



**GIG**  
CYMRU  
**NHS**  
WALES

Bwrdd Iechyd Prifysgol  
Cwm Taf Morgannwg  
University Health Board

## **Standards of Behaviour Policy (Incorporating Declarations of Interest, Gifts, Hospitality, Sponsorship and Honoraria)**

<b>INITIATED BY:</b>	Assistant Director of Governance & Risk
<b>APPROVED BY:</b>	Health Board
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## 1. PURPOSE

The purpose of this Policy is to set out the Cwm Taf Morgannwg University Health Board (CTMUHB) commitment to ensuring that its Employees and Independent Board Members practice the highest standards of conduct and behaviour. This policy sets out those expectations and provides supporting guidance so that all employees and Independent Board Members are supported in delivering that requirement.

Any reference in this Policy to the Health Board should also be applied to any bodies that the UHB hosts such as the Welsh Health Specialised Services Committee (WHSSC), the Emergency Ambulance Services Committee (EASC) and the National Imaging Academy (NIA).

## 2. CONTEXT AND BACKGROUND

The Welsh Government's *Citizen-Centred Governance Principles* apply to all public bodies in Wales. These principles integrate all aspects of governance and embody the values and standards of behaviour expected at all levels of public services in Wales.

***"Public service values and associated behaviours are and must be at the heart of the NHS in Wales"***

CTMUHB is strongly committed to the Health Board being value-driven, rooted in the Nolan principles and high standards of public life and behaviour, including openness, customer service standards, diversity and engaged leadership.

The Board expects all Independent Board Members and Employees to practice high standards of corporate and personal conduct, based on the recognition that the needs of patients must come first.

The "Seven Principles of Public Life", or the "Nolan Principles" form the basis of the Standards of Behaviour requirements for Health Board employees and Independent Board Members. These are:

- **Selflessness** – Individuals should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or friends
- **Integrity** – Individuals 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

- **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, recommending individuals for rewards and benefits, choices should be made on merit
- **Accountability** – Individuals are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate for their position
- **Openness** – Individuals 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 it
- **Honesty** – Individuals have a duty to declare any private interests relating to their duties and to take steps to resolve any conflicts arising in a way that protects the public interest, and
- **Leadership** – Individuals should promote and support these principles by leadership and example.

In support of these principles, Independent Board Members and all employees must be impartial and honest in the way that they go about their day to day functions. They must remain beyond suspicion at all times. They can achieve the “Seven Principles” above by:

- Ensuring that the interests of patients remain paramount
- Being impartial and honest in the conduct of their official business
- Using public funds to the best advantage of the service and the patients, always seeking to ensure value for money
- Not abusing their official position for personal gain or to benefit family or friends
- Not seeking advantage or to further private business or other interests in the course of their official duties, and
- Not seeking or knowingly accepting, 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 the Health Board.

This Policy re-states and builds on the provisions of CTMUHB Standing Orders. It re-emphasises the commitment of the Health Board to ensure that it operates to the highest standards, the roles and responsibilities of those employed by the Health Board and the arrangements for ensuring that declarations can be made.

The Policy is supported by a short guide on the Standards of Behaviour Framework (see **Appendix 1**) that provides a summary of expected conduct. This Framework is intended to compliment the various Professional Codes of Conduct relevant to Employees of the Health Board.

### **3. AIM**

The aim of this Policy is to ensure that arrangements are in place to support employees to act in a manner that upholds the Standards of Behaviour Framework as well as setting out specific arrangements for the appropriate declarations of interests and acceptance / refusal and record of offers of Gifts, Hospitality or Sponsorship. The Policy also aims to capture public acceptability of behaviours of those working in the public sector so that the Health Board can be seen to have exemplary practice in this regard.

CTMUHB is committed to ensuring that its employees and Independent Members practice the highest standards of conduct and behaviour. This policy sets out those expectations and provides supporting guidance so that all employees and Independent Members are supported to deliver this requirement.

### **4. OBJECTIVE**

The objective of this Policy is to clarify the relative responsibilities of individuals / committees in the discharge of this Policy and adherence to the Standards of Behaviour Framework.

### **5. SCOPE**

This Policy is applicable across the whole of the Health Board. It applies to all Employees and Independent Board Members. The term "Employees" includes all those who have a contract of employment or honorary contract with the Health Board.

### **6. ROLES AND RESPONSIBILITIES**

#### **Chief Executive**

The Chief Executive is the "Accountable Officer" with overall responsibility for ensuring that the Health Board operates efficiently, economically and with probity. The Chief Executive will ensure a policy framework is set and that arrangements are in place to support the delivery of that framework.

