

Managing conflicts of interest in the NHS: Q&A

Contents

SATH Questions and Answers	3
NHS England Q&A.....	7
Board level conflicts.....	7
Strategic decision making groups	8
Outside employment	9
Clinical private practice.....	10
Gifts.....	11
Hospitality.....	11
Loyalty interests.....	12
Sponsored events	13
Sponsored posts	13
Sponsored research.....	15
Donations.....	16
Shareholdings and other ownership interests.....	17
Patents.....	17
Procurement.....	18
Breaches	18
Identification of interests and publication of registers.....	19
Disclosure UK	20

SATH Questions and Answers

1 What is a Conflict of Interest?

A conflict of interest is a situation where a 'reasonable person' would consider that a decision taken by an individual has been, or could have been influenced by an interest they hold.

A conflict of interest could be:

- Actual - there is a material conflict between one or more interests
- Potential – there is the possibility of a material conflict between one or more interests in the future

Staff may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently and perceived conflicts of interest can be damaging. All interests should be declared where there is a risk of perceived improper conduct.

2 What is the Trust's approach to the handling of Conflicts of Interest?

Our aim is to make sure that both individuals and the Trust are protected from any suggestion of impropriety in decision-making. In determining what needs to be declared, individuals should ask themselves the following questions:

- Am I, or might I be, in a position where I or my family or associates gain from the connection between my private interests and my employment with the Trust?
- Do I have access to information which could influence purchasing decisions?
- Could my outside interest be in any way detrimental to the Trust or to patient's interests?
- Do I have any other reason to think I may be risking a conflict of Interest?

It is for each individual to exercise their judgement in deciding whether to register any interests that may be construed as a conflict. If in doubt, declare an interest.

3 Who needs to make a declaration of interests?

It is a requirement that the following staff make declarations of interest (this includes a declaration of 'nothing to declare', if that is the case)

- Executive and non-executive directors who have decision making roles which involve the spending of taxpayers' money
- Members of committees such as Drugs and Therapeutics Committee, and Devices, Products and Gases Committee, which contribute to direct or delegated decision making
- Administrative and clinical staff who have the power to enter into contracts on behalf of their organisation
- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment, and formulary decisions
- All permanent medical staff
- All staff at Agenda for Change band 8a and above
- Specialist Nurses and other specialist practitioners as they are can be offered sponsorship as part of their role.
- Staff in sponsored posts (where all or part of their salary is paid from a private funding)
- Staff who work in procurement, including stores
- Pharmacy staff
- Any other member of staff who may have a conflict of interest

4 What types of Conflicts of Interest exist?

There are a number of different types of conflicts of interest that individuals might have, or be perceived to have. These are described below:

Direct Financial Interests

A clear conflict of interest arises when an individual involved in taking or influencing the decisions of an organisation could receive a direct financial benefit as a result of the decisions being taken. This may arise as a result of holding an office or shares in a private company or business, or a charity or voluntary organisations that may do business with the NHS. Examples could include:

- A HR advisor who owns a private company providing bespoke HR training
- An estates manager who has shares in a plumbing contractor who does work for the Trust
- A Trust doctor who owns a locum agency
- A member of staff in a post which has been paid for (sponsored) by an external company

Indirect Financial Interests

An indirect financial interest arises when a close relative of a key individual benefits from a decision of the organisation. As Trust staff, individuals sitting on committees (and their family members or business partners) may have commercial interests in organisations that the Trust is already purchasing from or that could potentially bid/offer to provide services that the Trust might use. Examples could include:

- A Trust doctor, who sits on the Drugs and Therapeutics Committee, whose partner works for a pharmaceutical company
- A manager in a screening service whose partner is a director of a private screening service who is tendering to provide additional capacity for the Trust
- A manager whose child works for a company which provides services to the Trust

Non-financial

These occur where individuals required to declare interests receive no personal conflicts financial benefit, but are influenced by external factors such as gaining some other intangible benefit or kudos, for example, through awarding contracts to friends or personal business contacts.

Conflicts of loyalty

Where individuals required to declare interests may have competing loyalties between the Trust and some other person or entity. For healthcare professionals, this could involve loyalties to a particular professional body, society or special interest group, and could involve an interest in a particular condition or treatment due to an individual's own experience or that of a family member. It is important to bear in mind that for each of these categories where an individual is closely related to, or in a relationship, (including friendship) with an individual then this will need to be taken into account in making a declaration.

- Sitting on an interview panel where a close family friend is being interviewed
- Giving a job to a family member

5 What interests should I declare?

Individuals are required to declare any relevant and material personal or business interest(s) and any relevant and material personal or business interest(s) of their spouse, civil partner, cohabitee, family member or through any other relationship which may influence or may be perceived to influence their judgement.

