

# Managing Conflicts of Interest Policy (including Gifts and Hospitality)

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## Version History

Version	Date	Reason for Change
1.0	03/10/2011	Original version
2.0	18/11/2014	Scheduled revision. Exclude reference to Bribery in Policy title, as revised Counter Fraud Policy deals with requirements of the Bribery Act. Reference to Counter Fraud policy included. Reformatted to NHSLA template. Include reference to volunteers. Include section on provision of gifts by the Trust. Increased definition of 'low intrinsic value' to £25. Notification to the Audit Committee following ratification.
3.0	July 2017	Scheduled revision and incorporation of NHS England guidance taking effect on 1 June 2017 regarding managing conflicts of interest. Change in policy title from 'Business Conduct, Gifts and Hospitality Policy' to 'Conflicts of Interest Policy'.
4.0	November 2020	Reviewed to Agreed Policy Format, to update limits specified in line with NHSE England Guidance, to include option to collect and manage conflicts of interests via ESR system
5.0	February 2022	Policy updated to address recommendations from Counter Fraud "ABPI Payments Review", inclusion of "relatable" examples of interests, update to reflect new system of reporting declarations via ESR and general administrative and formatting review

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## SUMMARY OF KEY POINTS

### Policy Summary

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

As a member of staff you should...	As an organisation we will...
<ul style="list-style-type: none"> <li>• Familiarise yourself with this policy and follow it. Refer to the guidance for the rationale behind this policy <a href="https://www.england.nhs.uk/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. If in doubt, declare.</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>

To comply with this policy, staff must regularly consider what interests they have and where required, declare these as they arise. 'Interests' includes gifts, hospitality, receipt of sponsorship, directorships/ownerships/shareholdings, involvement in sponsored research, outside employment, patents and intellectual property rights, and loyalty interests. 'Staff' mean employees of the Trust, agency staff, prospective employees currently being recruited, Directors, Governors, contractors and sub-contractors. 'Loyalty interest' includes an interest arising due to an individual (or family member, friend or associate) holding a pecuniary interest, office or other position of authority in another organisation that might be affected by a decision made by Gloucestershire Health and Care NHS Foundation Trust, or where the individual is or could be involved in the recruitment of family members or close friends/associates.

Declarations should be made at the earliest opportunity, within 28 days, using the **Electronic Staff Record (ESR) system**. Staff are asked to ensure that their line manager has been informed of any declarations made. The Head of Corporate Governance/Trust Secretary will ensure the maintenance of a register of interests which will be available to the public.

Sponsorship, Gifts, Hospitality etc for a group of staff or services should go through the approval process detailed using Form A (Sponsorship, Gifts, Hospitality) within this policy.

## What to Declare

- Offers of gifts valued over £50. Such offers must be politely declined (see Page 8)
- Offers of cash, vouchers or gift cards of any amount. Such offers must be politely declined.
- Multiple gifts over any 12 month period from the same source, with a cumulative value over £50.
- Meals or refreshments valued over £25, whether accepted or refused. Meals or refreshments valued over £75 must be politely declined (see Page 10)
- Offers of meals or refreshments from existing or potential contractors/sub-contractors. Such offers must always be declined (see Page 10)
- Offers to pay all or part of any travel or accommodation costs.
- Any employment outside the Trust (discuss with your line manager before accepting).
- Any clinical private practice
- Any shareholding or other ownership interests.
- Any directorship, office, decision-making role or other position of authority or pecuniary interest (either direct or indirect) in another organisation with which the Trust does, or may do business.
- Any patents or intellectual property rights.
- Any loyalty interests
- Any sponsored event they arrange
- Any sponsorship of their post
- Any interests arising from sponsorship of their post
- Sponsorship of research activities
- Any involvement in sponsored research

### You do NOT need to declare:

- Low value promotional gifts (valued at £6 or less) from suppliers and contractors
- Gifts valued under £50 from service users, family members, carers etc
- Meals and refreshments valued under £25, unless offered by an actual or potential supplier to the Trust

**This is a summary of the key points of the policy. Ensure you read the policy in full in order to be sure to comply with its provisions.**

## POLICY

### 1.0 INTRODUCTION

- 1.1 Gloucestershire Health and Care NHS Foundation Trust and the people who work with and for us, collaborate closely with other organisations, delivering high quality care for our patients.
- 1.2 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.
- 1.3 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.
- 1.4 The Trust expects all employees, Directors, Governors, volunteers and other individuals associated with the Trust to act within the law, to adhere to the highest standards of business

conduct, probity, and accountability in order not to give the impression that actions have been influenced by outside interests, and thus to demonstrate best practice and transparency in the conduct of Trust business.

## **2.0 PURPOSE**

2.1 The purpose of this policy is therefore to set out the actions which staff and office holders should take in respect of gifts, hospitality, commercial sponsorship, and declaring interests in order to safeguard themselves and the Trust against any perceived or actual impropriety, and to comply with the provisions of the Bribery Act 2010, and other anti-corruption legislation. This policy:

- 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

## **3.0 SCOPE**

3.1 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)

Additionally, the policy applies to Board Directors, Governors and volunteers.

