



CONFLICT OF INTEREST POLICY

POLICY STATEMENT

1. PHSO is committed to the highest standards of ethical conduct and integrity. This policy provides a framework for dealing with any actual or potential conflicts of interest. It also provides a guide for identifying, monitoring and managing actual and potential conflicts of interest that could arise between PHSO employees and its customers, suppliers and other stakeholders. As part of this commitment, PHSO seeks to ensure that it is open and clear about any actual or potential conflicts of interest between our work and other interests and relationships.

PURPOSE AND SCOPE

2. This policy covers PHSO employees, including those on either permanent or fixed-term contracts and those on secondment from other organisations.
3. Temporary agency workers, contractors, consultants and advisers working at PHSO, in line with the principles and guidelines laid out in this policy, are required to declare any actual, or perceived, conflict of interest pertaining to the work they have been engaged to undertake.
4. A conflict of interest may arise from an employee's own interests or activities or from that of a member of their family or an individual with whom they have a close personal relationship.
5. Governance and accounting requirements mean that certain types of interests that need to be declared under this policy must also be disclosed in PHSO's Resource Accounts. This is normally restricted to the financial and commercial interests of senior managers and other key decision makers.

PRINCIPLES

6. The following principles apply:
 - PHSO's core values are Excellence, Leadership, Integrity and Diversity. Our commitment to maintaining our integrity requires us to be open, honest and straightforward in all our dealings and to use time, money and resources effectively, so that:
 - we are consistent and transparent in our actions and decisions;
 - we take responsibility for our actions and hold ourselves accountable for all that we do;
 - we treat people fairly.

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- Employees should behave in accordance with PHSO's Code of Conduct. Behaviour, conduct or actions that breach the Code of Conduct (such as a conflict of interest which jeopardises the reputation of PHSO) are likely to be treated as serious misconduct under PHSO's Disciplinary policy;
- PHSO's effectiveness depends on its reputation for being open, fair and impartial and it is essential that we are scrupulous in maintaining this reputation;
- Responsibility for identifying and declaring an actual or potential conflict of interest rests with the employee;
- PHSO will ensure an appropriate balance between transparency and privacy, and information declared for the requirements of this policy will be published as necessary to demonstrate probity and inspire confidence in the work of PHSO;
- PHSO reserves the right to withdraw a job offer if a prospective employee has a conflict of interest for which no resolution is possible;
- Information regarding the conflict of interest policy will form part of induction for all employees.

OUTCOMES

7. The outcomes of this policy are that:
 - PHSO employees have a clear understanding of what constitutes an actual or perceived conflict of interest;
 - conflicts of interest are identified and managed at the earliest opportunity;
 - declared conflicts of interests are managed effectively so as to protect the interests of both our customers and employees;
 - PHSO is able to comply with its obligations to disclose the financial and commercial interests of senior managers and other key decision makers in the Resource Accounts where required;
 - PHSO maintains its reputation for integrity, transparency and fairness.

MONITORING AND REVIEW

8. HR, People & Talent will monitor the implementation of this policy to ensure that employees have the opportunity to update their personal record on conflicts of interest.
9. A regular formal review of this policy will take place and will be in accordance with relevant legislation.

Conflict of interest definitions and examples

1. Conflict of interest

- 1.1 This refers to a situation when someone has, or is perceived to have, competing professional or personal obligations, or personal or financial interests, that would make it difficult to fulfil their duties fairly or effectively, or which could influence, or may be perceived to influence, PHSO's judgements or actions.
- 1.2 Even where an employee has acted impartially, a perceived conflict of interest can be damaging to PHSO's reputation. This policy covers 'actual', 'perceived' and 'potential' conflicts of interest.
- 1.3 There are four primary types of activity that might lead to a conflict of interest: secondary employment, business interests, personal interests/relationships and previous employment. A conflict of interest may also arise if an employee is party to a complaint made to PHSO, another Ombudsman or a body in jurisdiction.

