

## Marketing Communications, Commercial Sponsorship and Advertising Policy

COR 1

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**Document Control Sheet**

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Document Statement	All marketing communications, advertising and sponsorship in the Trust must be compliant with relevant legislation, policy and guidance (e.g. the "Code of Practice for the promotion of NHS-funded services", the requirements of the Advertising Standards Authority). This policy sets out arrangements for complying with these requirements in the Trust, supporting and guiding all staff to ensure that marketing activities are legal, decent, honest and truthful.
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**Version history**

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1.1		Jan 09	Adrian Osborne	Final	Approved version for ratification by the Trust Board.
2.0		May 13	Adrian Osborne	Draft	Updated draft to reflect organisational structure changes, DH letter Gateway number 17352 and the requirements of the Bribery Act 2010.
2.1		Jul 13	Adrian Osborne	Approval Draft	Updated to reflect feedback from consultation with staff.

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## 1. Document Statement

All marketing communications, advertising and sponsorship in the Trust must be compliant with relevant legislation, policy and guidance (e.g. the “Code of Practice for the promotion of NHS-funded services”, the requirements of the Advertising Standards Authority). This policy sets out arrangements for complying with these requirements in the Trust, supporting and guiding all staff to ensure that marketing communications, advertising and sponsorship activities are legal, decent, honest and truthful.

## 2. Purpose

The aim of this policy is to ensure that clear standards are in place for all marketing communications, commercial sponsorship and advertising in the Trust. This will ensure that the Trust complies with the expectations of the *Code of Practice for the promotion of NHS-funded services* (Department of Health, 2008), the *Standards of Business Conduct for NHS Staff* (Department of Health, 1993), *NHS Communications Partnership Guidelines* (Department of Health, 2007), *Commercial Sponsorship: Ethical Standards for the NHS* (Department of Health, 2000) and relevant provisions of the Bribery Act 2010.

This will:

- reassure patients, potential patients and their carers and advocates
- protect and guide staff, and
- reduce corporate risk to the Trust resulting from non-compliance with relevant national policy and guidance (e.g. Department of Health, Advertising Standards Authority).

This policy focuses on the organisational aspects of marketing communications, commercial sponsorship and advertising. Individual responsibilities (e.g. declarations of gifts, interests and hospitality) are set out in *HR Policy 52 - Standards of Business Conduct*.

Section 4 of this policy focuses on the acceptance of commercial sponsorship and advertising from external organisations.

Section 5 of this policy focuses on the development and delivery of marketing communications by the Trust.

## 3. Definitions

The following definitions apply in this document.

Term	Definition
Marketing	For the purposes of this policy, marketing is defined as “the achievement of corporate goals through meeting and exceeding customer needs and expectations better than the competition” <sup>1</sup> through a range of activities focused on factors such as product improvement, price, people, promotion and place. Marketing is the responsibility of every care group, department and directorate in the Trust.

<sup>1</sup> Jobber D, (2007) *Principles and Practice of Marketing*, London: McGraw-Hill

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Marketing Communications	<p>For the purposes of this policy, marketing communications refers to:</p> <ul style="list-style-type: none"> <li>• Targeted interaction with patients and prospective patients (or their carers or advocates) using one or more media (such as meetings, direct mail, newspapers and magazines, television, radio, billboards, telemarketing, the Internet and viral techniques) for the purposes of demonstrating the benefits of Trust services in comparison with our potential competitors. [“static/formal marketing communications”]</li> <li>• Targeted interactions with other individuals and bodies that may have a direct or indirect role in influencing where patients are treated such as General Practitioners, practice based commissioners, Primary Care Trusts, Local Health Boards, insurance companies and agents etc. [“spoken/informal marketing communications”]</li> </ul> <p>Every division, department and directorate is responsible for ensuring that it has appropriate and effective marketing communications and that these comply with this Policy.</p>
Commercial Sponsorship	<p>For the purposes of this policy, commercial sponsorship is defined as “NHS funding from an external source, including funding of all or part of the costs of a member of staff, NHS research, staff, training and education, 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”<sup>2</sup> as well as funding for advertising (see below).</p>
Advertising	<p>For the purposes of this policy, advertising refers to any promotional materials displayed within the Trust or its publications for organisations other than the Trust itself where the Trust receives some financial or other benefit (e.g. payment in kind). This includes patient information, leaflets, plasma screens, display advertising, advertisements surrounding maps and notice boards, online advertising and display boards (e.g. billboards) located within the Trust estate.</p>
Patient Information Materials	<p>For the purposes of this policy, this refers to materials intended to provide factual and impartial information, advice and guidance about health conditions (e.g. factual information about the diagnosis and treatment of specific conditions) and the services of the Trust (e.g. factual information about directions and car parking arrangements).</p>

## 4. Duties

### 4.1 Duties within the Organisation: Trust Board and its Committees

#### 4.1.1 Trust Board

The Trust Board is ultimately responsible for the effective running of the organisation in accordance with relevant legislation and guidance. Monitoring of the implementation of this policy will provide assurance to the Trust Board that effective organisational controls are in place for marketing communications, commercial sponsorship and advertising. The Trust Board will require that marketing strategies approved by the Board are compliant with this policy.

#### 4.1.2 Hospital Executive Committee

The Hospital Executive Committee is responsible for oversight of this policy on behalf of the Board. This will include agreement of relevant marketing plans that are consistent with the overall strategy agreed by the Board and which set out planned expenditure on promotional activities for the forthcoming year (including planned expenditure on private practice).

The Hospital Executive Committee will also receive reports by exception on:

- Expenditure on promotional activity outside of plan.

<sup>2</sup> “Commercial Sponsorship: Ethical Standards for the NHS” (Department of Health, 2000) – paragraph 5

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- Any marketing communications, commercial sponsorship or advertising activities in the name of the Trust that do not comply with this policy.

### 4.1.3 Audit Committee

The Audit Committee reviews risk, control and assurance on behalf of the Board, and will seek such assurance as it requires on behalf of the Board in relation to the implementation of this policy.

## 4.2 Duties within the Organisation: Individuals and Teams

### 4.2.1 Chief Executive

As the Accountable Officer, the Chief Executive has accountability for this policy, including ensuring that organisational leadership is provided by the Directors including the Communications Director.

### 4.2.2 Directors and other Senior Managers

#### Lead Director: The Communications Director

The Lead Director for this policy is the Communications Director, who has responsibility for:

- Accounting to the Chief Executive, the Trust Board and relevant Committees on the effective development, implementation, monitoring and review of this policy.
- Ensuring that the policy is developed, maintained and reviewed.

#### Other Directors

All Directors are responsible for ensuring that this policy is implemented within their directorate, and specifically:

- The Director of Business and Enterprise has responsibility for:
  - Ensuring that marketing strategies are produced and agreed by the Board as required.
  - Ensuring that marketing plans set out planned promotional activities and comply with this policy, and that these are agreed by the Hospital Executive Committee or on its behalf
  - Reporting on an exceptional basis to the Hospital Executive Committee where additional expenditure on promotional activity takes place that is not set out in agreed marketing plans.
- The Finance Director must account for all marketing spend and ensure that this is reported to the Trust Board through the Annual Report.
- The Chief Operating Officer will ensure that this policy is implemented within Care Groups, Centres and clinical services.
- The Director of Corporate Governance will provide assurance to the Board that effective controls are in place, that individual probity is monitored through the Trust policy on Standards of Business Conduct, and that relevant commercial sponsorships are appropriately registered.
- The Medical Director will ensure that the requirement to comply with marketing communications elements of the relevant professional codes of conduct is reflected in performance and disciplinary processes for medical staff.
- The Chief Nurse will ensure that the requirement to comply with marketing communications elements of the relevant professional codes of conduct is reflected in performance and disciplinary processes for other clinical staff.

