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CODE OF CONDUCT FOR NHS BOARDS

Public service values must be at the heart of the National Health Service. High standards of corporate and personal conduct based on a recognition that patients come first, have been a requirement throughout the NHS since its inception. Moreover, since the NHS is publicly funded, it must be accountable to Parliament for the services it provides and for the effective and economical use of taxpayers' money.

There are three crucial public service values which 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 should 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, staff and suppliers, and in the use of information acquired in the course of NHS duties.

Openness – there should be sufficient transparency about NHS activities to promote confidence between the NHS organisation and its staff, patients and the public.

General Principles

Public service values matter in the NHS and those who work in it have a duty to conduct NHS business with probity. They have a responsibility to respond to staff, patients and suppliers impartially, to achieve value for money from the public funds with which they are entrusted and to demonstrate high ethical standards of personal conduct.

The success of this Code depends on a vigorous and visible example from boards and the consequential influence on the behaviour of all those who work within the organisation. Boards have a clear responsibility for corporate standards of conduct and acceptance of the Code should inform and govern the decisions and conduct of all board directors.

Openness and Public Responsibilities

Health needs and patterns of provision of health care do not stand still. There should be a willingness to be open with the public, patients and with staff as the need for change emerges. It is a requirement that major changes are consulted upon before decisions are reached. Information supporting those decisions should be made available, in a way that is understandable, and positive

responses should be given to reasonable requests for information and in accordance with the Freedom of Information Act 2000.

NHS business should be conducted in a way that is socially responsible. As a large employer in the local community, NHS organisations should forge an open and positive relationship with the local community and should work with staff and partners to set out a vision for the organisation in line with the expectations of patients and the public. NHS organisations should demonstrate to the public that they are concerned with the wider health of the population including the impact of the organisation's activities on the environment.

The confidentiality of personal and individual patient information must, of course, be respected at all times.

Public Service Values in Management

It is unacceptable for the board of any NHS organisation, or any individual within the organisation for which the board is responsible, to ignore public service values in achieving results. Chairs and board directors have a duty to ensure that public funds are properly safeguarded and that at all times the board conducts its business as efficiently and effectively as possible. Proper stewardship of public monies requires value for money to be high on the agenda of all NHS boards.

Accounting, tendering and employment practices within the NHS must reflect the highest professional standards. Public statements and reports issued by the board should be clear, comprehensive and balanced, and should fully represent the facts. Annual and other key reports should be issued in good time to all individuals and groups in the community who have a legitimate interest in health issues to allow full consideration by those wishing to attend public meetings on local health issues.

Public Business and Private Gain

Chairs and board directors should act impartially and should not be influenced by social or business relationships. No one should use their public position to further their private interests. Where there is a potential for private interests to be material and relevant to NHS business, the relevant interests should be declared and recorded in the board minutes, and entered into a register which is available to the public. When a conflict of interest is established, the board director should withdraw and play no part in the relevant discussion or decision.

Hospitality and Other Expenditure

Board directors should set an example to their organisation in the use of public funds and the need for good value in incurring public expenditure. The use of NHS monies for hospitality and entertainment, including hospitality at conferences or seminars, should be carefully considered. All expenditure on these items should be capable of justification as reasonable in the light of the general practice in the public sector. NHS boards should be aware that expenditure on hospitality or entertainment is the responsibility of management and is open to be challenged by the internal and external auditors and that ill-considered actions can damage respect for the NHS in the eyes of the community.

Relations with Suppliers

NHS boards should have an explicit procedure for the declaration of hospitality and sponsorship offered by, for example, suppliers. Their authorisation should be carefully considered and the decision should be recorded. NHS boards should be aware of the risks in incurring obligations to suppliers at any stage of a contracting relationship. Suppliers should be selected on the basis of quality, suitability, reliability and value for money. The Department of Health has issued guidance to NHS organisations about standards of business conduct (ref: HSG(93)5).

Staff

NHS boards should ensure that staff have a proper and widely publicised procedure for voicing complaints or concerns about maladministration, malpractice, breaches of this code and other concerns of an ethical nature. The board must establish a climate:

- that enables staff who have concerns to raise these reasonably and responsibly with the right parties;
- that gives a clear commitment that staff concerns will be taken seriously and investigated; and
- where there is an unequivocal guarantee that staff who raise concerns responsibly and reasonably will be protected against victimisation.

(Ref: Whistleblowing in the NHS, letter dated 25 July 2003 from the Director of HR in the NHS)

Compliance

Board directors should satisfy themselves that the actions of the board and its directors in conducting board business fully reflect the values in this Code and, as far as is reasonably practicable, that concerns expressed by staff or others are fully investigated and acted upon. All board directors of NHS organisations are required, on appointment, to subscribe to the Code of Conduct.

