

**LANCASHIRE TEACHING HOSPITALS  
NHS FOUNDATION TRUST**

**CODE OF BUSINESS CONDUCT FOR  
DIRECTORS, GOVERNORS AND EMPLOYEES**

**(APRIL 2012)**

**LANCASHIRE TEACHING HOSPITALS NHS FOUNDATION TRUST**  
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**INDEX**

1. Purpose
2. Introduction
3. Legislation
4. Check list for Managers
5. Register of Interests
6. Confidentiality
7. Donations
8. Commercial Sponsorship
9. Inspection Visits
10. Gifts and Hospitality
11. Other Employment
13. Concerns
13. References

**APPENDICES**

- A. Guide for Staff
- B. Declaration of Interest Form
- C. Register of Commercial Sponsorship
- D. Extract from the Medicines (Advertising) Regulations
- E. Formal Record of Offers and Gifts and Hospitality

## **1. PURPOSE**

The purpose of the code is to ensure that the Directors, Governors and employees of the Trust maintain a high standard of propriety in the way they conduct themselves. The code applies to all employees of the Trust and Non-Executive Directors.

## **2. INTRODUCTION**

2.1 As a Foundation Trust, Lancashire Teaching Hospitals (the Trust) has greater freedom to manage its affairs. However, this freedom also carries with it responsibilities and certain risks. It is important, therefore, to:

- remember that the Trust is still responsible for the care and use of public funds.
- avoid placing the Trust in situations where the conduct of individual members of staff or the Trust as a whole could appear to be compromised.

2.2 The Trust recognises that staff have a strong sense of commitment to the care of patients and most have very high standards in the way that they conduct both their public and private affairs. Increasingly, however, staff are exposed to contact with outside organisations and individuals where it is normal to give and receive both gifts and hospitality. It is not the Trust's intention to create an environment where staff must refuse all such offers but there is a need for caution. The Code of Conduct is intended to help everyone in the Trust with some of the difficult decisions with which they may be faced, without being over prescriptive. This guidance is intended to supplement the Trust's Standing Orders (SO) and Standing Financial Instructions (SFI).

## **3. LEGISLATION**

3.1 The Bribery Act 2010 repeals the UK's previous anti-corruption legislation – the Public Bodies Corruption Practices Act 1889, The Prevention of Corruption Acts of 1906 and 1916 and the common law of bribery. The Bribery Act 2010 came in to force on 1st July 2011 but anything before that date will still be considered under the old legislation. Bribery may be considered to be: 'an inducement or reward offered, promised or provided to someone to perform their functions or activities improperly in order to gain a personal, commercial, regulatory and/or contractual advantage.

Bribery is a criminal offence. Lancashire Teaching Hospitals NHS Foundation Trust does not, and will not pay bribes or offer improper inducements to anyone for any purpose; nor do we, or will we, accept bribes or improper inducements. This approach applies to everyone who works for us, or with us. To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in, or encourage, bribery. This organisation, in conjunction with NHS Protect, will seek to obtain the strongest penalties – including criminal prosecution, as well as disciplinary and civil sanctions –

against anyone associated with Lancashire Teaching Hospitals NHS Foundation Trust who is found to be involved in any bribery activities.

- 3.2 Breach of these provisions can render staff liable to dismissal and/or prosecution under this Act. It is essential therefore that Directors, Governors and employees are transparent and understand the need to ensure that their actions cannot be misunderstood. All staff should follow the correct reporting channels if they receive any form of gift or hospitality and seek further clarity from the Finance Director, Trust Secretary or Human Resources if they are uncertain about what is acceptable.
- 3.3 In addition, there are related common law criminal offences, as well as civil liability (on the part of both the receiver and the giver of an inducement), for any loss caused to the Trust or third party. The receipt of hospitality or acceptance of a gift is, in law, no different from the receipt of money.

