

# The NHS Confederation

Charity number 1090329

Company number 04358614

## Gifts and Hospitality Policy

Date policy agreed by the Board

Date of policy review

Owner of policy

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Director of People & Governance

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## 1.0 Purpose of this policy

This policy is in place to ensure the integrity and probity of the NHS Confederation, its staff, and those acting on its behalf are not compromised by the offering, acceptance or rejection of gifts or hospitality etc.

The policy and its associated procedure are part of the organisation's overall bribery prevention procedures in accordance with the Bribery Act 2010 and in conjunction with the organisation's Anti-Bribery Policy, which should be referred to for further information.

This policy also sets out guidance for when it is appropriate to use funds of The NHS Confederation when purchasing gifts for staff, contractors, trustees and committee members, to ensure fairness and to avoid unintended tax consequences for both the person being gifted and The NHS Confederation.

## 2.0 Scope

This policy applies to everyone working at or with the NHS Confederation<sup>1</sup>. It applies to:

- all staff, including chief executives, directors, senior managers, employees (whether permanent, fixed-term or temporary), seconded staff, homeworkers, agency workers and volunteers
- consultants and contractors
- trustees and committee members.

Any employing or contracting manager must ensure that all temporary staff, consultants, or contractors are aware of this policy.

By the NHS Confederation we mean the NHS Confederation charity, any subsidiary companies and any hosted networked organisation.

The NHS Confederation has designated the Director of People & Governance as the individual who is responsible for ensuring that the NHS Confederation implements this policy.

This policy should be read in conjunction with the organisation's Anti-Bribery Policy, Anti-Fraud Policy, Conflicts of Interest Policy, and Whistleblowing Policy

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<sup>1</sup> Collectively referred to as workers in this policy

### 3.0 Roles and responsibilities

The NHS Confederation **Trustees** have overall responsibility for ensuring this policy complies with our legal and ethical obligations and that all those under our control comply with it. Trustees are required to complete gift and hospitality forms as appropriate.

The accountable officer for this is the Director of People & Governance. The Governance Manager acts as the Compliance Manager and maintains the register of Gifts and Hospitality and is responsible for analysing the entries and making an annual report to the Audit Committee.

**Directors** and **Senior Managers** are responsible for ensuring that adequate internal control exists within their areas of responsibility and controls operate effectively. Directors and Senior Managers are required to complete gift and hospitality forms as appropriate.

Each worker must ensure they read, understand, and comply with this policy. They have a personal responsibility to ensure that an audit trail exists for all offers of gifts and hospitality whether or not they are accepted or declined.

The **Finance Manager** is responsible for ensuring any procurement of gifts or hospitality complies with this policy when checking company credit card statements, supplier invoices, and expense claims.

### 4.0 Policy statement

The NHS Confederation's policy is to conduct all of our business in an honest and ethical manner. This policy will help to ensure that the integrity and probity of the organisation and its workers are not compromised by the offering, acceptance or rejection of gifts or hospitality. It will enable individual workers to work without fear of bringing the organisation into disrepute and to be accountable to members, clients, partners and stakeholders. A comprehensive gifts and hospitality policy protects the organisation from criticism from its members, clients, the Charity Commission and other external bodies and ensures that there is no embarrassment to the organisation from accusations or proven cases of wrongdoing.

This policy exists to ensure that:

- the action of workers and those working on behalf of the organisation will not give rise to, or foster suspicion that outside individuals or organisations have gained favour or advantage by any workers accepting gifts or hospitality.
- no workers accept any gift or hospitality which could cause their judgement or integrity to be compromised, either in fact or by reasonable implication and thereby damage the reputation of the organisation.
- any gift or hospitality that is accepted or offered is reasonable and justifiable in terms of benefit to the organisation.
- any offers of gifts or hospitality, whether accepted or declined, are properly recorded in the Register of Gifts and Hospitality (Appendix 1)

- any tax implications relating to any gifts or hospitality are recorded and considered.

## 5.0 Guidance notes

### 5.1 Gifts

Gifts are defined as items given without the expectation of receiving anything in return. When assessing whether the offering or accepting of a gift is inappropriate workers should consider whether the business relationship will be altered or if there is an expectation that it will be influenced in some way. For example, will bias be expected when selecting suppliers? If so, this may potentially be a bribe under the Bribery Act 2010 and not a gift. For further information, refer to the NHS Confederation Anti-Bribery Policy.

