

NHS YORKSHIRE AND YORK CLUSTER

Protocol on Declaration of Interests

Members of the PCT Board and the Transition and Reform Programme Board, Senior Managers, Budget Holders and Staff

1. Introduction

- 1.1 The statutory requirements relating to declaration of pecuniary interests are contained in the Model Standing Orders, Reservation and Delegation of Powers and Standing Orders (DH 2006) are included in the PCT Standing Orders.
- 1.2 They are strengthened by the Code of Conduct: Code of Accountability in the NHS (DH and Appointments Commission (2004), the Code of Accountability for NHS Boards, and the Code of Conduct for NHS Managers (DH 2002)). These requirements are also explicitly laid out in PCT managers' contract of employment.
- 1.3 These measures are designed to contribute to the PCT's obligation to ensure adequate measures are in place to prevent acts of bribery within the meaning of the Bribery Act 2010.

2. Obligation to Declare

- 2.1 The Codes require the Board Chairman, Board members, Transition and Reform Programme Board members, and NHS Managers to act impartially and not be influenced by social or business relationships. No one should use their public position to further their private interests.
- 2.2 Where there is potential for private interests to be material and relevant to NHS business, the relevant interest should be declared and recorded in the Register maintained by the Director of Standards.
- 2.3 The interest, if it arises during the course of a meeting, should be declared immediately, and should be recorded in the relevant minutes. When a conflict of interest is established, the person should withdraw and play no part in the relevant discussion or decision.
- 2.4 Interests which should be regarded as "relevant and material" are:
 1. Directorships, including non-executive directorships, held in private companies or PLCs (with the exception of those of dormant companies).
 2. Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS.
 3. Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS.
 4. A position of trust in a charity or voluntary organisation in the field of health and social care.
 5. Any connection with a voluntary or other organisation contracting for NHS services.

6. Any other commercial interest relating to any relevant decision to be taken by the PCT.

2.5 In all cases declarations of interest and subsequent changes will be made available to the PCT's internal and external auditors.

3. Annual Declaration of Interests

3.1 All Members of the PCT Board and the Transition and Reform Programme Board, Senior Managers and Budget Holders are required each year to declare all appropriate interests, in writing. *This should be done using the form attached to this Protocol; guidance is attached at Appendix A.*

3.2 Any change in interests should be declared as soon as it is recognised, and should be declared, where appropriate, at the next Board or Transition and Reform Programme Board meeting following the change occurring.

4. Recording in Register and Publishing in Annual Report

4.1 The Register of Interests is maintained by the Director of Standards which formally records the declarations of interests made by members of the Board and Transition and Reform Programme Board, and all other PCT staff.

4.2 These details will be kept up-to-date by means of twice yearly review of the Register in which any changes to interests declared during the preceding six months will be incorporated.

4.3 The Register will be available to the public and to the PCT's internal and external auditors. The Register will be published on the PCT Public website, to ensure compliance with Information Commissioner's Office Publication Scheme.

4.4 The details of the interests of Board members will be published in the PCT's Annual Report.

5. Close Family Members

The interests of close family members should be regarded as relevant.

6. Conclusion

Should there be any doubt about the relevance of an interest, this should be discussed with the Director of Standards, Assistant Director of Quality, Governance and Assurance, or the PCT Board Chairman, or the Chairman of the Transition and Reform Programme Board as relevant.

12 July 2011

References

Bribery Act 2010

Department of Health (2006) Model Standing Orders, Reservation and Delegation of Power and Standing Orders, DH, London.

Department of Health; NHS Appointment Commission (2004) – Code of Conduct: Code of accountability in the NHS 2nd rev. ed., DH/NHS Appointments Commission, London.

Department of Health (2002) Code of Conduct for NHS Managers, Department of Health, London.

NHS NORTH YORKSHIRE AND YORK CLUSTER

Declaration of Interests

1 April 2011 to 31 March 2012

The Codes of Conduct and Accountability require members of the PCT Board, Transition and Reform Programme Board and Senior Managers as relevant (identified for these purposes as budget holders with direct report to Directors and General Managers in North Yorkshire and York Mental Health Services) and advised by internal audit, to declare interests which are relevant and material to the PCT. This form should also be completed by all staff on appointment and on an annual basis thereafter as appropriate.