**Care Group Directors, Assistant Chief Operating Officers, Care Group Heads of Nursing**

Care Group Directors, Assistant Chief Operating Officers, Care Group Heads of Nursing are responsible for:

- Agreeing contracts and sponsorship as required by the limits of authority and approval
- Ensuring effective arrangements in their Care Groups for the implementation of this policy

**4.2.3 Document Lead: Communications Director**

The document lead for this policy is the Communications Director, who has responsibility for:

- Ensuring that the policy supports compliance with all current legislative requirements and is reviewed upon changes in appropriate legislation locally or nationally.
- Developing, maintaining, monitoring and reviewing this policy, including:
  - Ensuring that all appropriate consultation is undertaken in the development and review of the policy
  - Ensuring that the Equality Impact Assessment is undertaken and the EQIA document submitted
  - Completing the Consultation Checklist, the Checklist for the Review and Approval of Procedural Documents and the Plan for Dissemination, implementing the actions set out in the checklists and returning the completed checklists to the Head of Governance
  - Ensuring that resource implications arising from the policy are resolved within existing agreed resources before the policy is submitted for approval
  - Ensuring that the policy is ratified at the appropriate forum (the Hospital Executive Committee) and that this is minuted
  - Developing the action plan for implementing the policy and monitoring implementation, including ensuring that resource implications are identified and addressed. This includes establishing and maintaining the marketing section of the Trust intranet with relevant guidance, resources and template documents (e.g. checklists).

**4.2.4 All Operational and Service Managers**

All Operational and Service Managers will:

- Ensure that a system of approval for marketing communications is in place within their Care Group
- Ensure that such arrangements as they consider necessary are in place at Care Group Board level to support and monitor compliance with this policy.
- Support the Chief Operating Officer and the Communications Director to investigate and address non-compliance with this policy.
- Ensure that the policy is formally noted by their team or department, and that effective procedures are in place within their team or department to comply with the requirements of this policy.
- Ensure that members of staff are familiar with the policy and have access to it via the Trust Intranet.
- Ensure that a controlled documentation system is in place within the team or department if printed copies of this policy are issued, including ensuring that obsolete documents are removed and that staff are working to the most up to date and relevant documents.

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- Ensure that sponsored posts are recorded on the Trust's Register of Interests and Hospitality including renewal date.
- Ensure that staff receive training and support as required in line with this policy.

### 4.2.5 Communications Team

The Communications Team will:

- Provide advice and guidance to operational and service managers on the implementation and interpretation of this policy

### 4.2.6 Business and Enterprise Team

The Business and Enterprise Team will:

- Ensure that the Trust's Marketing Strategy is consistent with this policy
- Provide advice and guidance to operational and service managers on the implementation and interpretation of this policy in relation to marketing plans

### 4.2.7 All Staff

All members of staff will ensure that they are aware of the policy and act in accordance with it. This includes:

- Ensuring that all spoken, face-to-face and other individual marketing activities comply with this policy (e.g. direct contact with patients, GPs, clinical commissioners etc.).
- Ensuring that the relevant approvals have been sought before undertaking any marketing communications, commercial sponsorship or advertising activity within the scope of this policy, including the use of the appropriate checklists (see Appendices).
- Seeking approval from the Communications Team for any advertising materials, ensuring that advertising is not accepted from any advertisers in the "excluded" category, and seeking permission for the inclusion of advertisers that fall within the "discretionary" category. This requirement also applies to noticeboards in public areas of the Trust.
- Ensuring that these requirements are reflected in any existing contracts for advertising or commercial sponsorship, and are incorporated into the next available contract review.
- Satisfying themselves where they are appointed in a sponsored post that this post has been declared on the Trust's Register of Gifts and Hospitality.
- Seeking advice, from their line manager, from the Marketing section of the intranet or from the Communications Team before undertaking and marketing communications or seeking commercial sponsorship or advertising within the scope of this policy.
- Reporting any instances of non-compliance to the Communications Director.

### 4.2.8 Corporate Education Team

The Corporate Education Team will assist line managers and the Communications Team as appropriate to identify individual and team learning needs relating to this policy, publicise learning opportunities, provide advice on the Knowledge and Skills Framework and record agreed formal training course attendance on the Electronic Staff Record/Oracle Learning Management.



## 5. Policy Detail: Commercial Sponsorship and Advertising

### 5.1 Introduction

The Trust must ensure that it has effective processes in place to ensure that the acceptance of commercial sponsorship and advertising complies with relevant policy and guidance. This policy and guidance includes:

- The *Code of Practice for the promotion of NHS-funded services* (Department of Health, 2008), specifically paragraphs 42-45 (sponsorship)
- Commercial Sponsorship: Ethical Standards for the NHS (Department of Health, 2000)
- Standards of Business Conduct for NHS Staff (Department of Health, 1993)
- NHS Communications Partnership Guidelines (Department of Health, 2007)

### 5.2 Principles

The Trust recognises that income from commercial sponsorship for services, or paid advertisements within the hospital premises or Trust publications, can have a beneficial effect by providing additional resources to improve patient experience or working lives for staff.

The Trust therefore welcomes commercial sponsorship or advertising subject to the principles and safeguards set out below.

- Any relationship must put patients first.
- Clinical and professional decisions must always be made in the best interests of patients and the service. Involvement of a commercial sponsor should not compromise the Trust or any member of staff/officer in undertaking their duties within the NHS.
- Any relationship must respect and safeguard confidential patient information.
- No agreements are permissible which lead to higher costs or reduce the quality of service to patients in other parts of the NHS. Only projects which have a positive impact for patients and the service will be acceptable.
- All agreements with a commercial sponsor will be handled in an open and transparent manner as befits a publicly funded body and are open to scrutiny and be a matter of public record.
- No agreements will be entered into with sponsors whose products or services are prejudicial to health or conflict with the principles and objectives of the NHS and the Trust.
- No agreements will be entered into with organisations whose business or function is ethically unacceptable to the Trust, its staff or the public.

### 5.3 Safeguards

Advertising displayed anywhere in hospital premises and in any Trust publications will reflect our Framework of Values. It will also reflect the general principles in the *Code of Practice for the promotion of NHS-funded Services* (“the Code of Practice”, see Appendix 1).

#### Excluded Advertisers

No advertisements or sponsorship will be accepted from external organisations or bodies who have goals or values in conflict with those of the Trust and the NHS as a whole. This includes organisations

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“associated with matters that are damaging to health or associated with gambling, alcohol, tobacco, weight control<sup>3</sup> or politics”, which are specifically proscribed by the *Code of Practice*.<sup>4</sup>

Other sectors specifically excluded by the Trust include:

- The promotion of prescription-only drugs to the general public, or other promotion that contravenes that ABPI Code of Practice to the Pharmaceutical Industry.
- Pornography or other companies involved in sexual exploitation of adults or children
- Firearms and other weaponry that is restricted by law
- Legal services which overtly promote compensation and personal injury services, and claims management companies acting on their behalf
- Advertisements expressing a negative personal or partisan view of the NHS, or advertising that is contrary to the wider strategic intentions of public authorities across Shropshire and Telford & Wrekin.

All sponsorship and advertising from the above sectors is excluded in all circumstances.

### **Discretionary Advertisers**

Commercial sponsorship and advertising from the following sectors requires discretion. Express permission must be sought from the Communications Director for commercial sponsorship and advertising by:

- Companies potentially in competition with services that we currently provide, or that we may seek to provide in future.
- Personal financial services.
- Other legal services<sup>5</sup>.
- Independent sector care homes

A record will be kept of all requests for commercial sponsorship or advertising from discretionary advertisers, and the response given. This will be reported to the Communications Director at least annually.

### **Procedural issues for Commercial Sponsorship**

In addition to the safeguards above, the following guidance should be followed:

- NHS organisations and the individuals who work for them need to ensure they are not put under any undue obligation to a sponsor (or that they become open to accusation), that core business functions are not affected and that they remain impartial.
- There should be no overt commercial advantage to the sponsor in terms of the direct sale of products or brands or influence on purchasing decisions as a result of their association with the NHS and their involvement should be seen as secondary to the aims of the NHS.

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<sup>3</sup> With the exception of bona fide health promotion and public health interventions such as healthy walks and green gyms.

<sup>4</sup> Code of Practice for the Promotion of NHS-funded Services – paragraph 42

<sup>5</sup> Any advertising or sponsorship agreement which involves firms of solicitors either within the Trust or on literature associated with the Trust can only be entered into if there is a clause in the agreement which prohibits them from representing claimants in claims against the Trust (whether employer liability, public liability or clinical negligence) for the duration of the agreement. Firms must be made aware of this at the outset of any discussions. This also applies to an agreement with a 'reseller' of advertising if they are contracting with solicitors, the third party MUST include this clause in their agreement with any solicitors they recruit to advertise.