## Director of Corporate Governance / Board Secretary

The Board Secretary/ Director of Corporate Services and Governance has delegated responsibility for ensuring that the Health Board is provided with competent advice and support regarding the contents and application of this Policy and the Standards of Behaviour Framework. They will ensure that:-

- (i) A Register of Interests is established and maintained as a formal record of interests declared by Employees and Independent Board Members. The Register will include details of Directorships, pecuniary (financial) and non-pecuniary interests in organisations that may have dealings with the NHS and membership of professional committees and third sector bodies. Where relevant it will also include details of interests of close family members or civil partners.
- (ii) Arrangements are in place to prompt specific groups of Employees and Independent Board Members to complete a Declaration of Interest Form on initial employment with the Health Board and at periodic intervals thereafter as follows:

<b>Staff Group</b>	<b>Timetable</b>
Board Members and Board Level Directors	Annually in April for the forthcoming financial period
Integrated Locality Group and System Group Leads	Annually in April for the forthcoming financial period
Consultants, Senior Clinical Staff and all Managers or Staff at Band 8a or above.	Annually in April for the forthcoming financial period

**Note:** It is the individual employee's responsibility to make a declaration should their circumstances change within these timescales.

- (iii) A Register of Gifts, Hospitality and Sponsorship whether, accepted or declined, is maintained.
- (iv) Appropriate information from the Registers of Declarations of Interests and Gifts, Hospitality and Sponsorship is published on the Health Board Website in accordance with the requirements of the Freedom of Information Act Publication Scheme and staff information will therefore be publicised on the website including as part of the report to the Audit Committee annually providing openness and transparency for CTMUHB.
- (v) Reports detailing the content of the Registers of Declarations of Interests and Gifts, Hospitality and Sponsorship and the effectiveness of the arrangements in place will be provided on a quarterly basis to the Management Board and Audit & Risk Committee.
- (vi) The form that Employees should complete when making a Declaration of Interest or when advising if gifts, hospitality, sponsorship or honoraria have been accepted or declined are included as **Appendix 2** and **Appendix 3**.

## **Chair**

The Chair should:

- Ensure that Independent Board Members are aware of the requirements contained within this Policy and the Standards of Behaviour Framework.
- They lead by example and ensure that they personally declare any relevant interest or the offer of gifts, hospitality or sponsorship.
- Approve (or not) the acceptance of gifts, hospitality and sponsorship that have been offered to Independent Board Members **PRIOR** to the event.

## **Executive and Clinical Directors**

Executive and Clinical Directors must ensure that:

- Employees are aware of the requirements contained within this Policy and the Standards of Behaviour Framework.

- They lead by example and ensure that they personally declare any relevant interest or the offer of gifts, hospitality or sponsorship.
- Approve (or not) the acceptance of gifts, hospitality and sponsorship that have been offered within their Directorate **PRIOR** to the event.

**Note:** Clinical Directors are responsible for approval within clinical directorates and Executive Directors are responsible for approval within corporate directorates.

- They review the contents of the Registers of Declarations of Interest and Gifts, Hospitality and Sponsorship on an annual basis to assist with the verification of the accuracy of the information contained within it.
- During periods of annual leave and prolonged absence they will ensure that they delegate the responsibilities to their Directorate Manager or Head of Nursing or an Assistant Director.

### **Line Managers / Departmental Managers**

Line/Departmental Managers will:

- Ensure that this policy and the Standards of Behaviour Framework is brought to the attention of Employees for whom they are responsible, and that they are aware of its implications for their work.
- Ensure that Employees are aware of the requirement to follow and comply with the Policy and Standards of Behaviour Framework. The Standards of Behaviour Framework will be discussed at Individual Performance Reviews, Consultant Appraisals and as part of the Consultant Job Plan Reviews as appropriate.
- Support their Employees in the application of the Policy and the Standards of Behaviour Framework, seeking advice from the Director of Corporate Governance / Board Secretary if required.

### **Employees and Independent Board Members**

All Employees, including those on Honorary Contracts will ensure that they:



- Understand this Policy and the Standards of Behaviour Framework, consulting their line manager if they require clarification.
- Are not in a position where their private interests and NHS duties may conflict.
- Declare to the Health Board for recording in the Register of Interests any relevant interests
  - At the commencement of employment
  - Whenever a new interest arises, and
  - If asked to do so at periodic intervals by the Health Board.