- Gifts from suppliers or contractors of over £6 in value should be declined
- Gifts from other sources (eg patients, families) can be accepted if under £50 in value and need not be declared.
- Gifts of cash and vouchers to an individual should always be declined
- Hospitality: Meals and refreshments of a value between £25 and £75

- Travel and accommodation: modest offers to pay some or all of travel and accommodation for events may be accepted but must be declared. Offers of foreign travel and accommodation should only be accepted in exceptional circumstances and there should be a clear reason recorded as to why it was permissible to accept accommodation and travel of this type.
- Outside employment - including work for agencies; second jobs; also any outsourced work for other NHS providers or contractors providing services to the NHS
- Directorships, including nonexecutive directorships, held in private companies or PLCs
- Ownership or part ownership, (or by a partner), of private companies, likely or possibly seeking to do business with the Trust
- Shareholdings of greater than 5% of companies in the field of health and social care. (NB: many individuals hold share portfolios managed by a third party. Where staff do not know the content of the portfolios, these do not need to be declared)
- Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care. A position of authority might include being on the board or management committee of a charity or voluntary organisation. It is unlikely to include any more general volunteering role.
- Any connection with a voluntary or other organisation contracting for NHS services
- Research funding/grants that may be received by the individual or any organisation in which they have an interest or role.
- Donations made by suppliers or those seeking to do business with the Trust should be treated with caution. If accepted they must be declared.
- Sponsorship of events
- Sponsored research
- Sponsored posts
- Clinical private practice – on appointment and any new private practice as it arises;

It suggests what has been termed the “Paxman test” – if you might be embarrassed if asked to explain a situation to an investigative journalist or reporter, a conflict probably exists.

6 Should I make a declaration even if I have nothing to declare?

It is important for all staff listed (see question 3) to make a nil return as this affirms that you have no interests and reflects that you have considered all criteria

7 I am a junior doctor – is this policy relevant to me?

As you develop your career within the NHS you will come into contact with, and work collaboratively, with representatives from industry. This might, at times, give rise to the risk of conflicts of interest. You should be mindful of the need to avoid conflicts. As a statutorily regulated health professional you are also under professional duties relevant to management of conflicts of interest set out in the General Medical Council’s “Good Medical Practice”.

8 Does this policy mean that I have to turn down non-monetary gifts from grateful patients?

This is very unlikely to be the case. Unless the gift is a very expensive one (over £50) or accepting it might affect, or be seen to affect, your professional judgement then you may accept it. As a statutorily regulated health professional you are also under professional duties relevant to management of conflicts of interest set out in the Health & Care Professions Council’s “Standards of conduct, and ethics”.

9 Am I allowed to accept gifts of money from patients?

Gifts of cash, or vouchers to individuals must always be declined

10 I have been offered a bottle of wine at Christmas can I accept it?

If the wine is a gift from a patient, then this is acceptable. However, if the bottle is from a supplier or contractor, (eg, drug company, equipment manufacturer, estates contractor, IT contractor etc) this must be declined

11 I provide secretarial/administrative support to a Care Group. My partner works for a local contractor provider who is commissioned by the Trust to provide a service, but I know this service is up for tender. How do these proposals affect me? Do I need to declare anything?

The current proposals do not require you to make any declaration regarding a conflict of interest as any issues of familial loyalty only apply to senior staff. However if you could reasonably be considered to be in a decision making position within the Trust you would need to declare this interest. In addition, if you were to come into contact about information relating to the tender through your role then you would be under an obligation to hold this in confidence and not tell your partner.

12 What do I do next and where can I get further advice?

You should register Interests or Gifts and Hospitality received or declined using Insight 4GRC. This can be found via the Intranet app



Or via the login page at <https://sath.insight4grc.com/>

If you need a login contact
clare.jowett@sath.nhs.uk or sarah.mattey@sath.nhs.uk

For further advice contact Julia Clarke, Director of Corporate Governance, Clare Jowett, Head of Assurance or Tony Holt, Sustainability Manager

Board level conflicts

- 1. I am a provider chief executive, and I also lead our local STP. I am conscious of the perception that I might put my organisation first in any decisions made which would look like a conflict of interest, even if these are the right decisions made by the area as a whole. What should I do?**

The rules in the guidance on outside employment will apply, so if your STP has a formal governance structure then you should declare the details of your position as a provider chief executive to the STP so this interest can be published on their register(s). As STPs will differ in the degree to which their governance is formalised, the location and management of register(s) will vary. The important thing is to apply the principles of the guidance and make sure your outside interests are transparent so if in doubt, declare – regardless of the governance structures of the STP. If the chair considers that your interest might create the risk of conflict with an item of the group’s business, they might take a range of management actions relating to your participation in the group to make sure that this risk is managed. If you are the chair, and have an interest that might be seen to prejudice your judgement, the vice chair (or other non-conflicted member) should chair all or part of that meeting. You must also declare the details of your lead role within the STP to your provider organisation so that this interest can be published on their register(s). You should also take personal responsibility for making any decision-making or advisory groups you are part of (whether within your local provider organisation or within the STP) aware of your interests so they can be appropriately managed.

