

20th May 2021

[REDACTED]

[REDACTED]

Official Information Act Request for – Gifts to medical staff from Pharmaceutical Companies

I write in response to your Official Information Act request received by us 13th April 2021, you requested the following information:

1. Do you keep a central gift register, which records details about what gifts medical staff receive, who they are from, and the gift's value? If not, why not?
2. How many staff in your DHB have accepted gifts (of any form) from pharmaceutical companies? Information from the past 2-year period is preferred, including what these gifts were, and their monetary value.
3. Is there any policy in place that prevents medical staff from accepting some gifts from pharmaceutical companies? If so, please send a copy of this policy.
In relation to disclosure of these gifts (from pharmaceutical companies):
4. When must medical staff disclose these gifts to the hospital or DHB? If there is a related policy, please send a copy.
5. Are medical staff required to disclose these gifts to their patients? If there is a related policy, please send a copy.

Counties Manukau Health Response:

For context Counties Manukau Health (CM Health) employs over 8,500 staff and provides health and support services to people living in the Counties Manukau region (approx. 601,490 people). We see over 118,000 people in our Emergency Department each year, and over 2,000 visitors come through Middlemore Hospital daily.

Our services are delivered via hospital, outpatient, ambulatory and community-based models of care. We provide regional and supra-regional specialist services i.e. for orthopaedics, plastics, burns and spinal services. There are also several specialist services provided including tertiary surgical services, medical services, mental health and addiction services.

1. Do you keep a central gift register, which records details about what gifts medical staff receive, who they are from, and the gift's value? If not, why not?

CM Health does not centrally capture information on gifts given, each service is responsible for maintaining their own gift register. As per the CM Health conflict of Interest Policy, “any Hospitality that is offered or accepted that has a value over \$100 must be recorded in the CMDHB Gifts Register for the relevant service”.

2. How many staff in your DHB have accepted gifts (of any form) from pharmaceutical companies? Information from the past 2-year period is preferred, including what these gifts were, and their monetary value.

Table 1 below reflects the 2019 and 2020 entries of gifts/hospitality on the gifts register from Pharmaceutical companies.

Description of gift, hospitality or Benefit	Approximate Value
Return flights to Wellington and 1 night's accommodation, Stroke Nurse Specialist Symposium 2019	\$737.00
Meals, Venue, Parking – Heart Rhythm annual event attendance	\$768.00
Accommodation & food & transport - NZ Respiratory Workshop - July 2019	\$1,000.00
American College of Rheumatology (ACR) Conference in Atlanta Georgia, USA - Nov 2019	\$15,000.00
One Day conference at Wellington Oct 2019	\$300.00
Heart Rhythm Meeting	\$384.00
Return Economy flights to attend IBD Master class 2019 as an invited speaker. One night stay in Sofitel Melbourne on Collins.	Value Unknown
IMID Conference Registration Speaker Honorarium Spa GP Seminar – July 2019	\$1,150.00
CSSANZ Colorectal Journal Club sponsorship and dinner meeting up to 4 x per year (for 5 staff).	Value Unknown

Table 1: Data Sourced Finance Team

3. Is there any policy in place that prevents medical staff from accepting some gifts from pharmaceutical companies? If so, please send a copy of this policy.

In relation to disclosure of these gifts (from pharmaceutical companies):

4. When must medical staff disclose these gifts to the hospital or DHB? If there is a related policy, please send a copy.

In response to questions three and four, as per the CM Health Conflict of Interest Policy, “any Hospitality that is offered or accepted that has a value of over \$100 must be recorded in the CMDHB Gifts Register for the relevant service”.

CM Health, has a Donations, Gifts and Sponsorship policy that provides detailed guidance to staff on the appropriateness of specific interactions with third parties. The policy defines the DHB’s requirements when considering approving (or declining) offers of sponsorship, donations, gifts and corporate hospitality from external parties. The DHBs Conflict of Interest policy also provides guidance in this regard.

5. Are medical staff required to disclose these gifts to their patients? If there is a related policy, please send a copy.

Medical staff are not required to disclose gifts received from Pharmaceutical companies to patients.

I trust this information answers your request. You are entitled to seek a review of the response by the Ombudsman under section 28(3) of the Official Information Act. Information about how to make a complaint is available at www.ombudsman.parliament.nz or Freephone 0800 802 602.

Please note that this response or an edited version of this may be published on the Counties Manukau Health website. If you consider there are good reasons why this response should not be made publicly available, we will be happy to consider this.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Fepulea'i Margie Apa', written in a cursive style.

Fepulea'i Margie Apa
Chief Executive Officer
Counties Manukau Health

Appendix 1 - Conflict of Interest Policy

Appendix 2 - Donations, Gifts & Sponsorship Policy

Policy: Conflict of Interest

Purpose

The purpose of this policy is to provide guidance on the identification, disclosure and management of conflicts of interest within CMDHB. A secondary purpose of this policy is to protect the integrity of the DHB and its employees by helping to ensure that employees perform their duties in a fair and unbiased manner and that decisions are made unaffected by private interests or personal gain.

Scope

This policy is applicable to all CMDHB employees, (full-time, part-time and casual (temporary) including contractors, visiting health professionals and students working in any CMDHB facility.

The activities covered by this policy include commercial transactions and recruitment of employees as well as clinical research and related activities such as funding and research grants.

Policy Statements

Where an employee has an interest (or potential interest) in a transaction - financial, professional or personal - which may potentially conflict with their obligations to the DHB, they must immediately declare that interest to the appropriate Manager or Clinical Head.

Where an interest, including an actual or potential conflict of interest, is identified the relevant employee's Manager/Clinical Head must:

- decide whether any change to the employee's activities is required to mitigate any conflict; and
- determine what other steps are necessary to appropriately deal with the interest.

Such decisions will be made in conjunction with the appropriate General Manager and Legal Adviser where appropriate.