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- A record of all commercial partnerships should therefore be included in the formal Register of Gifts and Hospitality of the Trust, and available for inspection on request through the Trust's Freedom of Information Act Publication Scheme. This includes any sponsored posts in the Trust.
- A written contract should be put in place to underpin any significant commercial sponsorship over £500 in value. Before developing any contract, the Trust should undertake a formal assessment to ensure that the intended benefits outweigh the time and resources to manage the sponsorship, and that any risks have been identified (with a plan in place to mitigate principle risks). This should include the risk of being overly dependent on funding, including the possibility that the sponsor withdraws support.
- Clinical aspects of sponsored projects should always be under local control. Development of guidelines and advice will be by a local group, but not including a representative of the sponsors. The local group may decide that advice and guidelines developed by a sponsor are suitable for promotion locally. Projects which involve the use of clinical guidelines or protocols prepared by sponsors should only be agreed following advice from the Trust's clinical and professional leads.
- Training events which rely heavily on the use of sponsored materials should be discouraged, unless they promote good practice agreed to by the Trust or practice. Service Level Agreements with training agencies must include a clause which requires the approval of the Trust to the use of commercially sponsored materials.
- All members and officers of the Trust who are taking part in sponsored projects must comply with both the Trust and their own professional codes of conduct.
- All pharmaceutical companies entering into sponsorship agreements must comply with the ABPI code of practice. All sponsorship agreements with pharmaceutical companies valued in excess of £500 will require the advice of the Trust Chief Pharmacist.
- All sponsorship of posts in excess of £500 should be discussed with the relevant professional lead (e.g. Care Group Medical Director, Care Group Head of Nursing/Midwifery, Chief Pharmacist, Chief Therapist) or an individual authorised on their behalf, and any such posts require their approval.
- Formal meetings of the Trust should not be the subject of sponsorship agreements. Sponsorship for local training may be acceptable subject to the necessary authorisations.
- Projects which involve the exchange of patient information should only be undertaken in accordance with the Trust's Information Governance Strategy and Policy.
- All staff involved in the development of a sponsorship agreement must declare any prior interest in terms of previous sponsorship or relationship to any of the individual sponsors in question.
- Sponsors should not advertise the Trust's participation in their project as an endorsement to their product, packages or company without specific written permission of the Communications Director who should agree the nature of any endorsement or linked publication.
- All agreements must include a "break" clause enabling the termination of the agreement at short notice, or immediately if necessary.
- Sponsors should be informed that any sponsorship arrangement will have no effect on purchasing decisions with the Trust.
- Any proposed collaboration should be without prejudice to any of the Trust's Standing Orders, Reservation and Delegation of Powers and Standing Financial Instructions.

### **Procedural issues for Advertising**

In addition to the safeguards above, the following issues should be considered:

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- Who will see this advertising, and what message does it communicate about the relationship of the NHS to the advertiser?
- Have you compared the costs (time, resources etc) of selling advertising space to the benefits? Are the benefits sufficient to justify the risks?
- Do you risk losing control of the process by working with a third-party (e.g. an advertising re-seller who is producing a document on your behalf and securing the advertising revenue)?
- A written contract should be put in place for advertising contracts in excess of £500, which will include specifying the costs involved and the period for which the advertising will be in place.
- Where third parties are commissioned to procure advertising on behalf of the Trust then clear standards of customer service and avoiding misrepresentation need to be specified in the contract with these third party providers. You should also ensure “best value” in relation to the proportion of advertising revenue that will be retained by the Trust and be comfortable that the element to be retained by the third party will stand up to public scrutiny.

### Income Generation

For any agreement with a contract lifetime value greater than £500 the department or individual proposing the arrangement should be able to demonstrate that the proposal represents good value. Typically this would be achieved by approaching a range of potential advertisers/sponsors before entering into an agreement, in the same way that managers would typically request quotes from 3 suppliers before making purchasing decisions. However, in instances where the sponsoring organisation receives no credit for the sponsorship (e.g. no logos or acknowledgements in a publication), such sponsorships will be deemed a donation and would not come under the remit of this paragraph.

### Authority and Approvals

The approval and authorisation limits relating to revenue expenditure specified in the Standing Financial Instructions should also be applied to contracts and agreements for commercial sponsorship. All contracts and agreements with a value in excess of £20 should be recorded in the Register of Gifts and Hospitality.

## 5.4 Scope

This section of the policy applies to all commercial sponsorship and advertising in patient information, leaflets (including patient information leaflets produced by third party organisations), Trust publications, plasma screens, display advertising, noticeboards on Trust premises, web publication, motor vehicles, bounty packs (e.g. maternity department), radio broadcast etc.

It also applies to all sponsored posts within the Trust

It applies to all public areas of the Trust, including materials that are intended for staff but are routinely accessible to members of the public who may judge the reputation and values of the Trust on the basis of the sponsorship and advertising content.

As a result of this policy all Trust notice boards in public areas of the Trust (outside individual wards and departments) come under the authority of the Communications Team, which reserves the right to remove any materials that do not conform to this policy. Notice boards in individual wards and departments remain under local responsibility, but are subject to the requirements of this and related policies. There will be a charge for advertising by outside commercial companies or private individuals who are not members of staff at the Trust – either as income to the Trust or through a donation to Charitable Funds.

### Patient Information Materials

This section of the policy only covers the commercial sponsorship and advertising aspects of patient information materials (including the use within the Trust of materials produced by third party organisations). All other aspects of the development or approval of patient information materials should be undertaken in accordance with relevant Trust policies for the approval of patient information.

## Research and Development Projects

This section of the policy does not cover commercial sponsorship associated with research trials as these are subject to the stringent requirements of research governance and the ethics approval process. For example, specific arrangements for good governance of commercial sponsorship of NHS research and development are set out in the model Clinical Trials Agreement and related guidance. However, it is the responsibility of all individuals involved in approving and delivering research projects to ensure that best practice is followed and the principles set out in this policy are followed.

## Individual Activities

Please refer to the Standards of Business Conduct Policy (HR52) for specific guidance on the standards and behaviours expected of individual members off staff, including “commercial sponsorship for attendance at courses and conferences” and “commercial sponsorship when advising on purchases/services”.

## Advertising by the Trust

This section of the policy does not cover advertising by the Trust (e.g. recruitment advertising) except where such advertising may be considered as “marketing communications” and thereby subject to Section 6 of this policy.

### 5.5 NHS Identity and Commercial Sponsorship

Acceptance of advertising or commercial sponsorship does not imply endorsement of products and service by the Trust. In order to make this clear all publications with advertising should carry the following disclaimer:

*‘Whilst every effort has been made to ensure the accuracy of advertisements contained in this publication, The Shrewsbury and Telford Hospital NHS Trust (‘the Trust’) cannot accept liability for errors and omissions. The Trust cannot accept responsibility for claims made by advertisers and their inclusion in (name of publication) should not be taken as an endorsement by the Trust.’*

In addition to this, the *NHS Communications Partnership Guidelines* should be followed in order to ensure that the integrity of the NHS brand is maintained in any partnership. Specifically:

- it will not normally be appropriate to brand publications between the Trust and commercial organisations as “a partnership between The Shrewsbury and Telford Hospital NHS Trust and [commercial partner]”
- the look and feel of advertising from any source – be that a public sector or voluntary organisation, a private individual or a corporate company – will be professional and sympathetic to the caring environment.
- permission to use the NHS lozenge and the logotype of The Shrewsbury and Telford Hospital NHS Trust should only be given in accordance with NHS Identity Guidelines and following advice from the Communications Team

Advice on using NHS Identity in the context of Commercial Sponsorship is available from the Communications Team.

### 5.6 Authority

The final decision regarding the agreement of commercial sponsorship or the advertisements within the scope of this policy rests with the Communications Director who must approve (either directly or as delegated) all advertising copy before any Trust publication goes to press or any advertisement is displayed in any public part of the hospital.

In all circumstances the Communications Director retains the right to reject any advertisement or editorial related to advertisements.

All existing advertising must be reviewed in the light of this policy.

All contracts for corporate advertising/sponsorship must be approved by the Communications Director to ensure that the best terms are negotiated, that standing orders/financial instruments are not breached and to ensure continuity for all contracts.

