

# **Conflicts of Interest Policy**

## **May 2025 – May 2028**

Policy Title:	Conflict of Interest Policy		
Executive Summary:	This policy outlines the framework by which East Cheshire NHS Trust will meet the guidance set by NHS England with regards to the requirement for staff to declare any potential or actual conflicts of interest.		
Supersedes:	Conflict of Interest V17 November 2024		
Description of Amendment(s):	<div>Updated following the update of National Guidance from NHS England in September 2024 and includes:</div> <ul style="list-style-type: none"><li>• Section 6 – additional clarity within the 4 Interests categories</li><li>• Section 8 – addition of Agenda for Change Band 8D as a decision maker</li><li>• Section 10.2 – Publication – amended to annual report</li><li>• Section 12.7 – Donations – addition of explanatory narrative</li><li>• Section 12 – Strategic Decision-Making Groups – addition of People Committee and confirmation of Finance, Performance and Productivity Committee. Addition of Terms of Reference in principles and removal of C&amp;M Mental Health Learning Disabilities &amp; Community Forum</li><li>• Section 12.1 – Gifts – removal of the acceptance of vouchers in exceptional circumstances with the agreement of the Chief Finance Officer</li><li>• Update to section 12.11 – Clinical Private Practice – clarity regarding paragraph 3 of schedule 9 of Terms of Conditions – consultants (England)</li><li>• Section 12.2 – removal of Associate Director and adding in General Manager/Head of Nursing</li><li>• Section 12.3 – Outside employment – removal of annual declaration requirement information</li><li>• Section 13 – Update to the Strategic Decision-Making Groups, inclusion of People Committee and Senior Operational Leadership Team, change of name to the Finance, Performance and Productivity Committee and removal of CMAST meetings</li><li>• Section 13.2 – Procurement – additional information concerning Procurement decisions</li><li>• Section 14.4 Responses to Breaches – additional information concerning sanctions following breaches</li><li>• Section 16 – Review – review date amended</li><li>• Update to Appendix 2 with the removal of Associate Director and adding in General Manager/Head of Nursing</li><li>• Update to Appendix 3 with the inclusion of People Committee and Agenda for Change 8D or above.</li></ul>		
This policy will impact on: All staff (including Agency staff) and volunteers of ECT			
Financial Implications: None			
Policy Area:	Governance	Document Reference:	ECT004222
Version Number:	V18	Effective Date:	28 <sup>th</sup> May 2025
Issued By:	Director of Corporate Governance	Review Date:	May 2028
Author: (Full Job title)	Head of Corporate Affairs and Resilience	Impact Assessment Date:	May 2025

APPROVAL RECORD		
Consultation	Corporate Governance Officer Director of Corporate Governance	May 2025
Approved by:	Audit Committee	27 <sup>th</sup> May 2025
For information:	Trust Wide	29 <sup>th</sup> May 2025

## Contents

1 Policy Summary .....	5
2 Introduction .....	6
3 Purpose .....	6
4 Responsibilities .....	6
5 Key terms .....	7
6 Interests .....	8
7 Staff .....	9
8 Decision Making Staff .....	9
9 Identification and declaration of interests .....	10
10 Records and publication .....	10
11 Management of interests – general .....	11
12 Management of interests – common situations .....	11
12.1 Gifts .....	12
12.2 Hospitality .....	12
12.3 Outside Employment .....	13
12.4 Shareholdings and other ownership issues .....	14
12.5 Patents .....	15
12.6 Loyalty interests .....	15
12.7 Donations .....	16
12.8 Sponsored events .....	18
12.9 Sponsored research .....	18
12.10 Sponsored posts.....	19
12.11 Clinical private practice .....	20
12.12 Roll-over of declarations .....	21
13 Management of interests – advice in specific contexts .....	22
14 Dealing with breaches.....	24
15 Audit.....	27
16 Review .....	27
17 Associated documentation .....	27
18 Appendix 1 -Bribery Act 2010 .....	28
Appendix 2 – Donations of money or vouchers to the Trust or charity ..	30
Appendix 3 – Trust Decision Maker and Decision-Making Groups	32

## 1 POLICY SUMMARY

Adhering to this policy will help to ensure that we use NHS money wisely, providing best value for taxpayers and accountability to our patients for the decisions we take.

As a member of staff you should...	As an organisation we will...
<ul style="list-style-type: none"> <li>Familiarise yourself with this policy and follow it. It aligns with the NHS England Managing Conflict of Interest in the NHS guidance which can be found here: <a href="#">NHS England » Managing conflicts of interest in the NHS</a>.</li> <li>Use your judgement to consider whether the interests you have could affect the way taxpayers' money is spent.</li> <li>Regularly consider what interests you have and declare these as they arise. If in doubt, declare.</li> <li><b>NOT</b> misuse your position to further your own interests or those close to you.</li> <li><b>NOT</b> be influenced or give the impression that you have been influenced by outside interests.</li> <li><b>NOT</b> allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money.</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that this policy and supporting processes are clear and help staff understand what they need to do.</li> <li>Identify a team or individual with responsibility for: <ul style="list-style-type: none"> <li>Keeping this policy under review to ensure alignment with the guidance.</li> <li>Provide advice, training and support for staff on how interests should be managed.</li> <li>Maintain register(s) of interests.</li> <li>Audit this policy and its associated processes and procedures at least once every three years.</li> </ul> </li> <li><b>NOT</b> avoid managing conflicts of interest.</li> <li><b>NOT</b> interpret this policy in a way which stifles collaboration and innovation with our partners.</li> </ul>

## 2 INTRODUCTION

East Cheshire NHS Trust (the 'organisation'), and the people who work with and for us, collaborate closely with other organisations delivering high quality care for our patients.

These partnerships have many benefits and should help ensure that public money is spent efficiently and wisely, but there is a risk that conflicts of interest may arise.

Providing the best value for taxpayers and ensuring that decisions are taken transparently and clearly, are both key principles in the NHS Constitution. We are committed to maximising our resources for the benefit of the whole community. As an organisation and as individuals, we have a duty to ensure that all our dealings are conducted to the highest standards of integrity and that NHS monies are used wisely so that we are using our finite resources in the best interests of patients.

## 3 PURPOSE

This policy should be considered alongside the following East Cheshire NHS Trust policies and procedures:

- Corporate Governance Manual (Part D – Standing Financial Instructions, section 22 – Acceptance of gifts by staff)
- Local Anti-Fraud, Bribery and Corruption Policy
- Freedom to Speak Up – Raising Concerns Policy

This policy will help our staff manage conflicts of interest risks effectively; it:

- Introduces consistent principles and rules
- Provides advice about what to do in common situations
- Supports good judgement about how to approach and manage interests.

## 4 ACCOUNTABILITIES AND RESPONSIBILITIES

**4.1 The Chief Executive Officer** has overall accountability for ensuring that the Trust has appropriate policies and robust monitoring arrangements in place in terms of conflict-of-interest requirements at the Trust.

**4.2 The Director of Corporate Governance** has delegated accountability for ensuring that the Trust has systems and processes in place to ensure compliance with the requirement for all NHS funded organisations to have a public facing declarations of interest system.

- 4.4 **Deputy Directors/Associate Directors/General Managers/Heads of Service/Community Coaches** are responsible for ensuring operational implementation of this policy, ensuring that all staff in their areas of responsibility make any potential or actual declarations of interest in the 11 categories outlined in this policy and ensuring that any breaches of policy are dealt with in line with Trust HR management policies.
- 4.5 **Head of Corporate Affairs and Resilience** is the operational lead on conflict-of-interest requirements and oversees this activity at the Trust. They are responsible for ensuring that all systems and process for the collation of declarations of interest are in place including a system that allows for all declarations to be publicly viewed and for reviewing and updating this policy and ensuring a programme of audit and monitoring is implemented. They are responsible for ensuring the appropriate service manager/deputy director is informed of any breach of the policy including following an audit. The Head of Corporate Affairs and Resilience produces assurance reports for presentation at Audit Committee. This role is supported by the Corporate Governance Officer.
- 4.6 **Decision Makers of the Trust** (see section 8) are responsible for complying with this policy and for ensuring that as a minimum an annual declaration of interest is declared.
- 4.7 **All Managers** are responsible for ensuring that on recruitment and as part of local induction of staff and on an on-going basis thereafter, conflicts of interest are discussed and reviewed with individuals to ensure circumstances have not changed and that information held on the Civica Declare system remains up to date. Managers are also responsible for reporting breaches to the Head of Corporate Affairs and Resilience and for taking appropriate management action to address the situation.
- 4.8 **HR Recruitment** are responsible for ensuring that an interim conflict of interest declaration form is shared with all new Trust recruits and when completed, forwarded to the conflict-of-interest administration in-box for inclusion in the Trust declaration table.
- 4.9 **Staff** are responsible for complying with this policy and declaring any conflict of interest, either actual or potential that may arise during the course of their duties within 28 days of it arising.