3.2. The policy is particularly relevant for those staff and office holders who are more likely than others to have a decision-making influence on the use of taxpayers' money, because of the requirements of their role. That group of people, for the purposes of this policy, are referred to as '**decision making staff.**' Decision Making Staff are required to make annual declarations, in line with national policy.

Decision making staff in GHC include:

- Executive and Non-Executive Directors (or equivalent roles) who have decision making roles which involve the spending of taxpayers' money.
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services.
- Those at Agenda for Change band 8a (or equivalent) and above.
- Administrative and clerical staff who have the power to enter into contracts on behalf of their organisation.
- Administrative and clerical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions
- Governors, whose membership of the Council of Governors requires them to approve significant transactions

## **4.0 DUTIES**

### **4.1 Chief Executive**

The Chief Executive is the Trust's designated 'Accountable Officer' and has overall responsibility for ensuring the Trust operates efficiently, economically and with probity.

## 4.2 Staff

Staff (as defined within this policy) must ensure that their private and personal interests do not influence their decisions, and that they do not use their positions to obtain personal gain or advantage of any sort, either for themselves directly, or for friends, family, or associates, or any external organisation in which they hold an office or position of authority.

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

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

Staff are expected to:

- **Regularly consider** what interests they have and **declare these** as they arise. This includes declaration of gifts and hospitality.
- Be aware that to act in a corrupt manner is both a serious criminal offence and a disciplinary matter which could result in dismissal and criminal proceedings.
- Notify their line manager of any personal or other professional circumstances which may impact on (or be perceived to impact on) their work. This includes bankruptcy, Individual Voluntary Arrangements, any Police contact such as arrest, voluntary interview under caution, caution or convictions (including driving offences); any investigatory contact by other agencies such as the Department for Work and Pensions or HM Revenue and Customs.
- Report any breaches of this policy

**Staff** should use common sense and judgement to consider whether their interests could affect the way taxpayers' money is spent.

## 4.3 Directors and Governors

It is the responsibility of the Board (both Executive and Non-Executive Directors) to ensure implementation and ongoing monitoring of this policy and consequent procedures. Individually, Directors should act as exemplars to the Trust's staff. Directors and Governors should at all times abide by the Seven Principles of Public Life (the Nolan principles).

Where a Director or Governor attends a meeting where there is a potential for personal interests to be material and relevant to the business of the Trust or the wider NHS, these interests **must be declared** and recorded in the minutes and entered into the Register of Interests where this has not previously taken place. When such an interest is deemed by the Chair to be a material interest, the Director or Governor may be required, at the discretion of the Chair, either to withdraw or play no part in the relevant discussion or decision.

## 4.4 Head of Corporate Governance/Trust Secretary

The Head of Corporate Governance/Trust Secretary is responsible for ensuring:

- That the guidelines within the Conflict of Interests Policy are brought to the attention of all employees;
- Ensuring that the procedures are put in place for ensuring that they are effectively implemented and monitored;
- The upkeep of the Conflict of Interest register; and
- The compiling of an annual report for presentation to the Audit and Assurance

Committee.

#### **4.5 Line Managers**

Managers must be conversant with the contents of relevant policies. In addition, they have a responsibility for ensuring that all staff members are aware of, understand the principles of and adhere to this Policy. Managers should also refer to the *Code of Conduct for NHS Managers 2002*. Line Managers should review the Declared Interests of their team and assess, and where necessary record any action required to manage the Interest.

### **5.0 POLICY DETAILS**

#### **5.1 Identification & Declaration of Interests (including gifts and hospitality)**

5.1.1 All within scope of the policy should identify and declare interests at the earliest opportunity (and in any event within 28 days). The Trust Secretariat will also issue to staff, directors, governors and volunteers a proactive reminder, at least annually, to review declarations they have made and, as appropriate, update them or make a nil return. This may be via email or through the ESR (Electronic Staff Record system).

Declarations should be made and/or reviewed:

- 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).
- Whenever gifts or hospitality (in excess of the amounts set out below and within the summary) are offered, regardless of whether these are accepted.

5.1.2 In any instance where a possible conflict of interest exists advice should be sought from the Head of Corporate Governance/Trust Secretary.

5.1.3 Failure to declare any relevant interest may result in disciplinary action.

5.1.4 The ESR (Electronic Staff Record system) should be used to declare all interests, gifts and hospitality. ESR includes provision to set out the nature of any interests, and actions to mitigate potential conflicts.

#### **5.2 Records and Publication**

5.2.1 The Trust Secretariat will maintain the Register of Interests.

5.2.2 The annual declarations of Trust Board Members and Governors will be published and annually updated on the Trust's website, with access to the Register highlighted within the Publication Scheme and the Annual Report. The Register of Interests will be made available for inspection (for example, through a Freedom of Information request). Material interests and interests declared by decision making staff will also be made available for inspection. The Register of Interests will be reviewed annually by the Audit and Assurance Committee.