- 2. I am the chief nurse for a local provider, but in the move to new care models I am also undertaking a wider role as lead for quality and safety across our accountable care organisation (ACO). How do I make sure my role in the ACO is transparent, so I cannot be accused of favouring my provider?**

The rules in the guidance on outside employment will apply, so you should declare the details of your position as chief nurse for the local provider to the ACO so this interest can be published on their register(s). As emerging ACOs (or other new care models) will differ in the degree to which their governance is formalised, the location and management of register(s) will vary. The important thing is to apply the principles of the guidance and make sure your outside interests are transparent so if in doubt, declare – regardless of the formal legal status of the ACO. You must also declare the details of your quality and safety lead role within the ACO to your provider organisation so that this interest can be published on their register(s). You should also take personal responsibility for making any decision-making or advisory groups you are part of (whether within your local provider organisation or within the ACO) aware of your interests so they can be appropriately managed.

- 3. I hold a non-executive director (NED) role in my local NHS provider trust, but am employed outside the NHS. If I engage with current / potential NHS suppliers in my outside employment, how does the guidance apply to me?**

The rules in the guidance on outside employment will apply, so you must declare this outside employment to the NHS organisation in which you hold a non- executive role. Depending on the nature of your outside employment, the terms and conditions of your appointment, and the terms of the trust’s own conflicts of interest policy, you might need to seek prior approval from your organisation (or its council of governors in the case of an NHS foundation trust). You should also take personal responsibility for making the Board and any other decision-making or advisory groups you are part of aware of your interest.

- 4. I am a governor at my local provider, but I also volunteer outside the NHS. If I engage with current / potential NHS suppliers in my voluntary role outside the provider, should I declare this?**

Governor's interests are not directly covered by the national policy. However, you should have to declare in accordance with the trust's Standing Orders for the Council of Governors; please take advice from the trust company secretary.

Strategic decision making groups

- 5. I sit on my organisation's medicines committee, which makes decisions about the medicines and devices we use. What are my responsibilities relating to conflicts of interest?**

Any group making key strategic decisions like this is subject to the guidance. Other examples would be groups making decisions around contracts, procurement or grants. You should make sure that all interests, or potential conflicts, are declared in accordance with local arrangements within 28 days of any changes. In meetings, you have a personal responsibility for declaring any material interests at the beginning of each meeting and as they arise, which will be added to the organisation's register if not already included. If the chair considers that your interest might create the risk of conflict with an item of the group's business, they might take a range of management actions relating to your participation in the group to make sure that this risk is properly managed.

- 6. Do advisory committees include managed clinical networks and local professional networks?**

Your involvement in these networks would be unlikely to create a conflict with your role at your employing organisation. If you're not sure, speak to the person in your organisation who has responsibility for conflicts of interest.

- 7. I am a doctor and I contribute to the Advisory Board of a pharmaceutical company. How should I declare this?**

The rules in the guidance on outside employment will apply. You must declare your role with the pharma company as soon as possible and, in any event, within 28 days from when it arises, to be published on your organisation's register. Depending on your contract of employment, you might need to seek prior approval from your organisation. Approval will depend on your role and duties within the NHS and whether your NHS employer is satisfied that any conflicts of interest which might arise can be either managed or avoided. You should also take personal responsibility for making any decision-making or advisory groups you are part of aware of your interest.

- 8. I deliver a specialised service in my trust, and I also sit on one of NHS England's Clinical Reference Groups (CRG) to provide expert advice on this service. Is this something I should declare?**

Yes, because you have an ability to influence commissioning policy decisions. Declaring this interest will help protect you in fulfilling both roles. It will also help the chair of the CRG to manage the potential conflicts of interest which might arise, in order to maintain the integrity of the CRG's decisions.