#### **4. CHECK LIST FOR MANAGERS**

The Code of Business Conduct should be read in conjunction with the Anti-Fraud, Bribery and Corruption Policy, Disciplinary Policy and Procedure and Whistleblowing Policy which explain the responsibility of all NHS employees. These policies are available to view via the Trust Intranet

Managers must:

- a. ensure that all staff are aware of this guidance.
- b. ensure that staff involved in tendering or contracting do not give unfair advantage to one competitor over another or give the impression, by their action or inaction, that they are giving such an advantage.
- c. report possible conflicts of interest of staff for inclusion in the relevant Register of Interests.
- d. ensure that staff are aware that they should report offers of a gift, hospitality and sponsorship. Record such offers in formal records (which will be the subject of review) - the Register of Commercial Sponsorship and the Formal Record of Gifts and Hospitality. All offers of gifts, hospitality and sponsorship over £25 must be notified to the Divisional Director or relevant Manager and the formal record completed.
- e. take care to ensure that the Trust does not appear to be compromised by acceptance of sponsorship by organisations which may at some time be competing to supply goods or services to the Trust.
- f. ensure staff are aware that they are required to report any other employment and that they could breach their contract of employment by working for another employer without approval.

- g. assess possible conflicts of interest when staff wish to carry out work outside the Trust.
- h. take appropriate disciplinary action against employees who fail to declare an interest or are found to have abused their official position.

## **5. REGISTER OF INTERESTS**

- 5.1 In accordance with the Trust's Standing Orders, Board Directors and Governors are required to declare any pecuniary interests in contracts or other relevant interests. The Trust Secretary maintains a Register of Board Director and Governor Interests in order to record these declared interests. This procedure has been set up to protect the Directors, Governors and the Trust from any suggestion of improper influence.
- 5.2 In order to protect against the possibility of such suggestions against the Trust's employees, the Register is extended to all staff. It must be emphasised that everyone, but in particular Directors, General Managers, Senior Managers, Consultants, and Procurement staff have a responsibility to take all possible steps in the procurement of goods and services to ensure that there are no conflicts of interest on the part of Trust employees in this process. Staff must therefore immediately report any pecuniary interests to their Director/Manager using the Declaration of Interests form available on the intranet (see Appendix B). The Director/Manager must maintain a staff Register of Interests for their Directorate and ensure that they consider and mitigate any risks associated with staff interests.

Where risks cannot be mitigated, they should be assessed and included within the Directorate Risk Register.

- 5.3 Managers and Directors not covered by the Register of Board of Directors' Interests should also include any pecuniary interests in their Directorate Register for appropriate risk assessment.

## **6. CONFIDENTIALITY**

Members of staff have access to a great deal of information relating to patients, other staff and Trust business during the course of their duties. All such information must be treated as confidential and should never be disclosed either inside or outside work, even to family and friends. Any breach of confidentiality may be regarded as gross misconduct. Staff should be aware of the provisions of the Data Protection Act 1998. The provisions are embodied in the eight principles of the Act which can be summarised as follows:

- a. Personal data shall be processed fairly and lawfully.
- b. Personal data shall be obtained only for one or more specified and lawful purpose(s), and shall not be further processed in any manner incompatible with that purpose(s).

- c. Personal data shall be adequate, relevant and not excessive in relation to the purpose(s) for which it is processed.
- d. Personal data shall be accurate and, where necessary, kept up to date.
- e. Personal data processed for any purpose(s) shall not be kept for longer than is necessary for that purpose(s).
- f. Personal data shall be processed in accordance with the rights of data subjects under this Act.
- g. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of such personal data.
- h. Personal data shall not be transferred to a country outside the European Economic Community area, unless that country ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

## **7. DONATIONS**

The NHS has benefited substantially from donations and the Trust would not wish to discourage donations that improve the service that it provides to its patients. However, there are risks associated with the acceptance of donations from unsuitable sources or arising from donation of inappropriate items of equipment. The difficulties in accepting inappropriate donations can take a number of forms and these include:

- a. The creation of a sense of obligation on the part of either the giver or the recipient.
- b. The commitment to purchase, servicing, spare parts or consumables from a single source. This may also contravene European Union legislation.
- c. The appearance of partiality towards the giver, which the acceptance of a gift might imply to a firm's competitors.
- d. The acceptance of equipment can carry with it revenue costs such as staffing, consumables and accommodation. Where an offer of equipment is received, this should be referred to the Finance Director.

