

Code of Conduct

Covering:

Private Practice

Involvement in Private Business

**Trading on Trust Owned or Rented
Premises**

Worcestershire Health and Care NHS Trust

Code of Conduct

Document Type	Corporate Policy
Unique Identifier	
Document Purpose	It is an established principle that NHS bodies must be impartial and honest in the conduct of their business and, in order to ensure that strict ethical standards are maintained it is essential that conflict does not arise between the private interests of employees and workers and their NHS duties.
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If you would like this document in other languages or formats (i.e. large print), please contact the Communications Team on 01905 760020 or email communications@hacw.nhs.uk.

Version History

Version	Circulation Date	Job Title of Person/Name of Group circulated to	Brief Summary of Change
1		SDU Leads, Counter Fraud, Directors	
1	June 2016	Medical Director, Associate Director of HR	Raised level of payments to remove lower level payments
2	July 2016	BMA; JNCC; JLNC, Staffside	Comments about application of policy and linkages to job planning and appraisals

Accessibility

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- Face to face interpreting;
- Instant telephone interpreting;
- Document translation; and
- British Sign Language interpreting.

Please refer to the intranet page: <http://nww.hacw.nhs.uk/a-z/services/translation-services/> for full details of the service, how to book and associated costs.

Training and Development

Worcestershire Health and Care NHS Trust recognises' the importance of ensuring that its workforce has every opportunity to access relevant training. The Trust is committed to the provision of training and development opportunities that are in support of service needs and meet responsibilities for the provision of mandatory and statutory training.

All individuals employed by the Trust are required to attend the mandatory and statutory training that is relevant to their role and to ensure they meet their own continuous professional development.

Co-Production

Co-production reflects the values of the NHS Constitution which promotes the full involvement of patients, employees and workers, families, carers and professionals inside and outside the NHS. The Trust expects that all healthcare professionals will provide clinical care in line with best practice. In offering and delivering that care, healthcare professionals are expected to respect the individual needs, views and wishes of the patients they care for, and recognise and work with the essential knowledge that patients bring. Employees and workers will demonstrate a respect for patient diversity and a capacity to respond flexibility. As facilitators of care, employees and workers will work with patients and carers to help them understand their diagnosis and treatment options. Employees and workers bring knowledge and expertise to enable and empower patient partners to make the right choices for themselves.

WORCESTERSHIRE HEALTH AND CARE NHS TRUST

CODE OF CONDUCT

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WORCESTERSHIRE HEALTH AND CARE NHS TRUST

CODE OF CONDUCT

1. INTRODUCTION

This procedure shall apply to the following:

- Chief Executive
- Directors.
- Employees and workers
- Locums
- Secondees
- Non-executive Directors including the Chairman
- Agency workers on NHS contracts or assignments arranged by the Trust
- Volunteers may have their own business or be practising professionals

The following set of key principles underpins the relationship between the Trust's employees and workers, the Trust and private practice.

- The provision of service to private clients must not prejudice the interests of the Trust or disrupt Trust services.
- There must be no real or perceived conflict of interest between private work and work undertaken for the Trust.
- People working for the Trust should be open and honest with the Trust regarding any private work and have a duty to declare the existence of private work at the earliest opportunity.
- Trust commitments must take precedence over private work.
- Employees and workers must not provide private services that involve the use of Trust employees or workers, premises or equipment.
- Employees and workers must not accept private patients who are currently receiving treatment, referred or on the waiting list from an equivalent NHS service currently provided by the Trust. Nor must they integrate existing private patients into Trust NHS services outside of established referral routes.

EXAMPLES OF SITUATIONS COVERED BY THIS POLICY THAT MAY CONSTITUTE A BREACH

- Personal business or private practice carried out during NHS contracted hours or sessions without clear corresponding time shifting arrangements in place which the employee or worker is able to evidence if required to do so.
- Accessing or use of Trust computers for business or private practice purposes
- Conducting business or private practice during a period of sickness absence from the Trust

There may be situations from a service delivery perspective where this Policy cannot be fully implemented or applied. Advice should be sought from the Trust Local Counter Fraud Specialist and/or occupational health before any work is undertaken.

