

# Management Executive Human Resources Directorate

General Managers/Chief Executives  
Of Health & Social Services Boards  
The Chief Executives of HSS Trusts  
The Chief Executives of Special Agencies  
The Chief Officers of Health and Social  
Services Councils

March 1995

## STANDARDS OF BUSINESS CONDUCT FOR HPSS STAFF

### 1. SUMMARY

This circular supplies guidance to assist HPSS employers and staff in maintaining strict ethical standards in the conduct of HPSS business and is set out as follows: -

- (i) **Part A** - Brief summary of the main provisions of the Prevention of Corruption Acts 1906 and 1916.
- (ii) **Part B** - General policy guidance on
  - a. the standards of conduct expected of all HPSS staff where their private interests may conflict with their public duties; and
  - b. the steps which HPSS employees should take to safeguard themselves and the HPSS against conflict of interest.
- (iii) **Part C** - Action checklist for HPSS Managers.
- (iv) **Part D** - Short guide for staff.
- (v) **Part E** - Ethical Code of the Institute of Purchasing and Supply (IPS)(1) now the Chartered Institute of Purchasing and Supply (reproduced courtesy of IPS).

## **ACTION**

2. General Managers and Chief Executives should ensure that the guidelines attached are brought to the attention of all staff, and are effectively implemented.
3. The boards of Health and Social Services Boards and HSS Trusts should make appropriate arrangements to ensure compliance with this guidance.
4. Local conflict of interest policies and the machinery for implementing these should be developed in consultation with local staff and staff representatives.
5. Managers should satisfy themselves that their policies and procedures are regularly reviewed.

## **ENQUIRIES**

6. Written enquiries on this circular should be addressed to Mr T A McNeill, Assistant Director, Human Resources Directorate, Castle Buildings, Stormont, Belfast BT4 3SR (Telephone 028 9052 2605).

**STANDARDS OF BUSINESS CONDUCT  
FOR HPSS STAFF**

**PREVENTION OF CORRUPTION ACTS 1906 AND 1916 - SUMMARY OF MAIN PROVISIONS**

**Acceptance of gifts by way of inducements or rewards**

1. Under the Prevention of Corruption Acts, 1906 and 1916, it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for:
  - doing, or refraining from doing, anything in their official capacity; or
  - showing favour or disfavour to any person in their official capacity.
  
2. Under the Prevention of Corruption Act 1916, any money, gift or consideration received by an employee in public service from a person or organisation holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves the contrary.

## **GENERAL GUIDELINES**

### **Introduction**

1. These guidelines, are intended to be helpful to all HPSS employers<sup>(1)</sup> and their employees. They reinforce and update the guiding principles previously set out in Circulars HSS (GEN 1) 5/85 and (GEN 1) 3/88 (both now cancelled).

### **Responsibility of HPSS Employers**

2. HPSS employers are responsible for ensuring that these guidelines are brought to the attention of all employees; also that machinery is put in place for ensuring that they are effectively implemented.

### **Responsibility of HPSS Staff**

3. It is the responsibility of staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their HPSS duties. This primary responsibility applies to **all HPSS staff**, i.e. those who commit HPSS resources directly (e.g. by the requisitioning and ordering of goods) or those who do so indirectly (e.g. by the prescribing of medicines). A further example would be staff who may have a personal or financial interest in a Private Nursing or Residential Home or other private care provision or service and who are involved in the assessment, care planning or discharge of patients to residential facilities or domiciliary care.

### **Guiding Principle in Conduct of Public Business**

4. It is a long established principle that public sector bodies, which include the HPSS, must be impartial, honest and open in the conduct of their business, and that their employees should remain beyond suspicion. It is also an offence under the Prevention of Corruption Acts 1906 and 1916 for an employee corruptly to accept any inducement or reward for doing, or refraining from doing anything, in his or her official capacity, or corruptly showing favour, or disfavour, in the handling of contracts (see PART A).