Accepting inappropriate donations can be seen as bribery and it is important that staff take all possible steps to avoid creating the perception that they have/are receiving an inducement or reward.

## **8. COMMERCIAL SPONSORSHIP**

- 8.1 For the purposes of these guidelines commercial sponsorship is defined as including:

*NHS funding from an external source, including funding of all or part of the costs of a member of staff, research and development, staff training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs (including trips abroad), provision of free services (speakers), buildings or premises.*

- 8.2 The Trust would not wish to decline appropriate offers of commercial sponsorship. However, when considering whether offers are appropriate the following conditions should be met:
- a. The purpose for which the commercial sponsorship is obtained should be connected with the activities of, and be of benefit to, the Trust.
  - b. Sponsorship should not be intended to benefit individuals.
  - c. Where sponsorship is given for a course, seminar or conference, a reasonable limitation has been placed on time allocated for recreational purposes.
- 8.3 Where such collaborative partnerships involve a pharmaceutical company, then the proposed arrangements must comply fully with the Medicines (Advertising) Regulations 1994 (regulation 21 'Inducements and Hospitality' attached at Appendix D). Any person who contravenes regulation 21(1) or 21(3) is guilty of an offence, and liable, on summary conviction to a fine and on conviction on indictment to a fine or to imprisonment or both. Anyone contravening regulation 21(5) is also guilty of an offence and liable on summary conviction to a fine.
- 8.4 Guidance on acceptance of sponsorship should be sought from the Finance Director, with approval from the relevant Chief Officer who will sign the Commercial Sponsorship form (Appendix C).
- 8.5 Employees receiving sponsorship must immediately report it to their manager, and complete and pass the authorised form to the General Manager to be kept on file.

### **Sponsorship of Meetings**

- 8.6 Industry representatives organising meetings are permitted to provide appropriate hospitality and/or meet any reasonable, actual costs, which may have been incurred. If none is required, there is no obligation, or right, to provide any such hospitality, or indeed any benefit or equivalent value.
- 8.7 Hospitality must be secondary to the purpose of the meeting. The level of hospitality offered must be appropriate and not out of proportion to the occasion; and the costs involved must not exceed that level which the

recipients would normally adopt when paying for themselves, or that which could be reciprocated by the NHS. It should not extend beyond those whose role makes it appropriate for them to attend the meeting.

- 8.8 Where meetings are sponsored by external sources, that fact must be disclosed in the papers relating to the meeting and in any published proceedings.

## **9. INSPECTION VISITS**

- 9.1 There is a need from time to time for staff to inspect equipment or processes in operation in other parts of the country or overseas. The manufacturer is frequently willing to meet the costs associated with such visits. However, acceptance may cast doubt on the integrity of the purchasing decisions, and permission should be sought from the Finance Director before accepting such an offer.

- 9.2 Careful consideration should, therefore, be given before acceptance of any offers to pay for inspection visits, bearing in mind the issues addressed in Section 8 above, Commercial Sponsorship. The Trust will normally carry the cost of the visit even if by prior arrangement the cost, or a contribution, is subsequently met by the firm whose tender is successful.

## **10. GIFTS AND HOSPITALITY**

### **10.1 General Guidance**

- 10.1.1 It is the policy of the Trust to ensure that all dealings by its staff with suppliers and other stakeholders are carried out with the highest levels of integrity, and that staff are sufficiently aware of their responsibilities to achieve this. It is the responsibility of all staff to ensure that they are not placed in a position that risks, or appears to risk, conflict between their personal interests and those of the Trust.
- 10.1.2 The offer of a gift, hospitality or other benefits will require careful judgement. It can sometimes be necessary to decide how the 'public interest' and the Trust's good name may best be served. A reasonable amount of entertainment can be part of the normal courtesies of public life and extreme strictness could give offence. However, an appearance of improper influence is easily created. If in doubt, guidance should be sought from the Finance Director, Trust Secretary or Human Resources.
- 10.1.3 The guiding principle is that staff must not accept gifts, hospitality or other benefits of any kind from a third part which might be seen to compromise their personal and professional integrity. Corruptly soliciting or receiving any gift or favour is a criminal offence.
- 10.1.4 The acceptance of monetary gifts is not acceptable in any circumstances as this could be seen as bribery