"Relevant interests" will include:-

- (a) Directorships, including Non-Executive Directorships held in private companies or PLCs, with the exception of dormant companies
- (b) Ownership or part-ownership, of private companies, businesses or consultancies likely or possibly seeking to do business with the Health Board. This includes shareholdings, debentures or rights where the total nominal value is £5,000 or one hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less
- (c) A personal or departmental interest in any part of the pharmaceutical / healthcare industry that could be perceived as having an influence on decision making or on the provision of advice to members of the team
- (d) Sponsorship or funding from a known NHS supplier or associated company/subsidiary
- (e) A position of authority in a charity or voluntary body in the field of health and social care
- (f) Any other connection with a voluntary, statutory, charitable or private body that could create a potential opportunity for conflicting interests
- (g) Employment by any other body where there could be a perceived or actual conflict with NHS duties. This includes the undertaking of private practice.

**It is recommended that where there is doubt, a declaration of interest should be made**

- Inform patients and their relatives as appropriate, when referring them for treatment, investigation, or any aspect of their care if they have a material interest in an organisation to which they plan to refer a patient. The fact that the patient has been informed must be recorded appropriately.
- Verbally declare any relevant interest when a potential for conflict arises e.g. at Board and committee meetings, during procurement processes.
- Declare to the Health Board for recording in the Register of Gifts, Hospitality and Sponsorship any offer of a gift, hospitality or sponsorship which requires recording.
- Obtain permission from their Director before accepting gift, hospitality or sponsorship which require recording.
- Observe the Standing Orders, Standing Financial Instructions and procurement policies and procedures of the Health Board.

**Note:** Employees should also refer to appropriate Professional Codes of Conduct and documents issued by the Welsh Government which will complement this Policy and the Standards of Behaviour Framework.

### **Procurement Department**

The Procurement Department (provided by the NHS Wales Shared Services Partnership) scrutinise the Registers for Declarations of Interest and Gifts, Hospitality, Sponsorship and Honoraria to ensure that there is no opportunity for conflict of interest. A detailed protocol will specify the arrangements for undertaking this process and it will include:

- Details of the stages of the procurement process at which the Registers will be consulted
- The arrangements for checking of the Registers
- The arrangements for ensuring that all those involved in the procurement are given the opportunity to declare any relevant interest
- The arrangements for communicating this information to the Director of Corporate Governance / Board Secretary for its inclusion in the Register of Interests, and

- The actions to be taken if there is a perceived conflict of interest at any point in the procurement process.

If an Employee is requested to participate in the procurement process they will be asked to reaffirm their interests and to confirm that there are no other relevant interests that should be declared. If they have not previously completed a Declarations of Interest Form they will be asked to do so before participating in the procurement process.

## **7. REGISTER OF INTERESTS**

The Director of Corporate Governance / Board Secretary will maintain Registers of Declarations of Interests and Gifts, Hospitality, Honoraria and Sponsorship. Appropriate information from these Registers is available on the Health Board website.

The paper copy of the Register, together with the forms which are used to inform its contents will be retained by the Corporate Governance Team.

The Register is available for public inspection. Enquiries should be made to the Director of Corporate Governance/Board Secretary via the following email: [CTM Corporate Governance@wales.nhs.uk](mailto:CTM_Corporate_Governance@wales.nhs.uk)

## **8. DECLARATIONS OF INTEREST AT MEETINGS**

It is a requirement that at the beginning of every Health Board, Committee or decision making / formal Health Board meeting that members and those in attendance be invited to declare their interests in relation to any items on the agenda. Where a potential conflict is material or the member has a financial / pecuniary interest in the matter under discussion, that person shall withdraw from discussions pertaining to that agenda item and shall not vote upon it. The potential conflict and the action will be recorded in the minutes of the meeting and the Register of Interests will be updated if required.

Where it becomes evident part way through a meeting that there may be a potential conflict the individual must declare their interest immediately. Under certain circumstances the Chair may choose to waive the need for the individual to leave the meeting. The advice of the Director of Corporate Governance / Board Secretary should always be sought prior to such a decision being made. From time to time, employees may need to declare interests at other Health Board or Partnership meetings. Such declarations will be recorded

as if it were a Board or committee meeting and the individual will be asked to withdraw from discussions pertaining to that agenda item.

## **9. GIFTS, HOSPITALITY AND SPONSORSHIP**

Guidance regarding the types of gifts, hospitality and sponsorship which may or may not be accepted is detailed below:

### **9.1 Gifts**

A gift is an item of personal value, given by a third party e.g. a patient or a supplier. The definition includes prizes in draws and raffles at sponsored events / conferences.

