

Standards of Business Conduct Guidance

Document Status	Draft
Version	V1

Document Change History

Version	DATE	Comments (ie Viewed, reviewed amended or approved by person or Committee)
Version 1		
Authors (s)		
Owner (s)	Director of Finance Director of Governance	
Names & Roles of Contributors	Tracy Wheeler, Local Counter Fraud Specialist	
Relevant to: Staff Groups	Whole Trust	
Document Reference:	Standards of Business Conduct for NHS Staff HSG(93)5 Code of Conduct for NHS Managers	
Review date		
EIA		
Links to other Policies & Procedures		
Distribution	Full <input checked="" type="checkbox"/>	

An electronic version of this guidance is available on the Trust public folders.

Contents

1	Introduction	3
2	Regulatory background	3
3	Public Service Values	4
4	Gifts and hospitality	5
5	Commercial sponsorship	6
6	Preferential Treatment in private transactions	7
7	Potential scenarios	7
8	Declaration of interests	8
9	Secondary employment	9
10	Awarding of contracts	9
11	Private Practice	10
12	Conduct in the work environment	10
13	References	10
Appendix 1	Institute of Purchasing and Supplies – Ethical code	12
Appendix 2	Standard of business conduct – short guide for staff	14

1. Introduction

- 1.1 In promoting and safeguarding the Trust's reputation and standing within the local community, with customers and suppliers and with service users and carers it is the Trust's policy that the professional and social conduct of staff reflects the highest standards of personal integrity, and that the business affairs of the Trust are conducted in a moral, honest manner and in full compliance with all legal requirements.
- 1.2 Public Sector employees must be impartial and honest in the conduct of business. The Bribery Act 2010 came into force on 1 July 2011 and it reforms the criminal law of bribery, making it easier to tackle this offence proactively in the public and private sectors. The Act repeals the UK's existing anti-corruption legislation which includes the Prevention of Corruption Acts of 1906 and 1916 and the common law offence of bribery.
- 1.3 Bribery is generally defined as giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.
- 1.4 NHS organisations are included in the Bribery Act's definition of "relevant commercial organisation" and they are required to put in place adequate preventative procedures in respect of acts of bribery and corruption by persons associated with them in the course of their work.
- 1.5 Under the '*Standards of Business Conduct for NHS Staff HSG(93)5*' the Trust is required to develop a policy on Standards of Business Conduct for all employees.

2. Regulatory background

- 2.1 The way that the Trust carries out its day to day business is determined by a number of regulatory documents. The three key documents are the:
 - **Standing Orders**, which set out how the Trust Board and senior management team should conduct the business of the Trust, including the composition of the Trust Board, the management of meetings of the Trust Board, appointment of sub-committees, duties and obligations of members of the Trust Board, and arrangements for the delegation of authorities and responsibilities to executive directors and managers of the Trust.
 - **Standing Financial Instructions (SFIs)**, which describe the way that the transactions of the Trust should be carried out, including the role and responsibilities of the Trust Board, Chief Executive, Director of Finance and all members of staff. The SFIs identify the role of audit and regulations regarding the production of the Trust's annual financial accounts and the management of cash and bank accounts. In addition, the SFIs record, in detail, the way that contracting in general; and tendering for goods and services, in particular, is required to be managed.

- **Scheme of Delegations**, which identifies the authorities and duties delegated to Board members, executive directors and budget holders. This scheme is supported by a more detailed structure of delegated responsibilities, which identifies delegations in more detail and identifies responsible officers and responsibilities and authorities down to account code level.
- 2.2 In addition, the Trust has adopted a document, called the '**Standards of Business Conduct Guidance**', which describes the standards of personal and professional behaviour that all NHS employees are expected to adhere to. These Standards use Health Service Guidelines (HSG(93)5) and the Code of Code for NHS Managers 2002 as the core guidance to be followed. These guidelines describe the standards to be followed in respect of potential conflicting interests, including the receipt of gifts and hospitality.

3. Public Service Values

- 3.1 Public service values must be at the heart of the National Health Service. High standards of corporate and personal conduct based on a recognition that patients come first, have been a requirement throughout the NHS since its inception. Moreover, since the NHS is publically funded, it must be accountable to Parliament for the services it provides and for effective use of taxpayers money.
- 3.2 There are three fundamental public service values underpinning the NHS and all public sector work as specified by the NHS Code of Conduct for Boards published by the NHS Executive in April 1994, these are:

Accountability - Everything done by those who work in the organisation must be able to stand the tests of parliamentary scrutiny, public judgments on propriety and professional codes of conduct.