## 5 KEY TERMS

A 'conflict of interest' is defined, by NHS England, as:

*"A set of circumstances by which a reasonable person would consider that an individual's ability to apply judgement or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by another interest they hold."*

A conflict of interest may 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.

## 6 INTERESTS

Interests fall into the following categories:

- **Financial interests:**

Where an individual may get direct financial benefit from the consequences of a decision they are involved in making.

. This could include:

- a director (including non-executive director) or senior employee in another organisation which is doing or is likely to do business with an organisation in receipt of NHS funding
- a shareholder, partner or owner of an organisation which is doing, or is likely to do business with an organisation in receipt of NHS funding
- someone in outside employment
- someone in receipt of secondary income
- someone in receipt of a grant
- someone in receipt of other payments (e.g. honoraria, day allowances, travel or subsistence)
- someone in receipt of research sponsorship where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or promoting their professional career.

- **Non-financial professional interests:**

Where an individual may obtain a non-financial professional benefit from the consequences of a decision, they are involved in making, such as increasing their professional reputation or promoting their professional career. This could include situations where the individual is:

- an advocate for a particular group of patients
- a clinician with a special interest
- an active member of a particular specialist body
- undertaking a research role, particularly sponsored research
- an advisor for the Care Quality Commission or National Institute of Health and Care Excellence

- **Non-financial personal interests:**

Where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit, because of decisions they are involved in making in their professional career. This could include, for example, where the individual is:

- a member of a voluntary sector board or has a position of authority within a voluntary sector organisation
- a member of a lobbying or pressure group with an interest in health and care

- **Indirect interests:**

Where an individual has a close association with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest who would stand to benefit from a decision they are involved in making. These associations may arise through relationships with close family members and relatives, close friends and associates, and business partners. A common-sense approach should be applied to these terms. It would be unrealistic to expect staff to know of all the interests that people in these classes might hold. However, if staff do know of material interests (or could be reasonably expected to know about these) then these should be declared. This would include:

- close family member and relatives
- close friends and associates
- business partners



## 7 STAFF

7.1 At East Cheshire NHS Trust we use the skills of many different people, all of whom are vital to our work. This includes people on differing employment terms, who for the purposes of this policy we refer to as 'staff' and are listed below:

- All salaried employees
- All prospective employees – who are part-way through recruitment
- Contractors and sub-contractors
- Volunteers
- Agency staff; and
- Committee, sub-committee and advisory group members (who may not be directly employed or engaged by the organisation)

7.2 NHS England has produced some frequently asked questions for specific staff groups on the issues posed and how the guidance applies to you; further information can be found at [www.england.nhs.uk/ourwork/coi](http://www.england.nhs.uk/ourwork/coi).

7.3 The policy details the 11 different categories that staff should refer to when considering if a declaration is necessary. Should any staff member have an interest to declare in any of the categories they must do so within 28 days of the interest arising. It is only those staff that are classed as Decision Makers of the Trust (see below) that also have a requirement to make an annual 'nil' declaration.

7.4 Please note should you not have any conflicts to declare, and you are not a decision maker of the Trust, there is no requirement to enter a 'nil' declaration on the electronic system.

7.5 For those members of staff with more than one assignment number, please note that declarations are only required to be made on one assignment number (to prevent duplication) and should be made against your primary role.

## 8 DECISION MAKING STAFF

Some staff are more likely than others to have a decision-making influence on the use of taxpayers' money, because of the requirements of their role. For the purposes of this guidance these people are referred to as 'decision making staff.'

Decision making staff in this organisation are:

- Trust Board members (Executive & Non-Executive)
- Clinical Leads, Deputy Directors, Associate Directors
- Those who are formal members of Decision-Making Groups (see 13.1)
- Those at Agenda for Change Band 8D and above
- The Trusts Procurement team including the Pharmacy ordering team
- Clinical staff nominated to represent the Trust at Provider Collaborative workstreams e.g. CMAST
- Those that are authorised to procure works/raise orders (e.g. tenders) and
- Those who sit on job matching panels.

Please remember if you are in one of the above categories and have nothing to declare you still have to input a 'nil' declaration on the system annually.

## 9 IDENTIFICATION & DECLARATION OF INTERESTS

### ***9.1 Identification & declaration of interests (including gifts and hospitality)***

All staff should identify and declare material interests at the earliest opportunity (and in any event within 28 days). If staff are in any doubt as to whether an interest is material then this should be declared. Declarations should be made:

- On appointment with the organisation
- When staff move to a new role or their responsibilities change significantly;
- At the beginning of a new project/piece of work; and
- As soon as circumstances change and new interests arise (for instance, in a meeting when interests staff hold are relevant to the matters in discussion).

The Trust has an electronic system which is linked to ESR in full. As it can take between 4-6 weeks for new starter details to be uploaded to the Trust's electronic system, new starters will be asked to complete a temporary declaration as part of their recruitment process.

The responsibility for the management of the Trust's conflict of interest process including the review of this policy sits with the Director of Corporate Governance. The Trust's register is public facing and available to view throughout the year.

Should staff members require any further advice or guidance please email the following address:  
[Ecn-tr.conflictofinterest@nhs.net](mailto:Ecn-tr.conflictofinterest@nhs.net)

After expiry, an interest will remain on the register for a minimum of 6 months and a private record of historic interests will be retained for a minimum of 6 years. Please note declarations stay live on the system for 6 months following departure from the Trust.

## 10 RECORDS AND PUBLICATION

### ***10.1 Maintenance***

The organisation will maintain the following register:

- One overall Conflict of Interest Register (which includes a register of gifts and hospitality)

### ***10.2 Publication***

We will:

- Ensure the Trust's electronic system is accessible to staff and the public all year round
- Ensure that declarations of interest declared during any procurement activity over the value of £10k are published on the Trust's website
- Compliance rates will be reported annually at Trust Board
- An annual Conflict of Interest report will be presented to the Audit Committee.

If decision making staff have substantial grounds for believing that publication of their interests should not take place, then they should contact either the Director of Corporate Governance or the Head of Corporate Affairs and Resilience to explain why. In exceptional circumstances, for instance where

publication of information might put a member of staff at risk of harm, information may be withheld or redacted on public registers. However, this would be exception, and information will not be withheld or redacted merely because of a personal preference.

### **10.3 Wider transparency initiatives**

East Cheshire NHS Trust fully supports wider transparency initiatives in healthcare, and we encourage staff to engage actively with these. As part of the Association of British Pharmaceutical Industry (ABPI) Disclosure UK initiative, staff who have benefited from payment due to any of the below activity are asked to make a declaration on the Trust's declaration system (in addition to any ABPI related disclosure). These "transfers of value" include payments relating to:

- Speaking at and chairing meetings
- Training services
- Advisory board meetings
- Fees and expenses paid to healthcare professionals
- Sponsorship of attendance at meetings, which includes registration fees and the costs of accommodation and travel, both inside and outside the UK
- Donations, grants and benefits in kind provided to healthcare organisations

Further information about the scheme can be found on the ABPI website:

[Download Full Data Set \(disclosureuk.org.uk\)](https://disclosureuk.org.uk/)

As part of the audit process, the Trust reviews the data published on the ABPI Disclosure UK initiative annually (in August) and cross references any individuals mentioned on the register that work at East Cheshire NHS Trust against declarations made on the Trust's Conflict of Interest (Col) system.

## **11 MANAGEMENT OF INTERESTS – GENERAL**

If an interest is declared but there is no risk of a conflict arising, then no action is warranted. However, if a material interest is declared then the general management actions that could be applied include:

- Restricting staff involvement in associated discussions and excluding them from decision making
- Removing staff from the whole decision-making process
- Removing staff responsibility for an entire area of work
- Removing staff from their role altogether if they are unable to operate effectively in it because the conflict is so significant
- Undertaking an investigation of any declared conflict of interest made during the procurement process (carried out by the Head of Procurement)

Each case will be different and context-specific, and East Cheshire NHS Trust will always clarify the circumstances and issues with the individuals involved. Staff should maintain a written audit trail of information considered and actions taken.

Staff who declare material interests should make their line manager or the person(s) they are working to aware of their existence.

## **12 MANAGEMENT OF INTERESTS – COMMON SITUATIONS**

This section sets out the principles and rules to be adopted by staff in common situations, and what information should be declared.

## 12.1 Gifts

Staff should not accept gifts that may affect, or be seen to affect, their professional judgement. Staff should be mindful that even gifts of a small value may give rise to perceptions of impropriety and might influence behaviour if not handled appropriately. A gift means any item of cash or goods, or any service, which is provided for personal benefit, free of charge, or at less than its commercial value.

