

Conflicts of Interest Policy June 2022 – June 2024

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 and NHS Improvement with regards to the requirement for staff (as outlined in section 6) to declare any potential or actual conflicts of interest.		
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This policy will impact on: All staff (including Agency staff) and volunteers of ECT			
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Contents

1 Policy Summary	4
2 Introduction	5
3 Purpose	5
4 Key terms	5
5 Interests	6
6 Staff	6
7 Decision Making Staff	7
8 Identification and declaration of interests	7
8.1 Identification & declaration of interests (including gifts and hospitality)	7
9 Records and publication	8
9.1 Maintenance	8
9.2 Publication	8
9.3 Wider transparency initiatives	8
10 Management of interests – general	9
11 Management of interests – common situations	9
11.1 Gifts	9
11.2 Hospitality	10
11.3 Outside Employment	11
11.4 Shareholdings and other ownership issues	12
11.5 Patents	12
11.6 Loyalty interests	13
11.7 Donations	14
11.8 Sponsored events	15
11.9 Sponsored research	16
11.10 Sponsored posts.....	17
11.11 Clinical private practice	18
11.12 Roll-over of declarations	19
12 Management of interests – advice in specific contexts	19
12.1 Strategic decision making groups	19
12.2 Procurement	20
13 Dealing with breaches.....	21
13.1 Identifying and reporting breaches	21
13.2 Taking action in response to breaches	21
13.3 Learning and transparency concerning breaches	22
14 Audit.....	22
15 Review	23
16 Associated documentation	23
17 Appendix 1 -Bribery Act 2010	24
Appendix 2 – Donations of money or vouchers to the trust or charity ..	27
Appendix 3 – Trust Decision Maker and Decision-Making Groups Flowchart	29

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"> • Familiarise yourself with this policy and follow it. Refer to the guidance for the rationale behind this policy https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf • Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent. • Regularly consider what interests you have and declare these as they arise. If in doubt, declare. • <u>NOT</u> misuse your position to further your own interests or those close to you. • <u>NOT</u> be influenced, or give the impression that you have been influenced by outside interests. • <u>NOT</u> allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money. 	<ul style="list-style-type: none"> • Ensure that this policy and supporting processes are clear and help staff understand what they need to do. • Identify a team or individual with responsibility for: <ul style="list-style-type: none"> ○ Keeping this policy under review to ensure we are in line with the guidance. ○ Provide advice, training and support for staff on how interests should be managed. ○ Maintain register(s) of interests. ○ Audit this policy and its associated processes and procedures at least once every three years. • <u>NOT</u> avoid managing conflicts of interest. • <u>NOT</u> interpret this policy in a way which stifles collaboration and innovation with our partners.

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 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. Please also refer to Appendix 1 which contains information relating to the Bribery Act 2010.

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 KEY TERMS

A 'conflict of interest' is defined 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.

5 INTERESTS

Interests fall into the following categories:

- **Financial interests:**
Where an individual may get direct financial benefit¹ from the consequences of a decision they are involved in making.
- **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.
- **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.
- **Indirect interests:**
Where an individual has a close association² with another individual who has a financial interest, a non-financial professional interest or a non-financial personal interest and could stand to benefit from a decision they are involved in making.

6 STAFF

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)

NHS England have produced some frequently asked questions for specific staff groups on the issues posed and how the guidance applies to you; for further information this can be found at www.england.nhs.uk/ourwork/coi.

The policy will expand on 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

¹ This may be a financial gain, or avoidance of a loss.

² A common sense approach should be applied to the term 'close association'. Such an association might arise, depending on the circumstances, through relationships with close family members and relatives, close friends and associates, and business partners.

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.

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 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, Clinical Leads, Deputy Directors, Associate Directors;
- Those who are formal members of Decision-Making Groups (see 12.1);
- The trusts Procurement team;
- Those that are authorised to procure works/raise orders (eg 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 go onto the system and input a 'nil' declaration; this is required each year.

8 IDENTIFICATION & DECLARATION OF INTERESTS

8.1 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 they should declare it, so that it can be considered. 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.

The responsibility for the management of the trust's conflict of interest's process including the review of this policy lies with the Director of Corporate Affairs & Governance. The trusts register is a public facing document and available to view throughout the year.

Should staff members require any further advice or guidance please email the following address:
Ecn-tr.conflictinterest@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.