Notwithstanding the guidance below, you should **never** accept any gift that might reasonably be seen to compromise your personal judgement or integrity.

### Offering Gifts

Section	Scenario	Action
1.	<p>You (or someone on your behalf) <b>SHOULD NOT</b> under any circumstances give, promise or offer:</p> <ul style="list-style-type: none"> <li>• a gift with the intention to induce a person to perform a function improperly or give a gift in the knowledge that acceptance of the gift by the recipient is, in itself, improper (for more information, see the NHS Confederation Anti-Bribery Policy);</li> <li>• a gift or payment with the intention of influencing a third party (including foreign officials) to obtain or retain business or a business advantage, or in explicit or implicit exchange for favours or benefits;</li> <li>• numerous gifts of less than £40 to the same source that exceed the value of £100 over one year;</li> <li>• cash gifts;</li> <li>• gift secretly;</li> <li>• a gift to a politician/political party;</li> <li>• a gift to a bidder under a procurement process</li> </ul>	Refer to Anti Bribery policy

Section	Scenario	Action
2.	<p><b>Giving gifts with a value of £40 or less</b></p> <p>There will be only a few occasions where the giving of a gift is appropriate. Some examples of when a gift can be made include a thank you to a stakeholder or member for an exceptional contribution (such as a chair of a committee, or when a significant stakeholder or member has a long-term illness). It may also be appropriate in instances to thank a volunteer who has gifted their time to the organisation for free.</p> <p>So long as none of the instances in Section 1 apply you (or someone on your behalf) CAN offer a gift with a value of £40 or less.</p>	Complete the G&H register
3.	<p><b>Staff and contractor gifts</b></p> <p>The NHS Confederation does not pay for staff or contractor gifts. This includes Christmas gifts and thank you gifts such as alcohol and flowers.</p> <p>In situations where a staff want to purchase a gift for a colleague in their team, it is expected that this will be purchased using personal monies or out of a team collection.</p>	N/A

## Accepting Gifts

Section	Scenario	Action
1.	<p>You (or someone on your behalf) <b>SHOULD NOT</b> accept a gift:</p> <ul style="list-style-type: none"> <li>• with the intention of performing your duties improperly;</li> <li>• where the acceptance of the gift in itself amounts to improper performance of your duties;</li> <li>• as a reward for improperly performing your duties;</li> <li>• from a third party that is known or suspected to have been offered with the expectation that it will obtain an advantage for them;</li> <li>• from a third party if it is known or suspected that it is offered or provided with an expectation that an advantage will be provided by the organisation in return;</li> <li>• from a bidder to a procurement process</li> <li>• from a politician/political party</li> <li>• if it is given secretly, not openly</li> <li>• if it is alcohol.</li> </ul> <p>“Improper performance” means performance in breach of an expectation that a person will act in good faith, impartially, or in accordance with a position of trust. For more information see the Anti-Bribery Policy or contact the Governance Manager.</p>	<p>Refuse the gift</p> <p>Complete the G&amp;H register</p> <p>If you cannot refuse the gift, surrender it to the Governance Manager</p> <p>Refer to the Anti Bribery policy</p>
2.	<p><b>Accepting gifts with a value of £40 or more</b></p> <p>Gifts with a value of £40 or more should <u>not</u> normally be accepted. However, there may be occasions when refusing a gift could cause offence. So long as none of the instances in section 1 apply you (or someone on your behalf) <b>CAN</b> accept a gift on behalf of the organisation.</p>	<p>The gift should be surrendered to the Governance Manager</p> <p>Complete the G&amp;H register</p>
3.	<p><b>Accepting gifts with a value of less than £40</b></p> <p>So long as none of the instances in Sections 1 and 2 apply you <b>CAN</b> personally accept and keep a gift with a value of less than £40 (so long as it is not one of a number of gifts of a value less than £40 from the same source that exceed the value of £100 over one year) such as:</p> <ul style="list-style-type: none"> <li>• calendars and diaries</li> <li>• electronic calculators</li> <li>• pens and note pads</li> <li>• mugs</li> <li>• mouse mats and desk tidies</li> <li>• telephone message pads</li> <li>• confectionery</li> <li>• flowers</li> <li>• work related publications</li> </ul>	<p>None if one-off</p>

## 5.2 Hospitality

### Offering or Accepting working lunches and dinners etc at external venues

Whilst the provision and receipt of this type of hospitality should not be the norm, working lunches or dinners in restaurants or similar with members, partners or stakeholders is a legitimate and beneficial way of conducting business. However, such hospitality must be reasonable, proportionate and suitable to the circumstances and made in good faith. The tax position described in this policy should also be considered.