Probity – There should be an absolute standard of honesty in dealing with the assets of the NHS; Integrity should be at the heart of all personal conduct in decisions affecting patients, staff and suppliers, and in the use information acquired in the course of NHS duties.

Openness – there should sufficient transparency about NHS activities to promote confidence between the Trust, service users and the public.

3.3 Responsibilities of Managers

Managers should ensure that all staff are aware of this guidance and that copies of are made available to new members of staff during their induction.

Managers should ensure that where a conflict of interest or hospitality received is made known to the manager, or indeed where the manager has a conflict of interest, precise details of such interests are recorded in writing and sent electronically to the Board Secretary, Chief Executive's office for entry in the interests and gifts/hospitality register. Declarations may be made in person, or electronically to plh-tr.interest@nhs.net or plh-tr.hospitality@nhs.net.

Managers should ensure compliance with the professional standards of the Institute of Purchasing and Supply, where they or their staff are in contact with suppliers and contractors, including external consultants. Areas of particular concern relate to those staff who are authorised to sign purchase orders or place orders for goods or services. Guidance can be found in Appendix 1.

3.4 Responsibilities to staff

Staff are expected to:

- Ensure that the interests of the patients remain paramount at all times;
- Be impartial and honest in the conduct of their official business; and
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money.

It is also the responsibility of staff to ensure that they do not:

- Abuse their official position for personal gain or to benefit their friends and family; and
- Seek to advantage or further provide business or other interests in the course of their official duties.

3.5 The definition of staff relates to all employees of the Trust, agency and contract staff.

4. Gifts and hospitality

4.1 Staff, across the Trust, could be offered gifts or hospitality at any time and from any outside source. Small gifts might include pens, mugs, diaries and calendars. Minor hospitality can include hosted lunches and subsidised attendance at sponsored events. All such transactions are subject to the Trust's formal regulations.

4.2 A gift is defined as any item of cash or goods, or any services, which is provided for personal benefit at less than its commercial value.

4.3 Personal gifts from patients/public

Staff must not accept cash offered to them personally. They may however accept flowers, chocolates or small tokens of gratitude which have a low intrinsic value (such as pens, diaries or calendars).

Modest hospitality, such as lunches in the course of work visits, may be acceptable provided that it is of a similar scale to that which the Trust would offer.

All other offers of gifts and hospitality should be politely declined. If staff are in doubt they should seek advice from their line manager.

Declarations of gifts or hospitality may be reported by email plh-tr.hospitality@nhs.net to the Board Secretary, Chief Executive's Office, or by making a personal entry in the Hospitality Register held by the Board Secretary.

4.4 Donations

If patients or members of the public wish to make donations in the form of cash or cheques, they should be asked if they would like to make a contribution to the appropriate ward/department charitable fund. A receipt must be issued for any donated sums of money, cheques or gift vouchers given and if possible a letter of thanks sent to the donor. If the donor is a tax payer then consideration must be given to gift aid at the time of the donation. In addition staff must be receptive and sensitive to the donors wishes. Further information can be found in the Trust Charitable Funds Procedures document on the Trust's document drive. Guidance can be obtained from the Charitable Funds Accountant or from the Board Secretary.

- 4.4 Business gifts offered by contractors and potential contractors, other than items of very small intrinsic value such as business diaries or calendars, should not be accepted.

4.5 Hospitality

Hospitality that is normal and reasonable in the circumstances, such as lunches in the course of working visits, which are to a scale that an NHS employer would be likely to offer, need not necessarily be refused. All other offers should be politely and firmly declined.

Again, it is possible that staff members will find themselves in a position where they feel pressured to accept inappropriate hospitality, such as an expensive lunch, or evening meal, at short notice, where approval from line managers cannot be gained in advance. In this case, staff should consider whether they would be willing to pay for the hospitality themselves. If the answer to this is no, the offer must be refused, regardless of the impact of the refusal on working relationships.

Any hospitality received, other than working lunches/meals must be declared to the Board Secretary, either by email plh-tr.hospitality@nhs.net or by making a personal entry in the Hospitality Register.