Where an employee has a conflict of interest and has knowingly withheld this information, and/or acted to their own advantage, the employee may be subject to disciplinary action including dismissal.

The meaning of "conflict of interest"

A conflict of interest exists when it is likely that an employee could be influenced or could be perceived to be influenced by a personal or private interest *in any transaction* whilst carrying out their responsibilities for the DHB.

Transaction means:

- the exercise or performance of a function, duty, or power of the DHB; or
- an arrangement, agreement, or contract to which the DHB is a party; or

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- (c) a proposal that the DHB enter into an arrangement, agreement, or contract; or
- (d) the development of a strategy or policy that will guide future decision making on service provision, purchasing, contracting or staff employment.

The functions the relevant individual performs, and delegated authorities that employee holds at the DHB, will need to be considered to determine how a conflict of interest may arise.

A personal or private interest is an interest that can bring benefit or disadvantage to an employee as an individual, or to others whom the employee may wish to benefit or disadvantage.

An Interest in a Transaction that can lead to a conflict of interest may exist where an employee:

- will derive financial, professional or personal benefit from the transaction
- has financial interest in another party to a transaction
- is a director, officer or trustee of another party to the transaction, or is a person who will or may derive a material financial benefit from the transaction
- is a shareholder of another party to the transaction
- has an interest in another party tendering for work which the DHB is contesting
- is the parent, child, spouse, sibling, partner or close friend of another party to the transaction, or a person who will or may derive a financial benefit from the transaction.

Identifying a conflict of interest

Whether an actual or perceived conflict of interest exists must be actively considered by:

- a) all employees on an on-going basis, and
- b) employees with decision making responsibilities whenever business or human resources decisions are made.

Although not all staff are responsible for making business decisions or managing other staff, they may have an ability to indirectly influence decisions that are made or may make other types of decisions which could be affected by a conflict of interest.

It can often be difficult to determine whether an actual or perceived conflict of interest exists.

If an employee answers yes to any of the following questions it indicates that conflict of interest may exist and further advice should be sought.

- Would a fair and reasonable person perceive that I was influenced by personal interest in performing my public duty?

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- Do I, a relative, friend or associate stand to gain/lose financially from the DHB's decision or action on this matter?
- Do I, a relative, friend or associate stand to gain/lose in any way from the DHB's decision/action?
- Am I in a position to influence decision making about a matter related to a potential personal or professional interest?
- Have I made any promises or commitments in relation to this matter?
- Have I received a benefit or hospitality from someone who stands to lose or gain from the DHB's decision/action?
- Am I a member of an association, club or professional organisation, or do I have particular ties or affiliations with organisations or individuals, who stand to lose or gain from the DHB's consideration of the matter?
- Could there be benefits for me in the future that could cast doubt on my objectivity?
- Might I be perceived as favouring a particular person or firm because of a personal friendship or long-standing association?
- Am I in a position to influence development of a particular strategy or policy that will guide future decisions from which I may benefit personally?
- Do I need to seek advice or discuss the matter with an objective party?
- Am I concerned about my ability to act impartially and in the public interest?
- Do I need to declare the matter to my manager or to the relevant decision making group?

Answering "No" to any of the following questions should be a signal to an employee to disclose their interest:

- If I do participate in assessment or decision-making, would I be happy for my colleagues and the public to be aware of any association or connection?
- When I am making a presentation or recommendation to the Board or to another decision making group, are they aware of my interests (including private practice commitments) which might be perceived as influencing the advice I am giving?

Actual, Perceived and Potential Conflicts of Interest

Conflicts of interest can be actual, perceived or potential.

An **actual** conflict of interest involves a direct conflict between an employee's current duties and responsibilities and existing private interests.

A **perceived** or **apparent** conflict of interest can exist where it could be perceived, or appears, that an employee's private interests could improperly influence the performance of their duties, whether or not this is the case.

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A **potential** conflict of interest arises where an employee has private interests that could conflict with other official duties in the future.

For advice, please contact the head of the decision making group to which you belong or your relevant manager or Clinical Head.

Competing Interests or Conflict of Duties

Conflicts of interest can also arise where an individual has official roles in more than one public organisation. In these situations, it may be difficult for a public official to keep the roles separate and this can lead to poor performance of one of the roles, at least, and unlawful or improper decision making at worst, or improper use of information to give advantage to the second organisation etc. These types of conflict are not always recognised because no private interest is involved or apparent. These situations are usually described as one of competing interests or a conflict of duty, and are best managed on the same basis as conflict of interest.

Employment of or promotion of relatives

There are situations under Section 32 (exception in Relation to Family Status) of the Human Rights Act 1993 which allow an employer to impose restrictions on the employment of any people who are married to, or living in a relationship in the nature of marriage with, or who are related to other employees.

Managers recruiting staff must ascertain whether the appointment of a person may create an actual, potential or perceived conflict of interest. Employees should inform their manager in the event that, subsequent to commencing employment, they enter into a relationship that causes an actual or potential conflict of interest or a perception thereof.

Managers should refer to the [Recruitment Policy](#) for further information.

Dealing with Conflicts of Interest

Disclosure of Conflict of Interest

After determining that a conflict of interest may exist in a particular situation, the individual employee must disclose any actual or potential interest they have (whether pecuniary or non-pecuniary).

The employee should disclose to their manager, or Clinical Head, and any relevant decision making group, or the responsible decision making person, his or her conflict of interest at the first available opportunity, for a decision as to what action should be taken to avoid or deal with the conflict. Disclosures are to be treated as confidential if appropriate. The employee must disclose not just the existence of a conflict or potential

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conflict, but sufficient details about the nature of the situation to allow appropriate decisions to be made about management of the conflict.

Documentation of Conflict of Interest

The existence of a conflict of interest by a member of staff must be documented in an Interests Register. This documentation should note:

- the name of the employee
- the nature of their interest in the transaction, and
- what role they had in the transaction e.g. no role, only involved in the discussion but not the decision, full involvement.