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CODE OF ACCOUNTABILITY FOR NHS BOARDS

This Code of Practice is the basis on which NHS organisations should seek to fulfil the duties and responsibilities conferred upon them by the Secretary of State for Health.

Status

NHS organisations, such as NHS trusts, primary care trusts, strategic health authorities and special health authorities, are established under statute as corporate bodies so ensuring that they have separate legal personality. Statutes and regulations prescribe the structure, functions and responsibilities of the boards of these bodies and prescribe the way chairs and directors of boards are to be appointed.

Code of Conduct

All board directors of NHS organisations are required, on appointment, to subscribe to the Code of Conduct. Breaches of this Code of Conduct by the chair or a non-executive director of the board should be drawn to the attention of the appropriate Regional Commissioner of the NHS Appointments Commission.

NHS managers are required to take all reasonable steps to comply with the requirements set out in the Code of Conduct for NHS Managers. Chairs and non-executive directors of NHS boards are responsible for taking firm, prompt and fair disciplinary action against any executive director in breach of the Code of Conduct for NHS Managers.

Statutory Accountability

The Secretary of State for Health has statutory responsibility for the health of the population of England and uses statutory powers to delegate functions to NHS organisations who are thus accountable to the Secretary of State and to Parliament. The Department of Health is responsible for directing the NHS, ensuring national policies are implemented and for the effective stewardship of NHS resources.

NHS trusts provide services to patients (these may be acute services, ambulance services, mental health or other special services, e.g. for children). Other main functions are to:

- ensure services are of high quality and accessible;
- lead the development of new ways of working to fully engage patients and ensure a patient-centred service;

Primary care trusts are expected to identify the health needs of the population, to work to improve the health of the community and to secure the provision of a full range of services. Other main functions are to:

- maintain an effective public health function;
- lead local planning;
- manage and develop primary healthcare services;
- develop and improve local services;
- lead the integration of health and social care; and
- deliver services within their remit.

Strategic health authorities provide strategic leadership to ensure the maintenance of provision and the delivery of improvements in local health and health services by primary care trusts and NHS trusts, within the national framework of developing a patient-centred NHS and supported by effective controls and clinical governance systems. Other main functions for which the Strategic Health Authority is responsible are to:

- lead the development and empowerment of uniformly excellent frontline NHS organisations committed to innovation and improvement;
- consider the overall needs of the health economy across primary, community, secondary and tertiary care, and working with primary care trusts and NHS trusts to deliver a programme to meet these needs;
- performance manage and ensure accountability of local primary care trusts and NHS trusts;
- lead on the creation and development of clinical and public health networks;
- create capacity through the preparation and delivery of strategies for capital investment, information management and workforce development;
- ensure effective networks and joint working exists between NHS organisations for the provision of health and social care; and
- ensure the development and training of an adequate workforce of competent clinical personnel.

NHS trust, primary care trust and strategic health authority finances are subject to external audit by the Audit Commission and, for the value for money element, by the Healthcare Commission.

NHS boards must co-operate fully with the Department of Health, the Audit Commission and the Healthcare Commission when required to account for the use they have made of public funds, the delivery of patient care and other services, and compliance with statutes, directions, guidance and policies of the Secretary of State. The Chief Executive/Permanent Secretary of the Department of Health, as Accounting Officer for the NHS, is accountable to Parliament. The work of the Department of Health and its associated bodies is examined by the House of Commons Health Committee. Its remit is to examine the expenditure, administration and policy of the Department of Health. Two other Parliamentary Committees, the Public Accounts Committee and the Public Administration Select Committee, scrutinise the work of the Department of Health and the health service.

The Board of Directors

NHS boards comprise executive directors together with non-executive directors and a chair who are appointed by the NHS Appointments Commission on behalf of the Secretary of State. Together they share corporate responsibility for all decisions of the board. There is a clear division of responsibility between the chair and the chief executive; the chair's role and board functions are set out below; the chief executive is directly accountable to the board for meeting their objectives, and as Accountable Officer, to the Chief Executive of the NHS for the performance of the organisation. Boards are required to meet regularly and to retain full and effective control over the organisation; the chair and non-executive directors are responsible for monitoring the executive management of the organisation and are responsible to the Secretary of State for the discharge of these responsibilities. Strategic health authorities generally provide the line of accountability from local NHS organisations to the Secretary of State for the performance of the organisation. Regional Commissioners of the NHS Appointments Commission will always be available to chairs and non-executive directors on matters of concern to them relating to the personal effectiveness of individual chairs and non-executives.