- 4.6 Staff should decline all other offers of gifts, hospitality or entertainment. The guiding principle is that you must not accept gifts, hospitality or other benefits of any kind from a third party, which might be seen to compromise your personal and professional integrity. Corruptly soliciting or receiving any gift or favour is a criminal offence. If in doubt they should seek advice from their line manager.

5. Commercial sponsorship

- 5.1 Commercial sponsorship of staff to attend courses or conferences and sponsorship of Trust posts, or other work, by a commercial organisation may be acceptable. However, formal permission must be received, in advance, from the Trust. This specifically relates to offers from suppliers (e.g. drug companies) for clinical staff to events both in the UK and abroad with an educational remit. In these cases permission to attend will not be unreasonably withheld as long as there is no clear link

with any procurement decision. The employee must seek permission in advance from their manager, who must be satisfied that acceptance will not compromise purchasing decisions in any way. Acceptance of sponsorship must be reported to plh-tr.hospitality@nhs.net for inclusion in the hospitality registrar, or a personal entry made in the Hospitality Register.

- 5.2 Commercial Sponsorship for in-house conferences or courses; and for printing and publication of patient information must also be declared.
- 5.3 Sponsorship for the whole or any part of a post must receive prior approval from the Director of Finance and such approval should only be given after the sponsor has been advised in writing that the sponsorship can have no effect on the Trust's purchasing decisions.

6. Preferential treatment in private transactions

- 6.1 Staff must not seek or accept preferential rates or benefits in kind in private transactions carried out with Companies with which they have had, or may have, official dealings on behalf of the Trust.

This does not apply to schemes introduced for the benefit of all staff, such as NHS staff benefit schemes.

7. Potential scenarios

- 7.1 The following list describes a number of potential situations that staff might face; and the Trust's expectations of how staff should respond to them:
 - ***You receive an invitation to a prestigious event (sporting, film, music, theatre, special conference, product launch etc).*** This cannot be accepted. In some circumstances you might wish to agree to attend on the proviso that you meet the costs yourself. However, tickets to such events are often 'valued' at significantly higher than the face value on the ticket. In all cases, the invitation must be discussed with your manager; and the decision must be agreed in advance with the Director of Governance.
 - ***You are offered an item of equipment, for a trial period, after which it may, or may not, be reclaimed.*** In these circumstances you must regard this as an attempt to influence decisions and reject the offer and report it to your line manager. The offer can be passed on to the Procurement Department, so that it can be considered under approved, formal trial procurement arrangements.
 - ***A local firm (eg car repairs, electricians, plumbers), which is used by the Trust, on a regular basis, offers you a special, personal discount for any work that you might want done at home.*** This must not be accepted and the offer must be reported to your line manager. If the same discount arrangement is offered to all staff, through an approved NHS staff discount scheme, it can be accepted.
 - ***A representative of a medical supplies company, which has regular dealings with the Trust, invites you out for an evening meal at a top local hotel.*** This

must not be accepted and the offer must be reported to your line manager. NHS organisations would not expect to use such facilities.

- 7.2 If in doubt, refuse offers of gifts and hospitality.

8 Declaration of interests

- 8.1 The regulations are clear that public sector employees should not allow themselves to be influenced in, or to exert anti-competitive, or biased influence in the business decisions of the Trust. All staff are expected to declare, in advance, any interests that they have, that might be seen to impact on their impartiality in business decision making.
- 8.2 Where the potential conflict of interests is clearly going to become relevant at some time, this must be reported and recorded in advance, most likely on appointment. Where the conflict of interests becomes apparent in specific circumstances, such as the negotiation of a particular contract for services, the staff member must report the conflict immediately and take no further role in the decision making process.
- 8.3 Staff must declare whether they or any close relative, partner or associate has any dealings with private companies, partnership, charity, voluntary organisation, public sector or any other statutory organisation/body associate with the Trust or may compete for a NHS contract for either goods or services to the employing Trust. Any such interest must be declared on starting employment or on subsequent acquisition of the interest to plh-tr.interests@nhs.net or a personal entry made in the Register of Interests.
- 8.4 All NHS staff are responsible for ensuring that they do not get into a position whereby they risk, or could be perceived to risk, conflict between their private interests and their NHS duties. In determining what needs to be declared guidance for staff can be found in Appendix 2.
- 8.5 **Personal relationships**
- The Trust values and relies upon the professional integrity of relationships between members of staff. In order that Trust business is conducted and perceived to be conducted in a professional and proper manner it is necessary to recognise personal relationships which overlap with professional ones.
- Plymouth Hospitals NHS Trust has the “Managing Close Personal Relationships at Work” policy which informs staff of the requirement to declare such relationships.
- 8.6 As the guidance above shows, there needs to be an objective assessment of whether an outside interest, either direct, or by association, is sufficiently significant to be perceived as being in conflict with the Trust’s best interests. If there is any doubt, the interest should be reported formally to line management.
- 8.7 Where it is decided that the potential conflict is significant, this must be recorded formally in the Trust’s Register of Interests. All declaration of interests must be made by email to the Board Secretary, Chief Executive’s Office at plh-tr.interests@nhs.net or a personal entry made in the Register of Interests.

