



STANDARDS OF BUSINESS CONDUCT POLICY V2.6 (Incorporating conflicts of interest)

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1. INTRODUCTION

The major focus of this policy is conflicts of interest and is intended to ensure Herts Valleys CCGs ("the CCG") compliance with NHS England's revised conflicts of interest guidance published in June 2017.

The policy also covers the CCG's agreed approach to joint working with the pharmaceutical industry.

2. PURPOSE

The purpose of this document is to ensure that the CCG maintains the highest standards of probity and that all business relationships lead to clear benefits for patients.

This policy is intended to:

- Enable the CCG to deliver its statutory duty to manage conflicts of interest.
- Enable individuals to demonstrate that they are acting fairly and transparently and in the best interest of patients and the local population.
- Uphold confidence and trust in the NHS.
- Safeguard clinically led commissioning, whilst ensuring objective decision making.
- Support individuals to understand when conflicts of interest (whether actual or potential) may arise and how to manage them if they do.
- Ensure that the CCG operates within the legal framework.
- Uphold the reputation of the CCG and its staff in the way in conducts business.

3. DEFINITIONS

3.1 Guidance and Legal framework

3.1.1 A previous circular on Standards of Business Conduct for NHS Staff was issued in 1993 (HSG (93)5)¹ regarding the general standards that should be maintained by staff working in the NHS. This guidance is still in existence.

The guidance describes the standards of conduct expected of all NHS staff where their private interests may conflict with their public duties; and,

- The steps which NHS employers should take to safeguard themselves and the NHS against conflicts of interest. Specifically, it makes it clear that it is the responsibility of staff to ensure that they are not placed in a position which risks, or appears to risk, conflict between their private interests and their NHS duties.

3.1.2 The Department of Health's document, "Code of Conduct for NHS Managers", (October 2002)², provides guidance on core standards of conduct expected of NHS Managers to act in the best interests of the public and patients / clients to ensure that decisions are not improperly influenced by gifts or inducements.

- 3.1.3** Professional Codes of Conduct governing health care professionals are also pertinent. The General Medical Council's guidance, "Leadership and management for all doctors" (March 2012)³, details the standards and expectations required of clinicians in leadership and management positions. The British Medical Association has published guidance on conflicts of interest for GPs in their role as commissioners and providers "Ensuring transparency and probity" (June 2013)⁴.
- 3.1.4** The Professional Standards Authority has also published Standards for members of NHS Boards and Clinical Commissioning Group Governing Bodies in England⁵.
- 3.1.5** Other important guidance on conduct is to be found in "The Code of Conduct: Code of Accountability in the NHS" (Appointments Commission/DOH – 2nd Rev: 2004)⁶ and the Department of Health's Guidance on "Commercial Sponsorship – Ethical Standards for the NHS" (Department of Health, November 2000)⁷.
- 3.1.6** Section 14O of the NHS Act 2006⁸ imposes various duties on CCGs in relation to registers of interests and the management of conflicts of interest, including:
- Each CCG must maintain one or more register of interests of the specified persons listed in section 14O, including members of the CCG and members of the CCG's governing body
 - Each CCG has a duty to publish the registers
 - Each CCG must make arrangements for managing conflicts and potential conflicts of interest
 - Each CCG must have regard to guidance published by NHS England in relation to registers of interests and the management of conflicts of interest.
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- 3.1.7** NHS England published its revised conflicts of interest guidance June 2016⁹ and, as stated in 3.1.6, the CCG has a duty to have regard to this.

3.2 Conflicts of Interest

- 3.2.1** A conflict of interest occurs where an individual's ability to exercise judgement, or act in a role is, could be, or is seen to be impaired or otherwise influenced by his or her involvement in another role or relationship. In some circumstances, it could be reasonably considered that a conflict exists even when there is no actual conflict. In these cases it is important to still manage these perceived conflicts in order to maintain public trust.

Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care commissioning, out-of-hours commissioning and involvement with integrated care organisations, as clinical commissioners may here find themselves in a position of being at once commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring.

3.2.2 Categories of interest

Financial interests: This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:

- A director, including a non-executive director, or senior employee in a private

company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.

- A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A management consultant for a provider.

This could also include an individual being:

- In secondary employment.
- In receipt of secondary income from a provider.
- In receipt of a grant from a provider.
- In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider.
- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role.
- Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).

Non-financial professional interests: This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:

An advocate for a particular group of patients

- A GP with special interests e.g., in dermatology, acupuncture etc.
- A member of a particular specialist professional body (although routine GP membership of the RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared).
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE).
- A medical researcher.

GPs and practice managers, who are members of the Board or committees of the CCG, should declare details of their roles and responsibilities held within their GP practices.