2. Notifying a potential conflict of interest

- 2.1 Primary responsibility for identifying and declaring any actual or potential conflict of interest rests with the employee.
- 2.2 Employees are required to seek advice from their line manager immediately if they intend to take up a new interest, activity, second job or relationship that may possibly create or be perceived to create a conflict of interest or if an existing one develops in such a way that it may become a conflict. If there is any doubt about whether something is a conflict, the employee should discuss it with line management and declare it as a conflict of interest (or a potential conflict) rather than ignore it.
- 2.3 The process for recording, and seeking agreement to, a potential Conflict of Interest is set out in the Conflict of Interest Guidance.

3. Secondary/other employment

- 3.1 'Secondary employment' is a job, other than that undertaken with PHSO, whether paid or unpaid and on any type of contractual arrangement or any type of self-employment. The carrying out of public duties does not count as a second job, nor do outside interests such as personal investments or being a member of a committee, although these may constitute a conflict of interest under a different category.
- 3.2 PHSO does not prohibit employees from taking secondary employment and will not unreasonably withhold permission for an employee to do so, provided that the second job does not interfere, and is not likely to interfere, with the employee's job performance at PHSO or represent a conflict of interest.

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- 3.3 Where a PHSO employee is seeking to take up secondary employment, in exceptional circumstances, PHSO reserves the right to withhold permission for this if it is identified as a conflict because:
- the job is with a customer, supplier or other stakeholder;
 - the job or the type of job involved might represent a conflict of interest or risks reflecting poorly on the reputation of PHSO;
 - the hours of work would be likely to interfere with the employee's performance, attendance and/or timekeeping;
 - the total number of hours worked in both jobs would be likely to impact on health and safety or contravene any of the provisions of the Working Time Regulations 1998.
- 3.4 If it arises that an employee is already carrying out a second job and their duties have changed, the employee should discuss this with their line manager, including steps and timescales for resolving any conflict of interest.
- 3.5 Clinicians providing advice to PHSO are required to maintain their clinical skills by continuing to work in clinical practice within the NHS as well as working for PHSO. In such cases PHSO may be the second and not the prime employer. However it is important that these employees keep their line manager informed of their clinical practice arrangements and that they are accurately reflected in their conflict of interest record on HR Self Service. See the Conflict of Interest Guidance for details on how to record/notify a conflict or potential conflict of interest.
- 4. Business interests**
- 4.1 There is potential for conflict of interest where an employee, their partner or a family member has a direct or indirect business/financial interest (such as investment, employment or the expectation of future employment) in an institution which:
- is under investigation or is linked to an investigation conducted by PHSO;
 - is within PHSO jurisdiction or within the jurisdiction of another body with which PHSO is conducting a joint investigation; or
 - transacts business or has any kind of commercial contract with PHSO.
- 4.2 Section 8 sets out further information regarding gifts and/or hospitality which may be received as a result of a business interest.
- 5. Personal interests including political activities**
- 5.1 This may arise where an employee, their partner or a family member has a close relationship with a stakeholder, contractor etc of PHSO or a personal interest which could be seen to compromise PHSO.
- 5.2 Relationships at work may also be a conflict of interest. Examples of this may be where an intimate or close (for example family) relationship between two employees could be perceived as conflicting, for example if one manages the

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other. In such circumstances the potential conflict must be disclosed. Where appropriate this may be recorded via Self Service.

- 5.3 PHSO places a restriction on an employees' engagement in political activities where it may compromise, or be seen to compromise, their impartiality. Employees may not stand as candidates in parliamentary elections and require prior permission from PHSO to stand for local authority elections, canvas on behalf of candidates or publicly express views on matters of political controversy.

6. Previous employment.

- 6.1 Whilst previous employment does not in itself represent a conflict of interest, a conflict may subsequently arise if an employee is assigned a case which relates to a past employer.
- 6.2 Should this occur, the employee should notify their line manager as soon as the potential conflict is identified and the issue discussed to decide whether it might be perceived as a conflict of interest. A note of the discussion and any action taken should be made on the HR Pro record (see Conflict of Interest Guidance).