### **5.7 Exceptions**

Any exceptions to the above conditions will be at the discretion of the Communications Director

This guidance does not apply to individual gifts, hospitality and sponsorship which are covered by the *Standards of Business Conduct* policy.

### **5.8 Non-compliant advertising**

Where contracts are in place or developed for advertising or display materials on Trust premises (e.g. site maps) then these standards will also apply to these display materials. They should be applied as part of the next available contract review.

All such advertising and display materials should be compliant with this policy within two years of ratification of this policy, except with the explicit agreement of the Communications Director (for example, where there is significant clinical, financial, corporate or other risk in relation to an existing contract that extends beyond this date). There may be legitimate circumstances where advertising is in place that does not meet the standards set out in this policy. This includes advertising that has been agreed prior to the introduction of this policy where it is not in the best interests of the Trust to withdraw from the advertising ahead of an appropriate contract review.

Where a member of staff identifies any advertising that is not compliant with this policy then this should be reported to the Communications Director at [communications@sath.nhs.uk](mailto:communications@sath.nhs.uk).

Where non-compliant advertising has been approved by a department or directorate without reference to this policy then the relevant senior manager (Executive Director, Assistant Chief Operating Officer, Care Group Director/Manager) will agree an appropriate course of action with the Head of Department. All such contraventions must be reported to the Communications Director at least annually as part of monitoring compliance with this policy.

### **5.9 Unsolicited Advertising**

If a member of staff identifies unsolicited advertising (e.g. personal injury claims firms dropping off leaflets in reception areas) they should remove and destroy these materials. If they are unsure whether advertising materials have been approved, they should check with their department manager or the Communications Team before removing.

### **5.10 Approaches from Companies Offering Commercial Sponsorship or Advertising**

The Trust occasionally receives approaches offering advertising. These should be directed to the Communications Team who will maintain a register in the marketing section of the intranet. This will provide a database to members of staff of those companies that may be willing to offer approved commercial sponsorship or advertising to the Trust.

Companies who wish to advertise should submit their request in writing to the Communications Team, The Shrewsbury and Telford Hospital NHS Trust, Royal Shrewsbury Hospital, Mytton Oak Road, Shrewsbury, SY3 8XQ. They should provide the contact details of a named individual who may be approached if advertising opportunities arise, and indicate the scope of their interests.

Companies will not be included in the register if they are in the “excluded” or “discretionary” categories.

### **5.11 Third Party Organisations on Trust Premises**

Several third-party organisations have space on Trust premises. This includes Leagues of Friends and Patientline. Such organisations will be asked to support the advertising and sponsorship principles set out

in this document, as this will reduce the risk that visitors to our hospitals are exposed to advertising and sponsorship that are inconsistent with the values of the Trust and the NHS as a whole. Specifically, they will be asked to comply with the “excluded” and “discretionary” categories set out in this policy. Where possible, compliance with this policy will be incorporated as standard within the next available contract review with third party organisations on Trust premises.

## 6. Policy Detail: Trust Marketing Communications

### 6.1 Introduction

The Trust must ensure that it has effective processes in place to ensure that the development of Trust Marketing Communications complies with relevant policy and guidance. This includes:

- The *Code of Practice for the promotion of NHS-funded services* (Department of Health, 2008), specifically paragraphs 42-45 (sponsorship)
- *NHS Identity Guidelines* (Department of Health, 2004)

### 6.2 Principles

The Trust recognises that appropriate marketing communications will help to differentiate our service offering from those of our competitors in an environment of patient choice.

The Trust therefore welcomes the development of marketing communications by different services and departments subject to the safeguards set out below.

### 6.3 Safeguards

Any marketing communications must take place in accordance with the Code of Practice for the promotion of NHS-funded services:

- Static/formal marketing communications (e.g. printed material, web content) must have documented approval from the Communications Team.
- Spoken/informal marketing communications (e.g. meetings and emails between consultants & other Trust representatives and GPs) must comply with the Code of Practice.

### 6.4 Scope

This section of the policy refers to any marketing communications that are applied in the marketing of the Trust and its services. This includes materials that are published for the express purposes of marketing our services, and also the less formal, or spoken, marketing between networks of clinicians and managers to demonstrate the benefits of Trust services in comparison with our potential competitors.

This section of the policy does not refer to the development of patient information materials. However, the development of patient information materials should have due regard to this policy, to ensure that the materials could not be construed as marketing communications and thereby subject to the requirement of the *Code of Practice*.

### 6.5 NHS Identity and Marketing Communications

All marketing communications should be developed in accordance with NHS Identity guidelines.

## 6.6 Authority for Marketing Communications

### Static/Formal Marketing Communications

The final decision on the approval of any static/formal marketing communications rests with the Communications Team who must approve all static/formal marketing communications materials before they go to press.

All marketing communications for private practice undertaken by the Trust should additionally be approved by the responsible Assistant Chief Operating Officer. All such materials should be funded directly from private practice income and not from NHS budgets.

In all circumstances the Communications Director retains the right to reject any static/formal marketing communications.

All static/formal marketing communications for individual clinical departments should additionally be approved by the Assistant Chief Operating Officer / Care Group Director with responsibility for that department (or persons nominated on their behalf). All such materials will be funded directly from the local departmental budget.

### Spoken/Informal Marketing Communications

It is not possible to put in place an authority and approval process for all spoken and informal marketing communications, as often these activities are not planned. However:

- All members of staff are required to operate in accordance for this policy, and thereby take responsibility for acting in accordance with the Code of Practice.
- Where such activities are planned in advance then these should be discussed with the relevant Service/Clinical Manager (or their representative).
- Advice and support for liaison between Trust staff and GPs and Clinical Commissioners is available from the GP Liaison Manager.
- Where any concerns are identified about non-compliance with this policy and with the Code of Practice during spoken/informal marketing communications then these should be reported in line with this policy.

## 6.7 Exceptions

Any exceptions to the above conditions will be at the discretion of the Communications Director.

This guidance does not apply to individual gifts, hospitality and commercial sponsorship, which are covered by the *Standards of Business Conduct* policy.

## 6.8 Non-compliant marketing communications materials

Where marketing communications materials are already in place, further copies should not be printed until the content has been reviewed in accordance with this policy

All marketing communications materials should be compliant with this policy within one year of ratification, without exception.

Where a member of staff identifies any marketing communications that are not compliant with this policy then this should be reported to the Communications Director at [communications@sath.nhs.uk](mailto:communications@sath.nhs.uk).

Where non-compliant marketing communications have been approved by a department or directorate without reference to this policy then the relevant Director or Senior Manager (Executive Director, Assistant Chief Operating Officer, Care Group Director etc.) will agree an appropriate course of action with the Head



of Department. All such contraventions must be reported to the Hospital Executive Committee at least annually as part monitoring of compliance with this policy.

### **6.9 Third-party materials that include marketing communications about the Trust**

Some third-party organisations produce marketing communications that feature information about the Trust.

Where a member of staff identifies any third-party marketing communications that feature the Trust then this should be reported to the Communications Team at [communications@sath.nhs.uk](mailto:communications@sath.nhs.uk).

The Communications Team will take such action as is required to ensure that these materials comply with this policy.

### **6.10 Commercial sponsorship and advertising**

Where marketing communications contain commercial sponsorship or advertising then this will be subject to the requirements of Section 5 of this policy.

## **7. Training and Development**

Members of staff with responsibility for providing advice and guidance on the implementation of this policy will receive a one hour information and awareness session at least every four years (or more frequently if required where significant changes are made to the policy. This includes the Communications Team and Business and Enterprise Team.

There is no mandatory training associated with this guidance. If members of staff have queries about its operation, they should contact their line manager in the first instance.

## **8. Equality Impact Assessment**

An equality impact assessment has been undertaken and no adverse impact on any protected groups has been identified.

## **9. Monitoring, Compliance and Review**

### **9.1 Monitoring**

The Communications Director is responsible for ensuring that effective arrangements are in place for monitoring implementation of this document.