Gifts from suppliers or contractors:

- Gifts from suppliers or contractors doing business (or likely to do business) with the organisation should be declined by individual members of staff, whatever their value
- Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6<sup>1</sup> in total, and need not be declared

Gifts from other sources (e.g. patients, families, service users):

- Gifts of cash to individuals should always be declined
- Gifts of cash and vouchers should always be declined
- Staff should not ask for any gifts, regardless of value
- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of an organisation (i.e. to an organisation's charitable funds), not in a personal capacity. Staff should declare such gifts and provide a clear reason as to why it was considered permissible to accept the gift, alongside the actual or estimated value
- Modest gifts under a value of £50 do not need to be declared
- A common-sense approach should be applied to the valuing of gifts (using an actual amount, if known, or an estimate that a reasonable person would make as to its value)
- Multiple gifts from the same source over a 12-month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50

### 12.1.2 What should be declared

- Staff name and their role with the organisation
- A description of the nature and value of the gift, including its source
- Date of receipt
- Any other relevant information (e.g. circumstances surrounding the gift, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

## 12.2 Hospitality

Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement. Staff receiving hospitality should always be prepared to justify why it has been accepted and be mindful that even hospitality of a small value may give rise to perceptions of impropriety and might influence behaviour. Hospitality means offers of meals, refreshments, travel, accommodation and other expenses in relation to attendance at meetings, conferences, education and training events etc.

Overarching principles applying in all circumstances include:

- Hospitality must only be accepted when there is a legitimate business reason, and it is proportionate to the nature and purpose of the event

---

<sup>1</sup> The £6 value has been selected with reference to existing industry guidance issued by the ABPI:

- Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This can be accepted and must be declared, if modest and reasonable. Senior approval must be obtained prior to the hospitality being accepted or taken.

#### Meals and refreshments:

- Under a value of £25 - may be accepted and need not be declared
- Of a value between £25 and £75<sup>2</sup> - may be accepted and must be declared
- Over a value of £75 - should be refused unless (in exceptional circumstances) senior approval is given. A clear reason should be recorded on the organisation's register(s) of interest as to why it was permissible to accept
- A common-sense approach should be applied to the valuing of meals and refreshments (using an actual amount, if known, or a reasonable estimate)

#### Travel and accommodation:

- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared
- Offers which go beyond modest or are of a type that the Trust might not usually offer, need approval by senior staff, should only be accepted in exceptional circumstances, and must be declared. A clear reason would need to be recorded on the organisation's register(s) of interest as to why it was permissible to accept travel and accommodation of this type. A non-exhaustive list of examples includes:
  - offers of business class or first-class travel and accommodation (including domestic travel)
  - offers of foreign travel and accommodation.

### 12.2.1 What should be declared

- Staff name and their role with the organisation
- The nature and value of the hospitality including the circumstances of acceptance
- Date of receipt
- Clear actions as to how the recipient will mitigate against any conflict
- Name and title of senior staff member authorising the hospitality or accommodation/travel (evidence of this should be forwarded to the Conflict-of-Interest team at [ecn-tr.conflictinterest@nhs.net](mailto:ecn-tr.conflictinterest@nhs.net))
- Any other relevant information (e.g. Details of any approvals given to depart from the terms of this policy)

### 12.3 Outside Employment

Outside employment means employment and other engagements, outside of formal employment arrangements. This can include directorships, non-executive roles, self-employment, consultancy work, charitable trustee roles, political roles and roles within non-profit organisations, paid advisory positions and paid honorariums which relate to bodies likely to do business with the Trust. (Clinical Private Practice is considered in a separate section).

Principles and rules include:

---

<sup>2</sup> The £75 value has been selected with reference to existing industry guidance issued by the ABPI  
<http://www.pmcpcpa.org.uk/thecode/Pages/default.aspx>

- Staff should declare any existing outside employment on appointment, and any new outside employment when it arises
- Where a risk of conflict of interest is identified, the general management actions outlined in this guidance should be considered and applied to mitigate risks
- Where contracts of employment or terms and conditions of engagement permit, staff may be required to seek prior approval from an organisation to engage in outside employment
- Organisations may also have legitimate reasons within employment law for knowing about outside employment of staff, even this does not give rise to risk of a conflict. Nothing in this guidance prevents such enquiries being made.

### **12.3.1 What should be declared**

- Staff name and their role with the organisation
- The nature of the outside employment (e.g. the name of the employing organisation, a description of duties and time commitment)
- Relevant dates (started and once the interest has ceased, the ceased date)
- Clear actions as to how the staff member will mitigate against any conflict
- Who has given approval should this be required (their name and title – evidence of this should be forwarded to the Conflict-of-Interest team at [ecn-tr.conflictinterest@nhs.net](mailto:ecn-tr.conflictinterest@nhs.net) )
- Other relevant information (e.g. Details of any approvals given to depart from the terms of this policy)

### **12.4 Shareholdings and other ownership issues**

Holding shares or other ownership interests can be a common way for staff to invest personal time and money to seek a return on investment. However, conflicts of interest can arise when staff personally benefit from this investment because of their role within the Trust.

Principles and rules include:

- Staff should declare, as a minimum, any shareholdings and other ownership interests that are material to them (ie equivalent of 5% or more of their overall wealth) in any publicly listed, private or not-for-profit company, business, partnership or consultancy (other than ownership of a company/consultancy that has been established purely to carry out Clinical Private Practice) which is doing, or might be reasonably expected to do business with the Trust. (See the section on Clinical Private Practice and include details e.g. Limited company established to undertake Clinical Private Practice work).
- Where shareholdings or other ownership interests are declared and give rise to a risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks
- There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit Trusts.

#### **12.4.1 What should be declared**

- Staff name and their role with the organisation and time commitment
- Nature of the shareholdings/other ownership interest
- Relevant dates (started and once the interest has ceased, the ceased date)
- Clear actions as to how the staff member will mitigate against any conflict
- Other relevant information (e.g. Details of any approvals given to depart from the terms of this policy)

## 12.5 Patents

Conflicts may arise when staff hold patents and other intellectual property rights, are involved in decision making and procurement. In addition, where product development involves use of time, equipment or resources from the Trust, this may create risks of conflict of interest.

Principles and rules include:

- Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation
- Staff should seek prior permission from the organisation before entering into any agreement with bodies regarding product development, research, work on pathways etc, where this impacts on the organisation's own time, or uses its equipment, resources or intellectual property
- Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks

### 12.5.1 What should be declared

- Staff name and their role with the organisation
- A description of the patent
- Relevant dates
- Clear actions as to how the staff member will mitigate against any conflict
- Name and title of the senior staff member who has granted permission to enter into an agreement (evidence of this should be forwarded to the Conflict-of-Interest team at [ecn-tr.conflictinterest@nhs.net](mailto:ecn-tr.conflictinterest@nhs.net))
- Other relevant information (e.g. Details of any approvals given to depart from the terms of this policy)

## 12.6 Loyalty interests

Conflict of interest can arise when decision making is influenced subjectively by a staff members association with a colleague or another organisation when there is a loyalty to that relationship; it can be as simple as having informal access to people in senior positions.

Loyalty interests should be declared by staff where they:

- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body
- Sit on advisory groups or other paid or unpaid decision-making forums that can influence how an organisation spends taxpayers' money
- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners
- Have a family member, close friend or business partner who also works for East Cheshire NHS Trust
- Are aware that the Trust does business with an organisation in which close family members or relatives, close friends and associates, or business partners have decision making responsibilities
- Where holding loyalty interests gives rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

### 12.6.1 What should be declared

- Staff name and their role with the organisation

- Nature of the loyalty interest (e.g. mother, brother/sister including full name and job title at East Cheshire NHS Trust)
- Relevant dates (started and once the interest has ceased, the ceased date)
- Clear actions as to how the staff member will mitigate against any conflict
- Name and title of the senior staff member who has granted permission should this be required (e.g. if the loyalty commenced after employment at ECT had already started (evidence of this should be forwarded to the Conflict of Interest team at [ecn-tr.conflictinterest@nhs.net](mailto:ecn-tr.conflictinterest@nhs.net))
- Other relevant information (e.g. Details of any approvals given to depart from the terms of this policy)

## 12.7 Donations

A donation is a charitable financial payment, which can be in the form of direct cash payment or through the application of a will or similar directive. Charitable giving and other donations are often used to support the provision of health and care services. As a major public sector employer, the NHS holds formal and informal partnerships with national and local charities. Staff will, in their private lives, undertake voluntary work or fundraising activities for charity. A supportive environment across the NHS and charitable sector should be promoted. However, conflicts of interest can arise. Principles and rules include:

