

# Conflicts of interest: case studies from health and care regulators

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To further illustrate to healthcare professionals and the public what the joint statement means in practice and to show where it might be relevant, the regulators have published case studies that set out different scenarios that may occur in practice, so that healthcare professionals can consider what they would do if faced with that situation.

Although each of the cases studies focusses on a specific circumstance or conflict, they could also apply to other healthcare professionals facing similar situations. The suggestions offered are examples, and are not an exhaustive list of all the possible solutions or courses of action.

## General Medical Council

### Conflicts of interest case study: Dr Li and Banners Drug Ltd.

**Note:** While this scenario focusses on a doctor, it could also apply to a range of healthcare professionals who may have a relationship with the pharmaceutical industry. The suggestions offered are examples, and are not an exhaustive list of all the possible solutions or courses of action.

#### **The Scenario: Dr Li's invite to an advisory board meeting**

Dr Li is a consultant nephrologist. He's been invited to participate in an advisory board meeting by a large pharmaceutical company, Banners Drug Ltd. He's been told they're looking for expert advice on how the company could support patients and carers to learn how to take a new medicine which affects the kidneys. The invite said that Dr Li would be paid for his participation.

#### **What did Dr Li consider?**

Dr Li knew he must always put the interests of his patients before his own. He didn't plan to alter his choice of treatment for his patients as a result of advising the company. However he wondered whether attending the meeting would somehow be seen as influencing his professional judgement. He didn't think his attendance would be a conflict of interest, but realised that his patients and colleagues may perceive it as one.

#### **What did Dr Li do?**

Dr Li attended the advisory board meeting as he was keen to support patients to learn how to take the new medicine correctly. Before attending, he shared his concerns with his employer, and declared details of the arrangement in line with their policy on conflicts of interest. He also, following advice in the NHS guidelines on Handling Conflicts of Interest, declared his involvement with Banners Drug Ltd. on the ABPI's Disclosure UK database.

### **Other useful resources for you**

Joint statement from the Chief Executives of statutory regulators of healthcare professionals

GMC, *Financial and commercial arrangements and conflicts of interest*, 2013

NHS England, *Managing Conflicts of Interest in the NHS Guidance for staff and organisations*, 2017

**Disclosure UK** – a database that shows payments and benefits in kind made to doctors, nurses, pharmacists and other healthcare professionals for collaborations with pharmaceutical companies

## **General Osteopathic Council**

### **Conflicts of interest case study: Making referrals to a colleague**

**Note:** While this scenario has focused on an osteopath, it could also apply to a range of healthcare professionals who work in similar circumstances..

#### **The scenario**

Lucy Dickens is an osteopath who runs a clinic where she also rents out treatment rooms on a sessional basis to other healthcare practitioners. One of these is an acupuncturist, who pays Lucy a 25% share of any patient fees she receives when working at the practice.

#### **What did Lucy consider?**

Lucy frequently refers her patients to the acupuncturist who works in her clinic. She wonders whether a reasonable person might consider that her judgement in making such a referral might be influenced by the fact that she has a commercial interest in the acupuncturist seeing as many patients as possible, posing a potential conflict of interest.

#### **What did Lucy do?**

When discussing with a patient that she thinks they may benefit from acupuncture, Lucy makes it clear that although she has a colleague within her practice who can offer this, the patient should not feel under any pressure to see this person. The patient is able to decide whether to consult this, or another acupuncturist, or not to have acupuncture at all, and any decision they make will not affect the quality of any ongoing osteopathic care.

### **Other useful resources for you**

Joint statement from the Chief Executives of statutory regulators of healthcare professionals.

#### **The Osteopathic Practice Standards**

**The 7 principles of public life** (*'Nolan principles' May 1995*) – apply to anyone who works in health, education, social and care services and give guidance on transparency and declaring any interests.

## General Osteopathic Council

### Conflicts of interest case study: Payment of fees

**Note:** While this scenario has focused on an osteopath, it could also apply to a range of healthcare professionals who work in similar circumstances. The suggestions offered are examples, and are not an exhaustive list of all the possible solutions or courses of action.

#### **The scenario**

David Joiner is a newly registered osteopath who joins a busy practice to work as a self-employed associate. The principal of the practice offers a promotion to patients whereby if they pay for ten treatments in advance, they receive one treatment free. He asks that David actively promote this scheme to patients.

#### **What did David consider?**

David considers whether such a scheme might present a conflict between the commercial needs of the business, and the therapeutic needs of patients who might not actually need the full ten sessions.