Breaches of this policy may be investigated and may be dealt with as a criminal, civil or disciplinary matter.

2. EQUALITY OF TREATMENT

The Trust recognises the diversity of its employees and workers and undertakes to apply this Policy equitably and fairly irrespective of gender, gender identity, disability, race, age, sexual orientation, religion or belief. In the application of this policy the Trust will recognise its duty to each and every individual employee and worker and will respect their human rights.

As an employer it also expects that its employees and workers will treat each other in the same way, as well as patients and clients using its services.

Effective action will be taken to deal with discrimination, victimisation or harassment, please see the Equality and Inclusion Policy.

3. GENERAL PRINCIPLES

It is an established principle that NHS bodies and those that carry out work must be impartial and honest in the conduct of their business and, in order to ensure that strict ethical standards are maintained it is essential that conflict does not arise between the private interests of employees and workers and their NHS duties

There are three crucial public service values that must underpin the work of the health service:

Accountability – everything done by those who work in the NHS must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.

Probity – there must 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, employees, workers and suppliers, and the use of information acquired in the course of NHS duties.

Openness – there must be sufficient transparency about NHS activities to promote confidence between the NHS body and its employees and workers, patients and the public.

Employees and workers must not gain financially from their employment or placement in the NHS apart from normal salary, nor can employees or workers be paid twice for the same work. This is usually taken to mean that a private fee cannot be charged for NHS services or a private fee charged when being paid at the same time by the NHS. If individuals do undertake private work in NHS time they are responsible for retaining sufficient documentary evidence to demonstrate NHS contracted hours have been completed if requested to do so. Any amendments to NHS contracted time worked should be pre-agreed with your line manager.

4. RESPONSIBILITIES

LINE MANAGERS

Line Managers are responsible for ensuring that the guidelines/procedures laid down within this document are adhered to and ensuring that employees and workers are familiar with the policy.

EMPLOYEES AND WORKERS

All employees and workers are responsible for ensuring they understand and adhere to this policy.

Employees and workers must ensure that any personal business or private practice does not result in any detriment to NHS patients or services or diminish the resources that are available to the NHS.

Employees and workers have a duty to disclose to the Trust any personal business or private practice.

LOCAL COUNTER FRAUD SPECIALIST

The Local Counter Fraud Specialist is responsible for providing advice and for investigating any suspected breach of this policy. They are also responsible for auditing and monitoring all matters related to this policy.

5. DISCLOSURE

All employees and workers will declare in writing via the Appendix 8 in the Standards of Business Conduct and Anti-Bribery Policy any business, professional interest or other non Trust work which may directly or indirectly give rise to, or may reasonably be perceived to give rise to any conflict of interest, or which is otherwise relevant to the employee's or worker's proper performance of their contractual duties. A copy of the appropriate form is attached at Appendix 2.

This information will include details of private practice and business interests including:

- Timing and frequency
- Location and type of activity

This information is required

- In order to comply with the Standards of Business Conduct and Anti- Bribery Policy
- In the case of medical practitioners to comply with annual appraisal and revalidation as well as on-call planning.
- To comply with the Contract of Employment
- To assist with compliance under the Working Time Directive

In line with the requirements of revalidation a medical practitioner will submit evidence of private practice to their appraiser.

Suspected Breaches of this Policy may result in referral to the Trust's Local Counter Fraud Specialist or may result in disciplinary action in accordance with the Trust's Counter Fraud Policy and Disciplinary Policy. The Trust also reserves the right to refer any registered professional to their professional body following breach of this policy.

6. PROFESSIONAL REVALIDATION/APPRaisal/SUPERVISION AND CONTINUOUS PROFESSIONAL DEVELOPMENT/TRAINING

Considerable NHS resources are invested in the above for healthcare professionals in the Trust. The employment and engagement of licenced practitioners permits the Trust to provide NHS services to patients. The benefits from being licenced to practise in the NHS are transferrable to private practice. For this reason, the Trust reserves the right to take reasonable action where an employee's or worker's private work conflicts with provision of NHS services.