- Donations made by suppliers or bodies seeking to do business with the Trust should be treated with caution and not routinely accepted. In exceptional circumstances they may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.
- Donations of food (hot or cold) should be treated with caution and not routinely accepted; the Trust advises staff not to accept any donation of food from suppliers. Should they be accepted, this should always be declared, and a clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value of the donated food. There are a number of concerns with regards to the donation of food products as there are regulations that must be adhered to in order to keep the food consumer safe from food poisoning. Please refer to the Trusts Food Safety Policy which outlines the codes of practice that should be followed should staff accept donated food. **Any staff members accepting food (hot or cold) from a supplier other than ISS do so at their own risk; the Trust does not accept any liability where staff members have chosen to accept and eat donated food.**
- The donation of money by service users or their family can be accepted by the Trust's registered charity (and not an individual) or on behalf of another registered charity whose services are used by service users on the Trust site (e.g. Macmillan or The Christie). Service users or their family should be asked to donate cash via the charitable funds' envelopes (available in the cash office or on wards) and be directed to take to the cash office in person to hand over or leave in the night safe.
- For those service users or family members unable to present to the cash office in person; the donation of money can be accepted by the staff member, but a receipt must be issued to the donor. The staff member must then deliver the donation to the cash office as soon as is practicably possible; a night safe is available for out of hours deposits.
- An entry on the Trust's Conflict of Interest database is not required if the donation is directly for East Cheshire NHS Charity. A letter of thanks will be sent to the donor by the Fundraising Team.
- Donations of vouchers can be accepted on behalf of the Trust. The Trust will then use the vouchers for fundraising activity for East Cheshire NHS Charity.
- Vouchers should be handed to the charities Fundraising Team (based on the top floor of New Alderley House and reached at [ecn-tr.ecnhscharity@nhs.net](mailto:ecn-tr.ecnhscharity@nhs.net))
- An entry on the Trust's Conflict of Interest database is required for those members of staff accepting vouchers (guidance for entry below). The charity fundraising team will write a letter of thanks, please email the details to [ecn.tr-ecnhscharity@nhs.net](mailto:ecn.tr-ecnhscharity@nhs.net)
- Any donations received to the value of £500 or more will have a thank you letter issued from the CEO.



- Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the organisation or is being pursued on behalf of the organisation's own registered charity or other charitable body and is not for their own personal gain.
- Staff must obtain permission from the organisation if in their professional role, they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the organisation's own – please refer to the Trusts Fundraising policy which can be found here: <https://www.eastcheshire.nhs.uk/about-the-trust/policies/f/>
- Staff wishing to make a donation to the Trust's charity in lieu of receiving a professional fee may do so, subject to ensuring that they take personal responsibility for ensuring that any tax liabilities related to such donations are properly discharged and accounted for

#### **12.7.1 What should be declared**

- The organisation will maintain records in line with the above principles and rules and relevant obligations under charity law.
- Individuals accepting vouchers on behalf of the Trust should ensure they enter the details onto the Trust's Conflict of Interest database and include who gave the donation, the value and date of receipt and that this has been handed to East Cheshire NHS Charity– registered charity number 1059228 for fundraising purposes.
- Individuals who chose to accept donations of food for themselves or on behalf of colleagues, one member of the team should make the declaration on the Conflict-of-Interest system on behalf of all. The date of receipt and the value of the goods together with the name of the person/company donating the food should be included in the declaration.

#### **12.7.2 Donations to East Cheshire NHS Trust (not individuals) under Exceptional Circumstances**

In some exceptional circumstances members of the general public/local companies may wish to make donations (such as significant amounts of food products, PPE, electrical equipment or washing products) 'in bulk' for dissemination at random amongst ECT colleagues. An example of 'exceptional circumstances' could be during an NHS response to a national pandemic or an ECT response to a major incident; a way for the general public to say 'thank you' for the care given by staff. These donations can be accepted by the Trust but can only be accepted under strict guidelines and only by the Head of Corporate Affairs and Resilience or a General Manager/Heads of Nursing or above. Please refer to 12.7.3.

#### **12.7.3 What should be declared, by whom and actions taken**

- The Head of Corporate Affairs and Resilience, General Manager/Heads of Nursing (or more senior) can accept the donation on behalf of the Trust and make a declaration on their own Conflict of Interest log-in on the Trust's database (this is because the Conflict-of-Interest system only allows for individual declarations). Details of the donation will then need to be sent to the Corporate Governance Officer; they can be reached at [ecn-tr.conflictinterest@nhs.net](mailto:ecn-tr.conflictinterest@nhs.net)
- A description of the nature and value of the donation, including its source
- Date of receipt
- Any other relevant information (e.g. circumstances surrounding the donation, action taken to mitigate against a conflict, details of any approvals given that are not in line with the terms of this policy)
- The Head of Corporate Affairs and Resilience will arrange for a thank you letter to be sent to the person/company who made the donation from either the CEO or The Chairman and determine how best to distribute the donation

As the guidance around donations is complex, a flow chart has been produced to aid clarity; please find this at appendix 2.

## 12.8 Sponsored events

Sponsorship of NHS events by external parties is valued. Offers to meet all or part of the costs of running an event secures their ability to take place, benefiting NHS staff and patients. Without this funding there may be fewer opportunities for learning, development and partnership working. However, there is potential for conflicts of interest between the organiser and the sponsor, particularly regarding the ability to market commercial products or services. As a result, there should be proper safeguards in place to prevent conflicts occurring.

Principles and rules include:

- Sponsorship of events by appropriate external bodies will only be approved if a reasonable person would conclude that the event will result in a clear benefit to the organisation and the NHS.
- During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.
- No information should be supplied to the sponsor from whom they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.
- At the organisation's discretion, sponsors or their representatives may 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.
- The involvement of a sponsor in an event should always be clearly identified.
- Staff within the organisation involved in securing sponsorship of events should make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event.
- Staff arranging sponsored events must declare this to the organisation.

### 12.8.1 What should be declared

- The organisation will maintain records regarding sponsored events in line with the above principles and rules.
- The name of the staff member organising the sponsored event should record the event on their Conflict-of-Interest profile and clearly state that it is being carried out on behalf of East Cheshire NHS Trust.
- Details of the sponsorship, including the name of the company and the cost of the event. A common-sense approach should be applied to the valuing of the event (using an actual amount, if known, or a reasonable estimate).
- Name and title of the senior member of staff approving the sponsored event (evidence of this should be forwarded to the Corporate Governance Officer at [ecn-tr.conflictinterest@nhs.net](mailto:ecn-tr.conflictinterest@nhs.net) and must be gained prior to the event taking place).
- Details of how the event will result in clear benefits to the organisation or the NHS.
- Details of how any conflict may be mitigated.

## 12.9 Sponsored research

Research is vital in helping the NHS to transform services and improve outcomes. Without sponsorship of research some beneficial projects might not happen. More broadly, partnerships between the NHS and external bodies on research are important for driving innovation and sharing best practice. However, there is potential for conflicts of interest to occur, particularly when research funding by external bodies does or could lead to a real or perceived commercial advantage. There needs to be transparency and any conflicts of interest should be well managed.

Principles and rules include:

- Funding sources for research purposes must be transparent.
- Any proposed research must go through the relevant health research authority or other approvals process.

- There must be a written protocol and written contract between staff, the Trust, 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 the payment for those services.
- The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
- Staff should declare involvement with sponsored research to the Trust.

#### **12.9.1 What should be declared**

- The Trust will retain written records of sponsorship of research, in line with the above principles and rules.
- Staff should declare:
  - Name and their role within East Cheshire NHS Trust
  - Nature of their involvement in the sponsored research
  - Name of the organisation that is offering the sponsored research
  - Brief summary of what the sponsorship involves and confirmation that there is an agreed written protocol in place
  - Relevant dates (started and once the interest has ceased, the ceased date)
  - How they will mitigate against any conflict
  - The name and title of the senior ECT member of staff who has authorised the sponsored research (evidence of this should be forwarded to the Corporate Governance Officer at [ecn-tr.conflictinterest@nhs.net](mailto:ecn-tr.conflictinterest@nhs.net))
  - Other relevant information (e.g. what, if any, benefit the sponsor derives from the sponsorship, details of any approvals given to depart from the terms of this policy)

#### **12.10 Sponsored posts**

Sponsored posts are positions with an organisation that are funded, in whole or in part, by organisations external to the NHS. Sponsored posts can offer benefits to the delivery of care, providing expertise, extra capacity and capability that might not otherwise exist if funding was required to be used from the NHS budget. However, safeguards are required to ensure that the deployment of sponsored posts does not cause a conflict of interest between the aims of the sponsor and the aims of the organisation, particularly in relation to procurement..