The duty of an NHS board is to add value to the organisation, enabling it to deliver healthcare and health improvement within the law and without causing harm. It does this by providing a framework of good governance within which the organisation can thrive and grow. Good governance is not restrictive but

an enabling ingredient to underpin change and modernisation.

The role of an NHS board is to:

- be collectively responsible for adding value to the organisation, for promoting the success of the organisation by directing and supervising the organisation's affairs
- provide active leadership of the organisation within a framework of prudent and effective controls which enable risk to be assessed and managed
- set the organisation's strategic aims, ensure that the necessary financial and human resources are in place for the organisation to meet its objectives, and review management performance
- set the organisation's values and standards and ensure that its obligations to patients, the local community and the Secretary of State are understood and met.

Further details may be obtained from *Governing the NHS: A Guide for NHS Boards* at www.dh.gov.uk

The Role of the Chair

The overall role of the chair is one of enabling and leading so that the attributes and specific roles of the executive team and the non-executives are brought together in a constructive partnership to take forward the business of the organisation.

The key responsibilities of the chair are:

- leadership of the board, ensuring its effectiveness on all aspects of its role and setting its agenda;
- ensuring the provision of accurate, timely and clear information to directors;
- ensuring effective communication with staff, patients and the public;
- arranging the regular evaluation of the performance of the board, its committees and individual directors; and
- facilitating the effective contribution of non-executive directors and ensuring constructive relations between executive and non-executive directors.

A complementary relationship between the chair and chief executive is important. The chief executive is accountable to the chair and non-executive directors of the board for ensuring that the board is empowered to govern the organisation and that the objectives it sets are accomplished through effective and

properly controlled executive action. The chief executive should be allowed full scope, within clearly defined delegated powers, for action in fulfilling the decisions of the board.

Further details may be obtained from *Governing the NHS: A Guide for NHS Boards* at www.dh.gov.uk.

Non-Executive Directors

Non-executive directors are appointed by the NHS Appointments Commission on behalf of the Secretary of State to bring an independent judgement to bear on issues of strategy, performance, key appointments and accountability through the Department of Health to Ministers and to the local community.

The duties of non-executive directors are to:

- constructively challenge and contribute to the development of strategy;
- scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;
- satisfy themselves that financial information is accurate and that financial controls and systems of risk management are robust and defensible;
- determine appropriate levels of remuneration of executive directors and have a prime role in appointing, and where necessary, removing senior management and in succession planning; and
- ensure the board acts in the best interests of the public and is fully accountable to the public for the services provided by the organisation and the public funds it uses.

Non-executive directors also have a key role in a small number of permanent board committees such as the Audit Committee, Remuneration and Terms of Service Committee, the Clinical Governance Committee and Risk Management Committee.

Further details may be obtained from *Governing the NHS: A Guide for NHS Boards* at www.dh.gov.uk.

Reporting and Controls

It is the board's duty to present through the timely publication of an annual report, annual accounts and other means, a balanced and readily-understood assessment of the organisation's performance to:

- the Department of Health, on behalf of the Secretary of State

- the Audit Commission and its appointed auditors, and
- the local community.

Detailed financial guidance, including the role of internal and external auditors, issued by the Department of Health must be observed. (Ref: the *NHS Finance Manual* at www.info.doh.gov.uk/doh/finman). The Standing Orders of boards should prescribe the terms on which committees and sub-committees of the board may be delegated functions, and should include the schedule of decisions reserved for the board.

Declaration of Interests

It is a requirement that chairs and all board directors should declare any conflict of interest that arises in the course of conducting NHS business. All NHS organisations maintain a register of member's interests to avoid any danger of board directors being influenced, or appearing to be influenced, by their private interests in the exercise of their public duties. All board members are therefore expected to declare any personal or business interest which may influence, or may be *perceived* to influence, their judgement. This should include, as a minimum, personal direct and indirect financial interests, and should normally also include such interests of close family members. Indirect financial interests arise from connections with bodies which have a direct financial interest, or from being a business partner of, or being employed by, a person with such an interest.

Employee Relations

NHS boards must comply with legislation and guidance from the Department of Health on behalf of the Secretary of State, respect agreements entered into by themselves or on their behalf and establish terms and conditions of service that are fair to the staff and represent good value for taxpayers' money. Fair and open competition should be the basis for appointment to posts in the NHS.

The terms and conditions agreed by the board for senior staff should take full account of the need to obtain maximum value for money for the funds available for patient care. The board should ensure through the appointment of a remuneration and terms of service committee that executive board directors' remuneration can be justified as reasonable. Board directors' remuneration for the NHS organisation should be published in its annual report.

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