9. Secondary Employment

- 9.1 Secondary Employment is any additional employment within the Trust which is over and above the contracted hours (this includes NHS Professionals and Internal Bank). Secondary employment also includes any additional work employees and clinicians undertake or are planning to undertake for another employer or work undertaken as a self employed person or as the partner of a self employed person.
- 9.2 For the duration of their employment with the Trust all staff should not engage in any outside employment which could adversely affect their ability to perform their normal contractual obligations, or which may involve the use of any confidential or commercial information obtained in the course of employment within the Trust.
- 9.3 Secondary employment must not conflict with the regulations laid down in the working time directive. Employees must ensure that they are not working in excess of an average of 48 hours per week.
- 9.4 Further information on secondary employment and how to declare any employment can be found in the Trust's Secondary Employment policy.

10. Awarding of contracts

- 10.1 Staff who are in contact with suppliers and contractors, particularly if they are authorised to sign purchase orders, specify, negotiate or place contracts for goods, services or materials, must adhere to the professional standards laid down in the ethical code of the Chartered Institute of Purchasing and Supply (CIPS) – See Appendix 1.
- 10.2 Competition between prospective contractors or suppliers must be fair and open. No organisation may be given an advantage over its competitors with each new contract being awarded solely on merit.
- 10.3 Care must be taken to ensure that any information which could be deemed 'commercial in confidence' and which might prejudice the principle of a purchasing system based on fair competition is not disclosed. This applies to where private competitors or other NHS providers are concerned. This practice should not, however, be too restrictive. The term does not apply to things such as service delivery and activity levels, which should be publically available. This should also not affect the free exchange of data for medical audit purposes.
- 10.4 Invitations to tender will include advice to tenderers of the potential consequences of offering inducements to Trust employees.
- 10.5 The European Union (EU) Procurement Directives and the Regulations that implement them in the UK set out the law on public procurement. Their purpose is to open up the public procurement market and to ensure the free movement of goods and services

within the EU. Furthermore, Government has set out the need for greater transparency across its operations to enable the public to hold public bodies and politicians to account. This Transparency agenda has implications for the publication of public sector contract and spend information. To ensure compliance with these laws and policies the Trust expects all Procurement activity relating to the purchase of goods and services to be directed through the Head of Procurement and Logistics.

11. Private practice

- 11.1 Consultants are permitted to engage in private practice subject to the conditions outlined in A Code of Conduct for Private Practice - Recommended Standards of Practice for NHS Consultants – January 2004.
- 11.2 The Consultant is responsible for ensuring that the provision of Private Professional Services or Fee Paying Services for other organisations does not:
- Result in detriment of NHS patients and services
 - Diminish the public resources that are available for the NHS
- 11.3 The consultant will inform his or her clinical manager of any regular commitments in respect of Private Professional Services or Fee Paying Services. This information will include the planned locations, timing and broad type of work involved. The Consultant will disclose this information at least annually as part of the Job Plan Review. The Consultant will provide information in advance about any significant changes to this information.
- 11.4 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 outlined in section 9 above.

12. Conduct in the work environment

Each employee must comply with the Trust's policies ensuring that there is an environment free of discrimination and harassment based on race, sexual orientation, colour, national or ethnic origin, religion, marital status, family status, age or disability. Harassment may occur in a variety of ways and may, in some circumstances, be unintentional. Regardless of intent, such conduct is not acceptable.