In circumstances where issues have been discussed and it has been decided that there is no conflict of interest then there is no need to declare this, unless this is the expressed wish of the employee involved.

It is best practice for the DHB to acknowledge that interests have been declared and recorded appropriately.

Interests and Gift Registers

Interest Registers will be maintained to record all interests (actual or potential). The required template for Interest Registers is attached at Appendix 3. The required template for Gift Registers is attached at Appendix 4. Registers are to incorporate as a minimum the following information:

- name of the person declaring the interest
- name of the person the interest was declared to
- date of declaration
- organisation or individual involved
- brief description of matter
- action taken/comments.

For Executive Leadership Team members the Interests and Gifts Register will be held by the Director of Strategic Development. For all other service areas, the relevant General Manager (or equivalent e.g. CMO, DON, DAH) will maintain an Interest and Gifts register for their service. Each General Manager is responsible for ensuring that:

- any staff within their area of responsibility who are required to complete an interests/gifts declaration do so.
- a copy of each completed form is maintained in a central folder.
- any interests that are declared are recorded, along with a description of what will be done to manage the interest (for example, arranging another staff member to take over responsibilities relevant to the interest, ensuring the staff member is not part of specific procurement processes)

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- a register is maintained of all gifts that are declared.
- advice is sought from the Legal Adviser and/or HR department as required in relation to specific issues that may arise in relation to conflicts.
- the above registers and documentation are available for inspection by internal audit, legal services etc as required.

Interest and Gift Declarations

The following staff will be required to complete an annual Declaration of Interests, Gifts and Hospitality Form as attached at Appendix 2, or confirm in writing to their manager or Clinical Head that they have no interests, gifts or hospitality to declare:

- Executive Leadership Team members
- General Managers
- Service Managers
- Programme Managers
- Clinical Directors
- Clinical Nurse Directors
- Any employees or contractors involved in the purchase of major goods or services or in a position to influence significant purchasing decisions.

In situations where an interest or potential conflict is identified in relation to an employee not listed above, it is expected that a Declaration of Interest, Gifts and Hospitality form will be provided to the individual for completion and that this will be included in the Conflicts and/or Gifts register along with other required documentation about the nature and extent of the interest and actions taken.

Assessing the seriousness of a conflict of interest

Assessing the seriousness of a conflict of interest is important for a number of reasons. It may be necessary for determining whether an interest exists (e.g. an interest may be so remote or insignificant that it could not reasonably be regarded as influencing the employee). The seriousness of the conflict can also be important in determining the appropriate manner in which to manage the interest (for example, whether the employees should be excluded from activities relating to the subject of the conflict or potential conflict).

The Office of the Auditor General has identified the following factors that should be weighed when assessing the seriousness of the conflict:

- The type or size of the employee's other interest
- The nature or significance of the particular decision or activity being carried out by the DHB

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- The extent to which the employee's other interest could specifically affect, or be affected by, the DHB decision or activity
- The nature or extent of the employee's current or intended involvement in the DHB's decision or activity.

Seriousness is a question of degree. It involves a spectrum of directness and significance. "Directness" is how closely the two interests concern each other, and "significance" is the magnitude of the potential effect of one interest on the other.

Options for Dealing with a Conflict of Interest

Generally, if a pecuniary interest is disclosed, the individual with the interest must not be involved in consideration or discussion of the matter in which he or she has the interest and must not vote on any question relating to the matter.

In rare situations this may not be possible or desirable. For example, if a conflict of interest is identified at or near the conclusion of a process. Appointing an independent person to be involved in decision-making would minimize the actual or perceived influence or involvement of the person with the actual or reasonably perceived conflict. Another example is an employee with an interest may also have particular and unique expertise in the matter under discussion. If that expertise is not readily available from another source it may be to the DHB's benefit to allow the employee to contribute their expertise despite their interest in the matter. Such situations should be handled with caution. There should be documentation of the reasons for allowing the employee's participation and the steps taken to ensure the decision on the matter is unbiased.

However, a broader range of options exists for dealing with conflicts of interest that do not have a pecuniary component. Choosing the right option to deal with the situation will depend on the circumstances and an objective assessment of it. Options can include:

- take no action because the conflict is assessed as being minor in nature or is eliminated by disclosure or effective supervision
- allow limited involvement (e.g. participate in discussion, but not in decision making)
- prohibit any involvement
- request the individual concerned relinquish or divest the personal interest which creates the conflict
- appoint an independent person to manage the process to provide assurances of fairness and equity in the matter.

Appeals Process

If an employee and their manager/Clinical Head disagree with respect to any Conflict of Interest issue, an appeal may be made for a review to the General Manager Human Resources, or the Chief Medical Officer Hospital Services, or through other options available to the employee.

Gifts and Hospitality

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Accepting gifts, hospitality or other benefits (such as sponsorship) can in some circumstances cast doubt on the integrity and impartiality of CMDHB and the decisions that the Board makes. Employees must ensure that they comply with the CMDHB *“Donations, Gifts and Sponsorship”* Policy and that appropriate disclosures are made about any hospitality that is offered or received. All offers of hospitality must be discussed with the relevant manager or Clinical Head to determine whether acceptance is appropriate. Any hospitality that is offered or accepted that has a value of over \$100 must be recorded in the CMDHB Gifts Register for the relevant service. The required Gift Register Template is attached at Appendix 4.

Employees should be particularly aware that acceptance of any gifts or hospitality during, or in close proximity to, any procurement or tendering process could undermine the probity requirements in relation to purchasing transactions, particularly if the provider of the gift or hospitality has any relationship, or potential relationship with a supplier of goods or services to the DHB.

Employees should be aware that these requirements apply to any gift or hospitality offered or received where they may relate to DHB business, even if offered to an individual in a capacity other than his/her capacity as an employee of the DHB.