Key features include:

- Marketing strategies and plans are consistent with this policy: Director of Business and Enterprise
- Annual reporting of spend on marketing communications to the Trust Board, as part of the Annual Report – Responsibility: Finance Director
- All marketing communications activities to include completion of the relevant checklist and return this to the Communications Team to support monitoring and implementation of this policy – Responsibility: All Staff
- Review of a sample of completed checklists on an annual basis to review compliance – Responsibility: Communications Director

## Marketing Communications, Commercial Sponsorship and Advertising Policy

- Exception reports where marketing communications do not comply with this policy – Responsibility: Communications Director
- Action plans to be in place where marketing communications do not comply with this policy – Responsibility: Relevant Senior manager
- Annual audit of a sample of marketing communications materials to ensure compliance. – Responsibility: Communications Director
- Register of requests to consider advertisers on the “discretionary” list – Responsibility: Communications Director

### 9.1.1 Standards and Key Performance Indicators:

Key performance indicators for this policy include:

- Incidents of non-compliance highlighted through exception reports and/or annual audit

### 9.2 Compliance

Through this policy, adherence with the code of practice becomes part of the contract of every employee of the Trust. Non-compliance with this policy may therefore result in disciplinary action.

The Code of Practice for the Promotion of NHS-funded services forms part of the contract between the Trust and its commissioners. Non-compliance with this code will normally be subject to local resolution, but where significant concerns or disputes arise then these should be referred to the relevant disputes resolution procedures.

Other bodies, such as the Advertising Standard Authority, will also have a role in compliance and enforcement where the relevant national legislation or codes are breached.

### 9.3 Review

This policy will be reviewed not less than every four years, or more frequently where required to take account of changes in national policy or local guidance and practice.

## 10. Associated Documentation

### 10.1 Related Policies

This policy should be read in conjunction with the following Trust policies:

Policy	Comment
Whistleblowing Policy (HR05)	Staff may have legitimate concerns about marketing communications, commercial sponsorship or advertising undertaken by the Trust. This policy sets out the arrangements in place for staff to report concerns about compliance with legal obligations, suspected fraud and other related issues.
Maintaining High Standards of Performance (HR06) / Maintaining High Professional Standards for Doctors and Dentists (HR07)	Professional codes of conduct set out expectations for the conduct of professionally-registered staff, which may include conduct relating to marketing communications, commercial sponsorship or advertising. These policies set out arrangements in the Trust for dealing with concerns about professional conduct.
Disciplinary Policy (HR36)	Staff may be subject to disciplinary proceedings if they do not operate in accordance with the Marketing Communications, Commercial Sponsorship and Advertising Policy. This policy sets out the disciplinary process in the Trust.
Standards of Business	Guidance to the NHS requires that staff demonstrate the highest standards of

## Marketing Communications, Commercial Sponsorship and Advertising Policy

Conduct (HR52)	<p>business conduct, including in relation to marketing communications, commercial sponsorship and advertising.</p> <p>This policy sets out the requirement for individual members of staff to refuse gifts, benefits, hospitality or sponsorship of any kind which might reasonably be seen to compromise their personal judgement or integrity, and to avoid seeking exert influence to obtain preferential consideration. It also sets out the requirement to declare and register gifts, benefits, or sponsorship of any kind within two weeks of receipt limits agreed locally, (where they exceed a threshold of £20).</p> <p>Additionally, it outlines individual responsibilities in relation to:</p> <ul style="list-style-type: none"> <li>• Preferential treatment in private transactions</li> <li>• Contracts for Services</li> <li>• Favouritism in Awarding Contracts</li> <li>• Secondary employment</li> <li>• Private Practice</li> <li>• Commercial sponsorship for attendance at courses and conferences</li> <li>• Commercial sponsorship when advising on purchases/services</li> <li>• Commercial sponsorship of posts – “Linked Deals”</li> <li>• “Commercial In-Confidence”</li> </ul>
Fraud and Corruption (HR56)	<p>The production of misleading marketing communications may be a fraudulent act, as may the acceptance of inducements for commercial sponsorship or advertising. This policy sets out arrangements in the Trust for dealing with fraud.</p>
Development and Training Support (HR59)	<p>Care must be exercised where sponsorship for development and training is offered from a commercial enterprise. Any such support must be agreed in writing by relevant service manager. The list of excluded and discretionary advertisers set out in this Marketing Communications, Commercial Sponsorship and Advertising policy (Section 5.3) provides a useful framework for service managers when considering such requests.</p>

### 10.2 References

This section sets out useful references to support effective marketing communications. These references are available from the marketing section of the intranet.

#### Department of Health Policy and Guidance

Relevant policy and guidance from the Department of Health includes:

- NHS Constitution for England  
[www.gov.uk/government/publications/the-nhs-constitution-for-england](http://www.gov.uk/government/publications/the-nhs-constitution-for-england)
- Code of Practice for the promotion of NHS-funded services  
See Appendix 1 and [www.gov.uk/dh](http://www.gov.uk/dh)
- Code of Conduct for NHS Managers  
[www.nhsemployers.org/SiteCollectionDocuments/Code\\_of\\_conduct\\_for\\_NHS\\_managers\\_2002.pdf](http://www.nhsemployers.org/SiteCollectionDocuments/Code_of_conduct_for_NHS_managers_2002.pdf)
- Guidance on NHS Identity  
[www.nhsidentity.nhs.uk](http://www.nhsidentity.nhs.uk)
- Commercial Sponsorship: Ethical Standards for the NHS  
[www.gov.uk/dh](http://www.gov.uk/dh)
- NHS Communications Partnership Guidelines  
[www.nhsidentity.nhs.uk](http://www.nhsidentity.nhs.uk)

#### Legislation

Relevant legislation includes:

## Marketing Communications, Commercial Sponsorship and Advertising Policy

- The Control of Misleading Advertisements Regulations 1988
- The Trade Descriptions Act 1968
- The Consumer Protection Act 1987
- The Data Protection Act 1998
- The Privacy and Electronic Communications (EC Directive) Regulations 2003
- The Race Relations Act 1976 and the Race Relations (Amendment) Act 2000
- The Disability Discrimination Act 1995
- The Equality Act 2006 and the Equality Act (Sexual Orientation) Regulations 2007
- The Sex Discrimination Act 1975
- The Bribery Act 2010

### **Industry Codes of Practice**

Other Codes of Practice relevant to the marketing of NHS services include:

- Committee of Advertising Practice codes, administered by the Advertising Standards Authority, The British Code of Advertising, Sales Promotion and Direct Marketing  
[www.asa.org.uk/asa/codes](http://www.asa.org.uk/asa/codes)
- The Association of the British Pharmaceutical Industry, Code of Practice for the Pharmaceutical Industry  
[www.pmcpa.org.uk](http://www.pmcpa.org.uk)
- Medicines and Healthcare products Regulatory Agency, The Blue Guide: Advertising and Promotion of Medicines in the UK  
[www.mhra.gov.uk](http://www.mhra.gov.uk)
- The Chartered Institute of Marketing, Code of Professional Standards, Ethics and Disciplinary Procedures  
[www.cim.co.uk](http://www.cim.co.uk)
- The Direct Marketing Association, Code of Practice  
[www.dma.org.uk](http://www.dma.org.uk)
- The Email Market Council, Best Practice Guidelines  
[www.dma.org.uk](http://www.dma.org.uk)
- The Marketing Research Society, Code of Conduct  
[www.mrs.org.uk](http://www.mrs.org.uk)
- The Chartered Institute of Public Relations, Code of Conduct  
[www.ipr.org.uk](http://www.ipr.org.uk)

### **Ethical guidance and professional codes of conduct for clinicians and other health professionals**

Some of the key codes of conduct to consider are:

- General Medical Council, Good Medical Practice  
[www.gmc-uk.org/guidance/good\\_medical\\_practice/index.asp](http://www.gmc-uk.org/guidance/good_medical_practice/index.asp)