*Staff will need to be aware that a breach of the provisions of these Acts renders them liable to prosecution and may also lead to loss of their employment and superannuation rights in the HPSS.*

## Principles of Conduct in the HPSS

5. HPSS staff are expected to:
  - ensure that the interest of patients and clients remains paramount at all times;
  - be impartial and honest in the conduct of their official business;
  - use the public funds entrusted to them to the best advantage of the service, always ensuring value for money in the procurement of goods and services.
6. It is also the responsibility of staff to ensure that they do **not**:
  - abuse their official position for personal gain or to benefit their family or friends or to benefit individual contractors;
  - seek to advantage or further private business or other interests, in the course of their official duties.

## IMPLEMENTING THE GUIDING PRINCIPLES

### Casual gifts

7. Casual gifts offered by contractors or others, e.g. at Christmas time, may not be in any way connected with the performance of duties so as to constitute an offence under the Prevention of Corruption Acts. Such gifts should nevertheless be politely but firmly declined. Inexpensive gifts of a seasonal nature such as diaries or calendars, or small tokens of gratitude (e.g. boxes of chocolates, biscuits or flowers) from patients or their relatives, need not necessarily be refused. It is recognised that refusal of the latter type of 'token' gift may cause offence or damage staff morale and that acceptance is reasonable and appropriate in these circumstances. Staff must not compromise themselves or leave themselves open to criticism when accepting token gifts. In case of doubt staff should either consult their line manager or politely decline acceptance.

### Hospitality

8. Modest hospitality provided it is normal and reasonable in the circumstances, e.g. lunches in the course of working visits, may be acceptable, though it should normally be similar to the scale of hospitality

which the HPSS as an employer would be likely to offer. However, it is recognised that levels of hospitality vary according to circumstances and that acceptance may be unavoidable. Staff should always ensure that acceptance of hospitality of any scale does not compromise their integrity.

9. Staff should decline all other offers of gifts, hospitality or entertainment. If in doubt they should seek advice from their line manager.

### **Declaration of Interests**

10. HPSS employers need to be aware of all cases where an employee, or his or her partner, close relative or associate,<sup>(2)</sup> has a controlling and/or significant financial interest in a business (including a private company, public sector organisation, other HPSS employer and/or voluntary organisation), or in any other activity or pursuit, which may compete for an HPSS contract to supply either goods or services to the employing authority or which may impinge or impair the carrying out of an officer's duties.
11. All HPSS staff should therefore declare such interests within their knowledge to their employer, either on starting employment or on acquisition of the interest, in order that it may be known and in no way promoted to the detriment of either the employing authority or the patients/clients whom it serves.
12. One particular area of potential conflict of interest which may directly affect patients/clients/staff, is when HPSS staff hold a self beneficial interest in private care homes or hostels. While it is for staff to declare such interests to their employing authority, the employing authority has a responsibility to introduce whatever measures it considers necessary to ensure that its interests and those of patients, clients and staff are adequately safeguarded, particularly regarding referral to a private care home, hostel or domiciliary care provider. This may for example take the form of a contractual obligation on staff to declare any such interests. Advice on professional conduct issued by the General Medical Council recommends that when a doctor refers a patient to a private care home or hostel in which he or she has an interest, the patient must be informed of that interest before referral is made.
13. In determining what needs to be declared, employers and employees will wish to be guided by the principles set out in paragraph 5 above; also the more detailed guidance to staff contained in Part D.

14. HPSS employers should:

- ensure that staff are aware of their responsibility to declare relevant interests (perhaps by including a clause to this effect in staff contracts);
- consider keeping registers of all such interests and making them available for inspection by the public;
- develop a local policy, in consultation with staff and local staff interests, for implementing this guidance. This may include the disciplinary action to be taken if an employee fails to declare a relevant interest, or is found to have abused his or her official position, or knowledge, for the purpose of self benefit, or that of family or friends or contractors/suppliers;
- establish proper and widely published procedures to enable staff to confidentially voice complaints or concerns about breaches of this guidance and other concerns of an ethical nature.

