

**Response to**  
**NHS England's consultation**  
**Managing conflicts of interest in the NHS**

**General Comment**

We welcome the proposals contained in the consultation as a major and sensible step forward in creating clarity and coherence in the way in which conflicts of interest are managed across the NHS.

However, we believe that given the wide ranging nature of the NHS roles involved there should have been a wider range of groups involved in the original piece of work. From the index provided in the consultation it is clear that the only 'employee' voice has been through the BMA and, to some extent the GMC. We would request that we are fully involved in this work going forward, including in its implementation and monitoring.

**Key Comments**

We are pleased to see that the definitions given for organisations and staff are reflective of the complexity of the modern health and care system, and seem designed to enable coverage of all organisations commissioning or providing NHS funded care, and all staff, irrespective of their employment arrangements, whether commissioning or providing NHS funded care.

However, we have some concerns regarding specific details:

- The definition of 'senior staff' references all medical staff, but only 'Agenda for Change' on Band 7 or above. We believe this to be a naïve understanding of the way in which grading works in the NHS, i.e. there is an implicit assumption that grading relates to seniority. While this may be true within an employing organisation, it is perfectly possible for a junior staff member to be operating in a senior and powerful role in another organisation, as a director or trustee, and thus have a potential conflict of interest. On that basis we recommend that the guidance should make no distinction between grades or types of staff, and explicitly

and clearly state that all staff working to NHS contracts or paid by NHS funds are subject to these requirements.

- The NMC Code contains specific instructions regarding the actions that nursing staff must follow when offered gifts of any kind, however these instructions are not quantified, with the code simply stating that (21.1) ‘staff should refuse all but the most trivial gifts, favours or hospitality’. We believe that these proposal will offer clarity and certainty to nursing staff about what they are permitted to accept when working for the NHS, and are very happy to support the £50 limit for gifts.
- We similarly welcome and support the £25 limit and proposals for dealing with hospitality.
- In reference to both issues we would like consideration to be given to the timeframe in which declarations must be made. This is important for those circumstances in which a member of staff is not immediately aware of having been given a gift, for instance bequests, which a direct recipient may not know about for some time after its award, while others, for instance family members, may be aware of much sooner.
- The document recognises that many employers already have in place arrangements regarding conflicts and the value of gifts/ hospitality. It will be important to ensure that there is a clear NHS-wide understanding about what is permissible so as to ensure that staff working in different employment settings (e.g. Bank, Agency, Employed, Volunteer, Honorary Contract etc.) know what the rules are and how they will be applied
- The implementation of any new arrangements must be undertaken in a proportionate manner, so that patient and carers are not made to feel they are prevented from showing their thanks to hard-working health and care staff
- We agree with giving prominence to the impact of relationships with pharmaceutical companies, but would like to see this extended to technology companies (especially with reference to patents and the commercial value of data), as there are similar, and increasing opportunities for conflicts of interest to arise, especially in relation to academic staff employed by NHS organisations or on NHS contracts.

## **Responses to consultation questions**

### ***Definitions and scope – Questions 1 - 3***

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We agree with the definition, sub-classifications, and that all circumstance have been captured.

## ***Common Principles and rules Question 1 - 18***

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### **Q4: Do you agree with the proposed definition of senior staff?**

No. We have concerns about the divisiveness of including all medical staff but only nursing and midwifery staff on AFC Band 7 or above, and would like more detail on why this is being proposed.

### **Q5: Do you agree with our proposals regarding gifts?**

Yes. This will provide certainty to nursing staff about the value of gifts they are able to accept.

### **Q6: Do you agree with our proposals regarding hospitality?**

Yes. This will provide certainty to nursing staff about how they should deal with reporting hospitality.

### **Q7: Do you agree with our proposals regarding outside employment?**

No. We believe this should apply equally to all staff. We would also like to see the definition be more explicit on temporary work, such as agency or bank nursing.

**Q8 – 18:** We agree with all of the proposals covered by these questions.

## ***Ensuring Timely identification and management of interests – Q19***

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Yes. We agree with the proposals as given.

## ***Publication and transparency – Q20 - 24***

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### **Q20: Interests held by senior staff**

We agree with the proposals as given. However as noted under our key comments, we would like a different approach be taken to the classification of senior staff.

### **Q21 - 23**

We agree with all of the proposals as described in the consultation.

### **Q24: Compliance with Disclosure UK initiative**

We support this proposal, and believe that it would greatly improve the public's trust in healthcare professionals.

## ***Managing breaches and sanctions – Q25 - 26***

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### **Q25: Breaches and sanctions**

We agree with the proposals as described.

## **Q26: Application of principles and rules to non-NHS providers offering NHS funded services**

We agree that the underlying principles and rules should apply to non-NHS providers in respect of any NHS funded services they provide. We would like to see all of these proposals apply equally, irrespective of whether a provider is a public or a private body, if they are spending public money in the procurement, commissioning, or provision of health or care services in England.

We would also like to see consideration given to extending this ambit, to include organisation such as Health Education England, which while not providing care are involved in its provision, and are more importantly spending public monies allocated as health spend.

### **Background**

The RCN represents nurses and healthcare staff working for the NHS, and across the wider health and care system. We support members in their engagement with the regulator, the Nursing and Midwifery Council (NMC), including through Fitness to Practice cases. We have not been involved with the generation of the proposals, but were made aware of the work through the NHS staff partnership group.

#### **About the RCN**

With a membership of around 435,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent sector.

We promote patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.

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