Please complete, *in blue ink*, the declaration below (if not applicable you must write 'NONE' and not simply put a line through):

1. Directorships, including non-executive directorships, held in private companies or PLCs (with the exception of dormant companies). Also indicate if you believe any of these companies are likely or possibly seeking to do business with the NHS.

2. Ownership, or part ownership, of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS.

3. Majority or controlling shareholdings in organisations likely or possibly seeking to do business with the NHS.

4. A position of authority in a charity or voluntary body in the field of health and social care.

5. Any connection with a voluntary or other body contracting for NHS services.

- 6. Where you or your host employer/practice is a current or potential provider of services commissioned by or for the Primary Care Trust.

- 7. Any other interests which in the spirit of the Codes of Conduct you believe may be relevant to declare.

Notes Regarding the Use of this Information

- 1. The information you have provided on this form will be recorded in the PCT Register which will be drawn to the attention of the PCT's internal and external auditors. The Register of Interests will be available to the public on the PCT public website.
- 2. Any changes to the information you have provided should be declared at the earliest opportunity. Such a change will be recorded in the Register of Interests.
- 3. If a conflict of interest is established during the course of PCT business, PCT employment, or during a PCT meeting you are required to withdraw and play no part in the relevant discussion or decision.

I have completed this declaration to the best of my knowledge and ability having read the PCT's Protocol on Declaration of Interests.

Name _____
(Please Print)

Job Title _____ Directorate _____
(Please Print)

Signature _____

Date _____

Please return this form to:

Michele Saidman
NHS North Yorkshire and York
The Hamlet
Hornbeam Park
Harrogate
HG2 8RE

NHS NORTH YORKSHIRE AND YORK CLUSTER

Guidance for Self Completion of Declaration of Interests by Directors and Staff

1. Introduction

- 1.1 The NHS is committed to the values of honesty, transparency, integrity and probity. As part of this commitment it is essential that in doing business the PCT and members of staff are not, *nor are they perceived to be*, acting as a result of any improper influence.
- 1.2 This guidance supports this aim by requiring Directors (Executive and Non Executive), members of the Transition and Reform Programme Board and staff to declare any interests they may have. The consequence of such a declaration varies according to the circumstance. In some circumstances a Director or member of staff may not take any part in a decision where a conflict of interests has been established and in others it may not affect the manner in which duties are performed.
- 1.3 The PCT has adopted Standing Orders and Standing Financial Instructions. This is a statutory obligation and this guidance must be read in the context of those instructions.
- 1.4 There are particular statutory obligations and requirements placed on Directors of the PCT, both Executive and Non Executive; these are explained later. Similarly limited exemptions apply to Directors and members of the Transition and Reform Programme Board which are explained below.
- 1.5 It must be stressed that, in all instances, whilst advice and guidance is available, the question of whether or not to declare an interest is one which is a matter for the judgement of the individual themselves. In most cases a decision is straightforward but in cases of doubt the better option will usually be to declare an interest and so have all facts in the open. It must be remembered that an individual may be required to, and must be able to, justify any given circumstance.
- 1.6 This guidance is not intended to be threatening or onerous. Neither is the intent to be unnecessarily intrusive in an individual's private affairs. However, clarity demands that staff are explicitly and clearly aware of their responsibilities and duties in this context.
- 1.7 This guidance is not, nor does it purport to be, a full statement of the law – further assistance or guidance may be obtained from the Legal Services Manager.

2. Interpretation

For the purpose of this guidance the term staff is used. This includes all persons receiving remuneration from the PCT for work or services. It also includes Directors, both Executive and Non Executive.

3. What is an interest?

3.1 Although guidance is contained both in national policy and in this document it is not exhaustive nor does it include every type of interest which should be declared. It is an indicative list of the types of matter covered. The test that should be applied by staff is whether a disinterested observer would think that any given interest does or could influence the actions of a member of staff. The common thread running throughout this guidance is the avoidance of any actual or perceived undue influence.

