

Trust Policy

Standards of Business Conduct Policy

Key Points

- This policy describes the business conduct behaviour required of all staff who potentially may benefit as the recipient of gifts, hospitality or sponsorship arrangements. The policy also describes staff obligations in respect of declaration of business interests.

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Related Documents

Document Type	Document Name
Policy	Disciplinary Policy
Policy	Anti-Fraud Policy
Policy	Gifting and Hospitality
Policy	Raising Concerns at Work
Procedure	Administration of Charitable Funds
Corporate Governance Document	Frimley Health NHS Foundation Trust Constitution
Corporate Governance Document	Trust's Standing Orders.
Corporate Governance Document	Standing Financial instructions

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1. INTRODUCTION

- 1.1 This policy has been formulated by Frimley Health NHS Foundation Trust (FHFT or the Trust) in order to implement the NHS Guidelines on Standards of Business Conduct for NHS Staff and details local procedures.
- 1.2 The policy covers the standards of conduct expected of all Trust employees, particularly where their private interests may conflict with their public duties.
- 1.3 The Trust is committed to the provision of a service that is fair, accessible and meets the needs of all individuals.

2. SCOPE OF THE POLICY

- 2.1 This policy applies to all employees of Frimley Health NHS Foundation Trust (Including Bank, Agency and temporary staff).

3. DEFINITIONS

Business Conduct: Standards of behaviour expected when involved in business activity.

Interest: is considered to be a right, claim, legal share, or participation in another organisation or involvement with another person.

Fraud: In UK legislation, Fraud is defined as 'any person who dishonestly makes a false representation to make gain for him/her or dishonestly fails to disclose information which he/she is under a legal duty to disclose, or commits fraud by abuse of position, including any offence as defined in the Fraud Act 2006'.

Bribery: is an inducement or reward offered, promised or provided to gain a personal, commercial, regulatory or contractual advantage.

Gift: is the giving or receiving of presents or goods from patients / service users / carers / relatives / contractors / suppliers with a value in excess of £35. All monetary gifts irrespective of size fall within this definition.

Hospitality: is defined as the provision of meals / accommodation / entry to entertainment events by an external agency or supplier, at no cost or subsidised rates.

Local Counter Fraud Specialist (LCFS): The Trust is required to nominate an officer to fulfil the role of LCFS. The Director of Finance has overall responsibility for monitoring the counter fraud arrangements. The responsibility for individual investigations rests with the LCFS, whose role includes:

- investigation of internal fraud at the Authority;

- liaison with investigating LCFS staff at client trusts;
- assisting the Regional and Specialist Teams on wider cases;
- developing an anti-fraud culture throughout the Authority;
- identifying potential fraud;
- providing fraud awareness training to staff groups.

4. PURPOSE OF THE POLICY

- 4.1 This document outlines the policy and describes procedures for the Standards of Business Conduct and conflict of interest within Frimley Health NHS Foundation Trust including gifts and hospitality.
- 4.2 The purpose of this policy is to provide employees with an awareness of their own personal responsibilities in their conduct at work as a public service employee in the NHS. It is also to make them aware that any breach of the provisions legislated in the Bribery Act 2010 is a criminal offence.
- 4.2 The policy offers guidelines intended to assist employees in being aware they need to demonstrate high ethical standards. Specifically, it deals with gifts and hospitality and conflicts of interest to reduce the opportunity of placing themselves in a position which risks conflict between their private interests and their NHS duties.

5. THE POLICY

- 5.1 To maintain public confidence, as a public sector body, the Trust must be impartial and honest in the conduct of its business and its staff must remain beyond suspicion.
- 5.2 High standards of corporate and personal conduct, based on the recognition that patients come first, have been a requirement throughout the NHS since its inception. The three fundamental public service values are:

Accountability: Everything done by those who work in the Trust must be able to stand the tests of parliamentary scrutiny, public judgements on property and professional codes of conduct.

Probity: Absolute honesty and integrity should be exercised in dealing with NHS patients, assets, employees, suppliers and customers.

Openness: The Trust's actions should be sufficiently public and transparent to promote confidence between the Trust and its patients, our employees and the public.

