

# Managing Conflicts of Interest in the NHS: A Consultation

## SUBMISSION FROM TRANSPARENCY INTERNATIONAL UK'S PHARMACEUTICALS & HEALTHCARE PROGRAMME

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### Introduction

In this submission, Transparency International UK's Pharmaceuticals & Healthcare Programme provides a response to NHS England's *Managing Conflicts of Interest in the NHS: A Consultation*.

The UK spends 9.9% of GDP on public and private healthcare, with private expenditure only accounting for 1.5%.<sup>1</sup> The NHS England annual budget alone is set to rise to £120 billion with the vast majority being spent on equipment and services.<sup>2</sup> The complex nature of the health system, a lack of adequate oversight and this level of resources makes the health sector highly vulnerable to conflicts of interest. Improving the transparency of interactions between NHS staff and other individuals and organisations, and minimising the variation in conflicts of interest rules across the NHS, is vital to fighting corruption.

In summary:

- We support the introduction of consistent thresholds for gifts and hospitality received by NHS staff from all individuals and organisations, including both patients and suppliers.
- We recommend that all NHS organisations in the UK require all gifts, hospitality or other inducements received by all staff to be collected in registers and disclosed in an open data format.
- To be effective the information disclosed should be comprehensive, for example including the estimated value of the gift or hospitality received.
- We believe this will have a significant effect on increasing transparency and accountability, and so prevent large losses to corruption and waste through the decisions that NHS staff make, and maintain public confidence in the NHS in the long term.

We have focused our response on the issues around gifts, hospitality and the form of publication, but would be happy to explore these and other questions further as part of the wider consultation process.

### Common principles and rules

#### Question 5: Do you agree with our proposals regarding gifts?

Gifts can act as inducements and allow suppliers to improperly influence NHS staff. Gifts must be proportionate, reasonable and bona fide. Gifts from actual or potential suppliers should be controlled with no

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<sup>1</sup> ONS, UK Health Accounts: 2014 (2016). Available at: <http://www.ons.gov.uk/releases/ukhealthaccounts2014>; The King's Fund, Health care spending compared to other countries. Available at: <https://www.kingsfund.org.uk/projects/nhs-in-a-nutshell/health-care-spending-compared>

<sup>2</sup> HM Treasury, Policy paper, Spending review and autumn statement 2015. Available at: <https://www.gov.uk/government/publications/spending-review-and-autumn-statement-2015-documents/spending-review-andautumn-statement-2015>

less care than gifts received from patients. This should include a limit on the gift value that may be accepted and a limit on the value of multiple gifts from the same supplier over a twelve month period.

**Question 6: Do you agree with our proposals regarding hospitality?**

Staff that receive hospitality over the value of £25 should be required to provide the actual or estimated value when declaring it. This information is needed to determine the level of risk arising from hospitality.

Hospitality valued over a certain threshold should be declined. As mentioned in the consultation, the ABPI sets out guidance for its members that they should not spend more than £75 per head. Excessive hospitality can result in personal interests prevailing over the interests of the NHS and act as a pathway for bribery. In recent years there have been a number of high profile scandals surrounding the receipt of hospitality by NHS staff, in particular those in charge of buying drugs for NHS organisations.

## Publication and transparency

**Questions 20: Do you agree that information on interests held by senior staff described above should be published?**

Yes. As discussed in the consultation, the public have a right to access information about interests of staff and organisations that make decisions which lead to the spending of public money. If this information is only available via Freedom of Information legislation, the ability and likelihood of the public to access, use it and hold NHS staff and organisations to account will be diminished.

**Question 21: Do you agree that information on interests should be published in a consistent way across organisations, using the format described above?**

The information on gifts required to be published by senior staff is insufficient. As well as asking for the recipient's name and position, date of gift, and details of gift, senior staff must disclose the supplier's name. Without this information the public will be unable to determine if there is a conflict of interest.

Similarly, the details of the gift required to be submitted must be comprehensive. This should include the value of the gift, whether it was accepted or declined, and a complete description on why the gift was given. For example, even in current disclosures that are upheld as good examples,<sup>3</sup> some staff entries simply contain descriptions such as "money" or "education", not allowing users to understand what the gift is. This point also applies to hospitality.

Organisations should publish the information on their websites in an open data format. This is a low cost exercise, and at a minimum registers can be uploaded in a Microsoft Excel file. The data needs to be:

- Accurate: be as precise as possible and contain complete records
- Accessible: published in a timely manner as machine-readable open data, not in HTML or PDF formats
- Intelligible: have clear and consistent data structures so it can be easily analysed
- Meaningful: contain enough relevant detail to help the public gain insights

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<sup>3</sup> Leeds Teaching Hospitals Declarations Public Report. Available at: <http://www.leedsth.nhs.uk/about-us/freedom-of-information/publication-scheme/lists-and-registers/declarations/>

**Question 22: Do you agree that information on interests should be published (at least annually) by organisations?**

Yes. Publishing information on interests at least annually should not be burdensome for organisations and may fit around existing appraisal systems. Similarly, information that is published annually will remain relevant for the public to use the information.

**Question 23: Do you think that further consideration should be given to aggregating returns on MyNHS, or another suitable web portal?**

There is utility in aggregating returns centrally. This will easily allow the relevant oversight bodies in the NHS and the public to monitor conflicts of interest across the NHS. If organisations publish the information requested in the consultation in a consistent manner using an open data format, the logistical challenge of centralising the information on a platform such as MyNHS can be minimised.

**Questions 24: Do you believe that we should pursue the approaches described above to ensure greater compliance with the Disclosure UK initiative?**

All healthcare professionals should give their consent to information about payments received from pharmaceutical companies being published by the ABPI. Means to encourage the granting of consent should be pursued.

However, this should not detract from measures proposed in this consultation so that NHS organisations are required to publish these payments, nor diminish the quality and level of detail of these disclosures.

## Conclusions

**Questions 26: Do you agree that the underlying principles and rules in this consultation should (perhaps with some amendment) also apply to non NHS providers in respect of NHS funded services they provide?**

Yes. Non-NHS providers that deliver NHS funded services should also have to follow strong conflicts of interest procedures as set out in the consultation. Regardless of how they are delivered, NHS funds should never be influenced by expectations of private gain

In particular, proposals that mandate the disclosure of gifts, hospitality and loyalty interests should apply. These types of conflicts of interest can influence the services provided to patients and result in the waste of NHS funds.

## About Transparency International UK's Pharmaceuticals & Healthcare Programme

Transparency International (TI) is the world's leading non-governmental anti-corruption organisation. With more than 100 chapters worldwide, TI has extensive global expertise and understanding of corruption.

Transparency International's Pharmaceuticals & Healthcare Programme (PHP) is one of five global thematic network initiatives in the Transparency International movement targeting sector specific corruption. Based in the UK chapter of TI, PHP has a global remit to improve health outcomes for the benefit of all people of all ages. It aims to achieve this by reducing corruption and promoting transparency, integrity and accountability within the pharmaceutical and healthcare sectors.

## Contact

Michael Petkov  
Programme Officer  
michael.petkov@transparency.org.uk

[www.ti-health.org](http://www.ti-health.org)