

## Standards of Business Conduct Policy

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## **CONTENTS**

- i) Consultation and Distribution Record**
- ii) Change Record**
  
- 1. Introduction**
- 2. Aim, Purpose and Outcomes**
- 3. Scope**
- 4. Principal Content**
- 5. Roles and Responsibilities**
- 6. Resource Implications**
- 7. Communications Plan**
- 8. Quality Improvement – Monitoring and Review**
- 9. Equality and Diversity Impact Assessment**
- 10. Summary**
- 11. References**

i) **CONSULTATION AND DISTRIBUTION RECORD**

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ii) **CHANGE RECORD**

<b>Date</b>	<b>Author</b>	<b>Change</b>	<b>Version No.</b>
May `18	Deputy HRD	GDPR statement added into section 3 and updated name of Data Protection Act	1
Nov `19	Head HR - Policy & Governance Deputy Director of Finance	<ul style="list-style-type: none"> <li>Updated to reflect electronic link to Declaration of Gift, Hospitality and Commercial Interest</li> <li>Review date amended</li> </ul>	1
Nov `22	Head of HR Policy & Governance	Updated review dates and JPF membership	2

## 1. INTRODUCTION

1.1 It is important that NHS Lanarkshire and its employees maintain strict ethical standards in the conduct of NHS business and are protected from allegations of conflict of interest, acting improperly or breach of impartiality.

This Code of Conduct reflects the three public service values which are

**Accountability** – all work undertaken by NHS Lanarkshire staff must be able to stand the test of scrutiny, public judgements on propriety and professional codes of conduct.

**Probity** - there should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, staff and suppliers and in the use of information acquired in the course of NHS duties.

**Openness** - there should be sufficient transparency about NHS activities to promote confidence between NHS Lanarkshire, its staff and the public.

Under the Prevention of Corruption Acts 1906 and 1916 it is an offence for Health Service employees to corruptly accept any gifts or consideration as an inducement or reward for

- doing, or refraining from doing, anything in their official capacity
- showing favour or disfavour to any person in their official capacity

Under the Acts any money, gift or consideration received by an employee in public service from a person or organisation holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves the contrary.

It should be clearly understood therefore that:-

- a breach of the provisions of the Acts renders staff liable to prosecution, will lead to disciplinary action and may provide grounds for dismissal
- anyone convicted of corruption may forfeit their superannuation rights

anyone holding qualifications which are subject to registration by a statutory body may be subject to removal from the register if convicted of corruption, forfeiting their right to practise professionally

1.2 These standards should be read in conjunction with the document entitled “Guidance on Acceptance of Gifts and Hospitality & Declarations of Staff Interest” which is available on: [Home Page - NHS Lanarkshire - Declarations](#)

## 2. AIM, PURPOSE AND OUTCOMES

The purpose of this Code of Conduct is to provide guidance to managers and employees of NHS Lanarkshire regarding the acceptance of gifts and hospitality and on other matters relevant to standards of business conduct. This Code, and the related NHS Lanarkshire Corporate Governance policies are based on legislation and NHS Circulars and Guidance documents;

- **The Legislative Framework is** contained in the Prevention of Corruption Acts 1906 and 1916 and the Ethical Standards in Public Life (Scotland) Act 2000.
- **NHS Circulars, - MEL (1994) 80** entitled Corporate Governance in the NHS, and **MEL (2000) 13**, entitled Fundraising, Income Generation and Sponsorship within the NHSiS.
- **Guidance** contained in the **Code of Accountability for Boards 1994** and **A Common Understanding; Guidance on Joint working between NHS Scotland and the Pharmaceutical Industry 2003**
- **The Bribery Act 2010**

A range of policy and guidance documents has been developed in NHS Lanarkshire to address the requirements related to business conduct, as follows;

- Guidance on Acceptance of Gifts & Hospitality & Declarations of Staff Interest
- The Code of Conduct for Board members
- Standing Financial Instructions
- Fraud, Theft, Bribery and Corruption policy
- Procurement Guidance for managers
- Learning, Education and Training policy: Process & Procedures
- Whistleblowing Policy
- Staff Guidance relating to contact between NHS Lanarkshire staff and Company Representatives.

Policies are available on NHS Lanarkshire's public website

<http://www.nhslanarkshire.scot.nhs.uk/> click on "About Us" and follow the links. Alternatively follow the link under Policies on Firstport. Guidance notes and Standing Financial Instructions are available on the relevant departmental page of Firstport.

### 3. **SCOPE**

This Code will affect all employees of NHS Lanarkshire, irrespective of age, sex, disability, ethnicity/race, marital or civil partnership status, sexual orientation, religion or belief, pregnancy or maternity or gender reassignment.

NHS Lanarkshire takes care to ensure your personal information is only accessible to authorised people. Our staff have a legal and contractual duty to keep personal health information secure, and confidential. In order to find out more about current data protection legislation and how we process your information, please visit the Data Protection Notice on our website at [www.nhslanarkshire.scot.nhs.uk](http://www.nhslanarkshire.scot.nhs.uk) or ask a member of staff for a copy of our Data Protection Notice.

