

Conflicts of Interest Policy

NHS Devon

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Equality, diversity and inclusion statement

NHS Devon is committed to the promotion of equal opportunities, addressing health inequalities and fostering of good relations between people protected under the terms of the Equality Act 2010, the Health and Social Care Act 2012 and Human Rights legislation. We are equally committed to the elimination of unlawful discrimination, harassment and victimisation. To demonstrate this commitment, we develop, promote and maintain policies, strategies and operating procedures. Every effort is made to ensure that patients, employees, contractors or visitors do not experience discrimination; either directly or indirectly, because of their vulnerability; disadvantage; age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex (gender) or sexual orientation.

All staff must comply with this policy. Compliance must reflect our organisational commitment to and policy on, equality, diversity and inclusion. In addition, each manager and member of staff involved in implementing this policy must give due regard to the needs of those protected under law.

If you, or any other groups, believe you are discriminated against under the terms of the Equality Act, the Health and Social Care Act 2012 or Human Rights legislation by anything contained in this document; or you need this document in an alternative format, for example, large print, Braille, Easy read or other languages; please contact our Patient Advice and Complaints Team (PACT):

Tel: 0300 123 1672
 Email: pals.devon@nhs.net

Contents

Section	Title	Page
1	Introduction	5
2	Purpose and objectives	5
3	Scope	5
4	Definitions	6
5	What should be declared	8
6	Declarations – submission, review, management and publication	13
6.1	Making a declaration of interest	13
6.2	Management actions	13
6.3	Review of declarations of interest	13
6.4	Publication of registers	14
6.5	Requests for non-publication of interests	14
6.6	Leavers	14
6.7	Expired interests	14
7	Management of interests in meetings	15
8	Management of interests during recruitment	16
9	Procurement and contract monitoring	17
10	Working with industry and sponsorship	17
11	Raising concerns and breaches	17
11.1	Identifying and reporting breaches	17
11.2	Taking action in response to breaches	18
11.3	Learning and transparency concerning breaches	19
12	Accountabilities, duties and responsibilities	19
13	Implementation	21

14	Approval and review	22
15	Monitoring compliance and effectiveness	22
16	Quality and Equality Impact Assessment	22
17	References	22
19	Appendix 1: Nolan Principles	24

1. Introduction

- 1.1 All NHS Devon Board members and staff have a duty to ensure that all their dealings are conducted to the highest standards of integrity and that NHS monies are used effectively, efficiently and in the best interests of patients.
- 1.2 Partnerships with other organisations have many benefits and should help ensure that public money is spent well, but there is a risk that conflicts of interest may arise. NHS Devon must ensure the integrity of the processes that it follows when making decisions for its communities, so that they are taken without the influence (or perceived influence) of external or private interests.
- 1.3 NHS Devon Board members and staff, as guardians of public money, need to have regard to the Good Governance Standards of Public Services and holders of public office need to uphold the Seven Principles of Public Life, often referred to as the Nolan Principles. (Appendix A).
- 1.4 Providing best value for taxpayers and ensuring that decisions are taken transparently and clearly (accountability to the public, communities and patients) are also key principles in the NHS Constitution.
- 1.5 There are also specific statutory requirements for managing conflicts of interest under the National Health Service Act 2006 (as inserted by the Health and Care Act 2022) and under the NHS (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013 (and related substantive guidance).

2. Purpose and objectives

- 2.1. This policy will support NHS Devon in managing conflicts of interest effectively as it introduces consistent principles and rules for the management of interests.
- 2.2. This policy should be read in conjunction with the NHS Devon Standards of Business Conduct Policy.
- 2.3 This policy is supported by the Declaration of Interest, including Gifts, Hospitality and Sponsorship Standard Operating Procedure (SOP) owned by the Corporate Governance Team.

3. Scope

- 3.1 This policy applies to all NHS Devon Board members and staff (including interim and temporary staff, and contractors and seconded staff).
- 3.2 This policy also applies to those individuals who serve on Committees of the Board or who are involved in any NHS Devon decision-making forums but who are not NHS Devon Board members or staff.

