support and value its staff</b>	X
<b>Work together with others to ensure a seamless service for patients</b>	X
<b>Help keep people healthy and work to reduce health inequalities</b>	X
<b>Respect the confidentiality of individual patients and provide open access to information about services, treatment and performance</b>	X

## Appendix 3 Stakeholders and Consultation

Key individuals involved in developing the document

Name	Designation
Kate Dyer	Director of Governance and Risk

Circulated to the following individuals for comment

Name	Designation
David Williams	Director of Strategy & Partnerships
Anthony Oxley	Head of Pharmacy
Sarah Ratcliffe	Head of Data Privacy
Darren Wilson	Head of Procurement
Pauline Lewitt	Freedom to Speak Up Guardian
Dan Norbury	Deputy Director of HR and OD
Matt Curtis	Local Counter Fraud Specialist, 360 Assurance
<b>Policy Group Distribution</b>	
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## Appendix 4 Due Regard Screening Template

Section 1			
<b>Name of activity/proposal</b>		Declaring conflicts of interest, gifts and hospitality.	
<b>Date Screening commenced</b>		2 August 2021 (latest screening date November 2024)	
<b>Directorate / Service carrying out the assessment</b>		Corporate / Enabling	
<b>Name and role of person undertaking this Due Regard (Equality Analysis)</b>		Kate Dyer Director of Governance and Risk	
<b>Give an overview of the aims, objectives and purpose of the proposal:</b>			
AIMS: To revise the Code of Conduct Policy to provide update advice regarding the process for determining and declaring any conflicts of interest, gifts or hospitality.			
<p><b>OBJECTIVES:</b> This Policy sets out a clear approach for the Trust's vision in relation to the management of the declaration process using LPT Declare for all conflicts of interest, and declarations of receipt of gifts or hospitality.</p> <p>The objective of this Policy is to promote an integrated and consistent approach across all parts of the Trust to making declarations</p>			
Section 2			
Protected Characteristic	If the proposal/s have a positive or negative impact please give brief details		
Age	n/a		
Disability	n/a		
Gender reassignment	n/a		
Marriage & Civil Partnership	n/a		
Pregnancy & Maternity	n/a		
Race	n/a		
Religion and Belief	n/a		
Sex	n/a		
Sexual Orientation	n/a		
Other equality groups?	n/a		
Section 3			
<b>Does this activity propose major changes in terms of scale or significance for LPT? For example, is there a clear indication that, although the proposal is minor it is likely to have a major affect for people from an equality group/s? Please <u>tick</u> appropriate box below.</b>			
Yes		No X	
High risk: Complete a full EIA starting click <a href="#">here</a> to proceed to Part B		Low risk: Go to Section 4.	X
Section 4			
<b>If this proposal is low risk please give evidence or justification for how you reached this decision:</b>			
Full statement of commitment to policy of equal opportunities is included in the policy.			
<b>Signed by reviewer/assessor</b>	Kate Dyer	<b>Date</b>	29 November 2024
<i>Sign off that this proposal is low risk and does not require a full Equality Analysis</i>			
<b>Head of Service Signed</b>	Kate Dyer	<b>Date</b>	29 November 2024

## Appendix 5 DATA PRIVACY IMPACT ASSESSMENT SCREENING

<p><b>Data Privacy impact assessment (DPIAs) are a tool which can help organisations identify the most effective way to comply with their data protection obligations and meet Individual’s expectations of privacy. The following screening questions will help the Trust determine if there are any privacy issues associated with the implementation of the Policy. Answering ‘yes’ to any of these questions is an indication that a DPIA may be a useful exercise. An explanation for the answers will assist with the determination as to whether a full DPIA is required which will require senior management support, at this stage the Head of Data Privacy must be involved.</b></p>		
<b>Name of Document:</b>	<b>Code of Conduct</b>	
<b>Completed by:</b>	<b>Kate Dyer</b>	
<b>Job title</b>	<b>Director of Governance and Risk</b>	<b>29 November 2024</b>
<b>Screening Questions</b>	<b>Yes / No</b>	<b>Explanatory Note</b>
<b>1. Will the process described in the document involve the collection of new information about individuals? This is information in excess of what is required to carry out the process described within the document.</b>	Yes	<b>This will include the identification and recording of any new declarations of interest, or receipt of gifts / hospitality.</b>
<b>2. Will the process described in the document compel individuals to provide information about them? This is information in excess of what is required to carry out the process described within the document.</b>	No	
<b>3. Will information about individuals be disclosed to organisations or people who have not previously had routine access to the information as part of the process described in this document?</b>	No	
<b>4. Are you using information about individuals for a purpose it is not currently used for, or in a way it is not currently used?</b>	Yes	<b>To identify where a conflict of interest may need to be managed.</b>
<b>5. Does the process outlined in this document involve the use of new technology which might be perceived as being privacy intrusive? For example, the use of biometrics.</b>	No	
<b>6. Will the process outlined in this document result in decisions being made or action taken against individuals in ways which can have a significant impact on them?</b>	No	
<b>7. As part of the process outlined in this document, is the information about individuals of a kind particularly likely to raise privacy concerns or expectations? For examples, health records, criminal records or other information that people would</b>	Yes	<b>Potentially. Material Declarations of Interest will be made publicly available. There may be occasions where people do not want to publicise this information</b>



consider to be particularly private.		
<b>8. Will the process require you to contact individuals in ways which they may find intrusive?</b>	<b>No</b>	
<b>If the answer to any of these questions is 'Yes' please contact the Data Privacy Team via <a href="mailto:lpt.dataprivacy@nhs.net">lpt.dataprivacy@nhs.net</a> In this case, ratification of a procedural document will not take place until review by the Head of Data Privacy.</b>		
<b>Data Privacy approval name:</b>	Sarah Ratcliffe	
<b>Date of approval</b>	March 2024	

Acknowledgement: This is based on the work of Princess Alexandra Hospital NHS Trust