A general test of caution is:

- would Confederation members, NHS staff, or the public question the appropriateness of the hospitality received or given?
- would a reasonable person, assessing the hospitality provided by the organisation, judge that it was appropriate, proportionate, suitable to the circumstances and made in good faith? Would a reasonable person consider that the hospitality represented reasonable value for money for members' subscriptions or the public purse?
- in order to be acceptable, the hospitality should be designed to improve the image of the offeror and/or to better present the offeror's products and services and/or designed to establish cordial relations with the organisation.
- would the hospitality be permissible under relevant industry guidelines? (i.e., Code of Practice for the Pharmaceutical Industry).

In choosing whether to accept or offer a working lunch or dinner staff should consider if it is appropriate in the light of current business and relationships with the organisations/individuals. Such hospitality should only be offered or accepted if the primary reason for the occasion is to discuss business matters and where the venue or the hospitality are not in themselves an inducement to accept the invitation.

Corporate hospitality should not be extended to spouses of workers.

### Giving Hospitality

Section	Scenario	Action
1.	<p>You (or someone on your behalf) <b>SHOULD NOT</b> under any circumstances:</p> <ul style="list-style-type: none"><li>• give hospitality that intends to induce a person to perform a function improperly or give hospitality in the knowledge that acceptance of the hospitality by the recipient is, in itself, improper (for more information, see the Anti-Bribery Policy);</li><li>• give, promise to give, or offer hospitality with the expectation or hope that a business or other advantage will be received, or to reward a business or other advantage already given;</li><li>• give, promise to give, or offer hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;</li></ul>	Consider Anti-Bribery Policy

Section	Scenario	Action
2.	<p>Hospitality to Political Parties</p> <p>You or someone on your behalf should not offer hospitality to politicians or political parties unless this is for a legitimate business purpose and has been authorised in advance by the Chief Executive or Director of the relevant part of the group.</p>	<p>Consider Anti-Bribery Policy</p> <p>Seek authorisation</p> <p>Complete a G&amp;H register</p>
3.	<p><b>Team socials and Christmas</b></p> <p>The NHS Confederation may arrange a corporate Christmas social event for all staff. Where this is not possible (e.g due to logistics, timing, or social distancing requirements) the CEO has delegated power from the trustees to allow staff to claim a one-off claim of up to £25 per head for a team social, to be used at the CEO's discretion. This should be claimed (individually or collectively) on the online expenses system. Every claim must be accompanied by a full VAT receipt. Collective claims must list the staff members present. Claims should be coded to business unit projects using expense item 'Team Social'.</p> <p>Working lunches can be claimed from the organisation in exceptional circumstances e.g. where a team is based around the UK and meet for a business development day. Dinners will only be reimbursed in line with our Travel &amp; Expenses policy.</p>	<p>Refer to Travel &amp; Expenses Policy</p>

### Receiving Hospitality

Section	Scenario	Action
1.	<p>You (or someone on your behalf) <b>SHOULD NOT</b> under any circumstances:</p> <ul style="list-style-type: none"> <li>• accept hospitality that is offered with the intention that this will induce the worker to perform a function improperly or accept hospitality in the knowledge that acceptance of the hospitality is, in itself, improper (for more information, see the Anti-Bribery Policy);</li> <li>• accept hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business or other advantage will be provided by the organisation in return;</li> <li>• accept/give hospitality from a bidder under a procurement process.</li> </ul>	<p>Refuse hospitality</p> <p>Complete a G&amp;H register</p>
2.	<p><b>Hospitality from Political Parties</b></p> <p>You or someone on your behalf should not accept hospitality from politicians or political parties, unless this is</p>	<p>Refuse unauthorised hospitality</p>