10.1.5 Each member of staff has a personal responsibility to declare any gift or hospitality offered and whether or not a gift or hospitality is accepted, the offer should be reported to the General Manager who is responsible for maintaining a formal record of such offers (Appendix E). Personal gifts of less than £25 per gift do not need to be declared but if several small gifts worth a total of over £100 are received from the same or closely related source in a 12 month period this must be declared. This record will be subject to review and should include:

- a. The date of the offer and date of acceptance, if relevant.
- b. The individual or organisation who made the offer
- c. To whom the offer was made
- d. A description of the offer and whether or not the offer was accepted.

10.1.6 Some gifts and hospitality may be treated by HM Revenue & Customs as benefits in kind and may, therefore, be taxable.

## 10.2 Gifts

10.2.1 The acceptance of a gift is generally precluded by legislation and staff must report such offers to their General Manager. However, logic dictates that there should be certain exceptions, such as:

- a. Modest promotional gifts not given uniquely to an individual. These are usually given at Christmas and include calendars, diaries and other small articles used in the office or job.
- b. Small gifts of the normal sort given following a visit to a factory or firm, which display the company logo.
- c. A small gift where refusal would cause needless offence and the giver is not seeking a decision or business but merely wishing to express thanks.

10.2.2 It is wise to err on the side of caution and an obviously expensive gift should be declined even if it otherwise falls within the above categories. Employees should ask themselves the question "how would acceptance of the gift be perceived by an objective member of the public"? If there is doubt as to the appropriateness of acceptance, then the gift should be declined and information sought from the Finance Director, Trust Secretary or Human Resources'.

10.2.3 Where a gift has to be refused, it should be done tactfully. If a gift cannot be returned, it may be acceptable to the giver for the gift to be raffled and the proceeds donated to the Trust's Charitable Funds. If an arrangement of this sort is made it must be reported to the Finance Director.

### 10.3 Hospitality

10.3.1 Hospitality is sometimes offered to the Trust at an official level and is acceptable within the right context. However, where hospitality is offered to individuals, other than as representatives of the Trust, caution should be exercised, as it is important to avoid any suggestion of improper influence.

10.3.2 In general hospitality is more acceptable if it is offered to a group rather than an individual and is inappropriate within the context of a commercial transaction. The following examples are designed to offer general guidance:

#### **Acceptable**

- Invitations to a society or institution function.
- Invitation to take part in a company's jubilee or other celebration.

#### **Unacceptable**

- Holidays
- Use of, or payment for, a hotel or company flat.
- In private transactions, the acceptance of preferential rates from an organisation which an individual has had, or may have, dealings with on behalf of the Trust.

10.3.3 As a matter of law it does not matter whether a gift or hospitality is given to, or received by, an employee before or after a contract is awarded or other favour shown. No hospitality or gift should be accepted from a tenderer in the period between invitation to tender and acceptance by the employer, nor, so far is practicable, in the immediate period before invitations to tender are requested or the immediate period after the grant of a contract.

## 11. **OTHER EMPLOYMENT**

11.1 Trust employees should not engage in outside employment which might adversely affect their ability to perform their normal employment obligations or which conflict, or may be seen to conflict, with their obligations to the Trust.

11.2 Except where it has been agreed by the Trust, it may be a breach of an employee's contract to:

- a. take other employment.
- b. set up, or work for, a private business which is in competition with, or whose operation might disadvantage, the operation of the Trust.

11.3 Also, except where specific conditions of service allow, private work or lecturers to outside organisations should not be undertaken within time contracted to the Trust.

- 11.4 Any such interests must be declared to the Workforce Director on a Declaration of Interest Form (Appendix B).