- 5.3 These standards are national benchmarks that inform our local policies and procedures. The arrangements made in this policy have been designed to ensure compliance with the national standards.

6. DUTIES AND RESPONSIBILITIES

Board Members (Directors and Non-Executive Directors): The Directors of the Trust are responsible for ensuring that there are systems in place to ensure this, and all related policies, are implemented across the Trust.

All Board members are required to comply with the requirements of the Code of Conduct and accountability for NHS Boards.

Consultants: Consultants are required to comply with all aspects of the policy and to be aware that they have a responsibility to comply with other professional guidelines including those of the General Medical Council and, in particular, the code of practice for private patients.

All dealings with Pharmaceutical and other companies must be undertaken in an impartial manner to ensure that they do not abuse their official position for personal gain or to benefit their family or friends.

Managers and Staff: Managers of the Trust 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 within their areas of responsibility.

7. PRINCIPLES OF CONDUCT IN THE NHS

7.1 Trust staff are expected to:

- ensure that the interests of patients remain 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

7.2 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
- seek to advantage or further private business or other interests, in the course of their official duties

8. THE BRIBERY ACT and the possible consequences of not following the guidelines

8.1 It is an offence under the Bribery Act 2010 for staff 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.

- 8.2 Staff who breach the provisions of these acts render themselves liable to prosecution (leading to a possible unlimited fine and up to 7 years in jail term) and will also be subject to disciplinary procedures, which may lead to their dismissal, or being struck off by their professional council.
- 8.3 Under the Bribery Act, 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. No actual transactions need to take place; the mere offer can constitute an offence.
- 8.4 The Bribery Act 2010, which repealed existing corruption legislation, introduced the offences of offering and or receiving a bribe. It also places specific responsibility on organisations to have in place sufficient and adequate procedures to prevent bribery and corruption taking place. Under the Act, Bribery is defined as "Inducement for an action which is illegal unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other privileges".

The offences covered under the Bribery legislation are:

- to give a bribe;
- to receive a bribe;
- negligently fail to prevent a bribe; and
- bribe a foreign public official.

Corruption is broadly defined as the offering or the acceptance of inducements, gifts or favours, payments or benefit in kind which may influence the improper action of any person; corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another. To demonstrate the organisation has sufficient and adequate procedures in place and to demonstrate openness and transparency, all staff are required to comply with the requirements of Standards of Conduct and Disciplinary Policy.

Common forms of bribery are not always money and can include the following, but the list is not exhaustive;

- facilitation payments;
- gifts and hospitality (e.g., days away from work on lavish trips);
- political donations;
- charitable donations;
- enhanced commission;
- education and training projects; and
- employment of friends and family;

Should members of staff wish to report any concerns or allegations they should contact the Local Counter Fraud Specialist (LCFS).

9. CASUAL GIFTS / HOSPITALITY FROM SUPPLIERS / CONTRACTORS

- 9.1 Casual gifts offered by contractors, Pharmaceutical Companies or “others”, e.g., at Christmas time, should be politely but firmly declined. Articles of low intrinsic value such as diaries, calendars and pens; or small tokens of gratitude from patients or their relatives need not necessarily be declined. In cases of doubt, staff should either consult their line manager for authorisation or politely decline acceptance. Under no circumstances should monetary gifts of cash be accepted.
- 9.2 Modest hospitality, provided it is normal and reasonable (not exceeding the threshold currently set at £35.00 per occasion), may be accepted, e.g., lunches in the course of working visits are acceptable; it should, however, be similar to the scale of hospitality which the NHS as an employer would be likely to offer. Where a gift above £35 is offered, permission must be sought from a Director regarding whether it may be kept.
- 9.3 Acceptance of monetary gifts on a personal basis is not allowed.
- 9.4 The HR Department maintains a record of gifts/hospitality received by staff (the Trust Secretary maintains one for the Directors) and of declarations of interest. Any gift or hospitality with a value exceeding the threshold £35.00 or two gifts to £35 each from the same supplier within a 12 month period must be declared by the employee promptly (within 2 weeks of receipt) in writing for inclusion in the register. Gifts below the threshold do not need to be declared.
- 9.5 Under no circumstances should any gift or hospitality be accepted where it would be in breach of an individual’s professional code of conduct.