5.2.3 If staff have substantial grounds for believing that publication of their interests should not take place then they should contact the Head of Corporate Governance/Trust Secretary to explain why. In exceptional circumstances, for instance where publication of information might put 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.

### 5.3 Wider Transparency Initiatives - Association of British Pharmaceutical Industry (ABPI) Disclosure

- 5.3.1 Gloucestershire Health and Care NHS Foundation Trust fully supports wider transparency initiatives in healthcare and encourages staff to engage actively with these.
- 5.3.2 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
- 5.3.3 It is a mandatory requirement to disclose any such payments to the Trust. Staff making a declaration to ABPI are also required to submit a Declaration of Interest to the Trust. Failure to do so constitutes a breach of policy.
- 5.3.4 Further information about the scheme can be found on the ABPI website: <http://www.abpi.org.uk/our-work/disclosure/about/Pages/default.aspx>

### 5.4 Management of Interests (following declaration) – General

- 5.4.1 If an interest is declared but there is no risk of a conflict arising then no action is warranted. However, where an interest **may** result in a conflict arising 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
- 5.4.2 Each case will be different and context-specific, and Gloucestershire Health and Care NHS Foundation Trust will always clarify the circumstances and issues with the individuals involved. Staff should maintain a written audit trail of information considered and actions taken.
- 5.4.3 Staff who declare interests should make their line manager or the person(s) they are working to aware of the existence of such interests.

## 6. TYPES OF DECLARATIONS

### 6.1 GIFTS

- 6.1.1 Staff must not accept gifts that may affect, **or be perceived to** affect, their professional judgement. Staff must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of the Trust.



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

- Staff must not ask for any gifts
- Gifts from suppliers or contractors doing business (or likely to do business) with the organisation should be **declined**, except where these are low cost branded promotional aids such as pens or post-it notes. Such items may be accepted where they are under the value of £6 in total, and do not need to be declared.

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

- Staff must not ask for any gifts.
- Gifts to individuals of cash, gift cards, vouchers or any other cash equivalent must always be **declined** and declared. Any person other than a contractor offering a financial gift must be advised on how to make a donation to the Trust's charitable fund. Staff are asked to declare that the offer was made even if declined.
- Gifts valued at over £50 must be treated with caution. Where such gifts are accepted, such acceptance must be on behalf of Gloucestershire Health and Care NHS Foundation Trust or one of its charities, and not in a personal capacity. These must be declared by staff, whether accepted or not.
- Modest gifts accepted under a value of £50 do not need to be declared.
- A common sense approach should be applied to the valuation 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 any 12 month period must be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.

6.1.4 In the event that a member of staff is made aware that he or she has been made a beneficiary in the will of a service user, the employee must report the matter to his/her manager who must make the Director of Finance and the Head of Corporate Governance/ Trust Secretary aware.

6.1.5 Where anyone suspects that any offer of a gift was intended to influence the Trust or secure special treatment, then the matter must be reported to the Director of Finance and the Head of Corporate Governance/Trust Secretary in the first instance without delay. If this reporting route is inappropriate, staff may contact Counter Fraud directly using the contact details at the end of this document.

#### 6.1.6 **Gifts - What must be declared?**

- Multiple gifts over a 12-month period where the cumulative value exceeds £50
- Offers of gifts valued over £50, from any source, whether accepted or not.
- Offers of gifts from current or potential suppliers (other than low-cost promotional items).
- Offers of cash from potential or existing contractors, which must be reported immediately to the Director of Finance and the Head of Corporate Governance/Trust Secretary.
- Offers of cash, gift cards, vouchers or any other cash equivalent. These must be declined.

#### **Gifts – What does not need to be declared?**

- Offers of gifts from patients or families valued under £50 such as chocolates, flowers, biscuits, bottles of wine.
- Low-cost promotional items from existing or potential suppliers such as pens, post-it notes, stress balls, mugs.

### 6.1.7 Gifts offered by the Trust

- 6.1.8 Staff must be mindful that the value of all gifts offered by the Trust are sourced from public funding, and the expectation is that such funding will be used for legitimate purposes and demonstrate value for money. In normal circumstances it will not be appropriate for the Trust to offer gifts to an individual as such gifts may need to be treated as special payments under the Trust's accounting procedures.
- 6.1.9 In exceptional circumstances, however it may be appropriate for the Trust (at the discretion of the Chief Executive) to provide a gift of modest value, for example providing a bouquet of flowers to a seriously ill employee.
- 6.1.10 Any gift given on retirement of an employee, or in respect of long service, must be in accordance with the Trust's Retirement and Long Service Award Policy.