4. Definitions

- 4.1 A conflict of interest (COI) is defined by NHS England in its “Managing Conflicts of Interest in the NHS” guidance (2017) as:

“a set of circumstances by which a reasonable person would consider that an individual’s ability to exercise judgement or act, in the context of delivering, commissioning or assuring taxpayer funded health and care services, is or could be, or is seen to be or could be seen to be, impaired or influenced by his or her involvement in another role or relationship.”

- 4.2 Interests fall into one of the following four categories:

4.2.1 Financial interests

Where an individual may get direct financial benefit. This may be a financial gain, or avoidance of a loss from the consequences of a decision they are involved in making. For example:

- A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A management consultant for a provider in secondary employment.

4.2.2 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. For example:

- An advocate for a particular group of patients.
- A GP with special interests.
- A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needs to be declared).
- An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE).

4.2.3 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 where an individual is a member of a voluntary sector board or has a position of authority within a voluntary sector organisation or is a member of a lobbying or pressure group with an interest in health and care. For example:

- A voluntary sector champion for a provider.
- A volunteer for a provider.
- A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation.
- Suffering from a particular condition requiring individually funded treatment.
- A member of a lobby or pressure group with an interest in health.

4.2.4 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 and could stand to benefit from a decision they are involved in making. 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. For example:

- Spouse / Partner.
- Close relative e.g., parent, grandparent, child, grandchild or sibling.
- Close friend.
- Business partner.

4.3 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.
- **Perceived** – there is a possibility that a reasonably well-informed person could properly have a reasonable belief that an actual conflict of interest exists, even where that is not the case in fact.

4.4 Staff may hold interests for which they cannot see a potential conflict, but others may see the situation differently. The perception of wrongdoing, impaired judgement or undue influence can be as damaging as it actually occurring. All interests should be declared where there is a risk of perceived improper conduct.

4.5 The following table provides other key definitions in respect of Conflicts of Interests:

Terms	Definition
Decision Making Staff	For the purposes of this Policy, NHS Devon follows guidance from NHS England and includes all Board members together with all staff who are graded at 8D and above.
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 deliberate actions. For the purposes of this policy these instances are referred to as “breaches”.
Gifts	A gift is defined as any item of cash or goods, or any service that is provided for personal benefit, free of charge or at less than its commercial value.
Hospitality	For the purposes of this policy hospitality means offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events.
Sponsorship	For the purposes of this Policy sponsorship is funding from an external source, including funding of all or part of the cost of a member of staff, NHS research, staff training, pharmaceuticals, equipment, meeting rooms, costs associated with meetings, meals, gifts, hospitality, hotel and transport costs, provision of free services (including printing costs) and buildings or premises.
Joint working	Where, for the benefit of patients, organisations pool skills, experience and/or resources for the joint development and implementation of patient-centred projects and share a commitment to successful delivery.

5. What should be declared

5.1 The following provides an overview of the types of interest that should be declared. This list is not exhaustive and if staff have any queries, advice is available from the Governance team via d-icb.governance@nhs.net

Loyalty interests

5.2 Loyalty interests should be declared by staff involved in decision making where they:

- Hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be

- seen to influence decisions they take in their NHS role.
- 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.
- Are aware that their organisation does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

Gifts

5.3 Staff should not accept gifts that may affect, or be seen to affect, their professional judgement:

- Gifts from suppliers or contractors:
 - Gifts offered directly to individuals from suppliers or contractors doing business or likely to do business with the organisation should be declined, whatever their value, and should be declared.
 - Gifts offered to the organisation from suppliers or contractors doing business or likely to do business with the organisation may be accepted on a case-by-case basis to be offered as prizes or gifts to staff as part of a lottery and must be approved by the relevant Executive Director and Director of Governance and should be declared.
 - Low cost branded promotional aids such as pens or post-it notes may, however, be accepted where they are under the value of £6 in total and need not be declared. The £6 value has been selected with reference to existing industry guidance issued by the ABPI: <https://www.pmcpa.org.uk/media/3406/2021-abpi-code-of-practice.pdf>
- Gifts from other sources (for example patients, families, service users):
 - Any personal gift of cash or cash equivalents (for example: vouchers, tokens or offers of remuneration to attend meetings while working for or representing NHS Devon), whatever their value, should always be declined and should be declared.
 - Staff should not ask for any gifts.
 - Modest gifts under a value up to £50 may be accepted and do not need to be declared.
 - Gifts valued at over £50 should be treated with caution and only accepted on behalf of NHS Devon and not in a personal capacity and should be declared by staff. Prior written approval must be obtained from the appropriate line manager following due consideration in cases where it is deemed appropriate to accept a gift of this nature.
 - 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.