7. Complaints to PHSO or a body in jurisdiction

- 7.1 Where a PHSO employee is themselves involved in bringing a complaint to PHSO about another Ombudsman or a body in jurisdiction, they should first discuss this with their line manager prior to the complaint being submitted or referred.
- 7.2 With regard to complaints made to PHSO by employees or their close relatives, the following steps should be taken:
- a clear, agreed plan for the management of the complaint should be drawn up. The line manager of the employee making the complaint (or with an interest in the complaint) should discuss this with their Director and then with the Director who is responsible for the area that will deal initially with the complaint;
 - the plan should identify which teams (and which individuals within those teams) will deal with the preliminary assessment and (if needed) further assessment of the complaint. The plan must ensure that the employee has no access to the complaint and that it is not discussed. For example, in the event that the employee is in the team that would normally have dealt with the case, then the complaint should be transferred to a different team;
 - the plan should be agreed by the manager of the employee and the managers of the team(s) who will deal with the complaint, be signed off by both Directors and copied to the employee and the relevant caseworkers;
 - where the complaint is made by someone other than a member of staff (for example, a close relative) then we should ensure that the complainant is aware of the conflict and is told that the member of staff concerned will not be able to access details of, or be involved in the consideration of, the complaint;

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- the Systems Administrator for Visualfiles should be contacted to arrange for the employee to be barred from accessing the case on Visual files (which means that the complainant would not be able to see the file cover or access any documents about their case);
- if it becomes necessary to make substantive enquiries of the organisation complained about (that is, beyond contacting them at preliminary assessment to check if a complaint is premature) then the Director of the area dealing with the case should contact the organisation complained about. The Director should advise them that the complainant is an employee and of the steps that we have taken to prevent any conflict or potential conflict of interest;
- if a complaint is referred to an Assessment or Recommendations and Outcomes Panel then the employee should be notified and asked by their manager not to attend that Panel discussion. In some cases it may be appropriate to hold a closed panel;
- if a complaint is accepted for investigation then the plan should be reviewed and specific handling arrangements agreed with the relevant Investigation Director (including which team and investigator will deal with the case);
- if a case is referred to the Review Team or to another part of the Office then the employee's manager should liaise with the relevant manager in order to revise the plan as appropriate;
- in all cases the plan should be monitored to ensure that it is fit for purpose and should be subject to a review by the employee's manager and the manager of the team where the case is being dealt with at least every three months. The Managing Director will also monitor all mitigation plans on a quarterly basis and should be informed when the case has been closed.

8. Gifts and hospitality

- 8.1 The Bribery Act 2010 (the Act) provides a very general definition of bribery: 'giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so'. The Act provides a revised framework to combat bribery in the public or private sectors and sets out four offences, including:
- a general offence of requesting, agreeing to receive, or accepting a bribe ('passive bribery'), which carries a maximum penalty of 10 years imprisonment or an unlimited fine.
- 8.2 This offence can be committed even if the recipient does not know that they are being bribed.
- 8.3 Gifts and hospitality may create a conflict of interest in relation to both investigations and purchasing supplies and services or awarding such contracts. In order to ensure that acceptance does not fall under the Bribery Act or outside

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any other PHSO policy, please see the Procurement Code and Contract Management guidance for further information.

9. Self employed contractors, agency workers and consultants, including Associate Clinicians

9.1 The above groups should notify PHSO via their acting line manager of any conflicts or potential conflicts, in line with the principles contained in this policy, so that if necessary, suitable steps are taken to avoid conflicts. The acting line manager should retain a note of the discussion and any steps taken.

9.2 When providing clinical advice, Internal Professional Advisers, External Professional Advisers and Associates, are requested to confirm via the advice template that they have no conflict of interest.

9.3 Individuals applying to join PHSO, contractors and secondees will be required to complete a Declaration of Interests. If there are interests which create an actual or potential conflict in relation to the job or contract applied for, these will be discussed with them to agree a resolution. In exceptional circumstances a Declaration may lead to the withdrawal of an offer.

10. Advisory Board, Audit Committee and Senior Staff

10.1 For governance reasons Advisory Board and Audit Committee members are asked once a year to confirm that their potential conflicts of interests have not changed.

10.2 The Register of Interests for Senior Staff is included in the PHSO publication scheme and is, therefore, openly available. The section for all other employees is not published. However, PHSO reserves the right to disclose interests on request or as necessary, subject to the principles of the Data Protection Act 1998.