3.2 The indicative list includes:

- Directorships, including non executive directorships, held in private companies or PLCs
- Ownership or part ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS
- Majority or controlling shareholding (which is defined in Financial Reporting Standard 8 as over 20%) in organisations likely or possibly seeking to do business with the NHS
- A position of trust, whether or not a trustee, in a charity or voluntary organisation in the field of health, social care or both
- Any connection with a voluntary or other organisation contracting for NHS services
- Any other commercial interest in any decision before such a decision is taken
- For Transition and Reform Programme Board members this will include the income from the GP practice

3.3 Particular care is required where a member of staff has an interest in a nursing or care home to which patients are, or may be, referred. If staff are making such a referral then any interest, however small, **MUST ALWAYS** be disclosed to the patient regardless of whether or not it is an otherwise disclosable interest.

4. Interests of spouses, partners or other family members

Where a person closely related to a member of staff has any interests of the type mentioned in this guidance then that fact should also be disclosed. The interpretation of this requirement is a matter for common sense but it would always include for example spouses, partners, close relatives such as brothers, sisters, parents and children.

5. Code of Conduct for Directors and staff

5.1 The PCT expects all staff to:

- Ensure that the interests of the public remain paramount at all times
- 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
 - Comply with the requirements of Standing Orders, Standing Financial Instructions and all NHS Circulars relating to corporate governance
 - Comply with the Department of Health Code of Conduct / Code of Accountability
- 5.2 It is also the responsibility of 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
- 5.3 It is the personal responsibility of staff to ensure that a Declaration of Interests is completed on appointment and, where required, annually thereafter. Should staff acquire an interest during the period between annual declarations they must declare it as soon as reasonably possible and certainly not later than 28 days after the interest arises.

6. The Bribery Act 2010

- 6.1 The Bribery Act 2010 came into force on 1st July 2011 and repeals, in their entirety, the Prevention of Corruption Acts 1906 to 1916 and the common law offence of Bribery.
- 6.2 It creates three relevant offences of bribing another person, being bribed and the failure of commercial organisations to prevent bribery.
- 6.3 Staff should be aware that in committing an act of bribery they may be subject to a penalty of up to 10 years imprisonment, a fine, or both. They may also expose the organisation to a conviction punishable with an unlimited fine.
- 6.4 Staff should also be aware that a breach of this Act, or of this guidance, renders them liable to disciplinary action by the PCT whether or not the breach leads to prosecution. Where a material breach of this guidance is found to have occurred the likely sanction will be dismissal.
- 6.5 In short, the offences cover the offering, promising or giving of a financial or other advantage and the requesting, agreeing to receive or accepting of a financial or other advantage where the overall intention of such an action is to bring about an improper performance or a relevant function or activity.
- 6.6 The organisation may be liable where a person associated with it commits an act of bribery.

7. Responsibility for dissemination of this guidance

- 7.1 It is the responsibility of the Chief Executive to ensure that Directors are aware of this guidance and that they complete a Declaration of Interests on appointment and on an annual basis thereafter as per 5.3 above.

- 7.2 Each Director has the responsibility to ensure that all staff in their directorate completes a Declaration of Interests on appointment and on an annual basis thereafter as appropriate.

8. Guidance on implementation

This guidance is intended to give helpful advice to staff.

9. Casual Gift

- 9.1 Casual gifts offered by contractors or others (for example at Christmas time) may not be in any way connected with the performance of duties so as to constitute an offence under the Bribery Act.

- 9.2 Such gifts should nevertheless be politely but firmly declined. Articles of low intrinsic value, such as diaries or calendars, need not necessarily be refused. In cases of doubt staff should either consult their line manager or politely decline acceptance.

10. Hospitality

- 10.1 Staff of the PCT at all levels should generally decline all other offers of gifts, hospitality or entertainment. However, in circumstances where they feel that the work of the PCT may be enhanced they should seek advice from their line manager, the Legal Services Manager or the Director of Finance.