Hospitality

- 5.4 Staff should not ask for or accept hospitality that may affect, or be seen to affect, their professional judgement.
- 5.5 Hospitality must only be accepted when there is a legitimate business reason and it is proportionate to the nature and purpose of the event.
- 5.6 Particular caution should be exercised when hospitality is offered by actual or potential suppliers or contractors. This hospitality can be accepted if modest and reasonable, but approval from an Executive Director must be obtained and a declaration made.

Meals and refreshments

- 5.7 Under a value of £25 may be accepted and need not be declared.
- 5.8 Of a value between £25 and £75 may be accepted and must be declared. (The £75 value has been selected with reference to existing industry guidance issued by the ABPI – Code of Practice, Clause 10.)
- 5.9 Over a value of £75 should be refused unless (in exceptional circumstances) approval is given in advance by an Executive Director. A clear reason should be recorded on the Gifts and Hospitality Register as to why it was permissible to accept.
- 5.10 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

- 5.11 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.
- 5.12 Offers which go beyond modest or are of a type that the organisation itself might not usually offer, need approval in advance by an Executive Director, should only be accepted in exceptional circumstances, and must be declared. A non-exhaustive list of examples includes officers of business or first class travel and accommodation (including domestic travel) and offers of foreign travel and accommodation.

Outside employment

- 5.13 Staff should declare any existing outside employment (including directorships, self-employment, contracted engagements and other similarly remunerated situations) to their line manager on appointment and any new outside employment when it arises.
- 5.14 Board members should disclose any outside employment, along with any other conflicts of interest, as requested during the recruitment process and any new outside employment when it arises.

- 5.15 Potential conflicts of interest with employment include:
- Employment with another NHS body;
 - Employment with another organisation which might be in a position to supply goods or services to the groups;
 - Self-employment, including consultancy and/or private practice, in a capacity which might conflict with the work of NHS Devon or which might be in a position to supply goods or services to NHS Devon;
 - Directorship of a GP Federation; and
 - Working whilst on sick leave.
- 5.16 Where a risk of conflict of interest arises, the general management actions outlined in this policy should be considered and applied to mitigate risks.
- 5.17 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.
- 5.18 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.

Shareholdings and other ownership issues

- 5.19 Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with the organisation.
- 5.20 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.
- 5.21 There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

Patents

- 5.22 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.
- 5.23 Staff should seek prior permission from the organisation before, for example, entering into any agreement with bodies regarding product development, research, and work on pathways, where this impacts on the organisation's own time, or uses its equipment, resources or intellectual property.
- 5.24 Where holding of patents and other intellectual property rights gives rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

- 5.25 The Governance team will keep a register to record all patents / intellectual property. Gains from external work benefitting NHS Devon can give rise to conflicts of interest and actions to take to mitigate the risks should be agreed with the Director of Governance.

Donations

- 5.26 Donations made by suppliers or bodies seeking to do business with the organisation 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.
- 5.27 Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the organisation.
- 5.28 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.
- 5.29 Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.
- 5.30 Staff wishing to make a donation to a charitable fund 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.

Clinical private practice

- 5.31 Clinical staff should declare all private practice on appointment, and / or any new private practice when it arises including:
- Where they practice (name of private facility);
 - What they practice (specialty, major procedures);
 - When they practice (identified sessions or time commitment);
 - 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;
 - Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:
assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf

6. Declarations – submission, review, management and publication

6.1 Making a declaration of interest

6.1.1 All staff should identify and declare interests at the earliest opportunity (and in any event within 28 calendar days of the circumstances outlined below). If staff have no interests to declare, then a nil return must be made.

6.1.2 Declarations (including nil returns) should be made:

- On appointment to the organisation.
- When staff move to a new role or their responsibilities change significantly.
- At the beginning of a new project / piece of work / procurement.
- As soon as circumstances change and new interests arise.
- At a meeting should interests staff hold are be relevant to the matters in discussion. (See Section 8)
- At an annual review of interests each April.