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Definitions

Term/Abbreviation	Description
Conflict of interest	In the context of the public sector there is a conflict of interest where: <i>"A member's or official's duties or responsibilities to a public entity could be affected by some other interest or duty that the member or official may have".</i>
Relationship	A personal level of connection, association, interaction or interdependence with any other person who may or may not be a life partner, intimate other, blood relative or member of the same household
Relative	For the purposes of this policy, a relative means any other person who: a) is related by blood, marriage (whether legal or de facto), affinity, or adoption; or b) is wholly or mainly dependent upon the employee; or c) is a member of the employee's household. s.2(1)(c) Human Rights Act 1993

Associated Documents

Other documents relevant to this policy are listed below:

NZ Legislation	Crown Entities Act 2004 NZ Public Health and Disability Act 2000
NZ Standards	None
CMDHB Policies / Procedures	Code of Conduct Delegated Authority Additional / secondary Employment Discipline and Dismissal Donations, Gifts and Sponsorship Conflicts of Interest, Gifts and Hospitality – Board Members Workplace Relationship Policy
Other related documents	"Good Practice Guide: Managing conflicts of interest: Guidance for public entities" Office of the Controller and Auditor-General (2007) "Good Practice Guide: Procurement guidance for public entities" Office of the Controller and Auditor-General (2008)

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Appendix 1: Conflict of Interest Examples and Recommended Actions

Listed below, under various classifications, are situations where conflicts of interest may potentially occur and a recommended action to avoid or deal with the conflict.

Gifts/benefits or hospitality from Suppliers

Situation	Recommended Action
<p>Accepting gifts or benefits from suppliers, or other individuals, involved in the provision of goods and/or services could present a conflict of interest or obligation. Gifts and benefits can take many forms e.g. lucky door prizes, raffles, travel, meals. It also includes opportunities to attend educational conferences or meetings and attendance at or participation in sports events.</p> <p>(Note: Sponsorship/benefits for the use of a particular Unit or Service, rather than for an individual, may be solicited from suppliers with the prior approval of a General Manager or the Chief Executive. The Executive Director of the South Auckland Health Foundation should be advised of the intention to approach a supplier.)</p>	<p>Refer to your policy on gifts and gratuities. Best practice is to accept the gift on behalf of the unit for which you work. If the gift is expressly for you, report that you received the gift to your manager/clinical head to record the details appropriately.</p> <p>Note that there are limits placed on the value of gifts that can be received.</p> <p>Offers of sponsorship to attend clinical conferences should be discussed with the clinician's Clinical Director before acceptance. Offers accepted must be reported to the clinician's General Manager.</p>

Purchasing of Goods and Services or Letting of Contracts

Situation	Recommended Action
<p>Selection of Tenders: Preferring tenderer or prospective contractor with whom there is a private relationship (family relationship or close friendship).</p>	<p>Where there is a private interest with any tenderer or contractor, the employee must withdraw from the selection or appointment process.</p>

Presentations to the Board or other decision-makers

Situation	Recommended Action
<p>Making a written or oral presentation to the Board (or to another CMDHB decision making body) about equipment, facilities or services when the presenter has, or is contemplating, private sector involvement in a similar service.</p>	<p>At the start of the written or oral presentation the presenter is expected to explicitly declare their private practice involvement. The Board or other decision making body then has an opportunity to ask questions about this interest.</p>

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	When arrangements are being made for a staff member to make a presentation to the Board, the staff member will be reminded of the expectation to declare private practice commitments.
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Recruitment

Situation	Recommended Action
Sitting as a member on selection panels where applicants for the position are known to the member personally, as family, friend or close associate, to an extent that could be considered to be a conflict of interest.	Declare the interest and withdraw from any part of the recruitment process is the preferred option; however in some situations it may be necessary to include the person with the conflict on the panel (for example in cases where they have specific expertise that is required). In these cases it may be an option to involve an independent person in the recruitment process.
Being in a position to influence the selection, or non-selection, of an applicant for a position where the applicant is known personally and involvement could be perceived to be a conflict of interest.	Declare the interest. Other actions as noted above.

Staff administration

Situation	Recommended Action
Having a close personal and/or family relationship with another employee over whom control is exercised. See Definitions for definition of 'relationship' and 'relative'.	All employees are to be treated equally and fairly and any relationships that could be perceived to be of possible concern should be brought to the attention of the appropriate senior employee. If it appears that employees are being given preferential treatment, these concerns should be addressed through the disciplinary process.

Improper actions in relation to staff administration

Improper actions in the context of staff management include:

- promoting friends or relatives when other employees are more deserving

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- Preferentially rostering staff to the advantage of particular individuals due to personal association with those persons. This can have financial (penalty rates etc) advantage to the favoured individuals to the disadvantage of other employees.
- Regular allocation of overtime to particular individuals, to the disadvantage of other persons equally entitled and equally efficient.
- Assessment and/or inappropriate recommendation of particular individuals over others because of personal associations, for such things as:
 - training courses;
 - attending conferences;
 - job or advancement opportunities.
- Recommending incremental progression, or non-progression, of particular individuals due to personal interests, or attitudes, that are not aligned to the work situation.
- Giving preference for the taking of leave by individuals to the detriment of others due to personal association.
- Not applying the same rules equally to all employees because of personal association e.g. failure to address issues of late attendance, non-performance, etc.

Election to public office

Situation	Recommended Action
Employees may offer themselves for appointment or election to any public office, but they should be aware that the duties of the office may conflict with the due and proper discharge of their duties with Counties Manukau DHB.	Employees should notify the Chief Executive immediately they offer themselves for appointment or election to public office (or, preferably, before they offer themselves).