10. GIFTS FROM PATIENTS

- 10.1 Patients and members of the public wishing to express their appreciation or to assist the work of the Trust with monetary gifts may approach clinicians, nurses, administrators or other staff who in all cases must comply with the following principles and procedures:
- 10.2 Acceptance of monetary gifts on a personal basis is not allowed .Small gifts, for example a box of chocolates, may be accepted provided that the guidelines set out above are followed
- 10.3 Members of the public, patients and relatives, may on occasions, seek the advice of the staff regarding charitable donations and they should refer to the Administration of Charitable Funds Procedure.

11. DECLARATION OF INTERESTS

- 11.1 It is the responsibility of the employee to inform the Trust if they, or a close relative or associate, has a controlling interest and/or significant financial interest in a business (including a private sector company, public sector organisation, or other NHS employer and / or voluntary organisation), or in

any other activity or pursuit which may compete for an NHS contract to supply either goods or services to the hospital (e.g., private nursing homes).

- 11.2 In such circumstances the Trust must ensure that its interest and the interest of patients are adequately safeguarded.
- 11.3 A declaration of interest must occur either when the employee commences employment or upon acquisition of the interest.
- 11.4 All Consultants and Agenda for Change staff at or above band 8 will be required to make an annual declaration using the form detailed in Appendix 2. A form will be sent to them each year.
- 11.5 All declarations will be entered into a central register held by HR.
- 11.6 If a doctor refers a patient to a private nursing home or other establishment / service in which they have a business interest, the patient must be made aware of the interest prior to referral.
- 11.7 All staff who have received a gift above £35, and / or who have an interest as defined in this policy should make a declaration by completing the form detailed in appendix 2 and returning it to the PA of the Director of HR and Corporate Services by 31st March each year.

12. REGISTER OF INTERESTS

The Trust will maintain the following registers of interest:

Board Members

- 12.1 All Board members must comply with the Standards of Business Conduct as detailed in the Trust Constitution.
- 12.2 The Company Secretary will maintain a register of Trust Board members' interests. The register will include details of all directorships and other relevant and material interests which have been declared by both executive and non-executive Board members including any other activity or pursuit which may compete for an NHS contract to supply goods or services to the Trust, all outside employment, any link with suppliers and competitors. The register will be available for public inspection on request.

All Staff

- 12.3 The Director of Human Resources will hold a register of interests and declarations for all staff who are not Board Members. The register will hold details of:
 - staff who have an interest in any other activity or pursuit which may compete for an NHS contract to supply goods or services to the Trust, and
 - staff who risk a conflict of interest by engaging in outside employment

- declarations of hospitality and sponsorship, e.g., suppliers
- any other matters declared by staff in accordance with this policy

12.4 All staff joining the Trust will be informed of this policy on joining. Existing employees will be reminded of the policy through publicity in Inform. The policy will appear on the Trust intranet.

12.5 Staff who believe that they may have developed a conflict of interest whilst in the course of their employment should advise their manager, who should raise this with a Director. The manager will agree an appropriate course of action with the employee. In any event, employees will be notified in writing if any activity is considered to generate a conflict of interest, and information will also be given on the course of action to be taken by the employee. A member of staff who is dissatisfied with the outcome of this may appeal against the decision using the Trust's grievance procedure.

13. PREFERENTIAL TREATMENT IN PRIVATE TRANSACTIONS

13.1 Employees must not seek or accept preferential rates or benefits in kind for private transactions carried out with companies with which they have had, or may have, official dealings on behalf of the Trust (this does not apply to concessionary agreements negotiated with companies by NHS management, or by recognised staff interests, on behalf of all staff, e.g., NHS staff benefits schemes).

14. CONTRACTS FOR SERVICES

14.1 All staff who are in contact with suppliers and purchasers (including external consultants) and, in particular, those who are authorised to sign Purchase Orders, or place contracts for goods, materials or services, are expected to adhere to the professional standards of the kind set out in the Ethical Code of the Institute of Purchasing and Supply (IPS).