These standards apply to all who are employees and workers of the Trust who undertake private practice elsewhere

- In private premises
- In independent facilities.

The Trust does not permit the use of Trust owned or rented premises for private practice.

7. PRIORITISING NHS WORK

Where there would be a conflict of interest or potential conflict of interests, NHS Trust commitments must take precedence over private work.

It is the employee's and worker's responsibility, in line with their contract of employment, to declare any private practice when it commences and at their appraisal and job plan.

Regular private working commitments must be noted in the appraisal and job plan.

Healthcare practitioners engaged in private practice must provide emergency treatment for Trust patients should the need arise. Emergency cover (such as on call) for the Trust must always take precedence over emergency cover for private patients. Healthcare practitioners must make alternative arrangements to provide cover if emergency work of this kind potentially impacts on the delivery of Trust commitments.

Health care practitioners should ensure they have arrangements in place such that there can be no significant risk of private commitments disrupting Trust commitments.

Private working commitments whilst on call

Employees and workers must not be on call for any other employer when required to be on call for the Trust

Employees and workers must not schedule private commitments that would prevent them from being able to attend a Trust emergency whilst on call for the Trust.

Medical practitioners may exceptionally be required to provide emergency care for private patients whilst they are on call for the Trust. Where this becomes a regular occurrence they must reduce or reschedule their private commitments to avoid this.

8. PROVISION OF PRIVATE SERVICES ALONGSIDE THE NHS

The Trust will not routinely authorise any employees or workers to undertake private practice or private business during the course of their NHS scheduled time or working week, or to be paid separately for activity during a time when they are being paid by the Trust. Time set

aside for administration or research is NHS time and private practice should not be conducted during this time. Employees or workers may occasionally undertake private commitments in NHS time although they are responsible for the maintenance of adequate records in order to demonstrate they are fulfilling their contracted hours if requested to do so. If such arrangements are occurring frequently (more than twice a month) these should be discussed with the line manager.

9. ENQUIRIES ABOUT PRIVATE TREATMENT

Where, in the course of their Trust duties, an employee or worker is approached by a patient or service user and asked about the provision of private services, the employee or worker must not promote their own or a colleague's private practice.

During the course of their Trust duties and responsibilities the employee or worker will not make arrangements to provide private services or ask any employee or worker to make such arrangements on their behalf.

10. PROMOTION OF PRIVATE SERVICES

In the course of undertaking Trust duties and responsibilities employees and workers will not initiate discussion about providing private services, or ask any other Trust employees or workers to initiate such discussion on their behalf.

Where a patient or service user requests information about waiting times or the availability of NHS services, employees and workers should ensure that information provided by them is accurate and up to date. Such inquiries must not be an opportunity to promote or advertise the employee's or worker's private practice.

Employees and workers should not use Trust stationery, Trust addresses, Trust e-mail, Trust telephone numbers or any Trust IT systems to run or advertise private practice.

11. PROMOTING IMPROVED ACCESS TO NHS CARE

Subject to clinical considerations, employees and workers will be expected to contribute to reducing waiting times and improving access and choice for the Trust's patients. This should include ensuring that all patients are given the opportunity where possible to be treated by other Trust colleagues or by other NHS providers where this will reduce their waiting times. The expectation is that employees and workers will facilitate the transfer of such patients within the NHS.

12. FEE PAYING SERVICES (Medical Practitioners only)

Consultants employed on the 2003 National Contract are able to undertake fee paying services in accordance with their contract of employment. All consultants must comply with the provision of Appendix 1 if undertaking fee paying services.

13. NON MEDICAL PRACTITIONER EMPLOYEES AND WORKERS

Non-medical practitioner employees and workers who are approached by third parties to provide a service that attracts a fee (that would be paid personally to the employee) should seek advice from the Trust's Local Counter Fraud Specialist.

14. NHS TIME

Under no circumstances will a Trust employee or worker use time designated for NHS clients to undertake private work, nor will they cancel an NHS client's appointment in order to spend time on private work when fulfilling their NHS contracted hours.