9 RECORDS AND PUBLICATION

9.1 Maintenance

The organisation will maintain the following register:

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

9.2 Publication

We will:

- Ensure the trusts electronic system is accessible to staff and the public all year round
- Compliance rates will be noted annually at Trust Board in April, contained within the Chairman's Commentary
- An annual Conflict of Interest report and a bi-annual update 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 Affairs & Governance (ljackman@nhs.net) or the Corporate Affairs Manager (fionabaker@nhs.net) 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 the exception and information will not be withheld or redacted merely because of a personal preference.

9.3 Wider transparency initiatives

East Cheshire NHS Trust fully supports wider transparency initiatives in healthcare, and we encourage staff to engage actively with these.

Relevant staff are strongly encouraged to give their consent for payments they receive from the pharmaceutical industry to be disclosed as part of the Association of British Pharmaceutical Industry (ABPI) Disclosure UK initiative. 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:

<http://www.abpi.org.uk/our-work/disclosure/about/Pages/default.aspx>

As part of the audit process, the trust regularly reviews the ABPI Disclosure UK initiative and cross references any individuals from East Cheshire NHS Trust to ensure relevant declarations have been made on the trust's Col site. Any anomalies are reviewed to ensure no conflict has arisen.

10 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

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.

11 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.

11.1 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 £6³ 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 vouchers to individuals should be declined unless in exceptional circumstances and this must be approved in writing (up to the value of £50) by the Director of Finance prior to the voucher being accepted. Once approved this must be declared
- Gifts of vouchers to individuals over the value of £50 should be treated with caution and only be accepted on behalf of East Cheshire NHS Trust and then given to the trust's charity ECHO for fund raising purposes; any incidents of this should also be declared. (See more guidance under donations on page 13)
- Staff should not ask for any gifts

³ The £6 value has been selected with reference to existing industry guidance issued by the ABPI:

- Gifts valued at over £50 should be treated with caution and only be accepted on behalf of East Cheshire NHS Trust and then given to the trust's charity ECHO for fund raising purposes and not by an individual member of staff; any incidents of this should also be declared
- Modest gifts accepted 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

11.1.2 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).

11.2 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
- 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 £75⁴ - 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

⁴ The £75 value has been selected with reference to existing industry guidance issued by the ABPI
<http://www.pmcpa.org.uk/thecode/Pages/default.aspx>

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.

11.2.1 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)
- Any other relevant information (e.g. Details of any approvals given to depart from the terms of this policy)

11.3 Outside Employment

The NHS relies on staff with good skills, broad knowledge and diverse experience; many staff bring expertise from sectors outside of the NHS. The involvement of staff in these outside roles alongside their NHS roles can be beneficial, however, the existence of these should be well known so that conflicts can be either managed or avoided.

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:

- Existing staff should declare any current outside employment (this is an annual requirement and will automatically roll-over each year) and for new staff this will be required on appointment
- Where a risk of conflict of interest arises, the general management actions outlined in this policy 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 the organisation to engage in outside employment

The organisation may also have legitimate reasons within employment law for knowing about outside employment of staff, even when this does not give rise to risk of a conflict.

11.3.1 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, 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)

- Other relevant information (e.g. Details of any approvals given to depart from the terms of this policy)

11.4 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 eg Limited company established to undertake Clinical Private Practice work).
- Where shareholdings or other ownership interests are declared and give rise to 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

11.4.1 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)

11.5 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

11.5.1 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 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)
- Other relevant information (e.g. Details of any approvals given to depart from the terms of this policy)

11.6 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
- 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.

11.6.1 What should be declared

- Staff name and their role with the organisation
- Nature of the loyalty interest (eg 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 senior staff member who has granted permission should this be required (eg 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)
- Other relevant information (e.g. Details of any approvals given to depart from the terms of this policy)

11.7 Donations

- 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 trusts registered charity (and not an individual) or on behalf of another registered charity whose services are used by service users on the trust site (eg 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 trusts Conflict of Interest database is not required if the donation is directly for East Cheshire NHS Trust Charitable Fund (ECHO). 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 fund raising activity for East Cheshire NHS Trust Charitable Fund (ECHO)
- Vouchers should be handed to the charities Fundraising Team (based on the top floor of New Alderley House and reached at ecn-tr.ECHOhospitalcharity@nhs.net)
- An entry on the trusts 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.ECHOhospitalcharity@nhs.net
- 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 trusts 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

11.7.1 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 trusts 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 Trust Charitable Fund (ECHO) – 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 on the declaration

11.7.2 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, 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 Corporate Affairs Manager or an Associate Director or above. Please refer to 11.7.3.

