

# External Investigation Report

Worcestershire Acute Hospitals NHS Trust  
Review of Alleged Potential Conflicts of Interest  
Mr Stephen Lake and Mr Steven Pandey  
NHS Consultant General Surgeons

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CONDUCTED BY

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## Conclusions

The principal objective of this investigation has been to establish if there was evidence of any conflicts of interest for Mr Lake and/or Mr Pandey in relation to the commissioning of endoscopy services and allocation of NHS patients to SBSH, which were subsequently treated, in their private practice WBC Ltd.

The evidence demonstrates that this was not the case. Neither Mr Pandey nor Mr Lake played any part or had any influence in the decision by WAHT managers and CCG commissioners to outsource this activity to SBSH (and SDH), which was due increased demand and capacity constraints at WAHT.

The principal consideration for outsourcing the activity was to ensure delays for patients waiting for treatment was reduced.

They may however be considered to have potentially held an indirect interest in the matter as a result of the subsequent sub-contracting of some of the activity to WBC Ltd by SBSH.

However this would also be true of other colleagues practicing at SBSH who were offered the work and in itself does not raise any concerns because there is sufficient evidence to show that this indirect interest was transparently recorded in personal information and records concerning Mr Lake and Mr Pandey held by the Trust.

On balance, the evidence shows that whilst neither completed a declaration of interests form until 2016 (when they and other consultants were requested to do so 2015/16), the responsibility for this omission lies with the Trust rather than individual consultants.

The investigation was also asked to specifically consider if there was any conflict of interest for Mr Lake and Mr Pandey as Directors of WBC Ltd and their NHS roles as clinical leads, and the transfer of emergency abdominal surgery from AGH to WRH.

The evidence shows that this was not the case. The decision to transfer of emergency abdominal surgery was made on compelling patient safety grounds and independently assessed. Further, there is no relationship between emergency abdominal surgery and the endoscopic clinical procedures outsourced to SBSH.

In general terms, Mr Lake and Mr Pandey's roles as directors of WBC Ltd and as clinical leads at WAHT do not present any direct conflicts of interests. WBC Ltd does not contract with the NHS and does not bid for NHS work; it is managers, not Mr Pandey and Mr Lake, who make commissioning and procurement decisions and arrange and manage waiting lists.

It is important however that where NHS clinicians are involved in private practice and particularly so in circumstances where this might lead to an indirect interest as a result of undertaking outsourced NHS work, that they ensure that those activities are declared and recorded in the relevant Trust documents and in accordance with established Trust procedures.

There has been a lack of attention by WAHT seemingly over a number of years to ensure that the corporate registers of consultants' declarations of interests are systematically recorded and updated on a regular basis. Nor does it appear that consultants have been given appropriate guidance and reminded regularly of any requirements in this regard. The Trust has ensured that Board Directors are requested to declare their interests annually.

The Trust recognised this (in part), and updated its processes during 2015/16 when Mr Pandey and Mr Lake (along with all other consultants) completed the relevant declaration of interest forms to enable entries on the corporate registers.

It is not reasonable to single out Mr Pandey and Mr Lake for failing to complete the formal declaration of interest forms, because it is evident it was not the custom and practice of the Trust to ask consultants to do so or, to give clear advice in respect of consultants responsibilities to do so.

Mr Lake and Mr Pandey recorded their private practice interests including WBC Ltd on other Trust records and were effectively compliant with the contemporary custom and practice of the Trust at the time.

They have since complied with the recent changes in procedures adopted by the Trust during 2015/16 on this matter and completed a formal declaration of interests form.

Mr Pandey and Mr Lake's actions in this matter and the evidence seen in this investigation, does not support any suggestion of wrongdoing or that they sought to be anything other than transparent in declaring their private practice interests.

Overall, it would seem that Mr Pandey and Mr Lake have been subjected to an imbalanced representation of their compliance with Trust procedures for declaration of interests and as a result unreasonably subjected to unfair criticism about this matter.

This has inevitably been distressing for them and their families and could potentially have been avoided if adequate procedures had been implemented by the Trust to guide and inform all consultant staff and ensure diligent completion of declaration of interests' registers.

The investigation has not been asked to make any specific recommendations however the outcome of the investigation indicates that there is still opportunity for the Trust to improve its arrangements concerning declarations of interests by consultants notwithstanding some recent changes in procedures.

These changes include and intention to update the registers of consultants' interest every two – three years rather than annually as is the case for Board Directors.

It is recommended that further consideration be given to the proposed cycle to update of registers with declarations of interests by consultant staff and consideration given to aligning this and the appraisal process with the best practice adopted for Board Directors of annual updates.

It is also recommended that specific guidance should be developed for consultant staff possible consistent with that used by Clinical Senates' and similar bodies to ensure that consultants have clear guidance on private practice and declarations of interest including of direct and indirect pecuniary interests.

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