13. References

- The Bribery Act 2010;
- Standards of Business Conduct for NHS Staff HSG(93)5;
- Ethical Code of the Chartered Institute of Purchasing and Supply (CIPS);
- A Guide to the Management of Private Practice in the NHS PM(79) 11;
- Trust Disciplinary Procedure;

- Charitable Funds Procedures;
- Secondary Employment Policy;
- Managing Close Personal Relationships at Work policy and
- Counter Fraud Policy
- Standard of Business Conduct Guidance
- Whistleblowing policy

**INSTITUTE OF PURCHASING AND SUPPLY – ETHICAL CODE
(Reproduced by kind permission of CIPS)**

Introduction

1. The code set out below was approved by the institute's Council on 26th February 1977 and is binding on all CIPS members.

Precepts

2. Members shall never use their authority or office for personal gain and shall seek to uphold and enhance the standing of the Purchasing and Supply profession and the Institute by :-
 - 2.1 Maintaining an unimpeachable standard of integrity in all their business relationships both inside and outside the organisations in which they are employed;
 - 2.2 Fostering the highest possible standards of professional competence amongst those for whom are responsible;
 - 2.3 Optimising the use of resource for which they are responsible to provide the maximum benefit to their employing organisation;
 - 2.4 Complying with both the letter and the spirit of:-
 - i. The law of the country in which they practice;
 - ii. Such guidance on professional practice as may be issued by the institute from time to time;
 - iii. Contractual obligations; and
 - 2.5 Rejecting any business practice which might reasonably be deemed improper.

Guidance

3. In applying these precepts, members should follow the guidance set out below:
 - 3.1 Declaration of interest. Any personal interest which may impinge or might reasonably be deemed by others to impinge on a member's impartiality in any matter relevant to his or her duties should be declared;

- 3.2 Confidentiality and accuracy of information. The confidentiality of information received in the course of duty should be respected and should never be used for personal gain;
- 3.3 Competition. Whilst bearing in mind the advantages to a member's employing organisation of maintaining a continuing relationship with a supplier, any relationship which might, in the long term, prevent the effective operation of fair competition, should be avoided;
- 3.4 Business Gifts. Business gifts, other than items of very small intrinsic value such as business diaries or calendars, should not be accepted;
- 3.5 Hospitality. Modest hospitality is an accepted courtesy of a business relationship. However, the recipient should not allow him or herself to reach a position whereby he or she might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality; the frequency and scale hospitality accepted should not be significantly greater than the recipient's employer would be likely to provide in return; and
- 3.6 When it is not easy to decide between what is and is not acceptable in terms of gifts or hospitality, the offer should be declined or advice sought from the member's superior.

Appendix 2

STANDARDS OF BUSINESS CONDUCT – SHORT GUIDE FOR STAFF

Do

- ✓ Make sure you understand the guidelines on standards of business conduct, and consult your line manager if you are not sure;
- ✓ Make sure you are not in a position where your private interest and NHS duties may conflict;
- ✓ Declare to your employer any relevant interests. If in doubt ask yourself:
 - Am I, or might I be, in a position where I (or my family/friends) could gain from the connection between my private interests and my employment?
 - Do I have access to information which could influence purchasing decisions?
 - Could my outside interests be in any way detrimental to the NHS or to the patient's interests?
 - Do I have any other reason to think I may be risking a conflict of interest?

Examples of Non Declarable Items

Occasional box of chocolates
Calendar/diaries
Similar items of low intrinsic value

Examples of Declarable Items

Offers of cash (donations)
A partner / close relative who manages a nursing home
Shares in a company which supplies goods or services to the Trust

If still unsure – **Declare it!**

- ✓ Adhere to the ethical code of the Institute of Purchasing and Supply if you are involved in any way the acquisition of goods and services;
- ✓ Seek the Trust's permission before taking on outside work (special guidance applies to doctors);
- ✓ Obtain the Trust's permission before accepting any commercial sponsorship

Do not

- × Accept any gifts, inducements or inappropriate hospitality;
- × Abuse your past or present official position to obtain preferential rates for private deals;
- × Unfairly advantage one competitor over another or show favouritism in awarding contracts; and
- × Misuse, make available or benefit from official 'commercial in confidence' information.