**Preferential Treatment in Private Transactions**

15. Individual staff must not seek or accept preferential rates or benefits in kind of private transactions carried out with companies with which they have had, or may have, official dealings on behalf of their HPSS employer. (This does not apply to concessionary agreements negotiated with companies by HPSS management, or by recognised staff interests, on behalf of all staff - for example, HPSS staff benefits schemes).

**Contracts**

16. All staff who are in contact with suppliers and contractors (including external consultants) and in particular those who are authorized to sign Purchase Orders, or place contracts for goods, materials or services, are expected to adhere to professional standards of the kind set out in the Ethical Code of the Institute of Purchasing and Supply (IPS), reproduced at PART E. Attention is also drawn to the guidance contained in Circular HSS (ESD) 3/91 titled - WORKS SERVICES PROJECTS - FRAUD AND IRREGULARITY.



## **Favouritism in Awarding Contracts**

17. Fair and open competition between prospective contractors or suppliers for HPSS contracts is a requirement of HPSS Standing Orders and of EC Directives on Public Purchasing for Works and Supplies. This means that:
  - No private, or public company, firm or voluntary organisation which may bid for HPSS business should be given any advantage over its competitors. It is acknowledged that EC regulations now permit pre tender discussions with potential tenderers so that the latter understand the requirements of HPSS bodies and can therefore tender more successfully. This applies to all potential contractors, whether or not there is a relationship between them and the HPSS employer, such as a long-running series of previous contracts.
  - Each new contract should be awarded solely on merit, taking into account the new requirements of the HPSS and the ability of the contractors to fulfil them.
18. HPSS employers should ensure that no special favour is shown to current or former employees or their close relatives or associates in awarding contracts to private or other businesses run by them or employing them in a senior or managerial capacity. Contracts may be awarded to such businesses where they are won in fair competition against other tenders, but scrupulous care must be taken to ensure that the selection process is conducted impartially, and that staff who are known to have a relevant interest play no part in the selection.

## **Warnings to Potential Contractors**

19. HPSS employers will wish to ensure that all invitations to potential contractors to tender for HPSS business include a notice warning tenderers of the consequences of engaging in any corrupt practices involving employees of public bodies.

## **Outside Employment**

20. HPSS employers are advised **not** to engage in outside employment which may conflict, or be detrimental to their HPSS work. They are advised to tell their HPSS employing authority if they think they may be risking a conflict of interest in this area. The HPSS employer will be responsible for judging whether the interest of patients/clients could be harmed, in line

with the principles in paragraph 5 above. HPSS employers may wish to consider the preparation of local guidelines on this subject.

### **Private Practice**

21. Consultants (and associate specialists) employed under the Terms and Conditions of Service of Hospital Medical and Dental Staff are permitted to carry out private practice in HPSS hospitals subject to the conditions outlined in the handbook "Guide to Private and Domiciliary Practice". (See also paragraphs 40-43 of the TCs of Hospital Medical and Dental Staff). Consultants who have signed new contracts with Trusts will be subject to the terms applying to private practice in those contracts.
22. Other staff may undertake private practice or work for outside agencies, providing they do not do so within the time they are contracted to the HPSS, and they observe the conditions in paragraph 20 above. All hospital doctors are entitled to fees for other work outside their HPSS contractual duties under "Category 2" (paragraph 37 of the TCs of Hospital Medical and Dental staff), e.g. examinations and reports for life insurance purposes. Hospital doctors and dentists in training should not undertake locum work outside their contracts where such work would be in breach of their contracted hours as set out in their terms and conditions of service and the hours controls for training grades. Career grade medical and dental staff employed by HSS Trusts may agree terms and conditions different from the National Terms and Conditions of Service.