Principles and rules include:

- External sponsorship of a post requires prior approval from the Trust
- Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate
- Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. This should be audited for the duration of the sponsorship. Written agreements should detail the circumstances under which organisations have the ability to exit sponsorship arrangements if conflicts of interest which cannot be managed arise
- Sponsored post holders must not promote or favour the sponsor's products, and information about alternative products and suppliers should be provided
- Sponsors should 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 posts

#### **12.10.1 What should be declared**

- The Trust will retain written records of sponsorship of posts, in line with the above principles and rules

- Staff should declare any other interests arising as a result of their association with the sponsor, in line with the content in the rest of this policy
- The senior manager who has agreed the sponsored post should enter details on their Conflict-of-Interest profile and should include details of how they will ensure that regular audits are undertaken during the lifetime of the sponsored post (the outcomes of the audit should be made available if required)
- Details of any rolling sponsorship posts including details of any appropriate checkpoints in place to review or withdraw if required
- How they will mitigate against any conflict

### 12.11 Clinical private practice

It is recognised that service delivery in the NHS is done by a mix of public, private and not-for-profit organisations. The expertise of clinicians in the NHS is in high demand across all sectors and the NHS relies on the flexibility that the public, private and not-for-profit sectors can provide. It is therefore not uncommon for clinical staff to provide NHS funded care and undertake private practice work either for an external company, or through a corporate vehicle established by themselves.

Existing provisions in contractual arrangements make allowances for this to happen and professional conduct rules apply. However, these arrangements do create the possibility for conflicts of interest arising. Therefore, these provisions are designed to ensure the existence of private practice is known so that potential conflicts of interest can be managed. These provisions around declarations of activities are equivalent to what is asked of all staff in the section on Outside Employment.

Clinical staff should declare all private practice on appointment and/or any new private practice when it arises<sup>3</sup> including:

- Where they practise (name of private facility)
- What they practise (specialty, major procedures)
- When they practise (identified sessions/time commitment)
- Hospital consultants are already required to provide their employer with this information by virtue of paragraph 3, schedule. 9 of Terms and conditions – consultants (England)

Clinical staff should (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed):

- Seek prior approval of their organisation before taking up private practice
- Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work<sup>4</sup>
- Include details of any limited company/consultancy that has been established as a way of channelling payment for clinical private practice work (which is used solely for this purpose)
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines: [https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment\\_Order\\_amended.pdf](https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf)

---

<sup>3</sup> Hospital Consultants are already required to provide their employer with this information by virtue of Para.3 Sch. 9 of the Terms and Conditions – Consultants (England) 2003: [https://www.bma.org.uk/-/media/files/pdfs/practical\\_advice\\_at\\_work/contracts/consultanttermsandconditions.pdf](https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf)

<sup>4</sup> These provisions already apply to Hospital Consultants by virtue of Paras.5 and 20, Sch. 9 of the Terms and Conditions – Consultants (England) 2003: [https://www.bma.org.uk/-/media/files/pdfs/practical\\_advice\\_at\\_work/contracts/consultanttermsandconditions.pdf](https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf)

Hospital Consultants should not initiate discussions about providing their Private Professional Services for NHS patients, nor should they ask other staff to initiate such discussions on their behalf (these provisions already apply to hospital consultants by virtue of paragraphs 5 and 20, schedule 9 of the Terms and conditions – consultants (England)).

Where clinical private practice gives rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

#### **12.11.1 What should be declared**

- Staff name and their role within East Cheshire NHS Trust
- A description of the nature of the private practice (e.g. what, where and when staff practise, sessional activity, etc)
- Relevant dates (started and once the interest has ceased, the ceased date)
- How they will mitigate against any conflict
- The name and title of the senior ECT member of staff who has given approval to the private practice (evidence of this should be forwarded to the Conflict-of-Interest team at [ecn-tr.conflictinterest@nhs.net](mailto:ecn-tr.conflictinterest@nhs.net))
- Any other relevant information (e.g. Details of any approvals given to depart from the terms of this policy)

#### **12.12 Roll-Over of declarations**

For those declarations in the following categories, once interests have been declared onto the system, they will stay 'live' on the system from each year to year (i.e. roll-over):

- Loyalty Interests
- Outside Employment
- Clinical Private Practice
- Shareholdings and other Ownership Interests

When an interest in any of the above four categories' ceases, the 'end' date of the interest must be entered onto the Col database.

For clarification, should 'decision makers' have an interest declared in any of the above 4 categories and no other interests to declare in year, their original declaration will roll over on the system and an additional 'nil' annual declaration will need to be made. This further nil declaration is confirming that the staff member has no additional interests to the ones being rolled over requiring declaration.

At appendix 3 of the policy, two flow charts set out the expectation of what and when declarations need to be made for both decision makers and non-decision makers of the Trust.

## **13 MANAGEMENT OF INTERESTS– ADVICE IN SPECIFIC CONTEXTS**

### **13.1 Strategic decision-making groups**

In common with other NHS bodies East Cheshire NHS Trust uses a variety of different groups to make key strategic decisions about things such as:

- Entering into (or renewing) large scale contracts
- Awarding contracts
- Making procurement decisions

- Selection of medicines, equipment, and devices

The interests of those who are involved in these groups should be well known so that they can be managed effectively. For this organisation these groups are:

- Trust Board
- Audit Committee
- Safety, Quality and Standards Committee
- Directorate Safety, Quality and Standards sub-committees and Operational Boards
- Finance, Performance and Productivity Committee
- People Committee
- Remuneration and Nominations Committee
- Executive Leadership Team
- Clinical Leadership Board
- Senior Operational Leadership Team
- Operational Management Team
- Digital Transformation Group
- Capital and Space Planning Group
- Medicines Management sub-committee
- Job Matching Panel Members
- Cheshire & Merseyside Provider CEO Collaborative Group
- Cheshire & Merseyside Efficiency at Scale Programme Board
- North Midlands and Cheshire Pathology Service Board
- Procurement Team
- Pharmacy Procurement Team
- Estates Procurement Team

These groups should adopt the following principles:

- Chairs should consider any known interests of members in advance, and begin each meeting by asking for a declaration of relevant material interests
- Members should take personal responsibility for declaring material interests at the beginning of each meeting and as they arise
- Any new interests identified should be added to the Trusts register(s)
- The Vice Chair (or other non-conflicted member) should chair all or part of the meeting if the Chair has an interest that may prejudice their judgement.
- Terms of Reference for such groups should refer to the organisation's policy and procedures for managing conflicts of interest and should set out any specific requirements which apply to the group.

If a member has an actual or potential interest the Chair should consider the following approaches and ensure that the reason for the chosen action is documented in minutes or records:

- Requiring the member to not attend the meeting
- Ensure the member does not receive meeting papers relating to the nature of their interest
- Excluding the member from all or part of the relevant discussion and decision
- Noting the nature and extent of the interest, but judging it appropriate to allow the member to remain and participate
- Removing the member from the group or process altogether

The default response should not always be to exclude members with interests, as this may have a detrimental effect on the quality of the decision being made. An example is the need for clinical

involvement, when clinicians may hold and represent a diversity of interests. Good judgement is required to ensure proportionate management of risk. The composition of groups should be kept under review to ensure effective participation.

### 13.2 Procurement

Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law. Procurement processes should be conducted in the best interest of patients.

Those involved in procurement exercises, including those that are authorised to procure works/raise orders (e.g. tenders) for and on behalf of the Trust should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of procurement processes. At every evaluation stage of procurement, steps should be taken to identify and manage conflicts of interest to ensure and protect the integrity of the process; this will be achieved via the use of the Trust Standing Instruction Waiver Form and during any evaluation stage, the individual managing the procurement process will ensure that any conflict of interest has been noted and logged accordingly; this information will also be published on the Trusts website.

The provider selection regime (PSR) came into force on 1<sup>st</sup> January 2024. The PSR is a set of rules for procuring health services which are designed to be a more flexible and proportionate decision-making process for selecting providers to deliver healthcare services. The Trust must comply with the PSR when arranging for the provision of 'relevant health care services', either on their own or as part of a 'mixed procurement'.

The Trust needs to take appropriate measures to effectively prevent, identify a remedy conflicts of interest arising in the conduct of procurement processes under The Health Care Services (Provider Selection Regime) Regulations 2023 ('PSR Regulations'). The definition of conflicts of interest for the purposes of the PSR is set out in regulation 21(2)(a) of the PSR Regulations.

The Trust needs to comply with the rules on public procurement set out in the Public Contracts Regulations 2015 ('PCR') when arranging for the provision of goods and services that are not 'relevant health care services', unless they form part of a 'mixed procurement', which meets the test for the application of the PSR.

The Procurement Act 2023 ('Procurement Act') requires organisations to take all reasonable steps to identify, and keep under review, in relation to any procurement under the Procurement Act any conflicts of interest or potential conflicts of interest. **"Conflict of interest"** is defined for the purposes of the Procurement Act in Section 81. The Procurement Act imposes duties on organisations with regards to the assessment and management of conflicts of interest.