- 9. I am one of a small number of clinicians working in a rare disease area. We are often needed by external organisations, including the pharmaceutical industry, as well as the NHS, to provide expert advice so that correct decisions are made that are most beneficial to patients. Does the guidance mean that I won't be able to sit on procurement panels or advisory committees as a result of such external relationships?**

The guidance does not stop you from fulfilling these advisory / decision-making roles, in fact it specifically states that the default response should not always be to exclude members of decision making groups with interests as this might have a detrimental effect on the quality of the decisions being made. You should make a positive declaration to be published on your organisation's register- this declaration should be made as soon as possible when any new material interest arises, and, in any event, within 28 days of the material interest arising. You should also take personal responsibility for making any decision-making or advisory groups you are part of are aware of your other interests so that any actual or potential conflicts of interest can be managed.

- 10. Do advisory committees include Managed Clinical Networks and Local Professional Networks?**

Your involvement in these networks would be unlikely to create a conflict with your role at your employing organisation. If you're not sure, speak to the person in your organisation who has responsibility for conflicts of interest.

Outside employment

- 11. Since I joined my organisation, I have set up my own company to do some consultancy work. This isn't directly related to my day job...do I still have to declare it?**

You should declare any outside employment and other similar engagements such as directorships, charity trustee roles, consultancy work, etc as it arises and in some cases you might be required to seek prior approval from your organisation. Your organisation might have legitimate reasons, within employment law, to know about these outside engagements – even if it doesn't give rise to the risk of conflict of interest.

- 12. I am an academic and have received an invitation to lecture at a conference. Do I need to declare this? And if I am paid for the lecture but I donate my fee to a registered charity, do I still need to declare it?**

Yes you do – regardless of who has organised the conference (e.g. a patient advocacy charitable organisation as opposed to a medical devices manufacturer). If you receive payment for the lecture which you then donate to charity, you should still declare this to your organisation and take personal responsibility for making sure that any tax liabilities relating to the donation are properly discharged and accounted for.

- 13. I sometimes receive offers of payment up to approximately £250 to participate in surveys and focus groups. Do I need to declare this?**

Yes you should declare this, as it could be seen to influence service or product choices. If the organisation carrying out the survey or focus group is a supplier or contractor doing business (or likely to do business) with your organisation then you should decline the offer.

Clinical private practice

14. I carry out some private practice in addition to my NHS role. Is this ok?

NHS commitments should always take precedence over private work where there might be a conflict of interest. Otherwise, private practice is fine as long as you declare it to your organisation on appointment or whenever any new private practice arises. You will also need the prior approval of your organisation, except for in emergency situations, and you should not initiate discussions about your private professional services with patients, or ask other staff to initiate such discussions on your behalf. You should not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines.

15. How does the guidance apply to referrals made to private services, in which NHS clinicians might have a financial interest?

If an NHS clinician has a financial interest in a service which is doing, or might potentially do business with the NHS, then they should declare this to their organisation. The clinician must never allow their financial interests to influence, or be seen to influence, decisions they take in their NHS role.

16. My trust has asked me to participate in a waiting list initiative / Choose and Book initiative. If I do some of this work privately, should this be declared?

Yes, any new private practice should be declared as and when it arises

17. I am an NHS paramedic but I also work some shifts on private ambulances - do I need to declare this?

Yes, all private work should be declared.

18. I am an NHS doctor / GP but I also do medicolegal work – do I need to declare this?

Yes – you should declare this to your organisation as outside employment

19. I do some private work but the sessions are variable – from a practical perspective how should I declare this? Does it make a difference whether I am practicing privately in my own name, or being remunerated through a limited company?

Job plans should be the starting point here. If your job plan indicates variability in private/NHS sessions that is fine, but you should still use your judgment in making a pragmatic declaration – such as the average number of hours per week committed to private practice, rather than specific sessions. The method of remuneration doesn't make a difference – under the guidance these would both be considered as clinical private practice.

20. My trust has a private patients unit, and the work is undertaken by trust clinicians. Does the guidance still apply to them in this context?

Many of the principles of the guidance would still apply, however we would expect your trust to have developed its own policies and guidelines to specifically deal with this situation and you should refer to those.

Gifts

21. The family of a patient receiving NHS treatment has offered me a £30 gift voucher....what do I do?

Gifts of cash or vouchers to individuals should always be declined, and some organisations' policies will require such offers to be declared, even where they are declined. For example the statutory guidance for CCGs requires such offers to be declined and declared. You could, if appropriate, suggest that they donate the voucher to the trust's related charity or charitable funds, where it will be used to promote the work of the trust.

22. An NHS patient's family has offered me a case of wine, which I estimate to be worth £45. I have already accepted a bottle of whiskey from this family earlier this year, which retails at £25...what do I do?

Because the original gift was valued at less than £50, it was fine to accept this as long as it wouldn't be seen to affect your professional judgement. However, because the cumulative value of multiple gifts from the same family over a 12 month period now exceeds £50, it would not be appropriate to accept the second gift personally. It should be treated with caution and might only be accepted on behalf of the organisation, and should be declared if accepted.