### **Rewards for Initiative**

23. HPSS employers should ensure that they are in a position to identify potential intellectual property rights (IPR), as and when they arise, so that they can protect and exploit them properly, and thereby ensure that they receive any rewards or benefits (such as royalties) in respect of work commissioned from third parties, or work carried out by their employees in the course of their HPSS duties. Most IPR are protected by statute; e.g. patents are protected under the Patents Act 1977 and copyright (which includes software programmes) under the Copyright Designs and Patents Act 1988. To achieve this HPSS employers should build appropriate specifications and provisions into the contractual arrangements which they enter into **before** the work is commissioned, or begins. They should always seek legal advice if in any doubt in specific cases.
24. With regard to patents and inventions, in certain defined circumstances the Patents Act gives **employees a right** to obtain some reward for their

efforts, and employers should see that this is effected. Other rewards may be given voluntarily to employees who within the course of their employment have produced innovative work of outstanding benefit to the HPSS. Similar rewards should be voluntarily applied to other activities such as giving lectures and publishing books and articles.

25. In the case of collaborative research and evaluative exercises with manufacturers HPSS employers should see that they obtain a fair reward for the input they provide. If such an exercise involves additional work for an HPSS employee outside that paid for the HPSS employer under his or her contract of employments, arrangements should be made for some share of any rewards or benefits to be passed on to the employee(s) concerned from the collaborating parties. Care should however be taken that involvement in this type of arrangement with a manufacturer does not influence the purchase of other supplies from that manufacturer.

#### **Commercial Sponsorship for Attendance at Courses and Conferences**

26. Acceptance by staff of commercial sponsorship for attendance at relevant conferences and courses is acceptable, but only where the employee seeks permission in advance and the employer is satisfied that acceptance will not compromise purchasing decisions in any way.
27. On occasions when HPSS employers consider it necessary for staff advising on the purchase of equipment to inspect such equipment in operation in other parts of the country (or exceptionally, overseas), employing authorities should consider meeting the cost, so as to avoid putting in jeopardy the integrity of subsequent purchasing decisions.

#### **Commercial Sponsorship of Posts - "Linked Deals"**

28. Pharmaceutical companies, for example, may offer to sponsor, wholly or partially, a post for an employing authority. HPSS employers should 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 authority. Where such sponsorship is accepted, monitoring arrangements should be established to ensure that purchasing decisions are not, in fact, being influenced by the sponsorship agreement.

*Under no circumstances should employers agree to "linked deals" whereby sponsorship is linked to the purchase of particular products, or to supply from particular sources.*

## **“Commercial-in Confidence”**

29. Staff should be particularly careful of using, or making public, internal information of a “commercial-in confidence” nature, **particularly if its disclosure would prejudice the principle of a purchasing system based on fair competition. This principle applies whether private competitors or other HPSS providers are concerned**, and whether or not disclosure is prompted by the expectation of personal gain (see paragraphs 16, 18 above and Part E).
  
30. However, HPSS employers should be careful about adopting a too restrictive view on this matter. It should certainly not be a case of excessive secrecy on matters which are not strictly commercial per se. For example, the term “commercial-in confidence” should not be taken to include information about service delivery and activity levels, which should be publicly available. Nor should it inhibit the free exchange of data for clinical audit purposes, for example, subject to the normal rules governing patient confidentiality and data protection. In all circumstances the overriding consideration must be the best interests of the patients/clients.

## ACTION CHECKLIST FOR HPSS MANAGERS

References are to paragraphs in Part B of “Standards of business conduct for HPSS staff”

### You must:

- ensure that all staff are aware of this guidance (2) and (4);
- develop a local policy and implement it (2 and 14);
- consider keeping registers of relevant interests and making them available for inspection by the public (14);
- show no favouritism in awarding contracts (e.g. to businesses run by employees, ex-employees, friends or relatives or contractors/suppliers) (17-18);
- include a warning against corruption in all invitations to tender (19);
- consider requests from staff for permission to undertake additional outside employment (20);
- apply the terms of HSS (TC8) 15/79 concerning doctors’ engagements in private practice (21);
- receive rewards or royalties in respect of work carried out by employees in the course of their HPSS work, and ensure that such employees receive due rewards (24);
- similarly ensure receipt of rewards for collaborative work with manufacturers, and pass on to participating employees (25);
- ensure that acceptance of commercial sponsorship will not influence or jeopardize purchasing decisions (26-27);
- refuse “linked deals” whereby sponsorship of staff posts is linked to the purchase of particular products or supply from particular sources (28);
- avoid excessive secrecy and abuse of the term “commercial-in confidence” (30).