It is an offence to accept any money, gift or consideration as an inducement or reward from a person or organisation holding or seeking to hold a contract with the Health Board. Such gifts should be refused and if they have already been received they should be returned clearly advising why they cannot be accepted.

The appropriate Director and the Director of Corporate Governance / Board Secretary should be advised immediately.

### **9.2 Gifts from Patients / Service Users or their Relatives**

Employees may accept, subject to it not contravening their professional Codes of Conduct, gifts up to the value of £25 from patients /service users and relatives as a mark of their appreciation for the care that has been provided. This can include items such as chocolates, flowers, cards. There is no requirement to declare such gifts.

Where a gift is offered by patients or their relatives that is likely to be over £25 in value it should be politely declined. In some cases the gift may have been delivered and it may be difficult to return it or it may be felt that the bearer may be offended by the refusal. Under such circumstances the gift can be accepted, and the bearer advised that it will be utilised for the benefit of the Charitable Funds e.g. used as a prize in a raffle. A Gifts, Hospitality, Sponsorship and Honoraria Form declaring that the gift has been received must be completed.

Personal gifts of cash from patients or their relatives are not acceptable. It may only be accepted as a donation to an appropriate Charitable Fund and recorded as such.

### **9.3 Gifts from Suppliers/Commercial Organisations**

No gifts, unless they are of low intrinsic value e.g. diaries, calendars, etc. are allowable from suppliers, contractors and other commercial organisations. All such offers of gifts should be politely declined.

Whilst it is not necessary to declare gifts of low intrinsic value, where other items are offered and declined a Gifts, Hospitality, Sponsorship and Honoraria Form should be completed. This will allow the Health Board to monitor when such organisations are inappropriately offering gifts or potential inducements.

Under some circumstances suppliers may send gifts to all of its clients as custom and practice e.g. hampers at Christmas. Whilst such practices should be discouraged and it is not acceptable for staff to personally accept these gifts, following discussion with the supplier / commercial organisation and the appropriate Director it may be considered appropriate to accept the gift and utilise it for the benefit of Charitable Funds.

**Gifts of cash (including gift vouchers/cards) from suppliers / commercial organisations are not acceptable in any circumstances.**

### **9.4 Gifts from Dignitaries / Overseas Organisations**

There may be occasions when visits are made by dignitaries or overseas organisations who consider it "culturally custom and practice" to exchange gifts. In such cases Employees should seek guidance from the Director of Corporate Governance / Board Secretary and declare these gifts on a Gifts, Hospitality, Sponsorship and Honoraria Form. A decision will then be jointly made as to the most appropriate way to manage the gift. This will depend on the nature of the "gift culture" and may include decisions to "keep and display in public", "donate to an internal user group", "auction for charity" etc.

### **9.5 Hospitality**

Hospitality is where there is an offer of food, drink, accommodation, entertainment or entry into an event or function by a third party, regardless of whether provided during or outside normal working hours. Employees in contact with contractors should be particularly mindful of accepting any hospitality that might later be misconstrued as impacting on strict independence and impartiality.

Any acceptance of hospitality needs to be justified. Think about the context in which the offer has been made, and the effect on your position. For example, is the hospitality likely, or could it be seen as likely, to influence you? The onus is on you to make sure that the acceptance of hospitality will not be misconstrued.

## **9.6 Acceptable Hospitality**

Acceptable hospitality includes:

Offers of food and non-alcoholic drink, provided it is equivalent to that offered in similar circumstances by the NHS, can be accepted during working visits and does not need to be recorded in the Gifts, Hospitality and Sponsorship Register.

Other hospitality that may be accepted includes instances where:

- There is a genuine need to impart information, or represent the Organisation at Stakeholder Community Events e.g. Local Authority or Charitable organisations which have an association with the Health Board.
- An employee has been invited to receive an award or prize in connection with the work of the organisation or their role within it.
- An employee is invited to a Society or Institute Dinner or Function which is to be funded by a commercial organisation and where there is a genuine benefit to the professional standing of the individual or the Health Board.

These types of hospitality must be authorised prior to their acceptance by a Corporate or Clinical Director and a Gifts, Hospitality, Sponsorship and Honoraria Form must be completed. The hospitality should be proportionate i.e. it should not be of significant value and only the minimum number of Employees to achieve the purpose of representing the Health Board should attend.

## **9.7 Unacceptable Hospitality**

Unacceptable hospitality includes the following examples as general guidance:

- A holiday or weekend / overnight break
- Offers of hotel accommodation when this is not associated with a sponsored course or conference (see below)
- Use of a company flat or hotel suite
- Attendance at a function or event restricted to Employees which is not for the purposes of training or organisational development

- Lunch or dinner provided by a private company or their representative which does not form part of a training or development event
- Entertainment and / or tickets / hospitality at sporting and other corporate entertainment events.