23. A supplier has offered me a branded pen....what do I do?

Gifts from actual or potential suppliers and contractors should always be declined, but the exception to this is low cost promotional items worth less than £6 – so assuming it isn't a particularly expensive pen it's fine to accept it. If a gift or more than one gift together is worth more than £6, it should always be declined.

24. In the past, when I have treated fellow clinicians or members of the clergy privately, I have forgone my fee for a gift of appreciation, which may have a value over £50 but is still significantly less than the fee would have been. Do the principles in the guidance stop me doing this?

No, because you are undertaking private work. The guidance only applies when working as an NHS professional. However, all NHS clinical staff should declare private practice work in accordance with the guidance and the guidance does not affect your existing personal responsibility to make sure that your method of charging for Private Professional Services addresses all tax liabilities and meets the standards set out in schedule 9 of the consultant contract (2003) and the Code of Conduct for Private Practice (2003).

Hospitality

25. I am attending an event sponsored by a pharmaceutical company and lunch is provided. I estimate the value to be £15. What do I do?

Provided you have used a common sense approach to estimate the value, there is a legitimate business reason for attending, and the hospitality will not affect, or be seen to affect, your professional judgment, this lunch can be attended. However if the company offering the lunch is an actual or potential supplier or contractor then senior approval would be required and the hospitality should be declared.

26. I am attending an event sponsored by a pharmaceutical company and they have offered to pay for my travel and accommodation...can I accept?

You can accept modest offers to pay for travel and accommodation but you must declare them if you accept. You would need senior approval before accepting any offer of first class domestic travel and accommodation or foreign travel and accommodation, or other unusually generous offer. You would also need senior approval if the company offering to pay for the travel and accommodation is an actual or potential supplier or contractor.

27. Following on from question 26, does it make a difference whether I attend in my own time or annual leave? What if I am offered payment to attend?

It doesn't make a difference whether you attend in work time or annual leave. If you have been invited to the event because of your status as an NHS professional you should still apply the principles of the guidance. Regarding payment, we understand that the medical technology industry is moving over time towards support through educational grants to healthcare institutions, professional societies or to conference organisers rather than direct to healthcare professionals. In the meantime, if you are offered payment to attend, you should declare this to your organisation under the "outside employment" section of the guidance.

28. Can I still receive funding from industry for medical education?

Yes – but you will need to declare any funding received under the principles and rules within the guidance. The section on hospitality covers the thresholds for accepting and declaring expenses relating to attendance at education and training events such as meals, travel and accommodation.

Loyalty interests

29. In my NHS role, I work in the neurological service. Every Saturday afternoon I volunteer in my local charity shop. The charity raises money for neurological research. Do I need to declare this as a loyalty interest?

You don't need to declare this because you are not in a position of authority with- in the charity. However, if you take on a position of authority in the charity, such as sitting on their board, you would need to declare this as a loyalty interest as it could be seen to influence decisions you take at work.

30. In my NHS role, I work in the diagnostics service. I also sit on an independent advisory group which makes recommendations about new scanner development. Do I need to declare this?

Yes you do. This might be seen to influence how your organisation spends taxpayers' money.

31. My department is recruiting two new members of staff, and a close friend of mine might apply. Do I need to declare this?

Yes, if you know there is a reasonable chance of them applying. You need to make this known so that the organisation can decide on the right level of involvement for you in the recruitment and / or management process.

32. My wife works for a company which supplies surgical equipment to the hospital that I work for. Do I need to declare this?

If your wife has decision making responsibilities in the company, then yes. If you're not sure, speak to the person in your organisation who has responsibility for conflicts of interest. If in doubt, declare.

33. I work for more than one NHS organisation. How should I manage my declarations?

You will need to declare your interests openly with each organisation. There is a template form available on [NHS England's website](#) but this is not a mandatory form – you should check with each organisation how they require you to make your declarations.

Sponsored events

34. I am arranging an educational event and have been offered sponsorship by a local university and a pharmaceutical company. How do I apply the guidance in both cases?

If the event will result in clear benefit for the organisation and the NHS, sponsorship can be accepted if it is declared to your organisation, and the same rules apply for both sponsors. Local policy might require that you obtain senior approval before accepting the sponsorship. There must be no breach of patient or individual confidentiality or data protection rules, and no information should be shared which is not already in the public domain or from which the sponsor might gain a commercial advantage. You will also need to be transparent about the sponsor's support and make it clear on all event materials that sponsorship does not equate to endorsement of the company or its products.