6.1.3 Declarations are uploaded and managed by individuals on an online web-portal at <https://nhsdevonicb.mydeclarations.co.uk/home>, which can also be accessed via a desktop icon. Help and advice on completing and uploading declarations is available from the Governance team at: d-icb.governance@nhs.net.

6.2 Management Actions

6.2.1 Staff who declare material interests should discuss them with their line manager or the person(s) they are working to and agree a management action plan for mitigation of the risks. 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.

6.2.2 Each case will be different and context-specific, and the Governance team will clarify the circumstances and issues with the individuals involved. Staff should maintain a written audit trail of information considered and actions taken. Advice on management actions can be obtained from the Governance team. In the case of disputes about the most appropriate management action, the individual or their line manager should refer to the Conflicts of Interest Guardian or the Director of Governance.

6.3 Review of declarations of interest

- 6.3.1 When a Declaration of Interest(s) (DOI) is completed, the Governance team will check that sufficient information has been provided in order to complete the register and that it has been approved by the line manager of the declarer. The team will request clarification from the declarer if needed.
- 6.3.2 The Governance team will check on materiality of the declaration(s) and ensure there is a suitable management action plan for each material declaration. If any issues arise that are complex or unclear, the Governance team will refer to the Conflicts of Interest Guardian for advice or a decision.

6.4 Publication of registers

- 6.4.1 NHS Devon maintains the following registers associated with declarations:
- Declarations of Interest(s)
 - Gifts and Hospitality
 - Procurement Decisions
- 6.4.2 All declared interests that are material will be available on the appropriate register.
- 6.4.3 NHS Devon will:
- Publish the interests declared by decision making staff in the appropriate Register on the NHS Devon website.
 - Update these Registers at least annually.

6.5 Requests for non-publication of interests

- 6.5.1 If decision making staff have grounds for believing that publication of their interests should not take place then they should contact the Governance team to explain why. In exceptional circumstances, for instance where the publication of information might put a member of staff at risk of harm, information may be withheld or redacted on public registers.
- 6.5.2 All requests for non-publication will be considered by the Conflicts of Interest Guardian and the Director of Governance. Non-publication of interests will only be agreed as the exception and information will not be withheld or redacted merely because of a personal preference. A confidential, un-redacted version of the register(s) will be kept by the Governance team.

6.6 Leavers

- 6.6.1 Register entries for leavers will be removed from the live register and stored separately for a minimum of six years.

6.7 Expired Interests

- 6.7.1 After expiry, an interest will remain on the register for a minimum of six months. After six months, the Governance team will remove the interest from the live register and a private record of historic interests will be retained for a minimum of six years.

7 Management of interests in meetings

- 7.1 NHS Devon uses a variety of different groups to make key strategic decisions about things such as:
- Approving strategy and long term plans.
 - Entering into (or renewing) large scale contracts.
 - Making procurement decisions.
 - Selection of equipment and services.
- 7.2 The interests of those who are involved in these groups should be well known so that they can be managed effectively. The principles outlined in this policy apply to all committees and groups that have the power to make decisions on behalf of NHS Devon, such as those in relation to the spending of taxpayers' money, procurements, purchasing of goods, medicines, medical devices or equipment, formulary decisions and contract monitoring.
- 7.3 Committees and other decision-making groups should adopt the following principles:
- Chairs should consider any known interests of members in advance, and begin each meeting by asking for declarations 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 organisation's 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.
- 7.4 The default response should not always be to exclude members with interests. Actions to mitigate conflicts of interest should be proportionate and should seek to preserve the spirit of collective decision-making wherever possible. Mitigation should take account of a range of factors including the perception of any conflicts and how a decision may be received if an individual with a perceived conflict is involved in that decision, and the risks and benefits of having a particular individual involved in making the decision. Potential options in relation to mitigation could include:
- including a conflicted person in the discussion but not in decision-making
 - excluding a conflicted person from both the discussion and the decision-making
 - including a conflicted person in the discussion and decision where there is a clear benefit to them being included in both – however, including the conflicted person in the actual decision should be done after careful consideration of the risk and with proper mitigation in place. The rationale for inclusion should also be properly documented and included in minutes
 - excluding the conflicted individual and securing technical or local expertise from an alternative, unconflicted source.