## 4. PRINCIPAL CONTENT

### 4.1 Declaration of Interests

- a) Staff are required to declare all cases where they or a close relative or associate of theirs has a controlling and/or significant financial interest in a private company, public organisation, other NHS employer or voluntary organisation which might leave the employee or NHS Lanarkshire vulnerable.
- b) NHS Lanarkshire holds a Register of Declarations of Commercial Interest and staff and Board members should declare any interests as defined above by completing the electronic Declaration of Commercial Interest available on Firstport: [Home Page - NHS Lanarkshire - Declarations](#)

### 4.2 Acceptance of Gifts

Staff must never canvass or seek gifts or hospitality. Under no circumstances can staff accept personal gifts of cash. All donations of cash must be processed through the Board's Endowment arrangements.

It is acceptable for staff to receive small tokens of gratitude from a relative or carer in appreciation of care and treatment received. These are typically cards, chocolates or biscuits. Where staff are offered gifts of greater value these must be politely refused. If this is difficult they must refer the matter to their line manager.

It is also acceptable for staff to receive small promotional items, e.g. post-its, pens, calendars, diaries. However,

- staff must not accept any offer, by way of gift or hospitality, which could give rise to a reasonable suspicion of influence on their part to show favour, or disadvantage, to any individual, organisation or company.
- Where a spouse or partner of a staff member receives a gift, benefit or hospitality from a company that NHS Lanarkshire has a business relationship with, the member of staff must not directly or indirectly benefit from such a gift, benefit or hospitality. In such situations, the staff member must refer the matter to their line manager.

Note - the term 'gift' includes benefits such as relief from indebtedness, loan concessions, or provision of services at a cost below that generally charged to members of the public.

### 4.3 Hospitality

Modest hospitality may be acceptable provided it is normal and reasonable in the circumstances e.g. lunches in the course of a working visit. Any hospitality accepted should be similar in scale to that which the NHS as an employer would be likely to offer. **All other offers of hospitality should be declined.**

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Staff must register all such modest hospitality which they wish to accept, using the on-line Declaration of Gift, Hospitality & Commercial Interest: [Home Page - NHS Lanarkshire - Declarations](#) In cases of doubt, staff should seek advice from their line manager.

It may not always be clear whether an individual is being invited to an event involving the provision of hospitality (e.g. formal dinner) in a personal/private capacity or as a consequence of the position which they hold with NHS Lanarkshire.

- (i) If the invitation is the result of the individual's position within NHS Lanarkshire, only hospitality which is modest and normal and reasonable in the circumstances should be accepted. If the nature of the event dictates a level of hospitality which exceeds this, then the individual should ensure that their line manager is fully aware of the circumstances and approves their attendance. An example of such an event might be an awards ceremony involving a formal dinner. If the line manager grants approval to attend, the individual should declare their attendance in the register of hospitality held by their line manager. The approving manager must ensure that this will not result in any future conflict of interest.
- (ii) If the individual is invited to an event in a private capacity (e.g. as result of their qualification or membership of a professional body), they are at liberty to accept or decline the invitation without referring to their line manager. The following matters should however be considered before an invitation to an individual acting in a private capacity is accepted.
  - a) The individual should not do or say anything at the event that could be construed as representing the views and/or policies of NHS Lanarkshire.
  - b) If the body issuing the invitation has (or is likely to have, or is seeking to have) commercial or other financial dealings with NHS Lanarkshire, then it could be difficult for an individual to demonstrate that their attendance was in a private and not an official capacity. Attendance could create a perception that the individual's independence had been compromised, especially where the scale of hospitality is lavish. Individuals should therefore exercise caution before accepting invitations from such bodies and must inform their line manager.
  - c) Where suppliers of clinical products provide hospitality it should only be accepted in association with scientific meetings, clinical educational meetings or equivalent, which must be modest, normal and reasonable in the circumstances and in line with what the NHS would normally provide. Any such hospitality should be held in appropriate venues conducive to the main purpose of the event, e.g. the sponsorship is clearly disclosed in any papers relating to the meeting; products discussed should be described in relation to the Scottish Medicines Consortium, Formulary or equivalent clinical product catalogue and the active promotion of clinical products is restricted to those in the Board's Formulary and equivalent clinical product catalogues. Any educational meetings hosted by suppliers must be approved by the line manager.



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- d) Before accepting an offer of hospitality the individual concerned should complete a Declaration of Gift, Hospitality or Commercial Interest: [Home Page - NHS Lanarkshire - Declarations](#) A copy of the request form will be held as part of a Hospitality Register which will be available for scrutiny by the NHS Board, Corporate Management Team, members of the public or press should they request such information.
- NHS Lanarkshire as a public body must be able to demonstrate good value when incurring expenditure. Particular consideration must be given to the use of NHS Lanarkshire venues for hospitality and entertainment including hospitality at conferences and other external events.
  - All NHS Lanarkshire staff that participate in or authorise the provision of hospitality involving external organisations must be able to ensure that their conduct is capable of justification in the light of the public service values outlined.