- 10.2 Whenever such hospitality is accepted, and its nominal value is greater than £25, a declaration must be completed on the attached form. The Executive Assistant to the Board and Committees keeps the register of such declarations.

- 10.3 The guiding principle is that hospitality should be proportionate to the task at hand and that it should be commensurate with that which the NHS would offer a third party in similar circumstances.

- 10.4 Particular care must be exercised when dealing with sponsorship from pharmaceutical companies. It is not suggested or implied that such companies are in any way tainted, merely that such relationships have often proved problematic in the health sector.

- 10.5 Ordinarily no problem will arise where a pharmaceutical company has sponsored a conference or event organised by another NHS body at arms length from the individual proposing to accept such hospitality.

- 10.6 It would not, however, be appropriate to accept sponsorship for an event which could be characterised as personal or social (for example Christmas party).

- 10.7 The PCT has a separate policy on Commercial Sponsorship which gives further guidance.

11. Preferential treatment in private transactions

- 11.1 Individual 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 NHS.

- 11.2 This does not apply to concessionary agreements negotiated with companies by NHS management, or by recognised staff organisations (for example trades unions) on behalf of all staff – for example NHS Staff Benefits Scheme.

12. Contracts

All staff who are in contact with suppliers and contracts (including external consultants), and in particular those who are authorised to sign purchase orders or place contracts for goods, materials or services, are expected to adhere to professional standards of the kind set out in the Ethical Code of the Institute of Purchasing and Supply (IPS). They must also ensure that they comply with the Standing Orders, inclusive of the Standing Financial Instructions, of the PCT.

13. Favouritism in awarding contracts

Fair and open competition between prospective contractors or suppliers for Board contracts is a requirement of Standing Orders and of European Union Directives on Public Purchasing for Works and Supplies. This means:

- No private, public or voluntary organisation or company that may bid for PCT contracts should be given any advantage over its competitors, such as advance notice of PCT requirements. This applies to all potential contractors, whether or not there is a relationship between them and the PCT, such as a long running series of previous contracts.
- Each new contract must be awarded solely on merit, taking into account the requirements of the NHS and the ability of the contractors to fulfil them.
- No special favour must be shown to current or former employees, former Board members or their close relatives or associates in awarding contracts to private or other businesses run by them or employing them in a senior or managerial capacity.
- Contracts may be awarded to such business where they are won in fair competition against other tenders, but scrupulous care must be taken to ensure that the selection process is conducted impartially, and that staff who are known to have a relevant interest play no part in the selection.
- Invitations to potential contractors to tender for PCT business must include a notice warning them of the consequence of engaging in any corrupt practices involving employees of public bodies.

14. Outside employment

NHS employees are advised not to engage in outside employment which may conflict with their NHS work. They are advised to tell their employer if they think they may be risking a conflict of interest in this area. The NHS employer will be responsible for judging whether the interests of it, or its patients, could be harmed.

15. Confidential information

Staff must not disclose any confidential information which could prejudice the interests of the PCT.

16. Private practice

- 16.1 Consultants (and associate specialists) employed under the Terms and Conditions of Service of Hospital Medical and Dental Staff are permitted to carry out private practice in NHS hospitals subject to the conditions outlined in the handbook "A Guide to the Management of Private Practice in the NHS". Consultants who have signed new contracts with Trusts are subject to the terms applying to private practice in those contracts.
- 16.2 Other grades may undertake private practice or work for outside agencies, providing they do not do so within the time they are contracted to the NHS and they observe the conditions contained in this guidance. All hospital doctors are entitled to fees for other work outside the NHS contractual duties under "Category 2" (paragraph 37 of the Terms and Conditions of Service of Hospital Medical and Dental Staff), for example examination and reports for life insurance purposes. Hospital doctors and dentists in training should not undertake local work outside their contracts where such work would be in breach of their contracted hours. Career grade medical and dental staff employed by the PCT may agree terms and conditions different from the National Terms and Conditions of Service.