If employees are not clear whether an offer falls into one of these categories advice should be sought from their line manager in the first instance or if complex from the Director of Corporate Governance / Board Secretary.

Employees should report any case where an offer of hospitality is pressed which might be open to objection. They should also declare on the appropriate form any offers of hospitality which are declined.

## **9.8 Sponsorship**

Sponsorship is sometimes provided by organisations to allow employees to attend conferences or working visits to view equipment. It may also include sponsorship of posts and research and development.

No sponsorship should be accepted without the prior agreement of the appropriate Corporate / Clinical Director. A Gifts, Hospitality, Sponsorship and Honoraria Form should also be completed prior to the acceptance of any sponsorship. If sponsorship is inappropriately offered and / or declined this should also be declared.

Any acceptance of sponsorship needs to be justified. Think about the context in which the offer has been made, and the effect on your position. For example, is the sponsorship likely, or could it be seen as likely, to influence you? The onus is on you to make sure that the acceptance of any sponsorship will not be misconstrued.

More detail is provided below regarding the many forms that sponsorship may take.

### **9.8.1 Commercial Sponsorship for Attendance at Courses / Conferences**

Employees may accept commercial sponsorship for attendance at relevant conferences and courses, but only where the employee seeks permission in advance from their Executive Director. The sponsorship should only be extended to the number of Employees who would have normally attended if funded by the Health Board. The Director must be satisfied that acceptance will not compromise purchasing decisions in any way.

### 9.8.2 Commercial Sponsorship to attend Demonstrations / Technical Evaluations

Employees may be invited to view products or equipment at another location. There may be occasions when it is appropriate as part of a procurement exercise to visit a suppliers' reference site to observe equipment in operation in a medical or laboratory setting.

Such sponsorship is not appropriate and the Health Board will meet the costs of such a visit so as to protect the integrity of subsequent purchasing decisions.

### 9.8.3 Commercial Sponsorship – “Linked Deals”

Pharmaceutical companies and other suppliers, for example, may offer to sponsor, wholly or partially, a post or equipment for the Health Board. The Health Board 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 Health Board. Where such sponsorship is accepted, the Director of Finance & Procurement shall ensure appropriate monitoring arrangements are established to ensure that purchasing decisions are not being influenced by the sponsorship agreement.

Under no circumstances should managers of the Health Board agree to "linked deals" whereby sponsorship is linked to the purchase of particular products, or to supplies from particular sources.

### 9.8.4 Sponsorship of Events in the context of Partnership Arrangements with the Pharmaceutical Industry or other Commercial Organisations

The pharmaceutical industry and allied commercial sector representatives may organise meetings in support of specific functions or specialties within the healthcare sector. Under such arrangements they are permitted to fund the hiring of accommodation, meet any reasonable actual costs which may have been incurred and to provide appropriate hospitality. If no hospitality is required, there is no obligation or right to provide it, or indeed any benefit of equivalent value. An example of hospitality which would not be acceptable under these circumstances is where a company takes the attendees, on the conclusion of a course, for a meal in a restaurant.

The Pharmaceutical Industry is expected to adhere to the ABPI Code of Practice for the Pharmaceutical Industry which clearly specifies what is and what is not acceptable.



### 9.8.5 Miscellaneous Payments/Honoraria

Employees may be invited to give presentations at conferences, provide responses to surveys or attend professional meetings where a one off payment or honoraria is offered.

If this activity is to be undertaken during hours when the employee is contracted to work for the Health Board the payment should be made to the Health Board. Individuals may accept payment for activities that they undertake in their own time, subject to the provisions regarding outside employment contained within the various employee Contracts and Terms of Service. The activity should be reported using a Gifts, Hospitality, Sponsorship and Honoraria Form and it should be authorised by the appropriate Executive Director.

#### Honoraria received for work undertaken **during** Health Board hours

When appropriate authorisation has been granted to permit an employee to be involved in activity outside their normal contract **during** Health Board hours, any honoraria paid must be received back to the Health Board revenue budget to reimburse the Health Board for the employee's time.

To ensure good governance, the honoraria must be paid into a revenue budget that is **not** managed by the employee who has provided their services during Health Board time.

To avoid personal tax implications, the Health Board employee is urged to request the Honoraria is paid directly to the Health Board. This is then seen as reimbursement to the Health Board to cover the loss of employee time, and not honoraria. This money will then be transferred into the Health Board revenue budget. The Health Board employee who has undertaken the work must not be the budget holder for the budget receiving the funds in lieu of the honorarium due to a conflict of interest.