## SHORT GUIDE FOR STAFF

References are to paragraphs in Part B of “Standards of business conduct for HPSS staff”.

### Do:

- make sure you understand the guidelines on standards of business conduct, and consult your line managers if you are not sure;
- make sure you are not in a position where your private interests and HPSS duties may conflict (3);
- declare to your employer any relevant interests (10-14). A requirement to declare relevant interests and abide by the established guidelines on standards of business conduct may be included in your contract of employment. Such information may be held on a register by your employer and made available for inspection by the public. If in doubt, ask yourself:
  - (i) am I, or might I be, in a position where I (or my family/friends) would gain from the connection between my private interests and my employment?
  - (ii) do I have access to information which could influence purchasing decisions?
  - (iii) could my outside interest be in any way detrimental to the HPSS or to patients’/clients interests?
  - (iv) do I have any other reason to think I may be risking a conflict of interest?

### If still unsure – **Declare it!**

- adhere to the ethical code of the Institute of Purchasing and Supply if you are involved in any way with the acquisition of goods and services (16);
- seek your employer’s permission before taking on outside work, if there is any question of it adversely affecting your HPSS duties (20). (Special guidance applies to doctors);

- obtain your employer's permission before accepting any commercial sponsorship 926);

**Do not:**

- accept any gifts, inducements or inappropriate hospitality (see 7-9);
- abuse your past or present official position to obtain preferential rates for private deals (15);
- unfairly advantage on competitor over another (17) or show favouritism in awarding contracts (18);
- misuse or make available official "commercial-in confidence" information (29).

**INSTITUTE OF PURCHASING AND SUPPLY - ETHICAL CODE**

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**Introduction**

1. The code set out below was approved by the Institute's Council of 26 February 1977 and is binding on IPS members.

**Precepts**

2. Members shall never use their authority or office for personal gain and shall seek to uphold and enhance the standing of the Purchasing and Supply profession and the Institute by:
  - a) maintaining an unimpeachable standard of integrity in all their business relationships both inside and outside the organisations in which they are employed;
  - b) fostering the highest possible standards of professional competence amongst those for whom they are responsible;
  - c) optimizing the use of resources for which they are responsible to provide the maximum benefit to their employing organisation;
  - d) complying both with the letter and spirit of:
    - (i) the law of the country in which they practice;
    - (ii) such guidance on professional practice as may be issued by the Institute from time to time;
    - (iii) contractual obligations;
  - e) rejecting any business practice which might reasonably be deemed improper.



## Guidance

3. In applying these precepts, members should follow the guidance set out below:
  - a) **Declaration of interest.** Any personal interest which may impinge or might reasonably be deemed by others to impinge on a member's impartiality in any matter relevant to his or her duties should be declared.
  - b) **Confidentiality and accuracy of information.** The confidentiality of information received in the course of duty should be respected and should never be used for personal gain; information given in the course of duty should be true and fair and never designed to mislead.
  - c) **Competition.** While bearing in mind the advantages to the member's employing organisation of maintaining a continuing relationship with a supplier, any relationship which might, in the long term, prevent the effective operation of fair competition, should be avoided.
  - d) **Business Gifts.** Business gifts other than items of a very small intrinsic value such as business diaries or calendars should not be accepted.
  - e) **Hospitality.** Modest hospitality is an accepted courtesy of a business relationship. However, the recipient should not allow him or herself to reach a position whereby he or she might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality; the frequency and scale of hospitality accepted should not be significantly greater than the recipient's employer would be likely to provide in return.
  - f) When it is not easy to decide between what is and is not acceptable in terms of gifts or hospitality, the offer should be declined or advice sought from the member's superior.