<table>
<thead>
<tr>
<th>Document Title</th>
<th>Standards of Business Conduct</th>
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</thead>
<tbody>
<tr>
<td>Date Issued/Approved:</td>
<td>25 September 2014</td>
</tr>
<tr>
<td>Date Valid From:</td>
<td>01 October 2014</td>
</tr>
<tr>
<td>Date Valid To:</td>
<td>30 September 2017</td>
</tr>
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<td>Directorate / Department responsible (author/owner):</td>
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<tr>
<td>Brief summary of contents</td>
<td>Standing Orders of the Trust regulate the proceedings and business of the organisation. The Standing Orders include the Standing Financial Instructions, the Scheme of Reservation and delegation and detailed Delegation Limits, <strong>Standards of Business Conduct</strong> and a short guide to Standing Financial Instructions to compliment the core governance documents.</td>
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<tr>
<td>Suggested Keywords:</td>
<td>Business Conduct, Hospitality, Declarations of Interest, Sponsorship</td>
</tr>
<tr>
<td>Target Audience</td>
<td>RCHT</td>
</tr>
<tr>
<td>Executive Director responsible for Policy:</td>
<td>Director of Finance</td>
</tr>
<tr>
<td>Date revised:</td>
<td>25 September 2014</td>
</tr>
<tr>
<td>This document replaces (exact title of previous version):</td>
<td>Standards of Business Conduct</td>
</tr>
<tr>
<td>Approval route (names of committees)/consultation:</td>
<td>Trust Board and Audit Committee-September 2014</td>
</tr>
<tr>
<td>Divisional Manager confirming approval processes</td>
<td>Director of Finance</td>
</tr>
<tr>
<td>Name and Post Title of additional signatories</td>
<td>Not Required</td>
</tr>
<tr>
<td>Signature of Executive Director giving approval</td>
<td>{Original Copy Signed}</td>
</tr>
<tr>
<td>Publication Location (refer to Policy on Policies – Approvals and Ratification):</td>
<td>Internet &amp; Intranet</td>
</tr>
<tr>
<td>Document Library Folder/Sub Folder</td>
<td>Finance / Finance General</td>
</tr>
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<td>Links to key external standards</td>
<td>Key Governance Document</td>
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<td>Related Documents:</td>
<td>Standing Orders, Standing Financial Instructions, Scheme of Delegation, Staff Guide to Standing Financial Instructions</td>
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<tr>
<td>Training Need Identified?</td>
<td>No</td>
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STANDARDS OF BUSINESS CONDUCT
STANDARDS OF BUSINESS CONDUCT

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GUIDING PRINCIPLES

RESPONSIBILITY AND PRINCIPLES OF CONDUCT

1. It is the responsibility of staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their duties. This primary responsibility applies to ALL Staff, ie: those who commit NHS resources directly (eg: by the ordering of goods) or those who do so indirectly (eg: by the prescribing of medicines). A further example would be staff who may have an interest in a private nursing home and who are involved with the discharge of patients to residential facilities.

1.2 Staff are expected to:

- ensure that the interest of patients remains paramount at all times;
- be impartial and honest in the conduct of their official business;
- use the public funds entrusted to them to the best advantage of the service, always ensuring value for money.

1.3 It is also the responsibility of staff to ensure that they do not:

- abuse their official position for personal gain or to benefit their family or friends;
- seek to advantage or further private business or other interests, in the course of their official duties.

GUIDING PRINCIPLE IN CONDUCT OF PUBLIC BUSINESS

2. It is along established principle that public sector bodies, which include the NHS, must be impartial and honest in the conduct of their business, and their employees should remain beyond suspicion.

2.1 Under the Prevention of Corruption Acts, 1906 and 1916, it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for:
• doing, or refraining from doing, anything in their official capacity; or

• showing favour or disfavour to any person in their official capacity.

2.2 Under the Prevention of Corruption Act 1916, 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.

Staff need to be aware that a breach of the provisions of these Acts renders them liable to prosecution and may also lead to loss of their employment and superannuation rights in the NHS.

IMPLEMENTING THE GUIDING PRINCIPLES

CASUAL GIFTS

3. Casual gifts offered by contractors or others, eg: at Christmas time, may not be in any way connected with the performance of duties so as to constitute an offence under the Prevention of Corruption Acts. Such gifts should nevertheless be politely but firmly declined. Articles of low intrinsic value such as diaries or calendars, or small tokens of gratitude from patients or their relatives, need not necessarily be refused. In cases of doubt, staff should either consult their line manager or politely decline acceptance.