17. Provisions relating to Directors of the PCT and members of the Transition and Reform Programme Board

- 17.1 Ordinarily the fact that a Chair or member has a pecuniary interest would require an individual to disclose the fact and take no part in the consideration of the matter, nor vote on any question with respect to the decision. Normally where such a conflict has been established the individual concerned would withdraw from the room.
- 17.2 In recognition of the difficulty which arises, given the nature of PCT business and the likely holders of office as Directors of the PCT or members of the Transition and Reform Programme Board, statutory waivers have been introduced – which are different in respect of the PCT and of the Transition and Reform Programme Board.
- 17.3 This waiver only applies in the following circumstances:
- i) The member of the PCT or Transition and Reform Programme Board is a health care professional and is providing or performing, or assisting in the provision or performance of, services under the National Health Service Act and for the benefit of persons for whom the PCT is responsible. The pecuniary interest of the member in the matter:
 - a) arises due to the member's role as such a professional providing or performing, or assisting in the provision or performance of, services; AND
 - b) has been declared by the chair as an interest and cannot be reasonably regarded as an interest *which is more substantial than the majority of other persons on the Board or Transition and Reform Programme Board who are members of the same profession* and who are providing or performing such services for the benefit of persons for whom the PCT is responsible.
- 17.4 The waiver is subject to the following conditions:
- The member must disclose the interest as soon as practicable after the commencement of the meeting, and a suitable record made in the minutes

- The chair must consult the Chief Executive before making a declaration, except where that member is the Chief Executive
 - In the case of a meeting of the PCT Board:
 - i) the member may take part in the consideration or discussion of the matter which must be subjected to a vote and the outcome recorded, but
 - ii) the Board must record a vote on the matter
 - iii) the member may not vote on the question with respect to the matter
 - In the case of a meeting of the Transition and Reform Programme Board:
 - i) the member may take part in the consideration or discussion of the matter which must be subjected to a vote and the outcome recorded, and
 - ii) the Committee must record a vote on the matter
 - iii) the member may vote on any question with respect to it, but
 - iv) the resolution which is subject to the vote must comprise a recommendation to, and be referred for approval by, the PCT Board
- 17.5 This model allows professional members to participate fully in the Transition and Reform Programme Board's discussions and decisions where the member is in the professional minority. But there has to be a recorded vote and this becomes a recommendation to the Board. The Board should discuss the matter with all Board members but the interested member cannot vote on the matter. The vote should be fully recorded. This preserves probity and it is presumed that such discussions would be made in public meetings thus showing openness and transparency of the decision.

18. Whistleblowing

- 18.1 The PCT wishes to ensure that all staff are aware of the procedure for voicing concerns about any aspect of maladministration. These concerns can be in relation to hospitality, gifts or any ethical or related issue.
- 18.2 The PCT recognises that the procedure must be non threatening and confidential. It further recognises that the individual employee will want the concern investigated fairly, thoroughly and impartially and will want to receive an answer to the complaint.
- 18.3 Any employee can therefore report any concern to an Executive or Non Executive Director, to the PCT's nominated Fraud Officer or to the Board Secretary.
- 18.4 In exceptional circumstances, for example if an Executive or Non Executive Director is involved in the concern, the Internal Auditor should be contacted for advice.
- 18.5 The opportunity to raise concerns regarding business and ethical conduct is in addition to the rights of staff contained within the Grievance Procedure.

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Declaration of Hospitality and Gifts

In order to comply with Audit requirements please ensure that you complete all sections of this form when declaring hospitality and gifts offered/received in excess of the £25 threshold value.

Please note: Authorisation should be obtained from your Line Manager in advance of acceptance

Donor	
Value of hospitality/gift	
Description of hospitality/ gift	
Date of offer	
Was the offer accepted?	
Details of any work the donor was interested in securing	

Recipient's Name (Please Print)

Title (Please Print)

Directorate (Please Print)

Recipient's Signature

Line Manager's Authorisation

Date

Please return to:

***Michèle Saidman
NHS North Yorkshire and York
The Hamlet
Hornbeam Park
Harrogate HG2 8RE***