14.2 All contracts must be awarded via the Trust's Standing Orders and Standing Financial instructions.

15. FAVOURITISM IN AWARDING CONTRACTS

15.1 Fair and open competition between prospective contractors or suppliers for Trust contracts is a requirement for Trust Standing Orders and of EC Directives on Public Purchasing for Works and Supplies.

15.2 A private, public or voluntary organisation or company bidding for NHS business should not be given any advantage over its competitors, such as advance notice of NHS requirements. This applies to all potential contractors even if they have held a long-running series of previous contracts. Each new contract should be awarded solely on merit, taking into account the requirements of the Trust and the ability of the contractors to fulfil them.

15.3 There must be no favouritism shown to any current or previous employees, close relatives or associates in awarding contracts to businesses run by them

or employing them. Contracts can be awarded to such a business if won in fair competition against other tenders and if the interested party plays no part in the selection process. Tendering and contracting should follow the Trust's Standing Financial Instructions.

16. SECONDARY EMPLOYMENT/WORKING FOR ANOTHER HEALTHCARE PROVIDER

- 16.1 Employees who carry out any other paid (or unpaid) work outside the Trust must discuss this with their manager where this is likely to cause some conflict with their work with the Trust. The total weekly average hours of work should not normally exceed the limit under the Trust's Working Time Policy. Where the manager assesses there to be a conflict of interests or where the Trust's confidentiality requirements are jeopardised, the employee will be required to give up the other employment; their employment with the Trust may be terminated should they refuse to do so. Failing to disclose additional working arrangements outside of the Trust could result in disciplinary action being taken, and possible dismissal.
- 16.2 Consultants are required to seek the permission of the Chief Executive if they wish to carry out any work for another supplier in order to avoid a conflict of interest.

17. PRIVATE PRACTICE

- 17.1 Consultants are allowed to carry out private work in accordance with their contract and as described in the code of practice published by the Department of Health (DoH) in January 2004 titled "A code of conduct for private practice for NHS consultants". Consultants should declare any private practice which may give rise to an actual or perceived conflict of interest prior to the work being carried out and also on an annual basis in accordance with Schedules 9 and 12 of the Consultant Contract.
- 17.2 Other Medical and Dental employees and other clinical staff may undertake private work for outside agencies, providing they do not do so within the time they are contracted to the NHS, and they observe the conditions in paragraph 17.1 and the duty of fidelity of employer is always maintained. All hospital doctors are entitled to fees for other work outside their NHS contractual duties defined in their contract. All such work should be declared to the Trust prior to it being performed and permission sought in order to avoid possible conflicts of interest.
- 17.3 Doctors and Dentists in training should not undertake locum work outside their contracts where such work would be in breach of their contracted hours (see also European Working Time Directive EWTD policy and opting out).

18. CONFLICT OF INTEREST

- 18.1 Staff must not be in any way directly or indirectly engaged in any other business or undertaking where this is likely to be in conflict with the interest of the Trust or where this may adversely affect the efficient discharge of their

duties (see also 14.2). Such conflicts of interest could arise for example in a bidding process or where additional work could involve work/time pressures which could conflict with patient safety

- 18.2 They must state in writing if they think they may be risking a conflict of interest in this area; the Chief Executive, Medical Director and the Director of Human Resources will be responsible for judging whether the interests of patients could be harmed, in line with the principles above.

19. COMMERCIAL SPONSORSHIP FOR ATTENDANCE AT COURSES AND CONFERENCES

- 19.1 Acceptance by staff of commercial sponsorship for attendance at relevant conferences and courses is acceptable (this can include travel, subsistence costs) but only where the employees seeks permission in advance from the Head of Service, General Manager or Clinical Director and the Trust is satisfied that acceptance will not compromise purchasing decisions in any way. Such acceptance must be reported to the PA of the Director of HR and Corporate Services for inclusion in the register

20. COMMERCIAL SPONSORSHIP WHEN ADVISING ON PURCHASES / SERVICES

- 20.1 On occasions when the Trust considers 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) or when it is necessary to inspect a service, staff should seek prior permission from either the Head of Service, General Manager or Clinical Director. Staff should be aware that excessive hospitality is unacceptable.