11.7.3 What should be declared, by whom and actions taken

- The Corporate Affairs Manager, Associate Director (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 trusts 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 Conflict-of-Interest team; they can be reached at 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 (eg 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 Corporate Affairs Manager 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.

11.8 Sponsored events

Sponsorship of NHS events by external parties is valued. Offers to meet some 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.

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 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

11.8.1 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 Conflict-of-Interest team at 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

11.9 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 should always be transparency.

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

11.9.1 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 who 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 Conflict of Interest team at 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)

11.10 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. The deployment of sponsored posts must not cause a conflict of interest between the aims of the sponsor and the aims of the trust, particularly in relation to procurement and competition.

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

11.10.1 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 check points in place to review or withdraw if required
- How they will mitigate against any conflict

11.11 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 arises⁵ including:

- Where they practise (name of private facility)
- What they practise (specialty, major procedures)
- When they practise (identified sessions/time commitment)

⁵ 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

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 work⁶
- 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

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.

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.

11.11.1 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)
- Any other relevant information (e.g. Details of any approvals given to depart from the terms of this policy)

11.12 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 (ie 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

⁶ 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

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.

12 MANAGEMENT OF INTERESTS– ADVICE IN SPECIFIC CONTEXTS

12.1 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 grants
- 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 Workforce Committee
- Remuneration and Nominations Committee
- Executive Management Team
- Clinical Leadership Board
- Operational Management Team
- Digital Transformation Group
- Capital and Space Planning Group
- Cheshire A&E Delivery Board
- Medicines Management Group
- Pathology Steering Group
- Operational Resilience Group
- Job Matching Panel Members

These groups should adopt the following principles:

- Chairs should consider any known interests of members in advance, and begin each meeting by asking for 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.

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

- Excluding the member from receiving meeting papers relating to 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. Good judgement is required to ensure proportionate management of risk.

12.2 Procurement

Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law, to ensure there is no discrimination against or in favour of any provider. Procurement processes should be conducted in a manner that does not constitute anti-competitive behaviour - which is against the interest of patients and the public.

Those involved in procurement exercises, including those that are authorised to procure works/raise orders (eg 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 stage of procurement, steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process.

The trusts Procurement team 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 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'.

13.1 Identifying and reporting breaches

Staff who are aware about actual breaches of this policy, or who are concerned that there has been, or may be a breach, should report these concerns to the Corporate Affairs Manager at 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.

The organisation will investigate each reported breach according to its own specific facts and merits and give relevant parties the opportunity to explain and clarify any relevant circumstances.

13.1 Following investigation the organisation will

- Decide if there has been or is potential for a breach and if so what severity the breach is
- Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum or Associate Director

- Consider who else inside and outside the organisation should be made aware
- Take appropriate action as set out in the next section

13.2 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 where 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:

- Employment law action against staff, which might include:
 - 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)
- Reporting incidents to the external parties described above for them to consider what further investigations or sanctions might be
- Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach
- Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation

13.3 Learning and transparency concerning breaches

Reports on breaches, the impact of these, and action taken will be considered by the Audit Committee on a six-monthly basis.

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.

14 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
- Google search

On a quarterly basis, 25 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 end of year report.

15 REVIEW

This policy will be reviewed in June 2024 unless an earlier review is required. This will be led by the Director of Corporate Affairs & Governance.

16 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

17 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.