## 6.2 HOSPITALITY

- 6.2.1 Staff must exercise the utmost discretion in accepting any offers of hospitality from external organisations or third parties while carrying out Trust duties. In this regard, staff must not accept any offer of hospitality which may be perceived as unreasonable or inappropriate, or as seeking to exert improper influence over the way they carry out their duties.
- 6.2.2 Hospitality must not, under any circumstances, be solicited.
- 6.2.3 Modest hospitality, such as working lunches or light refreshments may be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event (eg in the course of a work visit or training course).
- 6.2.4 Other examples of hospitality which may be accepted include:
- Attendance at a function organised by a society or professional body
  - Attendance at an event where there is a genuine need to impart information or represent the Trust in the community
  - Hospitality provided during a relevant conference or course, where it is clear that the hospitality is corporate rather than personal.
- 6.2.5 Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This **must be declined and declared**. Any form of hospitality which is extended to family members, friends or associates must be politely but firmly declined, if necessary, making reference to this policy and to the **Bribery Act 2010**. Examples of such offers of hospitality that must be declined include tickets for sporting events, theatre tickets or attendance at corporate social events such as fishing expeditions. These cannot be accepted under any circumstances.

### 6.2.6 Meals and refreshments

**!! All meals and hospitality offered by a supplier or potential supplier must be refused regardless of value and declared.** However, offers of tea, coffee or light refreshments at legitimate business meetings can be accepted.

- Under a value of £25 - may be accepted and does not need to be declared.
- Of a value between £25 and £75\* - may be accepted and **must** be declared.
- Over a value of £75 - must be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the organisation's Register of Interests as to why it was permissible to accept.

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

(\* The £75 value has been selected with reference to existing industry guidance issued by the ABPI <http://www.pmcpsa.org.uk/thecode/Pages/default.aspx>)

6.2.7 Any provision of hospitality at the Trust's expense must:

- be for genuine business reasons
- be provided only where an appropriate budget exists
- be seen to be reasonable and appropriate in the circumstances,
- be capable of justification to the Trust's auditors
- be authorised in advance by an Executive Director
- not contravene the provisions of the Bribery Act 2010.

6.2.8 Hospitality costs should not be reclaimed through an expenses claim without prior authorisation from an Executive Director.

### 6.2.9 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 Trust itself might not usually offer, **need approval by senior staff**, must only be accepted in **exceptional** circumstances and must be declared. A clear reason must be recorded on the Trust's Register of Interests 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.

### 6.2.10 Hospitality - What must be declared?

- Meals and refreshments valued over £25, whether accepted or refused
- Meals and refreshments and other hospitality offered by actual or potential contractors or sub-contractors, regardless of value. All such offers must be refused
- Offers to pay some or all of any travel or accommodation costs.

#### **Hospitality – What does not need to be declared?**

- Meals and refreshments valued under £25 (unless offered by actual or potential suppliers)
- Offers of light refreshments (tea, coffee etc) at legitimate business meetings with existing or potential suppliers

## 6.3 OUTSIDE EMPLOYMENT

6.3.1 Staff, Directors and Governors must ensure that their private interests do not compromise their ability to perform their role at the Trust.

6.3.2 In line with the Trust's Additional Employment Policy staff must not engage in any outside employment without prior discussion with their line manager.

6.3.3 Where staff feel that they may be at risk of a potential conflict of interest, they must inform their Executive Lead, who will then be responsible for judging whether a conflict

of interest does in fact exist, the output of this discussion, whether approved or not should be advised to the Head of Corporate Governance/Trust Secretary.

6.3.4 Where permission is refused, on the grounds that the outside work would conflict with Trust duties, the taking up of that outside employment would be deemed to be a fundamental breach of the Trust contract of employment. Further guidance on this topic may be obtained from the Director of HR and Organisational Development and the Trust's Additional Employment Policy.

#### **6.3.5 Outside employment - What must be declared?**

- Any outside employment.
- The nature of the outside employment (e.g. who it is with, a description of duties, time commitment).

### **6.4 SHAREHOLDINGS AND OTHER OWNERSHIP ISSUES**

6.4.1 Staff must declare, as a minimum, any shareholdings or other ownership/control interests (including directorships and offices/positions of authority held) or other connection in any charity, company, business, partnership or consultancy, particularly those which are doing, or might be reasonably expected to do, business with the Trust.

6.4.2 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 must be considered and applied to mitigate risks.

6.4.3 There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

#### **6.4.4 Shareholdings and other ownership - What must be declared?**

- Any shareholdings/other ownership interests.
- Any directorship, office or position of authority held in another company or organisation.

### **6.5 PATENTS AND INTELLECTUAL PROPERTY**

6.5.1 Staff must 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.

6.5.2 Staff should refer to the Trust's Intellectual Property Policy 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.

6.5.3 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 must be considered and applied to mitigate risks.

#### **6.5.4 Patents and Intellectual Property - What should be declared?**

- Patents and/or any other intellectual property rights held.