## **12. CONCERNS**

Staff should report any suspicions or allegations of fraud, bribery or corruption to one of the following: Finance Director, the Trust's designated whistleblowing contact, NHS Fraud and Corruption reporting line on 0800 028 40 60 or via the online fraud reporting form at [www.reportnhsfraud.nhs.uk](http://www.reportnhsfraud.nhs.uk). Further guidance on reporting concerns can be found under the Anti-Fraud, Bribery & Corruption policy or the Whistleblowing policy.

## **13. REFERENCES**

- a. Lancashire Teaching Hospitals NHS Foundation Trust Standing Orders (SO) and Standing Financial Instructions (SFI)
- b. Prevention of Corruption Acts 1909 and 1916 (prior to 1 July 2011)
- c. HSG (93)5 – Standards of Business Conduct for NHS Staff
- d. Commercial Sponsorship – Ethical Standards for the NHS (Department of Health November 2000).
- e. The Data Protection Act 1998.
- f. The Medicines (Advertising) Regulations 1994.
- g. The Bribery Act 2010.

**LANCASHIRE TEACHING HOSPITALS NHS FOUNDATION TRUST**

**CODE OF BUSINESS CONDUCT FOR DIRECTORS AND EMPLOYEES**

**GUIDE FOR STAFF**

Lancashire Teaching Hospitals NHS Foundation Trust is a public organisation responsible for the care of public funds. Whilst the Trust recognises that staff have a strong commitment to the care of patients and understand the need for high standards in the way that they conduct both their public and private affairs, it is necessary to have a formal Code of Conduct for all members of the Trust. In line with guidance issued by the Department of Health, the Trust has produced a “Code of Business Conduct for Directors and Employees”, the main points of which are listed below.

Your manager will have a copy of the full Code but you should take note of the following guidance and, if in any doubt, consult either your manager or the Code.

It is important that you

- make sure that you are not in a position to risk conflict between your official and private position.
- act impartially in all your work.
- fulfil your contractual obligations to the Trust before embarking on any extra work, paid or otherwise. If you do take on extra work, you must obtain permission from your manager.
- do not abuse your position to obtain preferential rates for private dealings with firms with which you have official dealings.
- declare and record financial or personal interest, such as company shares or research grants in any organisation with which you have to deal, and be prepared to withdraw from those dealings if required. This is to ensure that your professional judgement is not influenced by such considerations
- refuse gifts, benefits, hospitality or sponsorship of any kind, which might reasonably be seen to compromise your personal judgement or integrity and/or be used to try to obtain preferential consideration. All such gifts should be returned and hospitality refused.
- declare and register offers of gifts, benefits, hospitality or sponsorship of any kind, (provided that they are worth at least £25). In addition, gifts should be declared if several small gifts worth a total of over £100 are received from the same or closely related source in a 12 month period (Forms and guidance are available on the Trust Intranet site under the Policies tab).

- report any offers of sponsorship that could possibly breach the Code of Business Conduct to the Board through your appropriate Manager/Director.
- do not misuse your official position of information acquired in the course of your official duties to further your private interests or those of others.
- do not make use of, or make known publicly, confidential information that you have gained during the course of your work.
- beware of bias generated through sponsorship where this might impinge on professional judgement and impartiality.
- do not give unfair advantage to one competitor over another (if your duties involve tendering or contracting). You must also be careful that your action, or inaction, does not create an impression that you might give such an advantage.
- ensure professional registration (if applicable) and/or status are not used in the promotion of commercial products or services.
- neither agree to practice under any conditions which compromise professional independence of judgement, nor impose such conditions on other professionals.

## LANCASHIRE TEACHING HOSPITALS NHS FOUNDATION TRUST DECLARATION OF INTEREST

NAME:..... DEPARTMENT:.....

Please declare below whether you, your spouse, partner or other close relative or nominee has a controlling, financial or other interest in any business or other organisation which may compete for work with the Trust or could have any other financial relationship with the Trust.