HOSPITALITY

4. Modest hospitality provided it is normal and reasonable in the circumstances, eg: lunches in the course of working visits, may be acceptable, though it should be similar to the scale of hospitality which the NHS as an employer would be like to offer.

4.1 Staff should decline all other offers of gifts, hospitality or entertainment. If in doubt they should seek advice from their line manager.
DECLARATION OF INTERESTS

5. Staff must declare whether they or any close relative or associate, has a controlling and/or significant financial interest in a business (including a private company, public sector organisation, other NHS employer and/or voluntary organisation), or in any other activity or pursuit, which may compete for an NHS contract to supply either goods or services to the employing authority. Any such interest must be declared on starting employment or on subsequent acquisition of the interest.

5.1 One particular area of potential conflict of interest which may directly affect patients is when NHS staff hold a self beneficial interest in private care homes or hostels. Advice on professional conduct issued by the General Medical Council recommends that when a doctor refers a patient to a private care home or hostel in which he or she has an interest, the patient must be informed of that interest before referral is made.

5.2 In determining what needs to be declared staff should be guided by the principles set out in paragraph 1 above and the more detailed guidance to staff contained in Appendix A.

5.3 A register of all such interests will be maintained and available for inspection by the public.

5.4 Disciplinary action may be taken if an employee fails to declare a relevant interest, or is found to have abused his or her official position, or knowledge, for the purpose of self-benefit, or that of family and friends.

PREFERENTIAL TREATMENT IN PRIVATE TRANSACTIONS

6. Individual staff must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of their NHS employer. (This does not apply to concessionary agreements negotiated with companies by NHS management, or by recognised staff interests, on behalf of all staff - for example, NHS staff benefits schemes.)
CONTRACTS

7. 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, are expected to adhere to professional standards of the kind set out in the Ethical Code of the Institute of Purchasing and Supply (IPS), reproduced at Appendix B.

FAVOURITISM IN AWARDING CONTRACTS

8. Fair and open competition between prospective contractors or suppliers for NHS contracts is a requirement of NHS Standing Orders and of EC Directives on Public Purchasing for Works and Supplies. This means that:

- no private, public or voluntary organisation or company which may bid for NHS business should be given any advantage over its competitors, such as advance notice of NHS requirements. This applies to all potential contractors, whether or not there is a relationship between them and the NHS employer, such as a long-running series of previous contracts.

- each new contract should be awarded solely on merit, taking into account the requirements of the NHS and the ability of the contractors to fulfil them.

- no special favour will be shown to current or former employees or their close relatives or associates in awarding contracts to private or other businesses run by them or employing them in a senior or relevant managerial capacity. Contracts may be awarded to such businesses where they are won in fair competition against other tenders, but scrupulous care must be taken to ensure that the selection process is conducted impartially, and that staff that are known to have a relevant interest play no part in the selection.

WARNINGS TO POTENTIAL CONTRACTORS
9. All invitations to potential contractors to tender for NHS business must include a notice warning tenderers of the consequences of engaging in any corrupt practices involving employees of public bodies.

OUTSIDE EMPLOYMENT

10. Staff should not engage in outside employment which may conflict with their NHS work, or be detrimental to it. Staff should inform their head of department if they think they may be risking a conflict of interest in this area.

PRIVATE PRACTICE

11. Consultants (and associate specialists) employed under the Terms and Conditions of Service of Hospital Medical and Dental Staff are permitted to carry out private practice in NHS hospitals subject to the conditions outlined in the handbook "A Guide to the Management of Private Practice in the NHS". Consultants who have signed new contracts with the Trust will be subject to the terms applying to private practice in these contracts.

11.1 Other grades may undertake private practice of work for outside agencies, providing they do not do so within the time they are contracted to the NHS, and they observe the conditions in paragraph 10 above. All hospital doctors are entitled to fees for other work outside their NHS contractual duties under "Category 2" (para. 37 of the TCS of Hospital Medical and Dental staff), eg: examinations and reports for life insurance purposes. Hospital doctors and dentists in training should not undertake locum work outside their contracts where such work would be in breach of their contracted hours.

COMMERCIAL SPONSORSHIP FOR ATTENDANCE AT COURSES AND CONFERENCES

12. Acceptance by staff of commercial sponsorship for attendance at relevant conferences and courses is acceptable, but only where permission is given in advance and the Trust is satisfied that acceptance will not compromise purchasing decisions in any way.
12.1 If it is necessary for staff advising on the purchase of equipment to inspect such equipment in operation in other parts of the country (or exceptionally, overseas), the Trust will make the decision whether to meet the cost of the visit or to accept, in certain circumstances, the client paying for the visit. This will avoid putting in jeopardy the integrity of any subsequent purchasing decision.