#### **What did David do?**

David explains his concerns to the practice principal, and asks what happens in circumstances where patients do not need ten sessions, and request a refund of monies paid up front. In talking this through, they realise that there is a potential conflict of interest in this scenario, and it is agreed that where ten sessions are not required, this will be explained to the patient, and a refund given. For the future, the practice changes its promotion to offer a discount on the initial treatment fee to new patients recommended by existing patients, and on any tenth session only when this is required. They stop suggesting that patients pay for sessions in advance.

#### **Other useful resources for you**

Joint statement from the Chief Executives of statutory regulators of healthcare professionals.

#### **The Osteopathic Practice Standards**

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## Health and Care Products Council

### Conflicts of interest case study: NHS healthcare professional asked to give private treatment

**Note:** While this scenario focusses on a physiotherapist, it could also apply to a range of healthcare professionals employed by the NHS. The suggestions offered are examples, and are not an exhaustive list of all the possible solutions or courses of action.

#### **The scenario**

Simon is a physiotherapist employed by the NHS. He treated Rosie in an NHS neuro-rehabilitation unit for six weeks following a stroke. Rosie improved significantly during her time at the unit and her family were keen for Simon to continue treating her in a private capacity once she was discharged.

#### **What did Simon consider?**

Simon considered whether or not there was a conflict of interest in him providing private care to a patient he had previously treated through his employment with the NHS. He thought about how he might ensure any fees he charged were appropriate and that the patient and their family wasn't coerced in to paying high fees because they wanted continuity of care.

Simon also reflected on how he might approach providing private care in a way which retained professional boundaries.

#### **What did Simon do?**

Simon was mindful of his professional obligations to his current employer, the wider NHS, and the people in his care, and so discussed his plans to undertake private treatment with his line manager, who raised no concerns.

Simon discussed the realistic prognosis for Rosie with her and her family to ensure they were aware of the likely outcomes of ongoing private physiotherapy treatment. He also discussed the fee he intended to charge, providing them with a breakdown so they understood fully the payments they would be making.

Simon also hired a room at a private physiotherapy practice for Rosie's physiotherapy sessions, to ensure that she felt comfortable with treatment and that professional boundaries were maintained. He also outlined the key NHS policies he would adhere to when undertaking private sessions.

#### **Other useful resources for you**

Joint statement from the Chief Executives of statutory regulators of healthcare professionals  
HCPC, *Standards of conduct, performance and ethics*

## General Chiropractic Council, General Dental Council

### Conflicts of interest case study: Competing interests and incentives

**Note:** While this scenario focusses on a chiropractor, it could also apply to a range of healthcare professionals who may have a direct or indirect financial interest in another business. The suggestions offered are examples, and are not an exhaustive list of all the possible solutions or courses of action.

#### The scenario

Dr Brown is a chiropractor, who rents rooms for his clinic above a dental surgery. He and the dentists share a receptionist, who answers the phones and manages diaries. The dental surgery only takes private patients.

The dentists are very supportive of chiropractic and in fact have a special interest in headaches and recognise that Dr Brown sees patients with these sorts of problems.

One of the receptionists approaches Dr Brown with a proposition from two of the dentists. They say that if he were to refer his patients to them for procedures aimed at achieving the 'perfect smile' through a combination of tooth straightening and tooth whitening, then they would pay him a commission of 15% of their patient fee, for every referral he makes.

#### What did Dr Brown consider?

Dr Brown considered whether it might be best to discuss this proposition with the dentists themselves as opposed to the receptionist.

Dr Brown considered whether a reasonable person would think that his judgement was influenced by putting his financial interest over those of his patient's. Dr Brown thought about whether his professional judgement could be compromised, and how he would be able to defend his actions if they were ever questioned.

#### What did Dr Brown do?

Dr Brown realised that directing patients to dentists without being honest about this type of relationship or understanding when a referral might be appropriate, would likely be, or be perceived to be, a conflict of interest. This could damage his patients' trust in him.

Dr Brown also knew that any referral should only ever be made if clinically appropriate and in the best interests of the patient. He decided to meet with the dentists to discuss what each other did and therefore become better informed as to when appropriate referrals (in the best interests of patients) might be made, in both directions.

#### Other useful resources for you

Joint statement from the Chief Executives of statutory regulators of healthcare professionals  
GCC, *The Code*, 2016

GDC, *The standards for the dental team*, 2013

*The 7 principles of public life* ('Nolan principles' May 1995) – apply to anyone who works in health, education, social and care services and give guidance on transparency and declaring any interests.