## 6.6 LOYALTY INTERESTS

6.6.1 Loyalty interests must be declared by staff where they:

- Hold an office or a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be perceived to influence decisions they take in their role with Gloucestershire Health and Care NHS Foundation Trust.
- 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 the Trust does or is seeking to do business with an organisation in which they or close family members and relatives, close friends and associates, or business partners have decision making responsibilities or pecuniary interests.
- Are designated as 'decision making staff' under the terms of this policy.
- Are members of clubs, societies or organisations whose purpose may include furthering the business or personal interests of their members by undeclared or informal means. Such organisations include Masonic lodges and societies whose membership consists of professional and business people.

6.6.2 **Loyalty interests - What should be declared?**

- Any loyalty interest.

## 6.7 CHARITABLE DONATIONS

6.7.1 Charitable donations offered 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 **must always be declared**. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.

6.7.2 Staff must not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the Trust or is being pursued on behalf of the Trust's own registered charity or other charitable body and is not for their own personal gain.

6.7.3 Staff must obtain permission from the organisation if in their professional role they intend to undertake significant fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the organisation's own.

6.7.4 Donations, when received, must be made to the Trust's charitable fund (never to an individual) and a receipt should be issued.

6.7.5 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.

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

## 6.8 COMMERCIAL SPONSORSHIP

### Receipt of Commercial Sponsorship

Commercial sponsorship is defined as “NHS funding from an external source, including funding for all or part of the costs of a member of staff, NHS research, staff, training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs, provision of free services (speakers), buildings or premises.” Dept. of Health

6.8.1 Staff must seek approval **before** accepting commercial sponsorship. Before giving approval, Directors must satisfy themselves that acceptance will not compromise purchasing decisions or the supply of goods or services. Permission to accept sponsorship must be sought and approval given in writing, as follows:

Trust Chair	Approval by Trust Board
Non-Executive Directors	Approval by Trust Chair
Chief Executive	Approval by Trust Chair
Executive Directors	Approval by Chief Executive
All other Staff	Approval by Executive Director

6.8.2 Acceptance of such sponsorship must be reported in writing to the Head of Corporate Governance/Trust Secretary using the Application to Seek Permission to Accept Commercial Sponsorship, Hospitalities, Gifts Form (see appendix to this policy).

6.8.3 Commercial sponsorship for the publication of Trust information must also be reported in writing to the Trust Secretary for inclusion in the Register.

6.8.4 Where such sponsorship involves a pharmaceutical company then the proposed arrangements must comply fully with the Medicines (Advertising) Regulations 1994 (regulation 21 ‘Inducements and hospitality’) or subsequent regulations.

### Sponsored Events

6.8.5 Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in clear benefits to the organisations and the NHS.

6.8.6 During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.

6.8.7 No information should be supplied to the sponsor from which the sponsor could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.

6.8.8 At the Trust’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.

6.8.9 The involvement of a sponsor in an event should always be clearly identified.

6.8.10 Staff within the Trust involved in securing sponsorship of events must make it clear that sponsorship does not equate to endorsement of a company or its products and this must be made clear on any promotional or other materials relating to the event.

6.8.11 Staff arranging sponsored events must declare this to the Trust Secretary.

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

**6.8.13 Sponsored events – What must be declared?**

- Sponsored events arranged by any member of staff

**Sponsorship of posts**

6.8.14 External sponsorship of a post requires prior approval from the appropriate Executive Director, who will normally consult the Executive prior to giving approval.

6.8.15 Where such sponsorship is accepted, the relevant Executive Director must make clear in writing to the company concerned that the sponsorship will have no effect on purchasing decisions within the Trust, nor 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. Monitoring arrangements must be established to ensure that purchasing decisions are not being influenced by the sponsorship agreement. Such arrangements will remain in force for the duration of the sponsorship. Written agreements must detail the circumstances under which organisations have the ability to exit sponsorship arrangements if conflicts of interest arise which cannot be managed.

6.8.16 Rolling sponsorship of posts must be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.

6.8.17 Sponsored post holders must not promote or favour the sponsor's products, and information about alternative products and suppliers should be provided.

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

6.8.19 Further guidance is contained in *Commercial Sponsorship – Ethical Standards for the NHS, November 2000*.

**6.8.20 Sponsorship of posts - What must be declared?**

- Any sponsorship of posts, in line with the above principles and rules.
- Any other interests arising as a result of the staff member's association with the sponsor, in line with the content in the rest of this policy.

**Sponsored (whether financial or non-financial) Research**

6.8.21 Funding sources for research purposes must be transparent.

6.8.22 Any proposed research must go through the relevant national review process including, but not limited to NHS Research Ethics Committee review and health research authority approval as well as local Trust research Governance Review.

6.8.23 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.

6.8.24 The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.

6.8.25 Staff must declare involvement with sponsored research, making clear what, if any, benefit the sponsor derives from the sponsorship, action taken to mitigate any conflict. This will generally be incorporated within the Research Risk Assessment and Governance Approval process. Where an individual has a direct interest, this should be declared within this Policy. For guidance on this matter, it should be discussed with the Head of Research and Development and Head of Corporate Governance/Trust Secretary who will confirm whether a personal declaration is required.