35. I'm an events manager and am arranging a specialty-specific event for clinicians in my area. A pharmaceutical company has offered support for funding the event in exchange for a presentation slot. Can I accept this?

At an organisation's discretion, sponsors or their representatives might attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event. You should also consider the requirements concerning confidentiality, commercial advantage and transparency, as set out in question 34.

36. My area of specialty lacks funding due to small patient population sizes. Industry can have an important role in providing investment, resources and skills to facilitate change. If I'm organising a meeting, can I still invite a sponsor to speak at an event in a manner that is appropriate to the context of the event or wider project at hand?

As per question 35 - at an organisation's discretion, sponsors or their representatives can attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event. You should also consider the requirements concerning confidentiality, commercial advantage and transparency, as set out in question 34.

Sponsored posts

37. I am a directorate manager and am considering advertising for a specialty-specific sponsored post. Is there a difference between posts sponsored by academic institutions/charities as opposed to commercial organisations?

No, the guidance would not distinguish between these two types of sponsor.

38. My directorate is developing a formulary, and I am putting together a procurement panel to decide on which products are included. If a nurse is in post through sponsorship, does this mean that he/she can't participate in the panel?

It depends whether you are satisfied that the potential conflicts of interest which might arise can be properly managed. You must make sure that procurement processes are conducted in an open and transparent manner, compliant with procurement and other relevant law, to make sure there is no discrimination against or in favour of any provider. Refer to the Q&A on procurement (below) for more information.

39. I have the opportunity to establish an additional post in my team through external sponsorship. This additional capacity would really benefit the team. Can I still do this?

Yes you can, as long as you have formal prior approval from your organisation. You will need to:

- i. Get formal written confirmation from the sponsor that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits - and you should audit this for the duration of the sponsorship.
- ii. Make sure that the sponsor does not have any undue influence over the duties of the post or have any preferential access to services, materials or intellectual property relating to or developed in connection with the sponsored post. For example, make sure that all relevant companies are invited to open days; do not undertake any mailings on behalf of the sponsoring company.
- iii. Have a written agreement in place detailing the circumstances under which your organisation can exit sponsorship arrangements if conflicts of interest which cannot be managed arise.
- iv. Avoid establishing rolling sponsorship of the post unless you have put checkpoints in place to review and confirm whether the arrangements are still appropriate.
- v. Make sure that the sponsored post holder does not promote or favour the sponsor's specific products, and that they provide information about alternative products and suppliers as well as the sponsor's.

40. An employee in my team is on a sponsored post – I expect all members of staff in my team to shape the duties of their post. Does this put me / them in breach of the guidance?

No, as long as this does not mean that the sponsor themselves has any undue influence over the duties of the post or preferential access to services, materials or intellectual property relating to or developed in connection with the sponsored post. As the manager, you must carefully review the activities being undertaken by the individual and be prepared to step in (as set out in local policy) if conflict arises and terminate the sponsorship if the conflict cannot be managed.

41. The guidance says that rolling sponsorship of posts should be avoided unless checkpoints are in place to confirm that arrangements are still appropriate. Do you have any recommendations for how these checkpoints should work and how often they should be scheduled?

Organisations should identify these checkpoints at their own discretion, appropriate to the particular post and at the start of the sponsorship agreement. However, some suggested considerations are:

- i. Confirming with sponsored postholders on a regular basis that they are not being put under any pressure to recommend specific products or dispensing

- appliance contractors (with reference to the NHS position on direction of prescriptions)
- ii. Regularly auditing the number of patients using the sponsors' products or dispensing appliance contractor (recognising that trends suggesting bias will be hard to define and might vary) and making sure that patient choice is respected
 - iii. Being prepared to terminate the sponsorship should a conflict arise that cannot be managed.

42. How does the guidance apply to staff holding honorary NHS contracts?

The guidance will apply in full to all those holding honorary NHS contracts. If you hold an honorary contract with an NHS organisation, you should apply the guidance in your capacity as an employee of that organisation and make any declarations to them.

Sponsored research

43. I have successfully applied for funding for a piece of management research relating to my professional area. Do I need to declare this?

Yes, you should declare your source of funding to your organisation. The funding must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service. Your proposed research must go through the relevant health research authority or other approvals process. There must be a written protocol and written contract between you, your organisation, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and any payment for those services.

44. I have successfully applied for funding for a piece of research relating to my clinical area. Do I need to declare this?

Yes, you should declare your source of funding to your organisation. The funding must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service. Your proposed research must go through the relevant health research authority or other approvals process. There must be a written protocol and written contract between you, your organisation, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and any payment for those services.