If the employee receives the honoraria directly and then reimburses the Health Board, the **employee remains liable for the payment of both tax and National Insurance Contributions (NIC)**, regardless of the final destination of the honoraria.

Honoraria received for work undertaken in an individual's own time (out of normal working hours or on authorised annual leave) Individuals are **personally liable for the payment of both tax**

**and NICs** on any honoraria payments received. Following their first honoraria declaration Individuals will be asked to sign a "Declaration Statement" (**Appendix 4**) confirming that they understand their responsibilities and this will be held on file by the Director of Corporate Governance / Board Secretary.

If such an employee wishes to suggest a donation may be made to the Cwm Taf University Health Board Charitable Funds in lieu of an honoraria, this must be received into the Charity's general fund and it is then for the Charity Trustees to determine how the donated funds should be used. The basic principle being that the employee giving their own time should have no influence over how the donation is then used and therefore lessens the risk of this being interpreted as being of any benefit to them as 'income' in any sense.

In cases of doubt, staff should seek advice from the Director of Corporate Governance / Board Secretary and should report any case where an offer of sponsorship or honoraria is pressed which might be open to objection. Instances where honoraria has been offered and declined should still be declared on the Gifts, Hospitality, Honoraria and Sponsorship Declaration Form.

### **9.9 Bequests left in Patient's or Service User Wills**

On occasion's staff are left bequests in a service user's will which they become aware of before the service user is deceased or because they have been informed by the deceased service user's legal representative. In such circumstances the member of staff must immediately inform their manager. It should be borne in mind that staff cannot benefit from a bequest by virtue of their position as a Health Board employee, undertaking their duties. If a member of staff receives a bequest they should contact the Executive Director of Finance and the Director of Corporate Governance / Board Secretary.

### **9.10 Gifts by Way of Inducement or Reward**

The Prevention of Corruption Acts, 1906 and 1916, prohibit staff from soliciting or receiving any gift or consideration of any kind from contractors or their agents, or from any organisations, firms or individuals with whom they are brought into contact by reason of their official duties, as an inducement or reward for:

- a) Doing or refraining from doing anything in their official capacity; or
- b) Showing favour or disfavour to any person in their official capacity.

It should be understood that a breach of the provisions of these Acts renders staff liable not only to dismissal but to prosecution under the Acts, and it is expected that the Health Board would deal severely with any such breaches.

Staff should be aware that the Health Board is required in accordance with its Standing Orders to insert in every formal contract a clause entitling them to cancel the contract and recover any losses if any inducement or gifts are offered by the contractor or by his employees, whether with or without his knowledge. Any such offer of an inducement or gift should accordingly be reported by the person to whom it is made to the Executive Director of Finance.

## **10. THE BRIBERY ACT 2010**

The Bribery Act 2010 came into force on 1st July 2011.

It reformed the criminal law of bribery, making it easier to tackle this offence proactively in both the public and private sectors. It is intended to respond to the extremely broad range of ways in which bribery can be committed by providing robust offences, enhanced sentencing powers, and wide jurisdictional powers.

Broadly, the Act defines bribery as:

**“Giving or receiving a financial or other advantage in connection with the “improper performance” of a position of trust, or a function that is expected to be performed impartially or in good faith”**

The Bribery Act 2010 abolished all existing UK Anti-Bribery Laws and replaced them with a suite of new offences markedly different to what has gone before.

The Bribery Act 2010 made it a criminal offence to “give, promise or offer a bribe and to request, agree to receive or accept a bribe either at home or abroad”. The maximum penalty for bribery is up to 10 years imprisonment, with an unlimited fine. In addition, the Act introduced a ‘corporate offence’ of failing to prevent bribery by the organisation not having adequate preventative procedures in place. An organisation may avoid conviction if it can show that it had such procedures and protocols in place to prevent bribery. The ‘corporate offence’ is not a standalone offence, but always follows from a bribery and/or corruption offence committed by an individual associated with the company or organisation in question.

Bribery does not have to involve cash or an actual payment exchanging hands and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event.

**Some simple examples follow:**

- Bribery in order to secure or keep a contract.
- Bribery to secure an order.
- Bribery to gain any advantage over a competitor.
- Bribery of a local, national or foreign official to secure a contract.
- Bribery to turn a blind eye to a health safety issue or poor performance or substitution of materials or false labour charges.
- Bribery to falsify an inspection report or obtain a certificate.

The impact of other Health Board policies which should be considered by staff include:

- Raising Concerns (Whistleblowing).