## Marketing Communications, Commercial Sponsorship and Advertising Policy

- The Royal College of Surgeons of England, Good Surgical Practice  
[www.rcseng.ac.uk/publications/docs/good\\_surgical\\_practice.html](http://www.rcseng.ac.uk/publications/docs/good_surgical_practice.html)
- The Royal College of Physicians, Good Medical Practice for Physicians  
[www.rcplondon.ac.uk/college/pa/prof\\_gmpfp.htm](http://www.rcplondon.ac.uk/college/pa/prof_gmpfp.htm)
- The Nursing and Midwifery Council, The NMC Code of Professional Conduct: Standards for Conduct, Performance and Ethics  
[www.nmc-uk.org/aDisplayDocument.aspx?documentID=201](http://www.nmc-uk.org/aDisplayDocument.aspx?documentID=201)
- The Health Professions Council, Standards of Conduct, Performance and Ethics  
[www.hpc-uk.org/publications/standards/index.asp?id=38](http://www.hpc-uk.org/publications/standards/index.asp?id=38)
- General Dental Council, Standards for Dental Professionals  
[www.gdc-uk.org/News+publications+and+events/Publications/Guidance+documents/Standards+for+dental+professionals.htm](http://www.gdc-uk.org/News+publications+and+events/Publications/Guidance+documents/Standards+for+dental+professionals.htm)

## Appendix 1: Code of Practice for the promotion of NHS-funded services

*This document is the national Code of Practice for the promotion of NHS-funded services published by the Department of Health in 2008. It therefore does not reflect subsequent changes to NHS policy and structure. Please refer to the notes following the code for comments and clarifications relating to the policy and structure of the NHS in 2013.*

All marketing communications must comply with all of the Advertising Codes administered by the ASA. (See [www.cap.org.uk](http://www.cap.org.uk) for the CAP and BCAP Codes.). The following rules apply to all promotional activity undertaken by providers of NHS-funded services. Where a complaint falls within the scope of the CAP and BCAP Codes, the ASA will adjudicate on the complaint. Where a complaint is outside the ASA's remit, PCTs and SHAs will adjudicate on the NHS Code with advice from the Cooperation and Competition Panel, where needed, and will enforce the NHS Code. [See Note 1]

### General principles

1. Promotional activity must follow applicable laws and industry codes of practice.
2. Promotional activity must respect the ethical guidance and professional codes of conduct of clinicians and other health professionals.
3. Marketing communications should contain nothing that is likely to cause serious or widespread offence.
4. No marketing communication should cause fear or distress without good reason.
5. Particular care should be taken to avoid causing offence on the grounds of race, religion, sex, sexual orientation or disability.
6. Providers should consider accessibility by different sectors of the population.
7. Marketing communications addressed to, targeted at or featuring children should not exploit their credulity, loyalty, vulnerability or lack of experience.
8. Marketers, publishers and owners of other media should ensure that marketing communications are designed and presented in such a way that it is clear that they are marketing communications.
9. Promotional activity should be appropriate for the intended audience, for example communications aimed at patients should avoid medical jargon.
10. No advertisement may encourage indiscriminate, unnecessary or excessive use of products.
11. Promotional material should not create confusion between marketers and competitors or between marketers' products, trade marks, trade names or other distinguishing marks and those of competitors or official documents.

### Protecting the reputation and brand policy of the NHS

12. Promotional activity must not contravene the values and brand policy of the NHS, including the use of the NHS logo (please see [www.nhsidentity.nhs.uk](http://www.nhsidentity.nhs.uk)).
13. No promotional activity should be undertaken that undermines the reputation of the NHS, NHS logos or trade marks (or services supplied under those logos or trade marks) or otherwise brings the same into disrepute. Promotional activity should not undermine public confidence in the NHS. The logo is trademarked and may not be used by providers to promote non-NHS services or products.
14. No promotional activity should be undertaken that undermines the reputation of any individual providers, clinicians or other health professionals or otherwise brings the same into disrepute.

## **Direct marketing to the public and referring clinicians**

15. Direct marketing to the public, their carers or advocates or to referring clinicians is only permissible where marketers comply with all relevant data protection legislation, the NHS Confidentiality Code of Practice and Mailing Preference Service requirements.

16. Mailing lists must be kept up to date. Requests to be removed from promotional mailing lists must be complied with promptly and no name may be restored except at the addressee's request or with their permission<sup>6</sup>.

## **Information, claims and comparisons**

17. No marketing communication should mislead, or be likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise.

18. Comparative claims are permitted in the interests of vigorous competition and public information. They should neither mislead nor be likely to mislead<sup>7</sup>.

19. Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove all claims, whether direct or implied, that are capable of objective substantiation.

20. Claims in promotional material must be capable of standing alone as regards accuracy, and, in general, claims should not be qualified by the use of footnotes and the like.

21. Providers must be open about the source and date of the data used in any promotional activity.

22. Providers should use only the most recently available data if they wish to use statistical information or claims based on statistical information in their promotions.

## **Provider representatives**

23. Representatives of providers must act in accordance with high ethical standards, must not receive benefits based on referrals, and must make it clear that they are representatives of the provider. Their statements are promotional activity.

24. All provisions in this Code relating to the need for accuracy, balance and fairness apply to oral representations as well as to printed material.

## **Expenditure**

25. Providers will be expected to recognise the potential effect on the reputation of the NHS of disproportionate expenditure on promotional activity. The cost of TV or cinema promotion is very unlikely to be justifiable.

26. Responsibility for appropriate promotional expenditure lies with provider organisations' boards.

27. The expenditure figure should be published in the annual report, or other appropriate format when an annual report is not produced.

## **Gifts, inducements and promotional aids to referring clinicians and commissioners**

28. No gift, benefit in kind or pecuniary advantage should be offered or given to clinicians, other health professionals, administrative staff or commissioners as an inducement to refer or commission services.

29. Promotional aids, whether related to a particular service or of general utility, may be distributed to members of the health professions, appropriate administrative staff and commissioners, provided that the promotional aids are inexpensive and relevant to the practice of their profession or employment<sup>8</sup>.

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<sup>6</sup> This paragraph covers all mailing lists and customer contact lists, including but not limited to telephone and email marketing lists.

<sup>7</sup> An example of a misleading comparison would be for a provider to state that patients being treated by them could expect to be home in half the time than if they were treated by a particular competitor, where the provider making that statement was treating a significantly less complicated case mix than their competitor.

30. Items provided on long-term or permanent loan are regarded as gifts and subject to the requirements of this Code.

31. Items for the personal benefit of health professionals, commissioners or administrative staff must not be offered or provided.

32. The offering of reasonable hospitality is permitted where this is offered at purely professional or scientific events where it is subordinate to the main scientific objective of the event and is offered only to clinicians, health professionals, commissioners or relevant administrative staff.

33. These events must be held in appropriate venues conducive to the main purpose of the event. The level of subsistence offered must be appropriate and not out of proportion to the occasion. The costs involved must not exceed the level that the recipients would normally choose when paying for themselves.

### **Inducements to the public**

34. No financial inducements or benefits for treatment (including by way of sales promotions) shall be offered to the public, their carers or advocates, nor any inducements or benefits that could be perceived as damaging to their health.

### **Testimonials and endorsements**

35. Testimonials and endorsements must be based on genuine experience, given freely without either financial payment or other inducement, and must not be used to denigrate another provider.

36. Marketers should hold signed and dated proof, including a contact address, for any testimonial they use. Unless they are genuine opinions taken from a published source, testimonials should be used only with the written permission of those giving them.

37. Testimonials and endorsements must be representative of patients' views generally as substantiated by patient surveys. They must also comply with the general principles set out in this Code.

38. The above shall not prevent providers from paying individuals to be involved in general promotional campaigns.

39. Testimonials from children may be used if they are given with the consent of a parent or guardian.

40. Quotations must be faithfully reproduced (except where adaptation or modification is required in order to comply with the Code) and must accurately reflect the meaning of the author. The precise source of the quotation must be identified.

41. The utmost care must be taken to avoid ascribing claims or views to authors when these no longer represent the current views of the authors concerned.

### **Sponsorship**

42. Providers of NHS-funded services are permitted to undertake sponsorship where it is not associated with matters, and co-sponsors are not associated with matters, that are damaging to health or associated with gambling, alcohol, tobacco, weight control or politics.

43. All sponsorship should comply with relevant NHS guidance on the subject, NHS brand policy and guidelines, and any local NHS guidance.

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<sup>8</sup> Promotional aids must be inexpensive and relevant to the recipients' work and are more likely to be acceptable if they benefit patient care. An inexpensive promotional aid means one that has cost the donor no more than £6, excluding VAT. The perceived value to the recipient must be similar. Items of general utility that are acceptable promotional aids for health professionals, administrative staff and commissioners include stationery items, such as computer accessories for business use, pens, pads, diaries and calendars, and clinical items such as nail brushes, surgical gloves, tongue depressors, tissues and peak flow meters.