Please complete every section:

Partnership	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Nature of your interest in partnership:
Name of partnership	Date interest(s) acquired:		
Directorship	<input type="checkbox"/>	<input type="checkbox"/>	Nature of your Directorship (MD, Chair, etc):
Date interest(s) acquired:			

*Shareholder	<input type="checkbox"/>	<input type="checkbox"/>	Company:
<div style="border: 1px solid black; padding: 2px; font-size: small;">             *Shareholder interest to be declared if the nominal value of the shareholding exceeds £5,000 or one hundredth of the total issued share capital, whichever is less. Include share options and shares in trust.           </div>			Date interest(s) acquired:

Do you have any employment (paid or otherwise, including self-employment) which could give rise to conflict of interest with the Trust?

<input type="checkbox"/>	<input type="checkbox"/>	Nature or organisation (if appropriate):
Names of organisation (if appropriate):	Details of employment:	

Date employment started:

Paid ✓ or ✗

Does a spouse, partner, close relative or nominee have a relevant interest?

<input type="checkbox"/>	<input type="checkbox"/>	Interest(s):
Name of individual:		
Relationship to Declarant:		

\* ie, partnership, directorship, shareholding or employment; give name of company and nature of interest.

Date interest(s) acquired:

**(Please continue on a separate sheet if necessary)**

I certify that the information I have given includes all relevant interests and is an accurate statement of fact. I understand that a false declaration may lead to disciplinary action.

Signature:

Date:

**LANCASHIRE TEACHING HOSPITALS NHS FOUNDATION TRUST**  
**REGISTER OF COMMERCIAL SPONSORSHIP**

NAME.....

DIRECTORATE/DEPARTMENT.....

**Personal Sponsorship** – eg attendance at courses, conferences, seminars, hotel and travel expenses etc.

Sponsoring Company	Nature/Purpose of Payment	Amount of Payment	Date of Payment

**Non-Personal Sponsorship** – research and development, equipment, staff costs, meetings, provision of free services etc.

Sponsoring Company	Nature/Purpose of Payment	Amount of Payment	Date of Payment

Signature.....

Date.....

Signature.....  
(Manager)

Date.....





**Extract from the Medicines (Advertising) Regulations 1994**

**Inducements and hospitality**

- 21     (1)     Subject to paragraphs (2) and (4), where relevant medicinal products are being promoted to persons qualified to prescribe or supply relevant medicinal products, no person shall supply, offer or promise to such persons any gift, pecuniary advantage or benefit in kind, unless it is inexpensive and relevant to the practice of medicine or pharmacy.
- (2)     The provisions of paragraph (1) shall not prevent any person offering hospitality (including the payment of travelling or accommodation expenses) at events for purely professional or scientific purposes to persons qualified to prescribe or supply relevant medicinal products, provided that:
- a)     such hospitality is at a reasonable level
- b)     it is subordinate to the main scientific objective of the meeting, and
- c)     it is offered only to health professionals.
- (3)     Subject to paragraph (4), no person shall offer hospitality (including the payment of travelling or accommodation expenses) at a meeting or event held for the promotion of relevant medicinal products unless:-
- a)     such hospitality is reasonable in level
- b)     it is subordinate to the main purpose of the meeting or event, and
- c)     the person to whom it is offered is a health professional
- (4)     Nothing in this regulation shall affect measures or trade practices relating to prices, margins or discounts which were in existence on 1 January 1993.
- (5)     No person qualified to prescribe or supply relevant medicinal products shall solicit or accept any gift, pecuniary advantage, benefit in kind, hospitality or sponsorship prohibited by this regulation.

**LANCASHIRE TEACHING HOSPITALS NHS FOUNDATION TRUST****FORMAL RECORD OF OFFERS OF GIFTS AND HOSPITALITY**

DIRECTORATE/DEPARTMENT.....

Individual/Organisation Making the Offer	Description of the Offer	Name and Grade of Staff receiving the offer	Date Offer Made	Date of Offer	Accepted ✓	Rejected ✗

NB. Personal gifts of less than £25 per gift do not need to be declared; however, if several small gifts worth a total of over £100 are received from the same or closely related source in a 12 month period this should be declared.

Guidance regarding declaration of offers of gifts and hospitality should be sought from the Finance Director, Trust Secretary or Human Resources if in any doubt.

Signature.....  
(Employee)

Date.....

Signature.....  
(Manager)

Date.....