Cwm Taf University Health Board is working towards a culture that encourages the raising of any concerns by staff to be embedded into routine discussions on service delivery and patient care, (e.g. problem solving, service review, performance improvement, quality assessment, training and development) as these are the most effective mechanism for early warning of concerns, wrongdoing, malpractice or risks and line managers are accordingly best placed to act on, deal with and resolve such concerns at an early stage.

- The NHS Wales All Wales Social Media Policy.

NHS Wales organisations are making increased use of Social Networks to communicate with patients, service users, staff and other stakeholders to deliver key messages for good health care and other useful services. The policy governs the conduct of all staff (including contractors, agency and temporary staff) of NHS Wales with the aim of ensuring that they are aware of their personal responsibilities for appropriate use when using such social media facilities.

- The Counter Fraud Bribery and Corruption policy

This relates to all forms of fraud bribery and corruption and is intended to provide direction and help to employees who may identify suspected fraud. It provides a framework for responding to suspicions of fraud, advice and information on various aspects of fraud and implications of an investigation. It is not intended to provide a comprehensive approach to preventing and

detecting fraud bribery and corruption. The overall aims of this policy are to:

- improve the knowledge and understanding of everyone in the UHB, irrespective of their position, about the risk of fraud bribery and corruption within the organisation and its unacceptability
- assist in promoting a climate of openness and a culture and or an environment where staff feel able to raise concerns sensibly and responsibly
- set out the UHB's responsibilities in terms of the deterrence, prevention, detection and investigation of fraud bribery and corruption
- ensure the appropriate sanctions are considered following an investigation, which may include any or all of the following:
  - criminal prosecution
  - civil prosecution
  - Internal/external disciplinary action.

This is known as the triple track approach.

**Appendix 5** provides additional clarification on how the Act may affect employees of the Cwm Taf University Health Board and further advice and clarification can be given by the Director of Corporate Governance / Board Secretary if required.

## **11. RESEARCH AND DEVELOPMENT**

All Research and Development sponsored by commercial companies, including those sponsored by the Pharmaceutical Industry must be approved by the appropriate mechanisms. It will be governed by specific policies and procedures. The Research and Development Department will be able to offer advice and support in this area.

## **12. CHARITABLE FUNDS**

There may be occasions when commercial organisations offer to pay monies into Charitable Funds as a way funding attendances at courses or conferences. Monies may only be paid into Charitable Funds from commercial companies if it is a donation or sponsorship. It can only be used to fund expenditure which is in line with the terms of the funds use as set out within the Charitable Funds Policy.

Expenditure from Charitable Funds does not fall within the remit of this policy, however there may be a close association with the Standards of Behaviour Framework.

### **13. SECONDARY EMPLOYMENT & PRIVATE PRACTICE**

#### **Secondary Employment**

Staff should inform their line manager of any secondary employment, and ensure that any secondary employment or private practice does not affect their Health Board employment. There should be no conflict with their normal contractual employment obligations to the Health Board, and such work should not involve the use of any confidential or commercial information obtained in the course of their employment with the Health Board.

#### **Private Practice**

There are codes for good private patient practice which clearly include the fact that private practice should not adversely affect NHS duties.

The time spent in private practice does not count towards the 48 hours of the Working Time Directive Regulations, however, health and safety law indicates that no employee of the Health Board should work in a way detrimental to their health and performance.

Additional information and advice is available for staff in the Financial Control Procedure 'Private Patients'.

Failure to notify their line manager of secondary employment and/or private practice may invoke the Health Board's Disciplinary Policy.

### **14. FAILURE TO ADHERE TO STANDARDS OF BEHAVIOUR FRAMEWORK**

If any Health Board employee fails to declare an interest as defined within this policy, the Standards of Behaviour Framework, or the guidance that will be published to support it and then:-

- participates in a decision making process where special favour is shown to unfairly award a contract; or
- abuses their official position or knowledge for the purpose of benefit to themselves, their family or friends,

Disciplinary action may follow. The action taken will depend on the individual circumstances and will be in accordance with the appropriate disciplinary policy. Under some circumstances failure to follow this policy could be considered gross misconduct.

In addition to any potential disciplinary action being taken if there is any suspicion that fraud, corruption and / or bribery has been or is being committed, then all such cases must be reported at the earliest possible opportunity to the Local Counter Fraud Specialist (LCFS) within the Health Board in line with the Cwm Taf UHB Counter Fraud Bribery and Corruption policy.