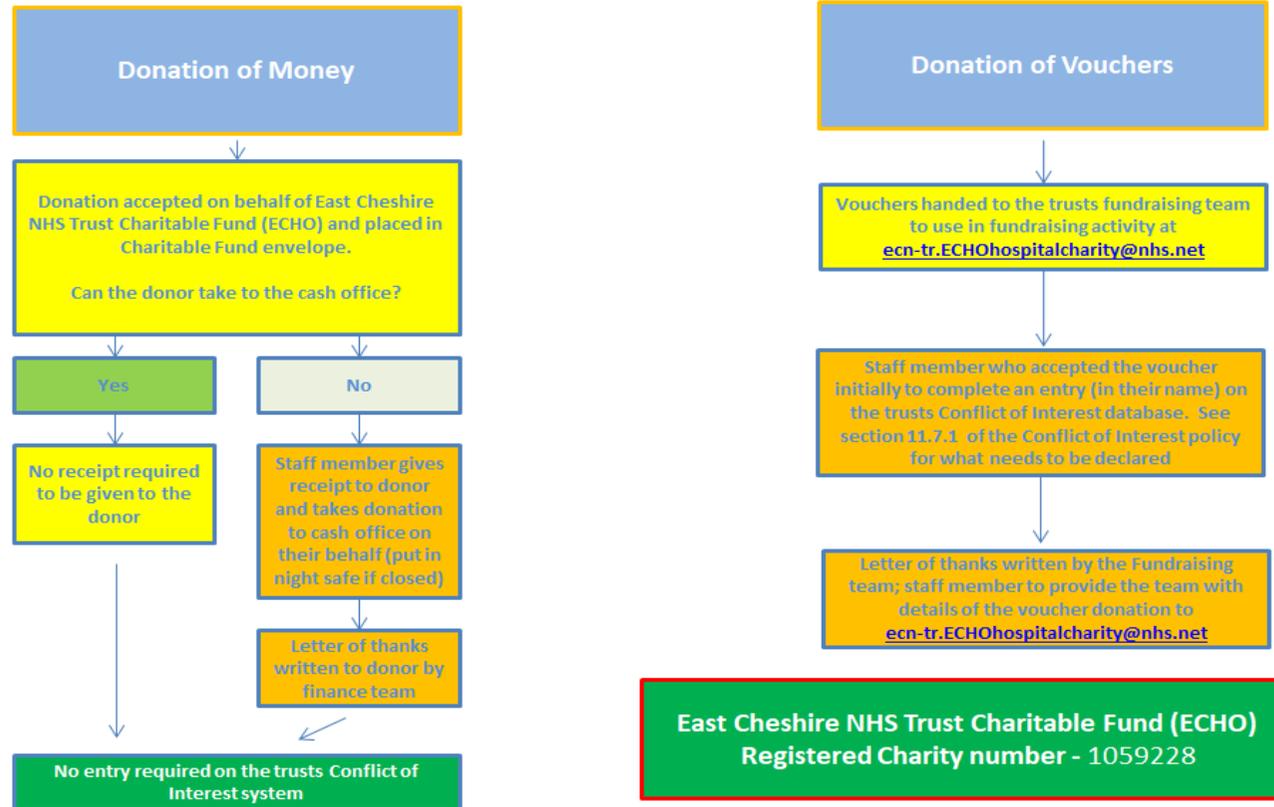
In deciding the most appropriate sanctions against employees, there should be a consensus of opinion between Human Resources and the Anti-Fraud Specialist (AFS) where possible. In addition, the Director of Finance must agree the action to be taken in respect of sanctions. The AFS is responsible for informing 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).