45. I am involved in research and am about to receive some sponsorship. What is the timeframe for me to declare this?

Declarations of new material interests which have arisen should be made at the earliest opportunity (or in any event within 28 days) via a positive declaration to your organisation.

46. I am part of a research steering committee for a pharmaceutical company. Does the guidance stop me collaborating with pharma in this way and guiding their research programme?

This will depend on your role and duties within the NHS and whether your NHS employer is satisfied that any conflicts of interest which might arise can be either managed or avoided. The rules in the guidance on outside employment will apply, so you must declare your role with the pharma company and, depending on your contract of employment, you might need to seek prior approval from your

organisation. You should also take personal responsibility for making any decision-making or advisory groups you are part of aware of your interest.

47. Do the principles in the guidance apply only to NHS research? Or are commercial and university-based research also covered? These are already subject to full ethics committee requirements.

The guidance applies to all NHS bodies and staff and any research they are involved in by virtue of their NHS employment.

48. I have completed some sponsored research, and have some surplus funds left over. Is this issue within the scope of conflicts of interest?

No – this is an issue for the ethics of the research and the agreed purpose of the funds provided.

Donations

49. My trust recently tested the market for potential suppliers of dialysis equipment. One of the potential suppliers has since offered a donation to the trust's charity. Can we accept?

In these circumstances the donation should be treated with caution and not routinely accepted. It might only be accepted if there are exceptional circumstances present. If accepted, the reason why it was deemed acceptable should be recorded together with the actual or estimated value.

50. My trust has a registered charity; can I make my patients and their families aware of this in case they want to donate?

You can make them aware of the charity, but you should not actively solicit charitable donations unless this is a prescribed or expected part of your duties for the organisation.

51. What do you mean by “pre-approved charitable campaigns?” Does this include other charities that support the NHS, but which are not directly part of the trust's own charity?

Yes. For example, a national cancer charity is running a campaign to raise research funds and, in your capacity as a cancer service manager, you would like to host a coffee morning to support this campaign. You can do this, but you need permission from your organisation if you are hosting the event in your capacity as an NHS employee. You will need to issue receipts for all donations made to the fund. Donations should never be made to an individual.

52. If a member of staff receives a charitable donation in the form of a funeral directors' cheque, how does the guidance apply?

Donations, when received, should be passed to or paid into the Charity office, who will issue a receipt indicating which charitable fund has been credited. It is unlawful to make or accept a “charitable” donation to an individual. Organisations should maintain records in line with their wider obligations under charity law.

53. When the guidance talks about “active solicitation” of charitable donations, what does this cover? Does it include acknowledging funds received, such as on a Donors' roll or in the acknowledgements of a manuscript?

The principles in the guidance do not stop you from making people aware of a charity which is affiliated to your trust, and acknowledging donations that have been made. However, you should not ask for donations unless this is a prescribed or expected part of your duties for the organisation.

54. A national cancer charity is running a campaign to raise research funds and, in my capacity as a cancer clinician, I would like to host a coffee morning to support this campaign. Can I do this?

Yes, but you need permission from your organisation if you are hosting the event in your capacity as a clinician employed by an NHS body. You will need to issue receipts for all donations made to the fund.

55. In my private practice, I am happy for some of my patients to make a charitable donation in lieu of paying my professional fee. Is this still permissible?

Yes, so long as you take personal responsibility for making sure that any tax liabilities related to such donations are properly discharged and accounted for.

Shareholdings and other ownership interests

56. I hold a small shareholding in a large medical devices company. I don't have any controlling interest...do I still need to declare this?

If the medical devices company might reasonably be expected to do business with your organisation then yes, you should make a declaration whatever the size of your shareholding. It doesn't matter whether you have a controlling interest or not.

57. I have purchased an annuity. I don't manage the fund but I know that it is predominantly invested in the biomedical sciences industry. Do I need to declare this?

No – you don't need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

58. I have a savings account and a mortgage with a Building Society. Do I need to declare them?

Building Society savings accounts and mortgages usually give a vote at the Society's AGM, and so they can count as 'ownership interests'. However, you would only have to declare these interests if the Building Society is doing, or might be reasonably expected to do, business with the NHS organisation.

Patents

59. In my spare time I have developed a prototype car radio, which I am in the process of patenting. Do I need to declare this?

If the patent related to a product which might be expected to be procured by your organisation then yes, you should declare it. In this case, a car radio wouldn't reasonably be expected to be procured or otherwise used by an NHS organisation so there's no need to declare the patent.

60. I am in the process of developing a patentable quality improvement methodology for my

clinical specialty. I want to use some of my non-contact time for this; the finished product will really benefit my team. Do I need to declare this?