Section	Scenario	Action
	for a legitimate business purpose and has been authorised in advance by the Chief Executive or Director of the relevant part of the group.	Seek authorisation Complete a G&H register
3.	<b>Invitations of a social kind including sporting events</b> Workers should think carefully about accepting invitations of a social kind (e.g. sporting and cultural events). You should weigh up the value of accepting such an invitation and the benefit to the organisations against how it will be perceived by members, partners, stakeholders and others.	Complete a G&H register whether the invitation is accepted or declined.
4.	So long as the circumstances in Sections 1, 2 and 3 do not apply, you (or someone on your behalf) CAN accept hospitality that is worth <b>more than</b> £25 per head if: <ul style="list-style-type: none"> <li>• it is appropriate in the light of current business and relationships with the organisations and/or individuals, <u>and</u>;</li> <li>• the primary reason for the occasion is to discuss business matters; <u>and</u></li> <li>• where the venue is and hospitality are not in themselves an inducement to accept the invitation or the purpose of the invitation.</li> </ul>	Complete G&H register
5.	So long as the circumstances in Sections 1, 2 and 3 do not apply, you (or someone on your behalf) CAN accept hospitality that is worth <b>less than</b> £25 per head: <ul style="list-style-type: none"> <li>• if it is appropriate in the light of current business and relationships with the organisations and/or individuals, and;</li> <li>• the primary reason for the occasion is to discuss business matters, and;</li> <li>• where the venue and hospitality are not in themselves an inducement to accept the invitation or the purpose of the invitation.</li> </ul>	No action needed. You do not need to complete G&H register

### 5.3 Workers in the Brussels Office

NHS Confederation workers connected with the Brussels Office (“European workers”) must be conscious of their obligation to ensure that they do not commit an offence of bribing a public foreign official (Section 6 of the Bribery Act 2010).

Section 6 states that an offence is committed where:

- an advantage (potentially including hospitality) is provided to a foreign public official; **and**
- it is provided with the intention to influence the foreign public official in their official capacity; **and**
- it is intended to gain business or a business advantage for the NHS Confederation.

The test to be applied is whether in all the circumstances the gift or hospitality is reasonable and justifiable. The intention behind the gift and/or hospitality should always be considered.

In all circumstances, the giving, offering and promising of gifts or hospitality to a foreign public official must be recorded. European workers must ensure they comply with the rules relating to hospitality outlined in the tables above and must ensure that they consider the following issues when considering offering any hospitality to foreign public officials:

- is the hospitality commensurate with that provided by other bodies similar to the NHS Confederation?
- is the hospitality beyond what might reasonably be expected by the foreign public official (especially with regard to their status)?
- is the hospitality beyond what might reasonably be expected from an organisation, such as the NHS Confederation
- in all the circumstances, is the hospitality likely to have (or had) a bearing on the foreign public official's decision-making

#### 5.4 Loyalty schemes

Those workers who travel frequently may have the opportunity to join a loyalty scheme. Workers should not directly benefit from travel or accommodation paid for by the organisation and so if air miles, free train tickets, free accommodation or similar are received they should be surrendered to the Governance Manager and recorded in the Register of Gifts and Hospitality.

#### 5.5 Fees or other reimbursements for speaking engagements etc

Offers of fees for speaking engagements should only be accepted on the basis that they are payable to the organisation. Workers should not personally receive fees or gifts as a result of speaking on behalf of the organisation. If you do receive fees in kind, then you should take the appropriate action as outlined in the tables relating to gifts above.

Travel, accommodation, or speaking fees provided by a third party for a speaking or other engagement or in respect of activities conducted outside your role at the NHS Confederation (e.g., acting as a chair of a voluntary or other organisation) do not need to be declared.

#### 5.6 Workers involved in procurement exercises

Workers responsible for or involved with procurement on behalf of the organisation should take particular care to ensure that there can be no criticism that unequal treatment has been given to external organisations with whom we do or intend to do business.

Particular care should be taken during a tender process and workers should **never** accept or request, offer or promise gifts and/or hospitality to a potential contractor.

Advice about liaising with potential contractors during a procurement exercise can be sought from the Governance Manager.

## 6.0 Raising concerns

Workers must notify their line manager or the Director People & Governance as soon as possible if they believe or suspect that this policy or any other has or may be breached.

This policy should be read in conjunction with the organisation's Whistleblowing Policy, which contains a specific reporting process in relation to concerns.

## 7.0 Monitoring and Review

The Director of People & Governance will monitor the effectiveness and review the implementation of this policy, regularly considering its suitability, adequacy and effectiveness, taking into account legal developments and changes in the organisation's business.

Appendix 1: Register of Gifts and Hospitality

Date of occurrence	Details of hospitality or gifts RECEIVED	Details of hospitality or gifts PROVIDED	Name of employee/s	Name of external organisation	Estimated or actual value	Accepted or declined	Date of notification

***Please send this form to Tina Rosenow, Governance Manager – [Tina.Rosenow@nhsconfed.org](mailto:Tina.Rosenow@nhsconfed.org)***