6.8.26 The Trust will retain written records about sponsorship of research.

#### **6.8.27 Sponsored research - What should be declared?**

- All external sponsorship of research activities.
- Any involvement with sponsored research

### **6.9 CLINICAL PRIVATE PRACTICE**

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

- Where they practise (name of private facility).
- What they practise (specialty, major procedures).
- When they practise (identified sessions/time commitment).
- action taken to mitigate against any potential conflict

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

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

#### **6.9.4 Clinical private practice - What must be declared?**

- Any clinical private practice.

### **7.0 MANAGEMENT OF INTERESTS – TRUST MEETINGS AND GROUPS**

7.1 In common with other NHS bodies Gloucestershire Health and Care NHS Foundation Trust uses a variety of different groups to make key strategic decisions about things such as:

- Entering into (or renewing) large scale contracts.
- Awarding grants.
- Making procurement decisions.

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<sup>1</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>2</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)



- Selection of medicines, equipment, and devices.
- 7.2 The interests of those who are involved in these groups should be well known so that they can be managed effectively. For Gloucestershire Health and Care NHS Foundation Trust these groups are primarily the Board and its Committees, the Council of Governors, and any other groups listed in the Trust's Scheme of Delegation and/or Standing Financial Instructions.
- 7.3 These groups must adopt the following principles:
- **Chairs** must consider any known interests of members in advance and begin each meeting by asking for declarations of relevant material interests.
  - **Members** must take personal responsibility for declaring material interests at the beginning of each meeting and as they arise.
  - Any **new interests** identified must be added to the Trust's register.
  - The **vice chair (or other non-conflicted member)** must chair all or part of the meeting if the chair has an interest that may prejudice their judgement.
- 7.4 If a member has an actual or potential interest the chair will consider the following approaches and ensure that the reason for the chosen action is documented in minutes or records:
- Requiring the member not to 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.
- 7.5 The default response should not be to always 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.

## 8.0 PROCUREMENT

- 8.1 Procurement must 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 will be conducted in a manner that does not constitute anti-competitive behaviour - which is against the interest of patients and the public. Contracts must be awarded solely on merit, taking into account the requirements of the Trust and the ability of the contractors to fulfil them.
- 8.2 Scrupulous care must be taken to ensure that the tendering process is conducted impartially. Those involved in procurement exercises for and on behalf of the Trust must 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 must be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.
- 8.3 The Trust should seek assurance via the Service Level Agreement/Partnership Agreement that Shared Service staff who provide any service to the Trust should complete an annual Conflict of Interest declaration.
- 8.4 All invitations to potential contractors to tender for Trust business must include a notice warning the tenderer of the consequences of offering inducements to Trust staff.

- 8.5 Individuals must not enter into any discussions with a contractor or potential contractor without approval from the Director of Finance.

## **9. MAINTAINING CONFIDENTIALITY**

- 9.1 Staff and office holders may have access to confidential information concerning the business of the Trust and other NHS organisations, and information about patients and employees. All staff and office holders have a duty to maintain the confidentiality of such information at all times. In particular, “Commercial in Confidence” information must not be disclosed to any unauthorised person or organisation, since its disclosure could prejudice the principle of a purchasing system based on competition, and harm the interests of the Trust.

## **10. MONITORING COMPLIANCE AND DEALING WITH BREACHES**

- 10.1 The Audit and Assurance Committee will conduct an annual review of the Register of Interests.
- 10.2 In addition, the Head of Corporate Governance/Trust Secretary will audit information submitted to the register to declare interests, hospitality, sponsorship or gifts on at least an annual basis and investigate further as appropriate.
- 10.3 Any identified areas of non-adherence or gaps in assurance arising from the monitoring of this policy will result in recommendations and proposals for change to address areas of non-compliance and/or embed learning.

### **Identifying and Reporting Breaches**

- 10.4 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’.
- 10.5 To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches, particularly where there is a suspicion of fraudulent activity. Every individual has a responsibility to do this. Staff who are aware of actual breaches of this policy, or who are concerned that there has been, or may be, a breach, should normally report these concerns to the Director of Finance and the Trust Secretary, via their line manager.
- 10.6 Counter Fraud will support the regular National Fraud Initiatives which incorporate review of Declared Interests crossmatched with other data to support fraud identification.
- 10.7 Where this reporting route is inappropriate, concerns may also be raised through the Trust’s Whistleblowing Policy, or by using the Speak In Confidence facility on the Trust intranet. Alternatively, where reporting via the Director of Finance and/or Head of Governance and Trust Secretary is inappropriate, the Trust’s Counter Fraud Service can be contacted on 0300 422 2726 or by email on: [Ghn-tr.fraudAccountMailbox@nhs.net](mailto:Ghn-tr.fraudAccountMailbox@nhs.net). Alternatively concerns can be reported to the NHS Fraud Corruption Reporting Line on free phone 0800 028 40 60. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within affecting the NHS. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.
- 10.8 The Trust will ensure that each breach is investigated according to its own specific facts and merits, and give relevant parties the opportunity to explain and clarify any relevant

circumstances. Depending on the nature of the suspected breach, the matter may be referred to the Counter Fraud service.