The Trusts Procurement teams and those authorised to procure works/raise orders are considered decision makers of the Trust and as such are required to make as a minimum an annual 'nil' declaration if no other declaration has been made in year.

### 13.3 Commencement of Employment

As the Trust's electronic Conflict of Interest database is linked to the Trust's ESR (Electronic Staff Record) system it can take up to 28 days for new staff details to be available on the ESR system. To ensure that all declarations are visible from the start of employment, those going through the recruitment stage are asked to complete a temporary declaration of interest form. The information provided on the form will be published on the Interim Conflict of Interest declaration table which is available on the Trusts website. Once the ESR system has been updated, staff are asked to make their declaration on the electronic system (within 28 days). The temporary declaration table will then be updated, and details removed (to avoid duplication).

## 14 DEALING WITH BREACHES

There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or other organisations. For the purposes of this policy these situations are referred to as 'breaches'.

### 14.1 Identifying and reporting potential or actual breaches

Staff who are aware of actual breaches of this policy, or who are concerned that there has been, or maybe a breach, should report these concerns to the Head of Corporate Affairs and Resilience at [fionabaker@nhs.net](mailto:fionabaker@nhs.net)

To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this. For further information about how concerns should be raised please refer to the Trust's Freedom to Speak-Up – Raising Concerns Policy or the Trust's Local Anti-Fraud, Bribery and Corruption Policy.

### 14.2 Action following notification of breach/potential breach

Should an actual or potential breach of policy be identified, the staff member who this relates to will be contacted by the Corporate Governance Officer and asked to review the findings and if a declaration has not been made and should have, then make a declaration if appropriate to do so. This must be declared on the system within 2 weeks of the potential/actual breach being identified. At the same time, the Corporate Governance Officer will notify the staff members manager to inform them of the potential/actual breach and provide them with a breaches template for completion. The manager should ensure the declaration (if required) is made within the time frame and acknowledge their staff members declaration on the Civica system (authorisation tab) within 4 weeks of the date of the original email from the Corporate Governance Officer.

Once the declaration has been authorised, the team will review and confirm if a breach has occurred. If this is the case, then the manager will be asked to liaise with the staff member and take appropriate management action.

If the staff member does not consider that a breach has occurred, they should discuss with their manager and outcomes shared with the Corporate Governance Officer.

### 14.3 Following investigation and a confirmed breach, the Manager will

- Decide on the severity of the breach.
- Assess whether further action is required in response.
- Consider who else inside and outside the organisation should be made aware.
- Take appropriate action as set out in the next section – 14.4.
- Confirm with the Corporate Governance Officer the outcomes of the investigation and confirmation of Management actions taken by the completion and submission of the breaches template. See appendix 4.

### 14.4 Taking action in response to breaches

Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the Trust and could involve organisational leads for staff support (e.g. Human Resources), fraud (e.g.



Local Counter Fraud Specialists), members of the management or executive teams and organisational auditors.

Breaches could require action in one or more of the following ways:

- Clarification or strengthening of existing policy, process and procedures
- Consideration as to whether HR/employment law/contractual action should be taken against staff or others
- Consideration being given to escalation to external parties. This might include referral of matters to external auditors, NHS Counter Fraud Authority, the Police, statutory health bodies (such as NHS England, NHS Improvement or the CQC), and/or health professional regulatory bodies

Inappropriate or ineffective management of interests can have serious implications for the organisation and staff. There will be occasions when it is necessary to consider the imposition of sanctions for breaches.

Sanctions should not be considered until the circumstances surrounding breaches have been properly investigated. However, if such investigations establish wrong-doing or fault then the organisation can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach. This includes:

#### **Disciplinary Sanctions:**

Staff who fail to disclose any relevant interests or who otherwise breach the organisations rules and policies relating to the management of conflicts of interest are subject to investigation and, where appropriate, to disciplinary action. This may include:

- Employment law action such as:
  - Informal action (such as reprimand, or signposting to training and/or guidance)
  - Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal)
  - Referring incidents to regulators
  - Contractual action against organisations or staff
- Where the staff member is not a direct employee, review of their appointment to the role that has given rise to the conflict

#### **Professional Regulatory Sanctions:**

Statutorily regulated healthcare professionals who work for or are engaged by the Trust are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest. The Trust may consider reporting statutorily regulated healthcare professionals to their regulator if it is believed that they have acted improperly, so that these concerns can be investigated. The healthcare professional involved, will be made aware that the consequences for inappropriate action could include fitness to practice proceedings being brought against them, and that they could, if appropriate be struck off by their professional regulator as a result.

Information and contact details for the healthcare professional regulators accessible from the <http://www.professionalstandards.org.uk/what-we-do/our-work-with-regulators/find-a-regulator>

#### **Civil Sanctions:**

If conflicts of interest are not effectively managed, organisations could face civil challenges to decisions they make – for instance if interests were not disclosed that were relevant to the bidding for, or performance of contracts. If a decision-maker has a conflict of interest, then the decision is also potentially vulnerable and could be overturned on judicial review. In extreme cases, staff and other individuals could face personal civil liability, for example a claim for misfeasance in public office.

**Criminal Sanctions:**

Failure to manage conflicts of interest could lead to criminal proceedings including offences such as fraud, bribery and corruption. This could have implications for the Trust and any linked organisation, and the individuals who are engaged by them.

The Fraud Act 2006 created a criminal offence of fraud and defines 3 ways of committing it:

- Fraud by false representation
- Fraud by failing to disclose information
- Fraud by abuse of position.

In these cases, an offender's conduct must be dishonest, and their intention must be to make a gain, or cause a loss (or the risk of a loss) to another. Fraud carries a maximum sentence of 10 years imprisonment and/or a fine and can be committed by a body corporate.

The Bribery Act 2010 makes it easier to tackle this offence in public and private sectors. Bribery is generally defined as giving or offering someone a financial or other advantage to encourage a person to perform certain activities and can be committed by a body corporate.

Commercial organisations (including NHS bodies) will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery.

The offences of bribing another person or accepting a bribe carry a maximum sentence of 10 years imprisonment and/or fine. In relation to a body corporate the penalty for these offences is a fine.

**Reputational Consequences:**

A failure to manage conflicts of interest (including the perception of such a failure) can lead to reputational damage and undermine confidence in the integrity of the decision-making process and give the impression that the Trust or individual has not acted in the public interest.

**14.5 Learning and transparency concerning breaches**

Reports on breaches, the impact of these, and action taken will be considered by the Audit Committee annually.

To ensure that lessons are learnt, and management of interests can continually improve, anonymised information on breaches, the impact of these, and action taken will be prepared and published as appropriate or made available for inspection by the public upon request.

**15 AUDIT**

The Trust will regularly audit the declarations made on the Trust Conflict of Interest system to ensure consistency of approach is maintained and potential breaches are identified as early as possible. In addition, additional annual checks will be carried out on all staff members identified as Decision makers of the Trust and those who are members of Decision-making groups; these checks will include:

- Check of companies' house
- Internet search

On a quarterly basis, 10 non-decision members of staff will be chosen at random and the above two checks carried out. All audit outcomes will be reported to the Audit Committee in the annual report.

## **16 REVIEW**

This policy will be reviewed in May 2028 unless an earlier review is required. This will be led by the Director of Corporate Governance.

## **17 ASSOCIATED DOCUMENTATION**

Freedom of Information Act 2000

ABPI: The Code of Practice for the Pharmaceutical Industry (2014)

ABHI Code of Business Practice

NHS Code of Conduct and Accountability (July 2004)

Corporate Governance Manual (Part D – Standing Financial Instructions, section 22 – Acceptance of gifts by staff)

Local Anti-Fraud, Bribery and Corruption Policy

Freedom to Speak-Up – Raising Concerns Policy

## 18 APPENDIX 1 – BRIBERY ACT 2010

Bribery & Corruption – Bribery and corruption prosecutions can be brought using specific pieces of legislation:

- Prevention of Corruption Acts 1906 and 1916, for offences committed prior to 1 July 2011
- Bribery Act 2010, for offences committed on or after 1 July 2011.

The Bribery Act 2010 ('the Act') has updated UK law by making it a criminal offence to:

- Offer, promise, or give a bribe (Section 1 of the Act); and/or,
- Request, agree to receive, or accept a bribe (Section 2 of the Act).

Corruption is generally considered to be an "umbrella" term covering such various activities as bribery, corrupt preferential treatment, kickbacks, cronyism, graft or embezzlement.

Under the 2010 Act, however, bribery is now a series of specific offences. Generally, bribery is defined as: ***an inducement or reward offered, promised or provided to someone to perform their functions or activities improperly in order to gain a personal, commercial, regulatory and/or contractual advantage.***

Examples of bribery in the NHS context could be a contractor attempting to influence a procurement decision-maker by giving them an extra benefit or gift as part of a tender exercise; or, a medical or pharmaceutical company providing holidays or other excessive hospitality to a clinician in order to influence them to persuade their Trust to purchase that company's particular clinical supplies.