Non-financial personal interests: This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:

- A voluntary sector champion for a provider.
- A volunteer for a provider.
- A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation.
- Suffering from a particular condition requiring individually funded treatment.
- A member of a lobby or pressure group with an interest in health.

Indirect interests: This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example, a:

- Spouse / partner.
- Close relative e.g., parent, grandparent, child, grandchild or sibling.
- Close friend.
- Business partner.

A declaration of interest for a “business partner” in a GP partnership should include all relevant collective interests of the partnership, and all interests of their fellow GP partners. Whether an interest held by another person gives rise to a conflict of interests will depend upon the nature of the relationship between that person and the individual, and the role of the individual within the CCG.

3.3 Gifts

A 'gift' is defined as any item of cash or goods, or any service, which is provided for personal benefit, free of charge or less than its commercial value.

3.4 Hospitality

'Hospitality' is defined as food, drink, travel, accommodation or entertainment offered or provided in the nature of the organisation's business by anyone other than the employer.

3.5 Commercial sponsorship

'Commercial sponsorship' refers to an arrangement where the CCG receives financial support or support in kind for staff, research, training, equipment, premises or conferences.

3.6 The pharmaceutical industry

The 'pharmaceutical industry' includes:

- Companies, partnerships or individuals involved in the manufacturing, sale, promotion or supply of medicinal products subject to the licensing provision of the Medicines Act 1968¹⁶.
- Companies, partnerships or individuals involved in the manufacture, sale, promotion or supply of medical devices, appliances, dressings, and nutritional supplements which are used in the treatment of patients within the NHS.
- Trade associations and agencies representing companies involved with such products.
- Companies, partnerships or individuals who are directly concerned with research, development or marketing of a medicinal product, device, appliance, dressing or supplement that is being considered by, or would be influenced by, decisions taken by the CCG.
- Pharmaceutical industry related industries, including companies, partnerships or individuals directly concerned with enterprises that may be positively or adversely affected by decisions taken by the CCG.

3.7 Joint Working

'Joint working' is defined as:

- Situations where, for the benefit of patients, organisations pool skills, experience

and/or resources for the joint development and implementation of patient centred projects and share a commitment to successful delivery. Joint working agreements and management arrangements are conducted in an open and transparent manner.

Joint working differs from sponsorship, where pharmaceutical companies simply provide funds for a specific event or work programme.

4. ROLES AND RESPONSIBILITIES

4.1 The Board

The responsibilities of all members of staff, as set out in section 4.2, also apply to all members of the Board. In addition the Board will:

- Ensure that the CCG's policies and procedures reflect best practice particularly in relation to the procurement of services
- Ensure that arrangements for audit and reporting are open, robust and effective.

4.2 All Members of Staff

It is the responsibility of each employee of the CCG to comply with each element of this policy laid out in chapter 5.

4.3 Member Practices

Member practices are expected to comply with this policy in full and for the following individuals to undertake mandatory training and to ensure that their published declarations of interest are current:

- GP partners (or where the practice is a company, each director)
- Any individual directly involved with the business or decision making of the CCG

4.4 Committee members

All members of the CCG Board Committees and any sub-committees are expected to comply with all elements of this policy.

4.5 The Audit Committee

The Audit Committee will:

- Oversee the arrangements for the management of conflict of interest, gifts, hospitality and commercial sponsorship, and advise the Board as required
- Receive a Decision Register report on a quarterly basis which will include all decisions made by Board Committees and Commissioning Executive inclusive of any declaration of interests made against each decision
- Ensure that the registers of interests and gifts, hospitality and sponsorship are reviewed regularly, and updated as necessary
- Ensure that for every interest declared, arrangements are in place to manage the conflict of interests or potential conflict of interests, to ensure the integrity of the CCG's decision making process. The arrangements will confirm the following:
 - When an individual should withdraw from a specified activity, on a temporary or permanent basis.
 - Monitoring of the specified activity undertaken by the individual, either by a line manager, colleague or other designated individual.

4.6 The Conflicts of Interest Guardian

CCGs are required to have a Conflicts of Interest Guardian in order to strengthen scrutiny and transparency of decision making processes. This role is undertaken by the CCG Audit Committee Chair, supported by the Head of Corporate Governance, who should have responsibility for the day-to-day management of conflicts of interest matters and queries

4.7 The Head of Corporate Governance

The Head of Corporate Governance will:

- Provide advice, support and guidance on how conflicts of interest should be managed.
- Ensure that appropriate administrative processes are put in place.
- Update the registers of interests based on the Declaration of Interest Forms completed and ensures that registers are published on the CGG public website.
- Update the registers of gifts, hospitality and sponsorship and ensure they are published on the CCG public website.
- Maintain the Decision Register of all decisions made by the Board Committees and Commissioning Executive inclusive of any declarations made against each action and provide to Audit Committee meetings on a quarterly basis.
- Support the Conflicts of Interest Guardian to enable them to carry out the role effectively.