COMMERCIAL SPONSORSHIP OF POSTS - "LINKED DEALS"

13. Pharmaceutical companies, for example, may offer to sponsor, wholly or partially, a post for the Trust. The Trust will not enter into such arrangements, unless it has been made abundantly clear to the company concerned that the sponsorship will have no effect on purchasing decisions within the authority. Where such sponsorship is accepted, monitoring arrangements will be established to ensure that purchasing decisions are not, in fact, being influenced by the sponsorship agreement.

Under no circumstances should staff agree to "linked deals" whereby sponsorship is linked to the purchase of particular products, or to supply from particular sources.

"COMMERCIAL IN CONFIDENCE"

14. Staff should be particularly careful of using, or making public, internal information of a "commercial in confidence" nature, particularly if its disclosure would prejudice the principle of a purchasing system based on fair competition or the viability of the Trust. This principle applies whether private competitors or other NHS providers are concerned, and whether or not disclosure is prompted by the expectation of personal gain.

"CONFLICT OF INTEREST"

15. In circumstances where there may be a difference of opinion as to whether a matter is deemed to be a conflict of interest, the Chief Executive's decision will be final.
APPENDIX A

SHORT GUIDE FOR STAFF

Do:

- make sure you understand the guidelines on standards of business conduct, and consult your line managers if you are not sure;
- make sure you are not in a position where your private interests and NHS duties may conflict;
- declare to your employer any relevant interests. If in doubt, ask yourself:
  
  i. am I, or might I be, in a position where I (or my family/friends) could gain from the connection between my private interests and my employment?
  ii. do I have access to information which could influence purchasing decisions?
  iii. could my outside interest be in any way detrimental to the NHS or to patients' interests?
  iv. do I have any other reason to think I may be risking a conflict of interest?

If still unsure - Declare it!

- Adhere to the ethical code of the Institute of Purchasing and Supply if you are involved in any way with the acquisition of goods and services;
- Seek your employer's permission before taking on outside work, if there is any question of it adversely affecting your NHS duties, (Special guidance applies to doctors);
- Obtain permission before accepting any commercial sponsorship;

Do not:

- accept any gifts, inducements or inappropriate hospitality;
- abuse your past or present official position to obtain preferential rates for private deals;
- unfairly advantage one competitor over another or show favouritism in awarding contracts;
- misuse or make available official "commercial in confidence" information
APPENDIX B

Institute of Purchasing and Supply – Ethical Code
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INTRODUCTION

1. The code set out below was approved by the Institute’s Council on 26 February 1977 and is binding on IPS members.

PRECEPTS

2. Members shall never use their authority of office for personal gain and shall seek to uphold and enhance the standing of the Purchasing and Supply profession and the Institute by:

   a) maintaining an unimpeachable standard of integrity in all their business relationships both inside and outside the organisations in which they are employed:

   b) fostering the highest possible standards of professional competence amongst those for whom they are responsible:

   c) optimising the use of resources for which they are responsible to provide the maximum benefit to their employing organisation:

   d) complying both with the letter and the spirit of:

      i) the law of the country in which they practice:

      ii) such guidance on professional practice as may be issued by the Institute from time to time:

      iii) contractual obligations:

   e) rejecting any business practice which might reasonably be deemed improper.

GUIDANCE

3. In applying these precepts, members should follow the guidance set out below

   a) Declaration of interest. Any personal interest which may impinge or might reasonably by deemed by others to impinge on a member’s impartiality in any matter relevant to his or her duties should be declared.

   b) Confidentiality and accuracy of information. The confidentiality of information received in the course of duty should be respected and should never be used
for personal gain: information given in the course of duty should be true and fair and never designed to mislead.

c) Competition. While bearing in mind the advantages to the member's employing organisation of maintaining a continuing relationship with a supplier, any relationship which might, in the long term, prevent the effective operation of fair competition, should be avoided.

d) Business Gifts. Business gifts other than items of very small intrinsic value such as business diaries or calendars should not be accepted.

e) Hospitality. Modest hospitality is an accepted courtesy of a business relationship. However, the recipient should not allow him or herself to reach a position whereby he or she might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality: the frequency and scale of hospitality accepted should not be significantly greater than the recipient's employer would be likely to provide in return.

f) When it is not easy to decide between what is and is not acceptable in terms of gifts or hospitality, the offer should be declined or advice sought from the member's superior.