44. Providers may sponsor materials relating to health or healthcare but must ensure that it is clear from the outset that those materials are so sponsored. Sponsored materials may be treated as promotional activity for the purposes of this Code.

45. Providers must not engage in 'product placement' activity, i.e. inclusion of, or reference to, them, their products or services within a film or programme in return for payment or other valuable consideration (whether the recipient of that payment or other valuable consideration is the programme- or film-maker or any other third party).

### Compliance with undertakings

46. When an undertaking has been given in relation to a ruling under this Code, the provider concerned must ensure that it complies with that undertaking.

### Complaints and enforcement

If an individual or organisation feels that a provider has breached part of the Promotion Code that is enforced by the ASA, then complaints should be directed to the ASA. This can be done via the ASA's website: [www.asa.org.uk/asa/how\\_to\\_complain/](http://www.asa.org.uk/asa/how_to_complain/)

If an individual or organisation feels that a provider has breached the NHS-specific parts of the Promotion Code, then a complaint should be made to the PCT that commissioned the services from the provider. In many cases, a number of different PCTs may have commissioned a service provider; if this is the case, a complaint should be made to the PCT that covers the region in which the complainant lives. [see Note 3]

If there is a more appropriate body to deal with the complaint, for example another PCT or the ASA, then the PCT that receives the complaint will pass it on. If the ASA receives a complaint that is outside its remit, it will forward this to the relevant SHA, which will work with the local PCT to investigate the complaint and resolve the issue. [see Note 3]

PCTs may be able to resolve complaints locally, through discussion with the providers, and with the support of their SHA. In some cases, the PCT or SHA may feel that it needs to seek expert advice from the Cooperation and Competition Panel. In cases where resolution cannot be found, the PCT or SHA may refer the issue to the Panel. [see Note 3]

The Panel is expected to be operational from October 2008. This means that there will be a short interim period after the Promotion Code comes into force and before the appointment of the Panel. During this interim period, SHAs and PCTs will deal with issues and can seek advice from the Department of Health and key stakeholders, including the NHS Confederation, NHS Partners, the Foundation Trust Network, the Mental Health Network and the PCT Network. [see Note 4]

### Local comments and amendments:

<b>Note 1 Introduction</b>	Changes to the NHS in April 2013 saw the abolition of PCTs and SHAs with their commissioning responsibilities transferred to local Clinical Commissioning Groups and Area Teams of NHS England, and responsibility for the development and oversight of NHS Trusts transferring to the NHS Trust Development Authority. The roles and functions of the Cooperation and Competition Panel have transferred to Monitor.
<b>Note 2 Paragraph 5</b>	The interpretation of this paragraph should encompass all protected characteristics specified in the Equality Act 2010 and therefore "Particular care should be taken to avoid causing offence on the grounds of age, disability, gender reassignment, marriage & civil partnership, pregnancy & maternity, race, religion or belief, sex, or sexual orientation"
<b>Note 3 Complaints and Enforcement</b>	Changes to the NHS in April 2013 saw the abolition of PCTs and SHAs with their commissioning responsibilities transferred to local Clinical Commissioning Groups and Area Teams of NHS England, and responsibility for the development and oversight of NHS Trusts transferring to the NHS Trust Development Authority. The roles and functions of the Cooperation and Competition Panel have transferred to Monitor.
<b>Note 4 Complaints and Enforcement</b>	Whilst the Panel was established, its roles and functions have transferred to Monitor. References to the management of the interim period until establishment of the Co-operation and Competition Panel are therefore superseded.

## **Appendix 2: Expenditure on Marketing Communications**

### **1. Introduction**

The Trust recognises the potential effect on the reputation of the NHS of disproportionate expenditure on promotional activity and believes that the cost of TV or cinema promotion is very unlikely to be justifiable by the Trust.

The cost of expenditure on marketing communications will be reported to the Trust Board in the Annual Report.

### **2. Guidance**

Guidance on the reporting of expenditure on marketing communications is provided by the Department of Health.

### **3. Responsibilities**

The Finance Director is responsible for ensuring that this guidance is implemented, when available, and that effective procedures are in place for monitoring expenditure and reporting these to the Trust Board

### **4. Assurance**

The Trust Board will be assured of expenditure on promotional activity through the agreement of relevant marketing strategies by the Trust Board and associated marketing plans approved by the Hospital Executive Committee or on its behalf.

Where there is unplanned expenditure on promotional activity then it is the responsibility of the Director of Business and Enterprise to report this to the Hospital Executive Committee.

## Appendix 3: Advertising and Commercial Sponsorship Checklist

### 1. Excluded Advertisers

Advertising from the following sectors is excluded in all circumstances:

- Organisations “associated with matters that are damaging to health or associated with gambling, alcohol, tobacco, weight control<sup>9</sup> or politics.”<sup>10</sup>
- The promotion of prescription-only drugs to the general public, or other promotion that contravenes that ABPI Code of Practice to the Pharmaceutical Industry.
- Pornography or other companies involved in sexual exploitation of adults or children
- Firearms
- Legal services which overtly promote compensation and personal injury services, and claims management companies acting on their behalf
- Advertisements expressing a personal or partisan view of the NHS, or advertising that is contrary to the wider strategic intentions of public authorities across Shropshire and Telford & Wrekin.

### 2. Discretionary Advertisers

Advertising from the following sectors may only be considered on a case-by-case basis with the approval of the Head of Communications and Business Development:

- Companies potentially in competition with services that we provide, or may seek to provide in future.
- Personal financial services.
- Other legal services.
- Independent sector care homes

### 3. Approval Procedure

Please:

- Complete the checklist overleaf before commencing any discussions regarding advertising or commercial sponsorship on behalf of the Trust.
- Ensure permission from the Communications Team in advance if you intend to seek sponsorship or advertising from “discretionary advertisers”.
- Provide final advertising copy to the Communications Team for sign off.

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<sup>9</sup> With the exception of bona fide health promotion and public health interventions such as healthy walks and green gyms.

<sup>10</sup> Code of Practice for the Promotion of NHS-funded Services – paragraph 42

## 4. Checklist

### 4.1 Stage One: Consent to Procure Advertising or Commercial Sponsorship

About You: Name		
Job Title		
Email Address		
Telephone Number		
Signature		
Date		
About Your Line Manager: Name		
Job Title		
Please provide a brief overview of your plans		
There will be sponsors/advertisers from the "excluded" list involved in this scheme	YES / NO	If "YES" please do not continue
There will be sponsors/advertisers from the "discretionary" list involved in this scheme	YES / NO	If "YES" please describe below
Can you confirm that neither you, the Trust nor the sponsoring organisations will receive any undue inducement as a result of this sponsorship or advertising	YES / NO	If "NO" please do not continue
Is a contract in place to cover this arrangement	YES / NO	If "YES", please provide a copy (see Stage 3 Form). If "NO", explain how the reputation of the Trust and any income from this partnership will be safeguarded
Have you ensured best value by approaching several potential sponsors (if value >£500)?	YES / NO	If "NO" please do not continue If "YES" please complete Stage 3 Form
Are you satisfied that the benefits outweigh the risks and time involved?	YES / NO	If "NO" please do not continue
Will a proof be available for you to view prior to publication?	YES / NO	If "NO" please do not continue
Are you authorised to agree to this level of advertising or commercial sponsorship	YES / NO	If "NO" please do not continue
Has permission for any relevant copy been granted by the Communications Director	YES / NO	The Director should sign below to indicate their consent to proceed
Approval to proceed with the procurement of advertising or commercial sponsorship		
Signature of above		
Date		

### 4.2 Stage Two: Agreement of Published Copy (if applicable)

Has the final advertising / sponsorship copy been approved by the Communications Team	YES / NO	A representative from the Team should sign below to indicate their consent to proceed
Approval to proceed with publication		
Signature of above		
Date		

You now have permission to proceed with publication of your advertising or sponsored initiative. A copy of this document should also be sent to the Director of Corporate Governance for inclusion in the Register of Interests.