- 7.5 The Chair of a meeting or committee has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action to manage the conflict of interest.
- 7.6 If the Chair of a meeting has a conflict of interest, the Vice-Chair is responsible for deciding the appropriate course of action to manage the conflict of interest. If the Vice-Chair is also conflicted then the remaining non-conflicted voting members of the meeting should agree how to manage the conflict(s).
- 7.7 In making such decisions, the Chair, Vice-Chair or remaining non-conflicted members may wish to consult with the Conflicts of Interest Guardian or Director of Governance.
- 7.8 It is imperative that NHS Devon ensures complete transparency in its decision-making processes through robust record keeping. If any conflicts of interest are declared or otherwise arise at a meeting the Chair must ensure that the following information is recorded in the minutes:
- Who has the interest;
 - The nature of the interest and why it gives cause to a conflict;
 - The items on the agenda to which the items relate;
 - How the conflict was agreed to be managed; and
 - Evidence that the conflict was managed as intended.
- 7.9 The meeting administrator will then ensure that this information is provided to the Governance team to ensure the accuracy of records.

8 Management of interests during recruitment

- 8.1 Potential conflicts of interest for Board members, Executives and roles at Band 8d and above, should be considered during the recruitment process. Following shortlisting for interview, candidates will be asked to complete a Declaration of Interest so that any conflicts can be considered prior to and during interview. NHS Devon will need to consider whether the individual (or anyone they have a close association with) could benefit from any decision NHS Devon might make, which may cause an individual to be excluded from being appointed to the relevant role. These will have to be considered on a case-by-case basis.
- 8.2 Key considerations when appointing Board members or Executives include:
- Whether Conflicts of Interest should exclude individuals from appointment.
 - Assessing materiality of interests.
 - Determining the extent of the interest.

9 Procurement and contract monitoring

- 9.1 Procurements 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. Accordingly, the management of interests is required.
- 9.2 The management of interests in respect of procurement and contract monitoring is undertaken by the Procurement Team and is governed by the Procurement Policy for Clinical Healthcare Services, Non-Clinical Services and for all Supplies.

10 Working with industry and sponsorship

- 10.1 The Department of Health and Social Care recognises that joint working with the pharmaceutical industry or other third-party organisations, where the benefits to patient care and the difference it could make to their health and wellbeing are clearly advantageous, should be considered by NHS organisations and their employees.
- 10.2 NHS organisations are required to consider fully the impact of any sponsorship or joint working arrangements on wider healthcare services and the risks of conflicts of interest.
- 10.3 NHS Devon's approach to interacting with third party organisations and the potential conflicts of interest which may arise is set out in the Standards of Business Conduct Policy.

11 Raising concerns and breaches

11.1 Identifying and reporting breaches

- 11.1 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". Failing to respond to a request for information in relation to this policy, including a request to submit a declaration, will also be considered a breach of this policy.
 - 11.1.2 Staff who are aware of actual breaches of this policy, or who are concerned that there has been, or may be, a breach should report these concerns to the Governance team.
 - 11.1.2 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 see the Freedom to Speak Up Policy.

11.1.3 Each reported breach will be investigated according to its own specific facts and merits and relevant parties will be given the opportunity to explain and clarify any relevant circumstances. Investigations will be organised by the Governance team and, following investigation, the Conflicts of Interest Guardian and Director of Governance will:

- Decide if there has been or is potential for a breach and if so what the severity of 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.
- Consider who else inside and outside the organisation should be made aware.
- Take appropriate action.

11.2 Taking action in response to breaches

11.2.1 Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of NHS Devon and could involve the organisational leads for staff support (for example Human Resources), fraud (for example Local Counter Fraud Specialists), or members of the Senior Leadership Team or Senior Executive Teams.

11.2.2 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 or 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 and Improvement or the CQC), and/or health professional regulatory bodies.

11.2.3 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.

11.2.4 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 there 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.

11.2.5 The LCFS works with key colleagues and stakeholders to promote anti-fraud work and effectively respond to system weaknesses and investigate allegations of fraud and corruption. This will include the undertaking of risk assessments to identify fraud, bribery, and corruption risks at NHS Devon.