Yes, and you will need to seek prior permission from your organisation before entering into any development agreements which impact on the organisation's own time, or use its equipment, resources or intellectual property.

Procurement

61. I am arranging a procurement panel for my organisation. How should I apply the guidance?

Nothing in the guidance waives or modifies your other existing legal obligations around procurement. That is (in summary) procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law, to make sure there is no discrimination against or in favour of any provider. You and your organisation should:

- i. Keep a clear audit trail of how conflicts of interest have been identified and managed as part of the procurement process.
- ii. Refer to existing guidance published by NHS Improvement and NHS England on procurement processes.
- iii. Conduct procurement processes in a manner that does not constitute anti-competitive behaviour - which is against the interest of patients.

In putting together the procurement panel, you should make sure steps are taken to identify and manage conflicts of interest. For example, it would be advisable to:

- iv. Review the Register entries for each person under consideration for the panel, to make sure that any conflicts are identified. Individuals with actual or potential conflicts should only be appointed to the panel where you are satisfied that the potential conflict can be properly managed
- v. Make sure each individual on the panel is aware that they will be 'Decision making staff' as a result of this appointment, and that they make updated declarations of interests upon appointment to the panel;
- vi. Where a conflict arises, make sure that it is managed appropriately to minimise any risk to the organisation, and that a comprehensive written record is kept to show how the conflict was managed. This might include removing people from the panel if required.

Breaches

62. I have become aware of a situation at work where I am concerned that the rules around conflicts of interest might have been breached. What should I do?

Your organisation should have a clear policy setting out how to raise concerns, and who to notify or speak to if you are unsure of whether there has been / is potential for a breach. If you are unsure or unwilling to speak to those individuals, you could contact-

- i. Your organisation's *Freedom to Speak Up Guardian*
- ii. The Local Counter-Fraud Specialist

Identification of interests and publication of registers

63. I don't have any interests which create a risk of conflict. Do I still need to make a declaration?

If you meet your organisation's definitions of "decision making staff" then yes. You will need to update your declarations or make a nil return on appointment, when you change roles and in the annual declaration round arranged by the organisation. Check your organisation's policy to see if this applies to you.

64. How do I know if a conflict of interest is so significant that it cannot be managed without removing an individual from their role altogether?

There will undoubtedly be some circumstances where a conflict of interest is so profound and acute that the organisation is likely to conclude that it is not possible to manage the conflict and the appropriate course of action might be to require an individual to step down from – or not be appointed to - a particular role. The guidance sets out principles to help guide decision making in these circumstances. Each case will be different and will depend on the specific circumstances, and it is impossible for any guidance document to provide a comprehensive and definitive set of rules to cover every potential eventuality. The guidance is intended to complement rather than replace the exercise of good judgement on a case by case basis.

65. Does the organisation need to make publicly available the number of nil returns? Should the register account for 100% of decision making staff?

The published register should, as a minimum, account for all interests declared by decision making staff. Best practice would be for the number of nil returns to be specified, so that there is transparency around the number of staff who have no interests to declare. Your organisation should have processes in place to enable staff to make representations that information on their interests should not be published in certain circumstances, for example where this could give rise to a real risk of harm or is prohibited by law.

66. I am a decision making member of staff, and have declared my interests. However I would prefer that these were not made public. Is this ok?

In general, no. This guidance is about transparency and public confidence so the default will be to publish the interests of decision making staff. However, your organisation should have processes in place to enable staff to make representations that information on their interests should not be published in certain circumstances, for example where this could give rise to a real risk of harm or is prohibited by law. If you have particular concerns then you should contact the person named in your organisational policy to discuss this.

67. I manage my organisation's register(s) of interests. If one of our employees objects to their interests being published, and their objection is upheld, how does this relate to FOI?

The Freedom of Information Act sets out a number of exemptions that allow you to withhold information from a requester. You should consult the Act to decide whether your employee's circumstances fall under one of these exemptions. <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/refusing-a-request/> . This might require the organisation to balance the public interest in knowing about the interest against the private circumstances of the individual's privacy.

Disclosure UK

68. In my directorate, only 57% of clinicians have given their consent to Disclosure UK. How can I help to improve this?

You could suggest that the scheme is included as a discussion point for clinical appraisal, or Local Clinical Excellence Awards. If you want to raise awareness by discussing the scheme with your clinicians you can find further details on the scheme: <http://www.abpi.org.uk/our-work/disclosure/Pages/disclosure.aspx>. Whether or not individuals have consented to the scheme, they **must** declare all of their relevant interests on the organisation's register in accordance with the policy. The organisation might also have made compliance with *Disclosure UK* compulsory under local policy.