Client/Patient Relationship and Referrals to Private Practice

Situation	Recommended Action
Providing information or making recommendations to patients about service providers where one of the service providers is a close friend/relative, etc.	<p>Staff are not to give preferential treatment to personal associates at the expense of others.</p> <p>Clinicians have an ethical duty to provide patients with all the information necessary for them to make decisions about treatment options. When a patient requests information about private sector treatment, the clinician should ensure that they make known to the patient all the options that might reasonably be considered. Care is especially needed if the clinician is a potential private provider. It is advisable to recommend that the patient discuss the referral with their GP.</p>

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Situation	Recommended Action
	If a staff member is found to have received a financial return for recommending one service provider, or firm, disciplinary action taken may include dismissal.

Participation in Political Activities

Situation	Recommended Action
Employees serving in executive positions within any political party or politically sensitive organisation are open to allegations of bias in favour of that organisation to the detriment of Counties Manukau DHB.	Employees should advise the Chief Executive in writing, with a copy to the GM Human Resources, upon being appointed to executive positions within any political party or politically sensitive organisation.

Working in Clinical Teams

Situation	Recommended Action
Temporary reporting relationships between relatives/partners	Manager discretion (in consultation with their manager) to implement a different reporting line if deemed necessary in the particular circumstances.
Agree to and review processes to assess how the professional relationships between family members/partners are working.	Discuss with the employees involved about how this might best occur.

All staff, including Clinicians and Other Health Professionals

Health professionals encounter a variety of circumstances in their day-to-day work which could give rise to potential conflicts of interest.

Situation	Recommended Action
Establishing a relationship with a pharmaceutical company or medical equipment supplier where it could be perceived that preference was given to that particular company during a procurement / tendering process.	Declare any potential conflict of interest to the Chief Executive Officer (CEO) or authorised delegate[s] e.g. your Manager or Clinical Head.
Accepting travel and accommodation fees to present research findings.	Obtain approval from CEO or authorised delegate[s] for accepting travel and

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Situation	Recommended Action
<p>Accepting payment of fees and/or honorariums for sitting on committees.</p> <p>Participating on professional boards, committees, societies, etc. which could constitute a conflict of interest with position held in the DHB.</p> <p>Having directorships and share holdings in private companies, associations, etc which deal with the DHB.</p> <p>Evaluating new products/drugs where decisions may be influenced by personal associations/offers of samples or equipment, whether to the individual or the organisation.</p> <p>Evaluating new products/techniques/devices developed by employees also involved in clinical trials of same; or when a company licensed to use an employee's invention is sponsoring trial to be undertaken with the DHB.</p> <p>Appointment to a paid position as a medical or technical advisor to a supplier (e.g. a pharmaceutical company or medical supplies company) is likely to create a conflict of interest.</p> <p>Publicly endorsing a product or service and including the health professional's position at the DHB, is not to take place unless authorised by the employee's Manager or Clinical Director.</p>	<p>accommodation fees and releasing of possible confidential information.</p> <p>If a fee-for-service is received and the service is provided during working hours, then the income must be declared and provided to the organisation. (Also refer to Secondary/Additional Employment Policy)</p> <p>Obtain approval from CEO or authorised delegate[s] to participate in external boards etc where there is any or could be a perception of a conflict with the duties or functions performed in the DHB.</p> <p>Declare the interest to the CEO or authorised delegate[s] who would then decide whether a conflict of interest existed and possibly restrict the person's involvement in the DHB's processes or request resignation from external involvement.</p> <p>Declare any potential conflict of interest to the CEO or authorised delegate[s].</p> <p>This must be approved by the Clinical Review Board and the Research Review Committee, who will decide on how to manage the conflict and legal responsibilities.</p> <p>The offer of appointment should be discussed by the employee with his or her General Manager or Clinical Director before accepting.</p> <p>DHB employees must not allow their names and positions at the DHB to be used in product or service endorsements in material sent by suppliers to potential customers. Employees may, subject to the approval of their Manager or Clinical Director, agree to give advice about the adequacy of the product or service to another prospective</p>

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Situation	Recommended Action
	purchaser e.g. another DHB.

Other Activities that are likely to cause conflicts of interest

Situation	Recommended Action
Having a significant financial interest in an organisation that receives funding from the DHB or is a supplier to the DHB.	Such interests must be disclosed.
Receiving gifts, loans or other special privileges from an organisation that receives funding from the DHB or is a supplier to the DHB.	As a general rule such benefits should not be accepted. The offer of them should be disclosed. (See section on Gifts/Benefits or Hospitality above for limited exceptions and further guidance).
Payment or receipt, by individual employees, of rebates or bribes or other forms of compensation to induce funding or obtain favourable contract terms.	Such activities are prohibited. (Rebates for the DHB itself may be negotiated in some instances as part of formal contractual arrangements).
Use of the DHB's funds to reimburse employees or others in ways that would violate CMHB's policies.	Such activities are prohibited.
Holding unrecorded cash funds.	This is prohibited. All funds due to the DHB must be paid into a DHB bank account.
Holding outside employment or being a director of another healthcare provider.	Such activity must be disclosed to Counties Manukau DHB. Refer also to the Additional Employment Policy.

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Appendix 2- Declaration of Interests Form

Declaration of Interests, Gifts and Hospitality

This form must be completed by all DHB staff who:

- are involved, or may be involved, in the purchase of any goods and/or services or who are in a position to make or influence a significant purchasing decision.
- are required to complete the declaration in accordance with the CMDHB Conflict of Interest Policy
- who have, or may have, an interest or conflict relevant to DHB activities

PART A: DECLARATION OF INTERESTS

Please declare any interest you may have which may cause, or may be perceived as causing, a conflict with your duties and responsibilities as a CMDHB employee. This includes financial interests you may have in other agencies that the DHB does or may contract with or has relationships with; secondary employment with such other organisations; private clinical practice commitments you may have; and close family relationships with other individuals who may be in any of the above categories (e.g. parent, partner). Please ensure that you provide full details of the nature of the interest you are declaring. If you have no interest to declare please write "NIL".