A bribe does not have to be in cash; it may be the awarding of a contract, the provision of gifts, hospitality or sponsorship, the promise of work or some other benefit. The persons making and receiving the bribe may be acting on behalf of others – under the Bribery Act 2010, all parties involved may be prosecuted for a bribery offence.

The Act is also extra-territorial in nature. This means that anyone involved in bribery activity overseas may be liable to prosecution in the UK if the bribe is in respect of any UK activity, contract or organisation. To this end, the Act also includes ***an offence of bribing a foreign public official (Section 6 of the act).***

In addition, the Act introduces **a new 'corporate offence' (Section 7 of the act) of the failure of commercial organisations to prevent bribery.** The Department of Health Legal Service has stated that NHS bodies are deemed to 'relevant commercial organisations' to which the Act applies. As a result, an NHS body may be held liable (and punished with a potentially unlimited fine) when someone "associated" with it bribes another in order to get, keep or retain business for the organisation. However, the organisation will have a defence, and avoid prosecution, if it can show it had adequate procedures in place designed to prevent bribery.

The trust adopts a 'zero tolerance' attitude towards bribery and does not, and will not, pay or accept bribes or offers of inducement to or from anyone, for any purpose. The trust is fully committed to the objective of preventing bribery and will ensure that adequate procedures, which are proportionate to our risks, are in place to prevent bribery and which will be regularly reviewed. We will, in conjunction with the NHS Counter Fraud Authority (NHS CFA) seek to obtain the strongest penalties – including criminal prosecution, disciplinary and/or civil sanctions – against

anyone associated with East Cheshire NHS Trust who is found to be involved in bribery or corrupt activities.

As with the Fraud Act, a conviction under the Bribery Act may ultimately result in an unlimited fine and/or custodial sentence of up to 10 years imprisonment.

## **Sanctions and Redress**

Where fraud, bribery or corruption has taken place within or against the NHS, the full range of available sanctions – criminal, civil, disciplinary and/or regulatory – should be considered at the earliest opportunity, and any or all of these may be pursued where and when appropriate.

In deciding the appropriate sanctions and redress in criminal and civil cases against employees, there should be no hesitation on the part of the trust in all but the most exceptional of cases. Those who defraud the trust, be they internal or external to it, must never be allowed to profit from their actions.

The range of available sanctions which may be pursued includes:

- Criminal prosecution (potentially resulting in fine, imprisonment, community penalty, confiscation and/or compensation order) or out-of-court disposal;
- Civil action, including action to preserve assets and recover losses;
- Disciplinary action by the employing body;
- Regulatory action by a relevant regulatory body.

Where possible the trust should adopt a multi-track approach and, if the evidence supports it, there should be no unnecessary barriers to preventing a criminal prosecution, a civil claim and a disciplinary process taking place concurrently.

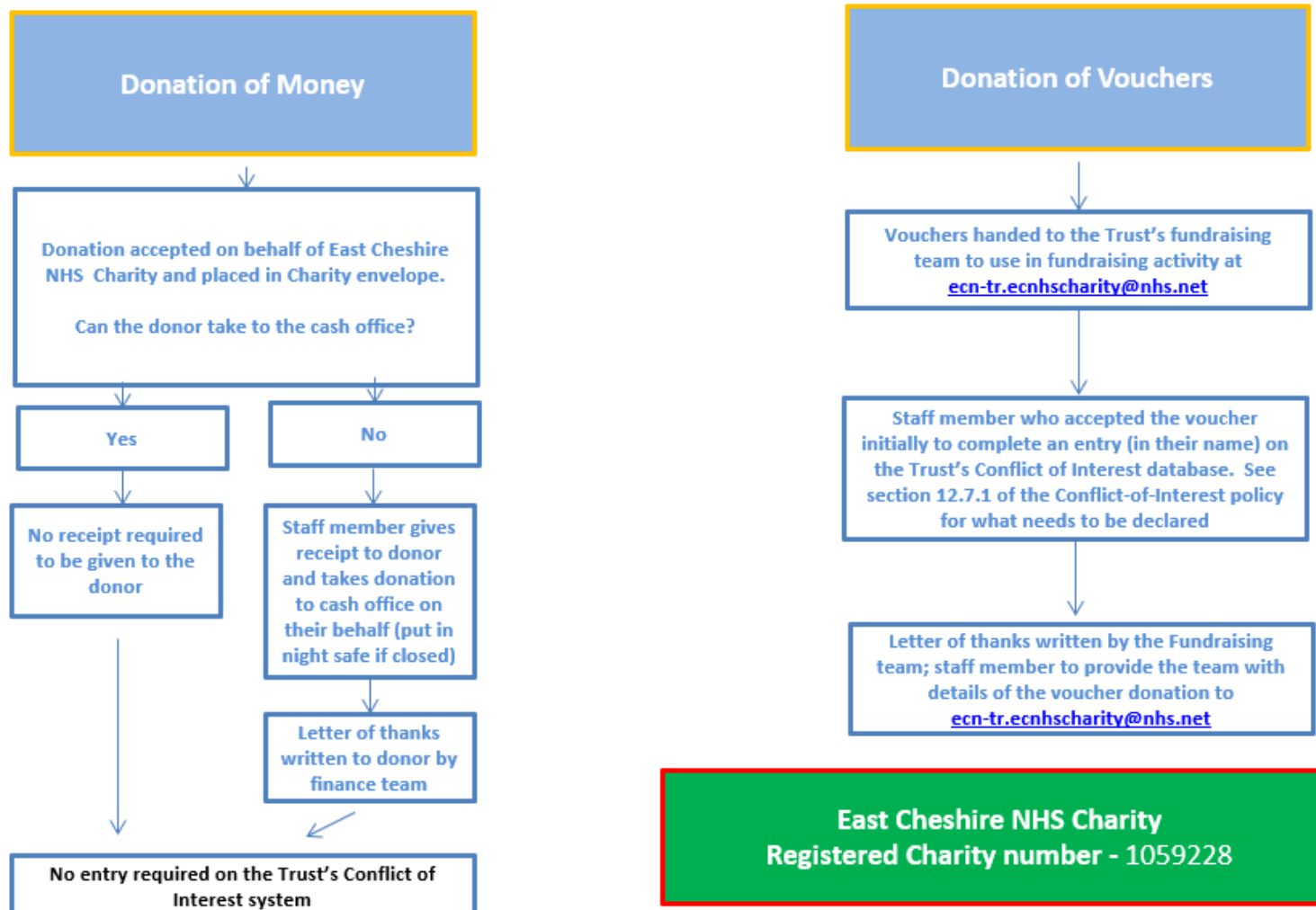
In deciding the most appropriate sanctions against employees, there should be a consensus of opinion between Human Resources and the Anti-Fraud Specialist (AFS) where possible. In addition, the Chief Finance, Planning and Estates Officer must agree the action to be taken in respect of sanctions. The AFS is responsible for informing HR of sanctions applied from a criminal case; HR should keep the AFS updated on the application of disciplinary sanctions.

There is case law within the UK to support parallel sanctions, with a general view that different proceedings are distinct and have different purposes. There is no general rule that the criminal process should take precedence over other processes relating to alleged fraud, bribery and corruption. In practice, public protection is paramount. For example, where there is compelling public interest in suspending/excluding or removing an individual from employment, other proceedings may need to take precedence. This approach requires liaison between those undertaking the various investigations, and certain information may be shared where lawful and at the appropriate time.

If required, however, reference should be made to the relevant case law within the NHS CFA publication 'Applying Appropriate Sanctions Consistently' (April 2013 Update); as well as, to 'Parallel Criminal Disciplinary Investigations – Guidance for Anti-Fraud Specialists' (April 2013).