21. COMMERCIAL SPONSORSHIP OF POSTS “LINKED DEALS”

- 21.1 Where other organisations wholly or partially sponsor a hospital post, it should be made abundantly clear to the organisation concerned, that the sponsorship deal will have no effect on purchasing decisions within the Trust. Where such sponsorship is accepted, monitoring arrangements will be established to ensure that purchasing decisions are not being influenced by the sponsorship agreement. Prior approval from a Board Director is required. Such acceptance must be reported to the PA of the Director of HR and Corporate Services for inclusion in the register.
- 21.2 In all such cases the pay rate for the post will be determined by the Trust's normal criteria, i.e., by the Agenda for Change Job Matching / Evaluation process or by reference to the Medical and Dental terms and conditions of employment, not by the funding offered. Additionally, where the funding is time limited, the post should be established and offered on a fixed term basis.

22. RESEARCH CONDUCT

22.1 Research activity within the Trust will provide benefits to patients, staff and the organisation if it is planned and conducted in compliance with all relevant legislation, ethical codes, codes of practice and NHS guidance. The Department of Health published the Research Governance Framework for Health and Social Care in June 2001. The purpose of the framework is to:

- safeguard the public
- ensure ethical and scientific quality of research, and
- promote good practice

22.2 The framework sets out the standards and monitoring arrangements for all research undertaken in the NHS. It defines the responsibilities of researchers, principal investigators, funding bodies and organisations which host research or employ researchers. It sets out required standards for research and includes standards from existing legislation and regulations, Department of Health, recognised international and national authorities, and professional organisations.

22.3 Researchers are required to meet their responsibilities as defined in the framework. It can be accessed in the Library, the R&D Office, and on the Department of Health site

(<https://www.gov.uk/government/publications/research-governance-framework-for-health-and-social-care-second-edition>).

These responsibilities include, but are not limited to:

- developing proposals that are ethical and seeking research ethics committee approval
- conducting research to the agreed protocol and in accordance with all appropriate legal and professional requirements and guidance, e.g., on consent, financial transactions and data protection
- ensuring participant welfare while in the study, and
- feeding back results of research to participants.

22.4 Researchers are required to discuss their proposal with the Trust's Research and Development Manager.

23. OWNERSHIP OF INTELLECTUAL PROPERTY (IP)

23.1 From time to time during the normal course of employment an employee may generate IP which may have value in the delivery of better patient care. This IP can be in the form of inventions, discoveries, surgical techniques or methods, developments, processes, schemes, formulae, specifications, or any other improvements which may give rise to certain rights such as patents, trademarks, service marks, design rights, copyright, know-how, trade or business names and other similar rights (all of the foregoing rights being referred to as 'Intellectual Property Rights').

23.2 Where such IP is created in the course of the individual's employment or normal duties then under UK law it will generally belong to the Trust, unless

agreed otherwise in writing between the individual and the Trust. In relation to inventions potentially subject to patent protection this applies only if the duties of their employment would normally have been expected to give rise to inventions or if the nature of their responsibilities and duties are such that they are under a special responsibility to further the interests of the Trust. It is a condition of employment that employees do not exploit any IP rights without the specific approval of the Research and Development Committee.

- 23.3 Consultant medical staff (and others who have been given this specific authority in writing) shall be free, without prior consent of the Trust to publish books, articles, etc., and to deliver any lecture or speak, whether on matters arising out of his/her NHS service or not. It would be normal practice for the results of the work to be shared with the Trust prior to publication, and any conflict of interest declared. Other staff would need to obtain the prior permission of their manager.

24. “COMMERCIAL IN CONFIDENCE”

- 24.1 Staff must not misuse or make available official “commercial in-confidence” information, particularly if its disclosure would prejudice the principles of a purchasing system based on fair competition. This principle applies whether private competition or other NHS providers are concerned and whether or not disclosure is prompted by the expectation of personal gain.
- 24.2 This also applies to any Staff representatives who obtain such information as part of the consultation process in such matters.