10.9 Following investigation the Trust 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.

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

10.10 Action taken in response to breaches of this policy will be in accordance with the Trust's disciplinary procedures.

10.11 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 Counter Fraud Authority, the Police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies.

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

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

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

### **11.0 TRAINING**

11.1 Training will be provided to Staff through induction, through regular updates and through appropriate briefings within Team Talk, staff forum and other communication forums including via newsletter and emails.

11.2 All individuals within scope of the policy will be reminded of the importance and relevance of declaring interests within the Annual Update process.

## 12.0 REFERENCES

This policy is derived from NHS England guidance on *Managing Conflicts of Interest in the NHS* (2017).

This policy should be read in conjunction with the Trust's constitution, Standing Financial Instructions and Scheme of Delegation, and relevant clauses in staff employment contracts.

The policy should also be read in conjunction with the Trust's Counter Fraud and Corruption Policy which includes provisions required by the Bribery Act 2010 regarding the prevention of bribery and corruption. The Act makes it a criminal offence to give, promise or offer a bribe, to request, agree to receive or accept a bribe, and to fail to prevent bribery. The maximum penalty for bribery is 10 years imprisonment for individuals engaging in bribery and an unlimited fine for the Trust.

Relevant national documents include:

- The Bribery Act 2010
- The Fraud Act 2006
- Managing Conflicts of Interest in the NHS (2017)
- Code of Conduct for NHS Boards
- Code of Accountability for NHS Boards April 1994
- Code of Conduct for NHS Managers (2002)
- Department of Health Guidance on Commercial Sponsorship (2001).
- Commercial Sponsorship – Ethical Standards for the NHS, November 2000.
- The Prevention of Corruption Acts (1906 & 1916)
- Medicines (Advertising) Regulations 1994
- NHS Confidentiality code of practice
- Professional codes of conduct from the BMA, GMC and NMC and others including Allied Health Professionals, Finance Professionals and NHS Managers

## **13.0 ASSOCIATED DOCUMENTS**

Disciplinary Policy  
Procurement Policy  
Whistleblowing Policy  
Counter Fraud and Corruption Policy  
Retirement and Long Service Awards Policy  
Additional Employment Policy  
Intellectual Property Policy  
Trust Constitution  
Standing Financial Instructions  
Scheme of Delegation  
Data Protection and Confidentiality Policy  
Commercial Sponsorship Policy

## **APPENDICES**

- 1. Definitions**
- 2. Quick Guide to making declarations on ESR**
- 3. Commercial Sponsorship Declaration Form (Form A)**
- 4. Examples of Interests that need to be declared**

### DEFINITIONS

The following definitions will apply throughout this document:

**Staff:** for the purposes of this policy, staff means any person employed by the Trust, either directly or through an agency or the NHS bank, on a temporary or permanent basis; any person in the process of being recruited by the Trust; volunteers; office holders including Directors and Governors; contractors and sub-contractors

**Director:** any member of the Trust Board.

**Decision-making staff:** some staff and office holders are more likely than others to have a decision making influence on the use of taxpayers' money, because of the requirements of their role. This policy is particularly relevant for that group of people, who for the purposes of this policy are referred to as 'decision making staff.'

In Gloucestershire Health and Care Foundation Trust, decision making staff include:

- Executive and Non-Executive Directors who have decision making roles which involve the spending of taxpayers' money
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services
- Those at Agenda for Change band 8a and above
- Administrative and clerical staff who have the power to enter into contracts on behalf of their organisation (including Estates, HR, finance, Procurement and IT staff)
- Administrative and clerical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions
- Governors, whose membership of the Council of Governors requires them to approve significant transactions

**Gift:** 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.

**Register of Interests:** a register kept by the Trust Secretary in which should be recorded all declarations of interest made by staff in relation to involvement with other organisations which might seek to do business with the Trust. Decision-making staff are required to complete a declaration of interest form on at least an annual basis.

**Interest:** an interest or involvement in, or responsibility for the financial success or otherwise, of any organisation or body that is seeking to do business with the NHS. Such interests include where an employee, or his or her spouse, partner, close relative or associate, has a controlling and/or significant financial interest in a business (including a private company, public sector organisation, other NHS employer and/or voluntary organisation), or in any other activity or pursuit, which may compete for an NHS contract to supply either goods or services to the employing authority. A fuller definition can be found within the Trust's constitution.

**Loyalty Interest:** an interest arising due to an individual (or family member, close friend or associate) holding an office or other position of authority, or a pecuniary interest, in another organisation that might be affected by a decision made by Gloucestershire Health & Care NHS Foundation Trust, or where the individual is or could be involved in the recruitment of family members or close friends/associates.

**Material Interest:** An interest which a reasonable person would take into account when considering a matter involving the use of taxpayers' money, because the interest is relevant to that matter.