DESCRIPTION OF INTEREST

PART B: DECLARATION OF GIFTS, GRATUITIES, HOSPITALITY AND SPONSORSHIP

Please include below details of any offers, gifts, gratuities, hospitality and/or "sponsorship" with value greater than \$100 that have been offered and/or received during the past 12 months from any company or organisation that CMDHB does or may contract with for the provision of goods or services.

COMPANY OR ORGANISATION	DESCRIPTION OF OFFER	ACCEPTED/DECLINED

PART C:
I confirm that at the date of signing, the above is true and complete.

I agree that I will declare any interests, conflict, offers, gifts, gratuities, hospitality, sponsorship and/or interest on an ongoing basis throughout the year in accordance with the CMDHB "Conflict of Interest" and "Gifts, Donations, and Sponsorship" policies.

Signature _____
 Print Name _____
 Date: _____

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Appendix 3 – Template Conflict of Interest Register

INTERESTS REGISTER for recording all interests declared for
service/department

Interest declared by:	Date declared	Full description of the nature of the interest.	Actions to be taken to appropriately manage any conflict or potential conflict.	Signature of GM, CMO, DON, DAH or equivalent

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Policy: Gifts, Donations and Sponsorship

Purpose

Donations and sponsorship may assist Counties Manukau District Health Board (CM Health) to enhance the services that it delivers for the CM Health community and achieve its Triple Aim of improving population health and reducing inequities, improving patient experience and providing value for money.

In relation to the *receipt* of gifts, donations or sponsorship, the purpose of this policy is to ensure that any offer made by an external organisation or individual to:

- (a) supply goods or services at no financial cost to CM Health;
- (b) provide funding voluntarily to CM Health without expectation of receiving goods or services in return; or
- (c) sponsor CM Health activities

is carefully reviewed, and that any risks to CM Health in accepting the donation are minimised.

This will be particularly important where there is a potential for the commercial entity to gain public exposure as a result of the donation, potential for the public to perceive that the entity may gain some advantage from CM Health by providing the donation or potential for public concern regarding the donation.

In relation to the *provision* of gifts, donations or sponsorship by CM Health to an external organisation or individual, the purpose of this policy is to ensure that funds are only provided in this manner in appropriate circumstances and the application of funds in this way is in line with CM Health's objectives, functions and values.

Scope

This policy is applicable to all CM Health employees, contractors and Board members in relation to their CM Health activities or any activities that could be considered directly or indirectly relating to their CM Health duties. The policy does not apply to:

- (a) small donations or koha (<\$500) given by patients or their families for the comfort of patients or staff in the ward or outpatient setting;
- (b) gifts offered by external parties or individuals to individual CM Health employees or groups of CM Health employees where these

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arrangements are adequately covered by the general CM Health Conflict of Interest Policy.

- (c) in kind contributions negotiated as part of a service agreement in the normal course of business and in accordance with DHB probity and procurement processes.

While the terms “gift”, “donation” and “sponsorship” are predominantly used in this document, this Policy also covers any prizes, koha, gratuities and hospitality which is provided free of charge and with no expectation that goods or services will be delivered in return. This Policy also applies to sponsorships to attend conferences and/or undertake educational activities where those activities are proposed to be paid for by third parties.

For avoidance of doubt, this Policy applies to all areas of CM Health. The general policy directions contained in this document are also applicable to the activities of the Middlemore Foundation. However, it is acknowledged that the Middlemore Foundation has its own processes for ensuring that sponsorship arrangements are sought, assessed, negotiated and managed in line with the general policy requirements specified in this document. As such, the specific processes that will be followed by the Middlemore Foundation when seeking, implementing and managing sponsorship arrangements may be different to those specified for CM Health Staff.

Policy

Receiving donations, gifts and sponsorship

From time to time, CM Health may be offered donations, gifts or sponsorship. These can come from a number of sources including corporate entities, suppliers, trusts, patients and estates, which may be private or public entities, for-profit or not-for-profit. Donations are valuable as they may enable CM Health to expand service provision, enhance patient comfort and further develop health care services to meet community health needs and aspirations.

Prior to accepting any donation, CM Health must be satisfied that:

- (a) there has been a transparent and open process leading up to the offer of the donation;
- (b) any risks associated with accepting the donation have been carefully considered and minimised;
- (c) no donor or sponsor (or individual employed by or associated with a donor or sponsor) shall benefit directly, or gain advantage over

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others, in respect of services provided by CM Health as a result of the donation, gift or sponsorship;

- (d) the donation, gift or sponsorship complies with any sector or industry codes and guidelines relevant to the proposed donation;
- (e) any conditions attached to the sponsorship or donation are acceptable and can be met by CM Health;
- (f) the donation, gift or sponsorship does not impact on CM Health's ability to deliver health services safely and in a manner that is acceptable to CM Health in all respects; and
- (g) appropriate and transparent processes are in place to manage the receipt and subsequent use of the donation.

Risks to be considered include:

- (a) probity risks (for example, risks that the donation may, or may be perceived to: affect CM Health's impartiality; place CM Health under an obligation to the donating party, or have a commercial influence over CM Health purchasing decisions);
- (b) reputational risks (for example, risks which may be seen to affect CM Health's integrity);
- (c) risks that the proposed donation does not align with CM Health's Triple Aim objectives of improving population health and reducing inequalities, improving patient experience and providing value for money;
- (d) risks that the donation will impact on CM Health's ability to achieve its objectives or perform its functions as set out in the New Zealand Public Health and Disability Act 2000 (the Act);
- (e) risks that accepting the donation would give rise to adverse publicity or public concern;
- (f) risks relating to any conditions imposed by the donating party on the donation.