Appendix 2

## Donations of money or vouchers to the Trust or charity (not individuals)



# CONFLICT OF INTEREST POLICY

## Donations ('bulk') to East Cheshire NHS Trust under Exceptional Circumstances

'Bulk' Donation received

Donation accepted on behalf of East Cheshire NHS Trust by the Head of Corporate Affairs and Resilience or General Manager/Heads of Nursing or above

(Please refer to sections 12.7.2 and 12.7.3 of the Conflict-of-Interest Policy)

Declaration made on the Conflict-of-Interest database by the Head of Corporate Affairs and Resilience or Associate Director (in their name)

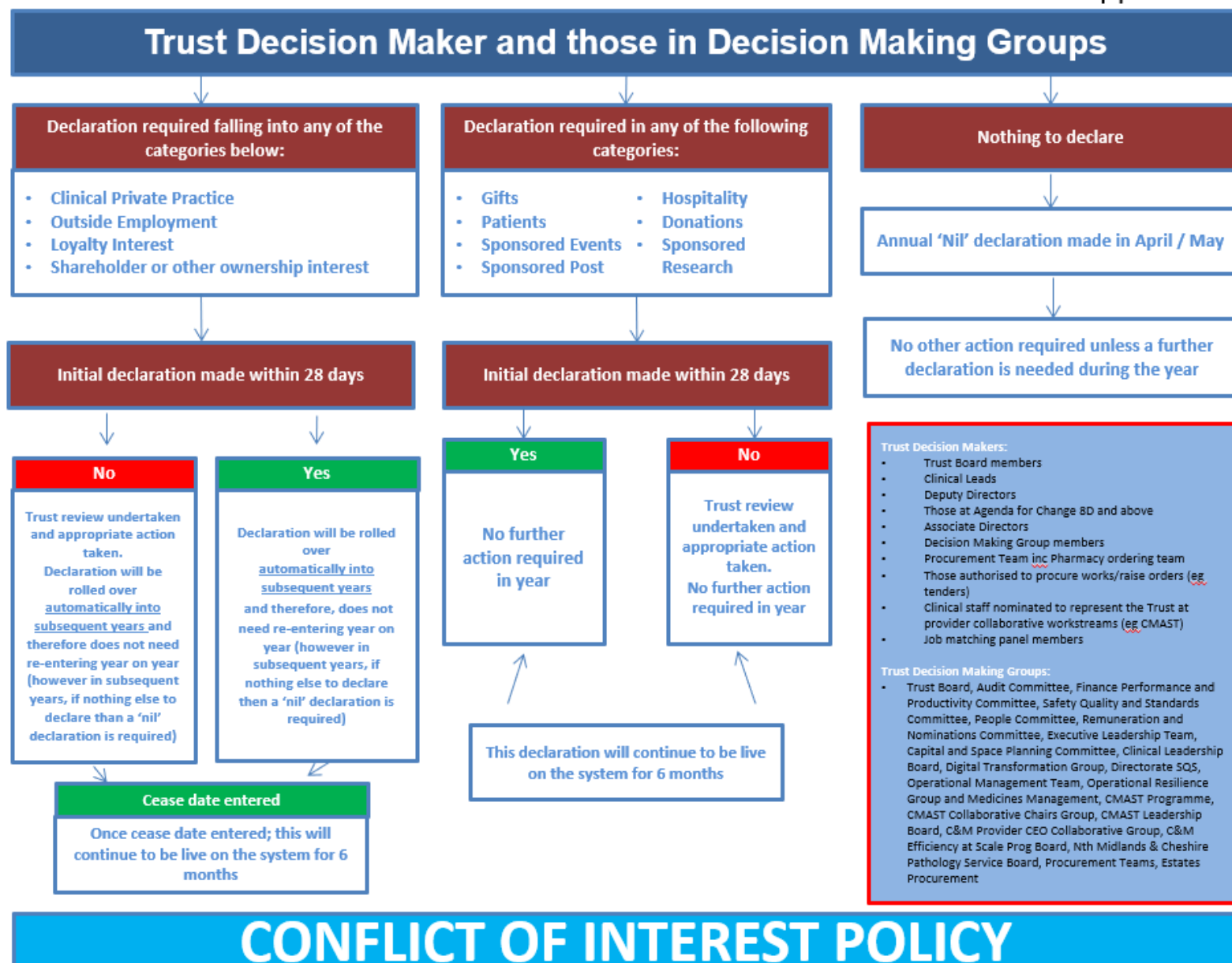
Goods delivered to the Head of Corporate Affairs and Resilience for dissemination

Thank you letter written to the donor by the Chair or the CEO (organised by the Head of Corporate Affairs and Resilience)

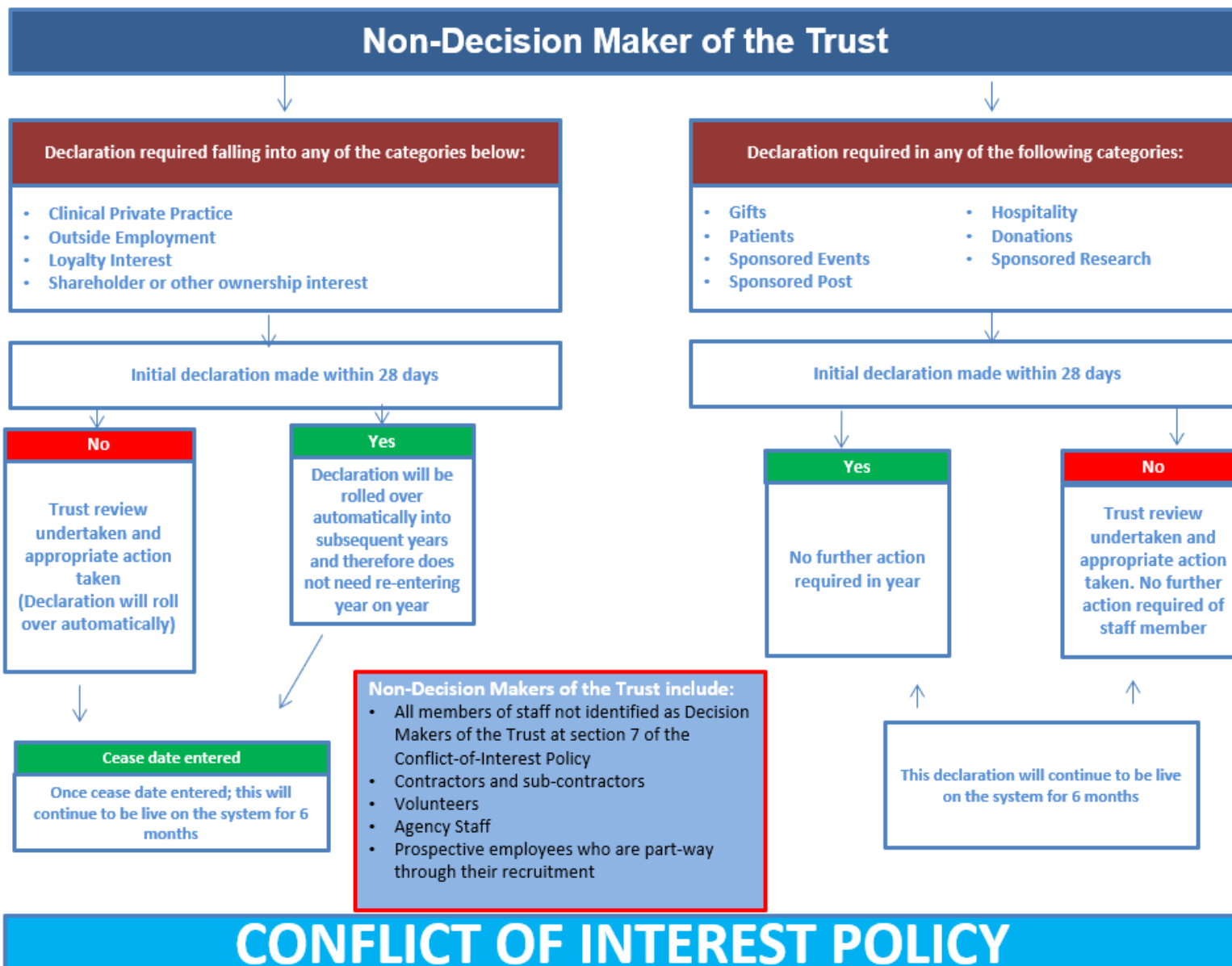
Examples of 'bulk' donations include:


- Food
- Electrical equipment
- Personal Protective Equipment
- Washing products

# CONFLICT OF INTEREST POLICY







Conflict of Interest - Management Action Template			
Full name of staff member	Job Title		
<input type="text"/>	<input type="text"/>		
Directorate	Decision Maker	Non Decision Maker	
Corporate Affairs & Governance ▼	<input type="checkbox"/>	<input type="checkbox"/>	
Breach Type	Breach Information		
Sponsored Research ▼	<input type="text"/>		
Actions considered and taken			
<input type="text"/>			
Any further management actions required			
<input type="text"/>			
<b>Staff member</b> - I agree with the information and actions noted above is correct and the information I have provided is to the best of my knowledge. <input type="checkbox"/>			
Staff signature	Date		
<input type="text"/>	<input type="text"/>		
Contact email address	Contact Telephone number		
<input type="text"/>	<input type="text"/>		
<b>Manager</b> - I can confirm that I have undertaken a full review of the actual / potential breach of conflict of interest and will ensure any further actions required are undertaken. <input type="checkbox"/>			
Manager Name	Signature	Date	
<input type="text"/>	<input type="text"/>	<input type="text"/>	
Contact email address	Contact Telephone number		
<input type="text"/>	<input type="text"/>		
For COI team only Date reported to Audit Committee	Any Comments		
<input type="text"/>	<input type="text"/>		