11.3 Learning and transparency concerning breaches

11.3.1 Reports on breaches, the impact of these, and action taken will be reported to the Senior Executive Team on a quarterly basis and to each meeting of the Audit & Risk Committee to ensure lessons are learned and the management of interests can continually improve.

12 Accountabilities, Duties and Responsibilities

Chief Executive Officer	The Chief Executive Officer has ultimate accountability for the strategic direction and operational management of NHS Devon, including compliance with all legal, statutory and policy requirements.
Policy Sponsor	The Policy Sponsor is responsible for ensuring that this policy is appropriate for consideration for approval.
Policy Lead / Author	<p>It is the responsibility of the Policy Lead / author to:</p> <ul style="list-style-type: none"> • ensure as far as possible that the policy is in line with Department of Health and Social Care guidance, legal requirements and advice from clinical bodies; • to complete a QEIA and Implementation Plan where required • undertake a fair and proportionate consultation period with the relevant stakeholders as part of the document's development • to ensure that the policy is in alignment with NHS Devon's strategy and values • ensure that the policy is developed, approved, disseminated and monitored as set out in the document; • maintaining and updating procedures / protocols and other supporting documents for this policy. <p>As Director of Governance, the Policy Lead is also responsible for (in conjunction with the Conflicts of Interests Guardian):</p> <ul style="list-style-type: none"> • Consider any requests for non-publication of interests. • Following any investigation into a potential breach: <ul style="list-style-type: none"> ○ Deciding if there has been or is potential for a breach and

	<p>if so what the severity of the breach is.</p> <ul style="list-style-type: none"> ○ Assessing whether further action is required in response; this is likely to involve any staff member involved and their line manager, as a minimum. ○ Considering who else inside and outside the organisation should be made aware. ○ Taking appropriate action
Conflicts of Interest Guardian	<p>The Chair of the Audit & Risk Committee is the NHS Devon Conflicts of Interest Guardian. The Guardian is supported by the Director of Governance and Governance Team to:</p> <ul style="list-style-type: none"> ● Act as a conduit for members of the public and healthcare professionals who have any concerns regarding conflicts of interest. ● Be a safe point of contact for staff to raise concerns in relation to this policy and conflicts of interest. ● Support the rigorous application of conflicts of interest principles and policies. ● Provide independent advice and judgement to staff where there is any doubt about how to apply the Conflicts of Interest Policy. ● Provide advice on minimising the risks of Conflicts of Interest. <p>In conjunction with the Director of Governance, the Guardian is also responsible for considering any requests for non-publication of interests and actions following any investigation into a possible breach. (See above.)</p>
Audit & Risk Committee	To receive reports in respect of compliance and any breaches, to take assurance from the policy and processes associated with Conflicts of Interest.
Executive Committee	Receive a quarterly report in respect of compliance together with any breaches and the impact of these breaches to ensure learning and improvement.
Meeting Chairs	Meeting Chairs have responsibility for ensuring that declarations of interest are a standing agenda item and addressed appropriately at the start of all meetings.
Procurement Team	The Procurement team is responsible for managing Conflicts of Interest in respect of procurement and contracts, liaising with the Governance team as required.
Governance Team	The Governance team is responsible for managing conflicts of interest processes and monitoring compliance.
Recruiting Managers	Managers involved in the recruitment of Board members, Executives and roles at Band 8d and above, should consider potential conflicts of interest during the recruitment process.
Line Managers	Line managers have a responsibility to ensure their staff comply with NHS Devon policies and standards within their areas of responsibility including Standing Financial Instructions.

	Line Managers also have a responsibility to ensure that all conflicts of interest declared by their staff have an appropriate management action plan.
All Staff	All employed or engaged staff (including interim and temporary staff, and contractors and seconded staff) have a duty to comply with NHS Devon policies and standards, including Standing Financial Instructions, as outlined in their contracts of employment and codes of conduct.