**Items of low intrinsic value:** items with a monetary value of £25 or less, such as calendars, diaries or other promotional material of low monetary value, or small tokens of gratitude from patients/relatives which could not reasonably be held to accrue any material advantage to the donor through being offered or accepted.

**Commercial sponsorship:** any funding, goods or services provided to the NHS from an external non-NHS source, including funding for staff, training, research, or equipment; provision of free services such as speakers at NHS events; hotel, travel and transport costs; buildings or premises.

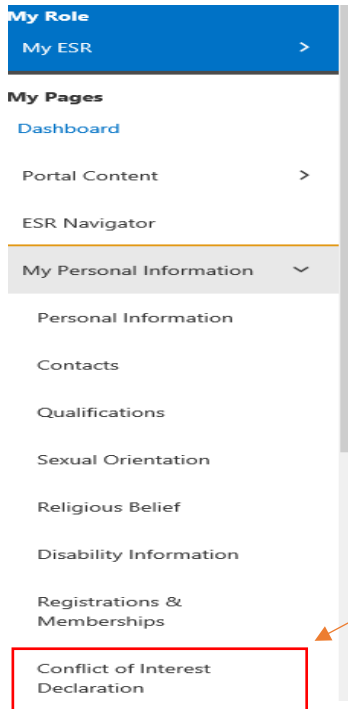
**Hospitality:** refreshments provided for meetings within the Trust or provided for staff or office holders at external meetings, functions, courses or events

**Volunteer:** any person who undertakes activities on behalf of the Trust and is subject to a Volunteer Contract

**Money:** for the purposes of this policy, money is defined as anything which can be used to purchase goods or services.

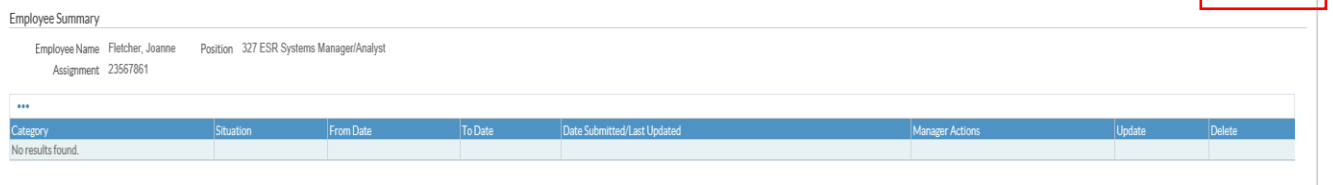
**Quick Guide to using ESR to make declarations**

If you have been asked to add your conflict of interest please logon to ESR. Expand “My Personal Information” on the left-hand Menu, select Conflict of Interest Declaration – see below



On the next screen choose Add Declaration – you can tick the “I have no interest to declare” or declare a conflict by choosing the applicable category and situation.

Conflict of Interest Declarations



**Declare a Conflict of Interest**

I have no interests to declare

\* Category  \* Situation

Description

\* Date From  Date To

Comments

**Notes**

The conflict of interest declaration can also be accessed by selecting ESR Navigator from the same menu, then Employee Self Service - Conflict of Interest



**Application to Seek Permission to Accept  
Commercial Sponsorship, Hospitalities, Gifts and PPE (where the Hospitality, Gift or PPE is for  
an area/service)**

Please complete the form below and then submit by email to [trustsecretary@ghc.nhs.uk](mailto:trustsecretary@ghc.nhs.uk)

COLLEAGUE DETAILS	
Date submitted:	
Name:	
Title:	
Email Address:	
Contact Number:	
Department and place of work:	
DETAILS OF PROPOSED SPONSORSHIP AND NAMED SPONSOR	
Is/are the product(s) clinical <input type="checkbox"/> or non-clinical <input type="checkbox"/>	
Is total perceived value greater than £50.00?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<ul style="list-style-type: none"> <li><b>Clinical product</b> to be approved by either the Director of Nursing, Therapies and Quality or the Medical Director</li> <li><b>Non-clinical product</b> to be approved by Head / Deputy of Corporate Governance &amp; Trust Secretary</li> </ul>	<b>If not approved please state the reason</b>
Print Name:	
Signature:	
Title:	
Trust Secretariat to complete when information entered onto the Register of Applications for Acceptance of Commercial Sponsorship, Hospitalities and Gifts	
Date:	
Name:	
Signed:	
Ref No:	

**Examples of Interests that need to be declared**

Below are some examples of recently declared interests. Colleagues are asked to review these to get a better understanding of what does need to be declared via the Managing Conflicts of Interests declaration process.

*I carry out clinical private practice*

*My "Family Member" works for GHC in xxx department*

*I am branch treasurer for xxxx*

*Trusteeship of registered charity xxxxx.*

*I run a private business*

*My "Family Member" is a trustee of xxxx organisation/charity*

*I provide 3 hours of clinical supervision each week to an outside organisation.*

*Employed as a visiting lecturer at University of Bristol*

*My "Family Member" is the owner/proprietor of xxxx, which provides the Trust with goods/services on occasion.*