Furthermore, if a member of staff breaches the Standards of Behaviour Framework this could in certain circumstances result in notification / reporting to the appropriate professional codes of conduct / registration / memberships i.e. Health Professions Council (HPC), General Medical Council (GMC), Nursing and Midwifery Council (NMC) etc. This could incur registrations being revoked and employees no longer being able to be employed in their current position within the Health Board.

This is also extended to include the inappropriate acceptance of any gifts, hospitality or sponsorship. Failure to declare a relevant interest by an Independent Member of the Health Board will be reported by the Chairman and to the Minister for Health and Social Services, Welsh Government.

## **15. EQUALITY**

This policy or procedure has been subject to a full equality assessment and no impact has been identified.

## **16. RESOURCES**

The implementation and management of the arrangements associated with this Policy and the Standards of Behaviour Framework do not present any significant resource implications to the Health Board.

## **17. TRAINING**

There are no training implications arising from this Policy and the Standards of Behaviour Framework. However, awareness of the importance of compliance will require reference in induction programmes, during Individual Performance Reviews, Consultant Appraisals, Consultant Job Plan Reviews and at times when Employees are invited to make declarations.

## **18. IMPLEMENTATION**

The Register of Declarations, Gifts, Hospitality, Sponsorship and Honoraria will be maintained by the Director of Corporate Governance / Board Secretary who will also be responsible for issuing periodic invitations to declare interests.

Directors and managers need to be aware of their responsibilities for advising Employees accountable to them of their responsibilities in connection with the policy.

## **19. AUDIT AND MONITORING**

The Director of Corporate Governance / Board Secretary will review the operation of the policy and Standards of Behaviour Framework as necessary and at least once a year a report on the findings of the review will be submitted to the Audit Committee.

Directors will review the operation of the Policy within their Department as part of their processes for monitoring compliance with Standard 1 of the Standards for Health Services in Wales.

Audit Wales and the Internal Audit Service may also review the arrangements from time to time and their findings are also reported to the Audit Committee.

Staff should note that following implementation of the Freedom of Information Act 2000 the information contained within the Health Board Register will be subject to disclosure to any member of the public on request. The information will also be routinely reported to the Audit Committee which will monitor the acceptance of gifts and hospitality by Health Board staff.

## **20. RETENTION AND ARCHIVING**

In cases of complaints / claims and other legal processes it is often necessary to demonstrate the policy in place at the time of the investigation or incident. The Director of Corporate Governance / Board Secretary will therefore ensure that copies of this policy are archived and stored in line with the Records Management Strategy and are made available for reference purposes should the situation arise.

## **21. DISTRIBUTION**

The Standards of Behaviour Framework Policy will be available via the Health Board intranet and internet sites. Where staff do not



have access to the intranet their line manager must ensure that they have access to a copy of this policy.

## **22. REVIEW**

Review of this Policy and the Standards of Behaviour Framework must be undertaken no later than three years after the date of approval.

## **23. FURTHER INFORMATION**

Further information can be obtained from Director of Corporate Governance / Board Secretary.

## **24. LEGISLATIVE AND NHS REQUIREMENTS**

This policy aims to ensure that the Health Board complies with the requirements set out in: -

1. (DGM(93)84) Standards of Business Conduct for NHS Staff
2. WHC(2005)016 – The NHS and Sponsorship by the Pharmaceutical Industry
3. WHC(2006)090 - The Codes of Conduct and Accountability for NHS Boards and the Code of Conduct for NHS Managers Directions 2006
4. Director General, Health and Social Services, Chief Executive NHS Wales, Shared Values and Reinforcing Behaviour in NHS Wales (January 2011)
5. Commercial Sponsorship - Ethical Standards for the NHS, Department of Health (November 2000)
6. Code of Practice for NHS Wales Employers, Welsh Assembly Government (January 2011)
7. Code of Conduct for Healthcare Support Workers in Wales, Welsh Assembly Government (January 2011)
8. General Medical Council – Conflicts of Interest (September 2008)
9. Health Board Standing Orders, Reservation and Delegation of Powers (March 2012)
10. Nursing and Midwifery Council, The code - Standards of conduct, performance and ethics of nurses and midwives (May 2008)
11. Royal College of Psychiatrists, Good Psychiatric Practice, Relationships with Pharmaceutical and Other Commercial Organisations (2008)
12. Association of the Pharmaceutical Industry (ABPI), Code of Practice for the Pharmaceutical Industry (November 2011)

13. The Institute of Chartered Secretaries and Administrators (ICSA), Model Conflicts of Interest Policy for NHS Trust Board Members (June 2010)
14. The Bribery Act 2010
15. NHS Protect – Bribery Act Guidance