13. Implementation

- 13.1 All staff will be informed of the approval of the Policy via the Staff Bulletin which will provide a link to the document on the NHS Devon Intranet.
- 13.2 NHS Devon Senior Managers, or their designated representatives, will implement this policy by:
- Notifying all staff of its existence. New staff will be informed of this policy as part of their induction.
 - Destroying all superseded paper-based versions of the policy and electronic versions retained in their area.
 - Having adequate knowledge of, and / or access to, all relevant legislation in order to ensure that compliance with such legislation is maintained.
 - Discussing with staff as part of their regular one-to-ones how they seek to achieve their individual objectives around policy review and maintenance.
 - Ensuring themselves and their teams remain compliant, and relevant declarations are made in line with the policy.
- 13.3 Training in respect of conflicts of interest forms part of the training programme for all staff. This takes the form of two on-line modules provided which can be accessed via the Electronic Staff Record. (The training is currently being updated by NHSE and is anticipated to be available in Q4 2023-24)
- Module 1 – covers what conflicts of interest are; how to declare and manage conflicts of interest, including individuals' responsibilities; and how to report any concerns. (This is mandatory training for all staff and is required to be completed on an annual basis.)
 - Module 2 – provides further information on managing conflicts of interest throughout the whole commissioning cycle and in recruitment processes. (Confirmation is awaited as to the staff this module applies to and the required frequency of its completion.)
- 13.4 In addition to the mandatory training, the Governance Team will provide awareness sessions to staff via Staff Briefings and articles in the Staff Bulletin.

14. Approval and Review

- 14.1 This policy is subject to the approval of the NHS Devon Board following its consideration by the Senior Executive Team and the Audit & Risk Committee.
- 14.2 This policy will be reviewed annually, or sooner if required, in order to ensure that it is current, relevant and reflects the strategic aims, objectives, organisational structures and responsibilities of NHS Devon.

15. Monitoring compliance and effectiveness

- 15.1 The effectiveness of the way in which NHS Devon manages conflicts of interests and how it complies with this policy will be the subject of an annual internal audit review. The outcome of this audit is presented to the Audit & Risk Committee and is reported in the annual Head of Internal Audit Opinion.
- 15.2 The Chief Executive will review compliance and effectiveness as part of the Annual Report process, which includes the consideration of the Head of Internal Audit Opinion.
- 15.3 Compliance with conflicts of interest processes will be monitored by the Governance Team who will report to the Executive Committee on a bi-monthly basis and to each meeting of the Audit & Risk Committee in respect of compliance together with any breaches and the impact of these breaches to ensure learning and improvement.
- 15.4 Any trends resulting from non-compliance will be raised with staff through management routes.

16. Quality & Equality Impact Assessment (QEIA)

- 16.1 A QEIA has been completed in respect of this policy. No concerns were highlighted.

17. References

17.1 Other related NHS Devon policy documents

- Standards of Business Conduct Policy
- Procurement Policy for all ICB Expenditure
- Freedom to Speak Up Policy
- Anti Fraud and Bribery Policy
- Standing Financial Instructions
- Scheme of Reservation and Delegation

17.2 Legislation and statutory requirements

- Bribery Act 2010: www.legislation.gov.uk/ukpga/2010/23/contents
www.gov.uk/government/publications/bribery-act-2010-guidance
- Fraud Act 2006: www.legislation.gov.uk/ukpga/2006/35/contents
- National Health Service Act 2006:
www.legislation.gov.uk/ukpga/2006/41/contents
- Health and Care Act 2022:
www.legislation.gov.uk/ukpga/2022/31/contents/enacted
- NHS (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013

17.3 Best practice recommendations and other key guidance

- Department of Health - Confidentiality: NHS Code of Practice:
www.gov.uk/government/publications/confidentiality-nhs-code-of-practice
- General Medical Council (GMC) : www.gmc-uk.org/guidance/good_medical_practice.asp www.gmc-uk.org/guidance/ethical_guidance.asp
www.gmc-uk.org/about/council/register_code_of_conduct.asp
- Good Governance Standards of Public Services:
www.jrf.org.uk/report/good-governance-standard-public-services
- NHS Counter Fraud Authority: cfa.nhs.uk/
- NHS England - Standards of Business Conduct for NHS Staff:
www.england.nhs.uk/publication/standards-of-business-conduct-policy/
- Seven Key Principles of the NHS Constitution:
www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england

APPENDIX 1 – Nolan Principles

1. Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so to gain financial or other benefits for themselves, their family or their friends.

2. Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

3. Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

4. Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

5. Openness

Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

6. Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

7. Leadership

Holders of public office should promote and support these principles by leadership and example.