In considering the above, CM Health shall have regard to:

- (a) the reasons for the gift being offered;
- (b) whether the gift displays an organisation logo or branding;
- (c) whether the party making/offering the gift, donation or sponsorship has or appears to have values, practices, products or branding which

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are in conflict with the stated vision, objectives or policies of CM Health¹;

- (d) any conditions attached to the donation;
- (e) specific wishes of the donor or sponsor;
- (f) how the donation may look to the public;
- (g) whether the donation might be construed as providing access for marketing by the donor (e.g. via branding) to the CM Health population;
- (h) any services provided by the donating party or CM Health contracts held by the party;
- (i) The benefits to CM Health;
- (j) The benefits to the external organisation; and
- (k) the value or importance of the gift or donation to CM Health.

Process:

The following process is to be followed by staff members who are considering receiving a donation, gift or sponsorship:

Step 1: The appropriate General Manager will document a risk analysis for acceptance of the proposed donation, gift or sponsorship with consideration given to the above factors. The General Manager may approve the acceptance of gifts >\$50 or hospitality >\$100 but less than \$500 .

Step 2: The ELT Director associated with the service area/Directorate will review the risk analysis and where ne/she considers that there are significant risks associated with it, and/or the proposal relates to a gift/donation/sponsorship of a value equal to \$500 or greater, the proposal is to be considered by the Executive Leadership Team, who shall recommend to the Chief Executive Officer the actions to be taken with respect to the proposal.

Step 3: If ELT is of the view that there are no significant risks associated with accepting, they shall promptly advise the relevant General Manager of this decision in writing.

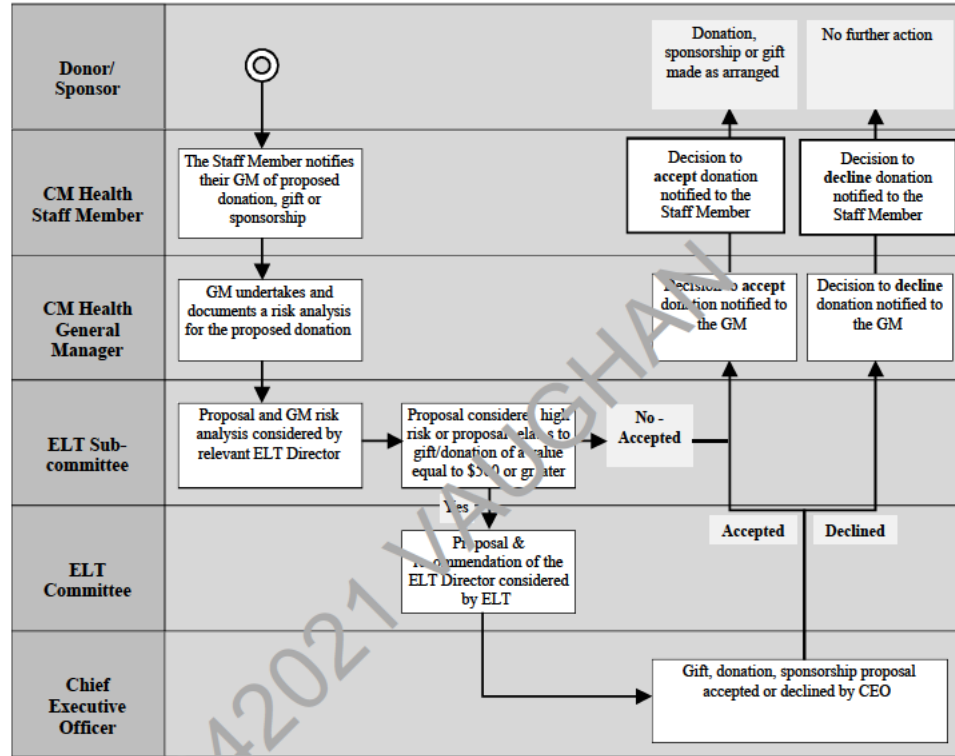
¹ This is likely to include (but is not limited to) situations where the proposed sponsor or associated party, product or service is strongly linked to:

- the production, sale or promotion of tobacco or alcohol
- the gambling industry
- the production, sale or promotion of food or beverages where the overall or specific approach is in conflict with nutrition messages promoted by CM Health
- health products whose use is not endorsed by CM Health (e.g. unresearched medicines or devices).

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Step 4: As a general rule, acceptance of the donation, sponsorship or gift is to be notified to the donor in writing. Any terms of acceptance should be specified in writing to ensure that there are no subsequent misunderstandings between the donor and CM Health.

Figure 1 below provides a summary of the gift, donation, sponsorship approval process described above.



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Accepting gifts, hospitality or other benefits (such as sponsorship) can in some circumstances cast doubt on the integrity and impartiality of CMDHB and the decisions that the Board makes. Employees must ensure that they comply with the CMDHB “Gifts Donations and Sponsorship” Policy and that appropriate disclosures are made about any hospitality that is offered or received. All offers of gifts or hospitality must be:

Discussed with the relevant manager or Clinical Head to determine whether acceptance is appropriate. Any gift that is offered or accepted that has a value of over \$50 must be recorded in the CM Health Gifts Register for the relevant Service. Any hospitality that is offered or accepted that has a value of over \$100 must be recorded in the CM Health Gifts Register for the relevant service. The required Gift Register Template is attached at Appendix 1. Any gift, donation or sponsorship over the value of \$500 requires consideration by the Executive Leadership Team (refer Gifts, Donation and Sponsorship Policy). Any gifts or offers of hospitality that are declined must also be recorded in the Gifts Register.

Employees should be particularly aware that acceptance of any gifts or hospitality during, or in close proximity to, any procurement or tendering process could undermine the probity requirements in relation to purchasing transactions, particularly if the provider of the gift or hospitality has any relationship, or potential relationship with a supplier of goods or services to the DHB.