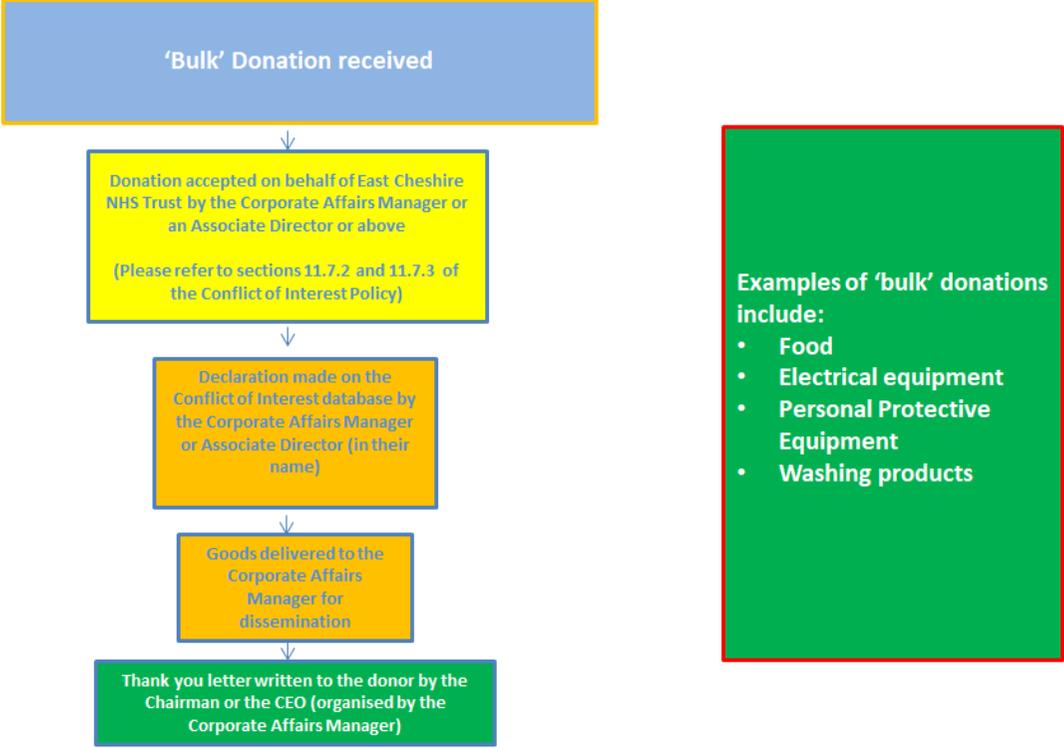
Appendix 2

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



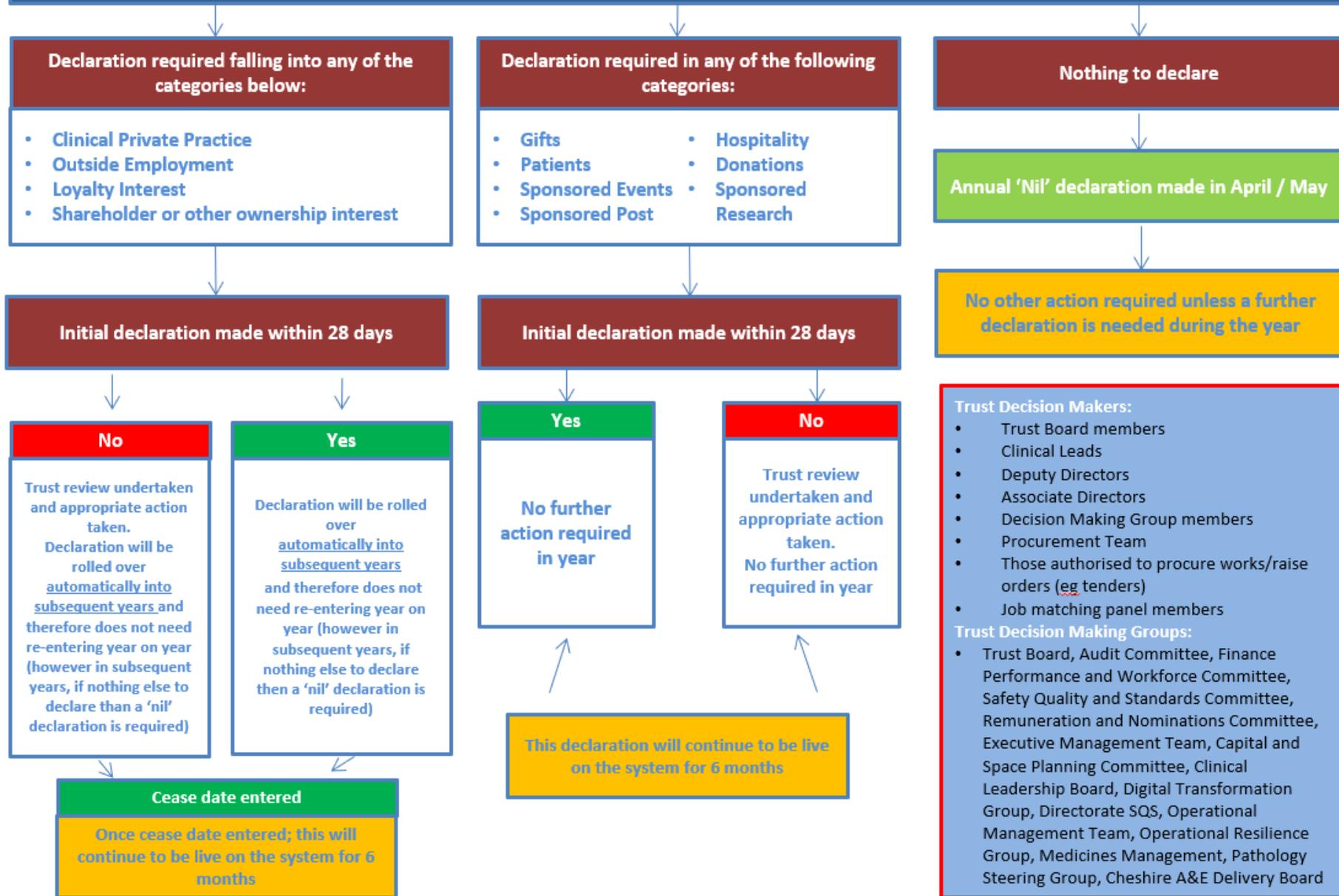
CONFLICT OF INTEREST POLICY

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



CONFLICT OF INTEREST POLICY

Trust Decision Maker and those in Decision Making Groups



CONFLICT OF INTEREST POLICY