15. PAYMENT FOR PRIVATE WORK – TRUST EMPLOYEES AND WORKERS

Any individual undertaking any private work is responsible for ensuring that they properly account for any payments received and that they obtain appropriate professional indemnity insurance.

Payment for such work will not form any part of salary from the Trust. Payment will need to be declared to HMRC via self-assessment and the individual is responsible for ensuring that they comply with HMRC rules and guidance.

Such employees or workers will be required to make the declaration as per the Standards of Business Conduct & Anti-Bribery policy (Appendix 2) and Contract of Employment

16. EMPLOYEES AND WORKERS WHO ARE COMPANY DIRECTORS OR RUN THEIR OWN BUSINESS

NHS employees and workers cannot use their NHS employment for personal gain other than receipt of salary.

Company Directors are required to make a declaration to the Trust under the Bribery Act 2011. This should be done by completing the declaration of interest form (Appendix to Standards of Business Conduct & Anti-Bribery Policy). The declaration should include the nature of the business, the address and the average hours per week spent on the business.

Those involved in a non-limited business (sole trader) should make the same declaration. This is essential where the business provides health services as there is an irrefutable potential for conflict of interest.

Employees and workers to whom the above applies must not:

- Use Trust premises, employees or workers, facilities, equipment or resources for their private business. This includes advertising.
- Recruit to their business using Trust premises, employees or workers, facilities, resources or equipment.
- Work in their business whilst absent from the Trust on sick leave.

Suspicion of inappropriate use of Trust resources for private business will be viewed as dishonesty and investigated accordingly.

The Trust reserves the right to review the level of sick pay where employees or workers who are involved in businesses are incapable of work for the Trust but capable of work in their business. The Trust also reserves the right to investigate such situations in order to assess whether there are any civil or criminal sanctions that are appropriate.

17. PAYMENT BY INVOICE (OFF PAYROLL)

HM Treasury has issued instructions to all NHS Trusts to deter payment of salary by means of invoice. Payment by invoice may be viewed by HMRC as tax evasion.

This Trust will pay employees and workers via payroll only. Individuals who are employees or workers and provide services additional to their contract by means of their business, will not be paid by invoice. Any individual that is paid by invoice will be required to sign a declaration that they are personally liable for all Tax and National Insurance payments.

18. TRADING ON TRUST SITES

Employees and workers must not use Trust premises to sell goods, take orders, supply goods or promote any type of non-NHS business. This includes the use of Trust notice boards and IT systems.

19. ADVICE

Any question about the scope of this policy should be addressed to the Trust Local Counter Fraud Specialist.

20. ASSOCIATED DOCUMENTS

- Disciplinary Policy
- Standards of Business Conduct and Anti-Bribery Policy
- Department of Health Code of Conduct for Private Practice
- Contract of Employment
- HM Treasury/HMRC rules on payment by means of invoice
- Counter Fraud Policy
- Consultant and SAS Contract
- Terms and Conditions (Consultants) (England) 2003
- Promoting Staff Health Wellbeing and Attendance Policy

Appendix 1

Trust Procedure for Consultants Participating in (Category 2) Fee Paying Services/Time Shifting

The following are Fee Paying Services that the Trust deems appropriate to assist the Trust with the provision of its services or with patient care.

These are services which are identified in the 2003 National Consultant Contract of Employment, in particular schedules 9,10, 11.

This procedure has been written in accordance with the Consultant Terms and Conditions of Service and covers the principles and process to follow when carrying out private work or fee paying services. This is defined as any work that is not part of a Consultants contractual requirements and where a payment is received for their professional services. Private work also includes any work undertaken which is incidental to the fee paying and private practice work but may not necessarily attract a fee for the specific task carried out, for example: making and receiving telephone calls, typing reports including medical / legal reports, receiving and sending letters. The appendix only applies to those Consultants appointed on the 2003 National Consultant Contract of Employment.

The key principle is that Consultants should not be paid twice for the same period of working, although the Trust does recognise the need for a flexible approach to a consultants work schedule that can reflect the needs of both the Trust and its Consultants.