#### 4.4 Bribery Act 2010

NHS Lanarkshire will uphold all laws relevant to countering bribery and corruption, including the Bribery Act 2010 (the Act). This commitment applies to every aspect of NHS Lanarkshire's activity, including dealings with public and private sector organisations and the delivery of care to patients.

The Act recognises a number of offences including the following:-

- The offering, promising or giving of a bribe (active bribery);
- The requesting, agreeing to receive or accepting of a bribe (passive bribery).

Any employee who commits active or passive bribery will be subject to disciplinary action. In addition, the matter will be referred to relevant authorities for criminal investigation.

The Act also recognises a further offence of corporate liability for failing to prevent bribery on behalf of a commercial organisation. (For the purposes of the Act, NHS Boards are considered commercial organisations.) NHS Lanarkshire has put in place a range of measures intended to prevent bribery and these are subject to formal and regular review to ensure they remain fit for purpose.

#### 4.5 Assessment and training visits for new equipment

It is not acceptable for individuals within NHS Lanarkshire to accept offers of travel or overnight accommodation except where such visits do not relate to the purchase of equipment but are rather to do with training or familiarisation of equipment which it has already been determined will be purchased. In these circumstances it is acceptable for the cost to be met by the manufacturer or supplier.

Whilst it will be necessary for staff advising on the purchase of equipment to inspect such equipment in operation in other parts of the country or exceptionally overseas, acceptance of an offer by the manufacturer to meet the costs of such visits may cast doubts on the integrity of subsequent purchasing decisions. NHS Lanarkshire will therefore meet the



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costs of any visits which are considered necessary. Any such visits will require to be authorised by the appropriate line manager.

#### **4.6 Commercial Contracts**

All staff who are in contact with suppliers and contractors - including external consultants - and in particular those who are authorised to sign purchase orders or place contracts for goods, materials or services must adhere to professional procurement standards. Further information is included in section 5 of "Guidance on Acceptance of Gifts and Hospitality & Declarations of Interest: [Home Page - NHS Lanarkshire - Declarations](#)

#### **4.7 Secondary Employment**

Staff must seek permission from their line manager if they are planning to undertake paid work outwith their employment with NHS Lanarkshire to ensure there is no conflict of interest with their post in NHS Lanarkshire.

### **5. ROLES AND RESPONSIBILITIES**

#### **5.1 All staff**

a) It is a basic principle in all parts of the public service that public servants must be scrupulously impartial and honest, that they must be seen to be so and that they must be beyond suspicion in all aspects of business conduct. Therefore, all staff must comply with the following responsibilities;

- to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties.
- to ensure that the interests of patients remains paramount at all times
- to be impartial and honest in the conduct of their official business
- to use public funds entrusted to them to the best advantage of the service, always ensuring value for money
- not to abuse their official position for personal gain or to benefit their family or friends
- not to seek to advantage or further their private business or other interests in the course of their official duties
- not to accept gifts or bequests which will directly or indirectly benefit them, or put pressure on patients, or others to make donations to other people or organisations.

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- not to accept gifts or hospitality liable to raise any questions regarding their judgement or impartiality. Staff should decline all offers of gifts, hospitality or entertainment except as defined in paragraph 4.2 above.
  - not to benefit directly or indirectly from gifts or hospitality received by their spouse or partner where the gift or hospitality has been supplied by a company that has a business relationship with NHS Lanarkshire.

## 5.2 Line Managers

Line managers are required:

- to approve Hospitality requests using the electronic Declaration of Gift & Hospitality;

## 6. RESOURCE IMPLICATIONS

None identified

## 7. COMMUNICATION PLAN

- This Code will be launched using the weekly staff briefing and it will be available on Firstport.
- This Code will also be discussed at the appropriate management team meetings and local partnership fora.

## 8. QUALITY IMPROVEMENT – Monitoring and Review

This Code will be reviewed every three years via the Joint Policy Forum.

## 9. EQUALITY AND DIVERSITY IMPACT ASSESSMENT

This Code meets NHS Lanarkshire's EDIA



## 10. SUMMARY

This policy clarifies the legal obligations of all staff in NHS Lanarkshire when conducting NHS business. It reflects the three public service values of accountability, Probit and openness. It provides clear rules around the acceptance of gifts and hospitality and on other matters relevant to standards of business conduct. It should be read in conjunction with the relevant legislation and policies listed in section 2.

## 11. REFERENCES

- Guidance on Acceptance of Gifts & Hospitality & Declarations of Staff Interest
- Policies and legislation listed in sections 1 & 2.
- General Data Protection Regulations 2018.