Employees should be aware that these requirements apply to any gifts or hospitality offered or received where they may relate to DHB business, even if offered to an individual in a capacity other than his/her capacity as an employee of the DHB.

Soliciting Donations or Sponsorship:

CM Health may also wish to solicit donations and sponsorship from external parties in order to support organisation objectives that are not already funded under normal revenue streams or contracts.

No staff member may solicit for donations or sponsorship without the express approval of their GM, who may set limits on that approval. Consideration should be given before solicitation about whether the donation or sponsorship contributes to CM Health’s achievement of the Triple Aim and whether it could pose any risks to the DHB as described in this policy. These issues should be discussed with the GM when approval to solicit is sought.

Staff members who have received approval to solicit donations must ensure that all potential donors and sponsors are aware that final decisions regarding acceptance of any donation of a value equal to \$500 or greater can only be made by the CEO (in accordance with the requirements specified above), in consultation with the Executive Leadership Team.

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Managing donations:

If CM Health accepts a donation, gift or sponsorship, CM Health shall subsequently ensure that:

- (a) Donations and sponsorships received do not distract staff energies or divert CM Health operating funds from planned objectives and contractual responsibilities;
- (b) Any conditions attached to the donation or sponsorship (which CM Health has accepted) are recorded in writing and notified to the staff members who will be responsible for managing the donation;
- (c) Specific wishes of the donor or sponsor in relation to the donation, gift or sponsorship are met wherever possible, provided that the requests are reasonable;
- (d) Gifted assets, money and/or services are managed appropriately and in accordance with any agreed conditions;
- (e) Donated or gifted monies that are not directly or immediately spent on products or services are held in trust by CM Health in a specific account separate from CM Health's operating monies;
- (f) Expenditure of any sort from accounts holding donated or gifted money is approved by a CM Health staff member with the relevant level of delegated authority; and
- (g) Expenditure related from accounts holding donated or gifted funds is recorded and reported as part of standard CM Health financial reporting processes.

Providing donations, gifts and sponsorship

In exceptional circumstances, CM Health may choose to provide donations, gifts or sponsorship to external organisations or individuals. In these situations, CM Health must be satisfied that:

- (a) any donations are consistent with CM Health's objectives and functions as set out in the Act and relevant planning documents;
- (b) the size of any gift, donation or sponsorship is appropriate for the circumstances;
- (c) benefits to CM Health in making the donation are clear and can be justified;

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- (d) the donation does not impact CM Health's impartiality or integrity, or give rise to public perception that impartiality or integrity has been compromised;
- (e) in the case of koha, that the koha reflects the occasion and will not be confused with any other payments made to the entity;
- (f) in the case of gifts, that the nature and the value of the gift is appropriate for the particular occasion;
- (g) any donation is non-political; and
- (h) any donation is lawful in all respects;

Any donation, gift or sponsorship for an external organisation or individual must be pre-approved by the CEO who shall seek advice on the risks associated with providing the donation, if appropriate, from the CM Health Executive Leadership Team prior to offering any donation.

If the CEO approves the donation,

- (a) the monetary donation is recorded through normal CM Health financial expenditure systems;
- (b) any conditions attached to the donation are documented in writing and clearly articulated to the recipient; and
- (c) the name of donation recipient and purpose of the donation is documented.
- (d) A register of these approvals will be kept by the CEO Office.

Middlemore Foundation

CM Health has a special relationship with the Middlemore Foundation in the fundraising area. As such, and because the Middlemore Foundation has considerable expertise in negotiating and managing sponsorship arrangements, it is **strongly** recommended that they assist in the design, negotiation and management of any high value or complex sponsorship agreements.

CM Health acknowledges that the Middlemore Foundation has its own processes in place to consider the matters specified above. As part of this process, selected CM Health ELT members participate in assessments of sponsorship opportunities managed by the Middlemore Foundation and are able to request that a sponsorship arrangement be reviewed or considered by all ELT members in appropriate circumstances.

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It is also acknowledged that the Middlemore Foundation makes it clear to donors and/or potential donors, that donations can only be accepted by the CM Health CEO

Definitions

Terms and abbreviations used in this document are described below:

Term/Abbreviation	Description
Donation	A payment (either in money or by way of goods or services) made voluntarily and without expectation that goods or services will be provided in return but usually with an expectation that the donation will be put directly towards the purposes of the recipient.
Gift	Money, service, product or tangible item given generally in recognition of something provided by the recipient. Could also be in the form of free hospitality or privileged access to goods or services.
Koha	A gift, token or contribution given on appropriate occasions, often as a cultural courtesy. Could be considered a 'gift' or 'donation' depending on the circumstances and purpose of the koha.
Sponsorship	Money, service or product given to support an organisational activity with, or without, a requirement on the part of the sponsor to publically acknowledge the sponsorship. Could also be in the form of free hospitality or privileged access to goods or services.

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Supply of goods or services	Includes patient education resources/packs (as goods); for example contributions to newborn packs given to women birthing in CM Health facilities
Prize	<p>A gift, token or contribution given generally in recognition of something achieved by the recipient. Could also be in the form of free hospitality or privileged access to goods or services.</p> <p>A prize could be considered a 'gift', 'donation' or form of 'sponsorship' depending on the circumstances in which the prize is given.</p>

Associated Documents

Other documents relevant to this policy are listed below:

NZ Legislation	New Zealand Public Health and Disability Act 2000
CM Health Policies	Conflicts, of Interest Policy Delegated Authority Policy Corporate Relationships Policy Code of Conduct Policy Discipline & Dismissal Policy Fraud Monitoring & Management Policy
NZ Standards	None
Organisational Procedures	
Other related documents	<p>Office of the Auditor General <i>Controlling Sensitive Expenditure: Guidance for Public Entities</i> (2007).</p> <p>Office of the Auditor General <i>Public Sector Purchases, Grants and Gifts: Managing Funding arrangements with external parties</i> (2008).</p>

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