All Consultants are responsible for ensuring that the provision of private professional services or fee paying services do not result in detriment to the NHS, its patients or its services, and any additional hours worked should be mindful of with European Working Time Regulations. Documented arrangements should be put in place to ensure this work does not conflict with agreed programmed activities and mitigation taken into account to avoid any significant risk of disruption to NHS commitments. In circumstances where there is a conflict of interest, programmed commitments should take precedence over private work or fee paying services.

Private patients should, where possible, be seen separately from scheduled NHS patients. Only in unforeseen, clinically justified, circumstances should a consultant cancel or delay an NHS patient's treatment to make way for a private patient.

Time Shifting

Fee paying services can be undertaken on the basis of time shifting if it is formally agreed and documented as part of the Job Planning Process (SPA Time Only). Discussions must take place and approval sought through the Job Planning process and at regular management supervision sessions. The discussions should cover the types of work likely to result in time shifting. Exceptions to this may occur and should be discussed and documented at management supervision sessions. Time shifting arrangements are not expected to exceed more than 10 % of the programmed activities, in the event that time shifting is becoming more extensive there ought to be a discussion with the line manager. Any agreement of time shifting which exceeds 10% of the working week must be agreed in writing with the line manager.

The Code of Practice requires that fee paying work is only undertaken where the interests of the Trust and its patients are not detrimentally affected. As part of this the Trust requires that private practice or fee paying work is not undertaken during scheduled Direct Clinical Care PAs without the prior agreement of the Clinical Director. The Trust will only agree to this where the private care or fee paying work requires the specialist facilities of the relevant department, *and* where time-shifting arrangements are formally agreed (see below), or where the income for the work is passed to the Trust.

As a rule, any cumulative disruption to the NHS (e.g an urgent or emergency telephone call) greater than 15 minutes will mean that the Trust must be compensated in time.

The Trust has agreed a flat fee of £40 for any fee paying services that generate above £200 and/or for the use of NHS services, accommodation or facilities in carrying out this work on Trust premises. This includes the use of secretarial support and other administrative facilities such as lighting, office use, printing etc. Where the Trust has agreed that NHS staff may assist the Consultant in providing Private Professional Services or provide private services on the Consultant's behalf, it is the Consultant's responsibility to ensure these staff are aware of the requirement not to undertake this work in Trust time. (Please refer to Section 16 of this policy regarding tax implications)

Process

In order to regulate the practice of time shifting and provide a transparent audit system to monitor against, there will be an expectation that a recorded discussion will take place at the annual job planning meeting regarding the amount of fee paying service work or private practice and times shifting that consultants will be intending to take and where time shifting is likely to impact on their job plan and how the equivalent amount of scheduled activity will be built back into the job plan and undertaken without additional payment. In line with the requirements of revalidation, Consultants should submit evidence of private practice to their Line Manager and their Appraiser.

Where such a time-shifting arrangement is agreed, it will be reviewed regularly and either party may end it, provided a reasonable period of notice is provided.

Whilst it is acknowledged that time shifting cannot always be agreed in advance, where it is possible, the amount of work, the type of work, and where time will be shifted to also needs to be recorded at the Regular Management Supervision sessions. Arrangements need to be reviewed, adjusted in advance of any significant changes, and documented at each Regular Management Supervision session.

Consultants will be expected to evidence, if necessary, that any time shifting arrangements have been agreed through this process.

Any member of staff, including consultants, operating outside of this policy, consideration will be given to being referred to the Trust's Local Counter Fraud Specialist (LCFS). Undertaking fee paying work in NHS time may constitute gross misconduct and will be dealt with in accordance with the Trust's Counter Fraud Policy and Disciplinary Policy. This may also lead to a disciplinary investigation and potential referral to the GMC.

DECLARATION OF INTERESTS

I, being an employee of Worcestershire Health and Care NHS Trust, hereby declare that the following is a full list of my interests outside the Trust. Please enter "none" if applicable.

1.	
2.	
3.	
4.	
5.	
6.	

Signed

Name

Date