**4.3 Stage Three: Commercial Sponsorship Agreement**

<b>1 Details of project</b>	
Describe the project. What are its aims and objectives? How long will it last?	
<b>2 Recipient</b>	
Provide the name and contact details of the responsible officer	
Name	
Department	
Telephone Number	
Email Address	
<b>3 Sponsor Organisation</b>	
Provide the name and contact details of the sponsor organisation	
Name	
Nature of Business	
Contact Name	
Telephone Number	
Email Address	
<b>4 Value of Sponsorship</b>	
Specify the value of the sponsorship	
<b>5 Payment arrangements</b>	
Please specify the payment arrangements	
<b>6 Benefits to the Trust and our patients</b>	
Describe the benefits of the agreement to the Trust and our patients	
<b>7 Benefits to the sponsor</b>	
Describe the benefits of the agreement to the sponsor	
<b>8 Impact and Consequences</b>	
Will the sponsorship arrangements lead to adverse impact (e.g. quality, higher costs) elsewhere in the NHS?	
<b>9 Patient Confidentiality</b>	
Have all relevant procedures been following in relation to the sharing of person identifiable data in accordance with the Trust's information governance strategy and policy	
<b>10 Protocols and Guidelines</b>	
Does the project include the use of protocols or guidelines? The advice of Trust professional leads should be sought and recorded.	
<b>11 Pharmaceutical Company Sponsorship</b>	
If the project is valued at more than £500, the comments of the Chief Pharmacist must be recorded in all cases.	
Name:	
Signature:	
<b>12 Sponsored Posts</b>	
If the project involves sponsorship of posts in excess of £500, the comments of the relevant professional lead (e.g. Care Group Medical Director, Care Group Head of Nursing/Midwifery, Chief Pharmacist, Chief Therapist) or an individual authorised on their behalf	
Name:	
Signature:	

<b>13 Termination</b>	
Please confirm that the contract includes an appropriate break clause.	
<b>14 The Recipient</b>	
I have read the Trust's Marketing Communications, Commercial Sponsorship and Advertising Policy. I have acted in accordance with it and will abide by it. I confirm that I am authorised to enter into this agreement in accordance with the Policy.	
Contact Name	
Job Title	
Telephone Number	
Email Address	
Signature	
Date	
<b>15 The Sponsor</b>	
I have read the Trust's Marketing Communications, Commercial Sponsorship and Advertising Policy. I have acted in accordance with it and will abide by it.	
Contact Name	
Job Title	
Telephone Number	
Email Address	
Signature	
Date	

A copy of the Stage 3 Form should be included with the Stage 1 Form for all agreements in excess of £500.

## **Appendix 4: Notice Boards Procedure**

### **1. Purpose**

The purpose of this Procedure is to ensure that noticeboards in public areas across all Trust sites, including waiting areas and outpatient clinics, are kept tidy and display current and appropriate information.

### **2. Noticeboards**

#### **2.1 Fire Prevention**

The Estates Team will advise on the location of all Noticeboards. Noticeboards must not contravene the Policy of Fire Prevention and Control or be a potential fire hazard.

#### **2.2 Locations**

The noticeboards covered by this policy are located in three general areas:

- Public corridors and entrances – these boards will only be used for information which is of general public interest. These boards will be under the control of the Communications Team.
- Departments and wards – these will generally contain local department information and/or information of specific interest to staff, e.g. Occupational Health & Safety notices, training courses, Personnel notices, Trust, Ward or Department events/activities. These boards will be under the control of individual wards and departments.
- Outpatient waiting areas – these boards will display clinical information and health promotion notices. Notices and leaflet racks should be limited to essential requirements and contained in one designated area. These boards will be under the control of individual departments, except for the main public waiting areas (e.g. main entrance at PRH, outpatient entrance at RSH)

#### **2.3 Trade Union, Professional and Staff Association noticeboards**

These boards are located in less prominent public areas. They will display information of interest to Trust staff and only relate to the Union's or Association's activities. The board will show the Union or Association logo and will be managed by a local representative. Any advertising or commercial sponsorship should be in accordance with Trust policy.

#### **2.4 Exclusions**

Noticeboards in individual offices, within leased accommodation flats/houses/rooms, in patient hostels or longer term accommodation, and in Trade Union/Association offices are specifically excluded from this policy.

### **3. Content & Display**

Each noticeboard will:

- Be properly mounted and safely secured to the wall – notices should not be fixed directly to walls using BluTack, sellotape or drawing pins
- Carry a heading indicating its purpose, e.g. Charities & Chaplaincy, Trust News, Events, Occupational Health, Leisure Centre, Trade Unions, Training Opportunities
- Have a laminated notice in the bottom right hand corner indicating who to contact in order to display information on the board or to report any damage

## Marketing Communications, Commercial Sponsorship and Advertising Policy

All notices should be:

- Typeset (not handwritten), legible with good quality artwork - any long term notices should be laminated
- Appropriate to the purpose of the board and not cause offence or conflict with the overall aims/beliefs and values of the Trust
- Current and sent to the designated person for display in good time
- Dated from display and approved with a signature on the back by appropriate manager or designated person responsible for noticeboard

No notices displayed on notice boards within the hospital should be in conflict with the guidance and regulations set out in the Marketing Communications, Commercial Sponsorship and Advertising Policy, to which this Notice Boards Procedure is an Appendix.

Decisions on whether content and format of notices is suitable for display on Trust noticeboards in public corridors and entrances is at the discretion of the Communications Team.

Notices advertising businesses or items for sale may be displayed as an advertisement in accordance with the Marketing Communications, Commercial Sponsorship and Advertising Policy.

### **4. Designated Person**

Every ward or department should designate a member of staff to be responsible for the noticeboards in their area and ensure that the noticeboard policy is adhered to. The designated person will:

- Check the notices weekly removing any outdated, tatty or unauthorised material
- Ensure the notices are pinned securely to the board with a drawing pin in each corner, do not overlap each other or overhang the noticeboard
- Add new material authorising/signing and dating the back of the notice
- Check the noticeboard is clean and fixed securely to the wall. Any damage should be reported to Estates.

### **5. Requests for additional noticeboards in public Areas,**

Applications for additional public noticeboards should be made to the Communications Team.

### **7. Review**

This procedure will be reviewed every three years. Any proposals for amendment to the procedure should be submitted in writing to the Communications Team.



## Appendix 5: Checklist for the Development of Marketing Communications Materials

### 1. Introduction

This checklist will help you to ensure that all marketing communications materials that you produce in the name of the Trust comply with the Trust's Marketing Communications, Commercial Sponsorship and Advertising Policy and the Code of Practice for the Promotion of NHS-Funded Services.

A completed checklist should be sent with your draft materials to the Communications Team for approval before publication.

Patient Information Materials should be approved in accordance with the Patient Information Policy, but will additionally need the approval of the Communications Team where content may be construed as "marketing communications".

### 2. Checklist – Marketing Principles

Do your marketing communication materials conform to applicable laws and industry codes of practice?	YES / NO
Do your marketing communication materials respect the ethical guidance and professional codes of conduct of clinicians and other health professionals?	YES / NO
Do your marketing communication materials contain nothing that is likely to cause serious or widespread offence?	YES / NO
Do your marketing communication materials avoid causing fear or distress without good reason?	YES / NO
Do your marketing communication materials avoid causing offence on the grounds of race, religion, sex, sexual orientation or disability?	YES / NO
Are your marketing communication materials accessible to different sectors of the population or is there a relevant business reason and/or market segmentation reason for this?	YES / NO
Do your marketing communication materials avoid exploiting the credulity, loyalty, vulnerability or lack of experience of children?	YES / NO
Is it clear that they are marketing communications (e.g. not patient information)?	YES / NO
It is appropriate for the intended audience, for example communications aimed at patients should avoid medical jargon?	YES / NO
Do they avoid the encouragement of indiscriminate, unnecessary or excessive use of products?	YES / NO
Do they avoid confusion between marketers and competitors or between marketers' products, trade marks, trade names or other distinguishing marks and those of competitors or official documents?	YES / NO

For each criterion you should provide suitable evidence, including:

- (high credibility) Evidence from an external focus group (e.g. patient panel)
- (medium credibility) Evidence from an informal or internal focus group (e.g. sharing the document with colleagues)
- (low credibility) Personal statement explaining how you have met this criterion or that it is not applicable for these materials