25. STAFF APPOINTMENTS

- 25.1 Member of the Board and managers must not canvass selection panels for the appointment of particular candidates who are known personally or related to them either directly or indirectly, if they do, the selection panel shall disqualify the candidate from being appointed. Canvassing is defined as soliciting or putting pressure on others for their appointment - this does not prevent managers from introducing possible candidates and does not prevent informal discussions taking place between an applicant and a manager
- 25.2 Members of the Trust Board or managers may act as a referee for such a post, though trust policy is to take business references prior to seeking personal references.
- 25.3 It is the responsibility of any member of staff involved in selection interviews to inform their manager if any relationship exists between themselves and a candidate for an appointment. Trust Board members and senior officers should disclose to the Trust Board any relationship between themselves and a candidate for an appointment of which they are aware.
- 25.4 In all cases the Trusts recruitment and selection procedure must be adhered to.

26. RAISING AWARENESS

- 26.1 Information contained within this policy will be included on the Trust Intranet for all staff to access.
- 26.2 The Human Resources department will provide advice as required in relation to this policy.
- 26.3 If a member of staff wishes to report any allegation or suspicion of wrongdoing by another staff member, they should refer to the Trust's Raising Concerns at Work policy, detailing the course of action which should be followed, or contact the Local Counter Fraud Specialist.
- 26.4 Public concern at work can also be reported using the following link:
<http://www.pcaw.org.uk/files.SpeakupNHS.pdf>

27. MONITORING COMPLIANCE WITH POLICY AND PROCEDURE

- 27.1 This document will be reviewed every five years (or sooner where necessary), taking into account any legislative changes.
- 27.2 Responsibility for reviewing this document will lie with the Human Resources department, with the Staff Council as the responsible committee.

28. REFERENCES

- Fraud Act (2006)
- Bribery Act (2010)
- Ethical Code of the Institute of Purchasing and Supply (IPS).
- EC Directives on Public Purchasing for Works and Supplies.
- Department of Health (DoH) (January 2004) "A code of conduct for private practice for NHS consultants"

Appendix A

	Acceptable	Probably acceptable but needs approval	Unacceptable
Gifts in Kind Gifts of less than £35 (or, if more than one gift, with combined value of less than £35 from the same supplier) do not need to be declared	Items of low value such as diaries, calculators, pens etc.	N/A	Gifts of significant value. Any gifts linked with purchasing agreements or prescribing promises or involvement in direct drug promotion.
Cash/Cheques Vouchers	Payment for specific services such as lectures or preparation or written material (not part of Job Plan). Payment for consultation services to the industry (e.g. promotional material). Such work must not normally be done in NHS time .Lectures may be given in NHS time provided that payment of no more than £100 is made or else it is agreed by the Trust that the NHS work can be done at another time .Preparation should be done in own time.		Gifts or inducements
Research Advice should also be sought from the Research and Development Manager to ensure the Trust receives appropriate income for consultative services	Payment for scientifically valid research approved by ethical and research and development committees where payments are made into properly administered Trust Funds	Employment of staff on monies from the pharmaceutical industry for the pursuance of such research. In such situations the matter must be discussed with the general manager	Direct payments to individual doctors for research unless approved by Ethical and Research and Development Committees
Hospitality	Refreshments during the course of educational meetings to the standards no higher than that usually paid for by the individual himself/herself	Sponsoring for travel to national or international meetings or recognised scientific or managerial value, within the parameters of the study leave policy	Extravagant hospitality or travel unrelated to scientific/career issues. Payment for spouses or partners to attend national/international meetings as 'accompanying persons'

Appendix B**Declaration of Interests Form**

Name:	
Job Title:	
Year:	

Please list any Gifts/Hospitality received /training courses paid for within this period:

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Please list any possible conflicts of interest and in particular other organisations for which you do paid or unpaid work or consultancy / fee earning work within this period:

--

Please list any Directorships or ownerships held within this period:

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Signed:

Date:

Please return to the Director of HR and Corporate Services' Personal Assistant (Non-Director) or Company Secretary's Office (Director)