4.8 Contractors

Contractors and people who provide services to the CCG will be required to comply with all relevant elements of this policy

4.9 Chief Executive Officer

The Chief Executive Officer has overall accountability for the CCG's management of conflicts of interest

4.10 Consultation and Communication with Stakeholders

The following groups have been consulted:

- Staff Involvement Group
- Senior Leadership Team
- Sample of CCG Board members

5. POLICY CONTENT

5.1 Principles of good business conduct

5.1.1

Herts Valleys CCG expects Board and committee members, staff, contractors and all involved in the business of the CCG to observe the principles of good governance in how they do business. These include:

- The 7 principles of public life as set out in 5.1.2 below)¹⁰

- The Good Governance Standards for Public Services (2004)¹¹
- The seven key principles of the NHS in England¹²
- The Equality Act 2010¹³
- The UK Corporate Governance Code¹⁴
- Standards for members of NHS boards and CCG governing bodies in England⁵

For links to the above documents, please go to chapter 9 “Associated documentation”

5.1.2 The 7 principles of public life (the Nolan Principles)

Selflessness – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends

Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties

Objectivity – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit

Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office

Openness – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands

Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest

Leadership – Holders of public office should promote and support these principles by leadership and example.

5.1.3 In addition, as a CCG we will:

- Do business appropriately: conflicts of interest become much easier to identify, avoid and/or manage when the processes for needs assessments, consultation mechanisms, commissioning strategies and procurement procedures are right from the outset, because the rationale for all decision-making will be clear and transparent and should withstand scrutiny.
- Be proactive, not reactive: commissioners should seek to identify and minimise the risk of conflicts of interest at the earliest possible opportunity.
- Be balanced and proportionate: rules should be clear and robust but not overly prescriptive or restrictive. They should ensure that decision-making is transparent and fair whilst not being overly constraining, complex or cumbersome.
- Be transparent: document clearly the approach and decisions taken at every stage in the commissioning cycle so that a clear audit trail is evident.
- Create an environment and culture where individuals feel supported and confident in declaring relevant information and raising any concerns.

5.1.4 The CCG recognises that:

- A perception of wrongdoing, impaired judgement or undue influence can be as detrimental as any of them actually occurring.
- If in doubt, it is better to assume the existence of a conflict of interest and manage it appropriately rather than ignore it.
- For a conflict of interest to exist, financial gain is not necessary.

5.1.5 The CCG understands the requirement to consult upon major changes before decisions are reached and will be open with the public, patients and staff. Information supporting decisions will be made available in a way that is understandable and responses to requests for information in accordance with the Freedom of Information Act 2000 will be provided in this spirit.

5.1.6 Our business will be conducted in a way that is socially responsible, forging an open and positive relationship with the local community and in consideration of the impact of the organisation's activities on the environment.

5.2 Declaring interests

5.2.1 It is a statutory requirement for CCGs to make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the group as soon as they become aware of it, and in any event within 28 days. CCGs must record the interest in the registers as soon as they become aware of it.

5.2.2 All persons referred to in point 5.3.3 must declare any interests. Declarations of interest must be made using the form in appendix 1 as soon as possible and by law within 28 days after the interest arises. The CCG also expects individuals to declare interests they are pursuing. All declarations should be sent to the Head of Corporate Governance hertsvalleysccg.corporate.office@nhs.net

5.2.3 Declarations must be made **on appointment** to the CCG, the Board or any committees. When an appointment is made, a formal declaration of interests should be made using the template in appendix 1 and recorded.

5.2.4 Individuals will be asked to confirm **annually** that declarations are accurate and up to date. Where there are no interests or changes to declare, a "nil return" should be recorded.

5.2.5 All **meeting attendees** are required to declare their interests as a standing agenda item for every governing body, committee, sub-committee or working group meeting, before the item is discussed. Even if an interest has been recorded in the register of interests, it should still be declared in meetings where matters relating to that interest are discussed. Declarations of interest and how they were managed should be recorded in minutes of meetings.

5.2.6 Additionally, if a specialist or expert is invited to comment on a meeting paper in order to help the committee or group with their discussions, then that individual must be asked to complete a declaration of interest.

5.2.7 **Whenever an individual's role, responsibility or circumstances change** in a way that

affects the individual's interests (e.g., where an individual takes on a new role outside the CCG or enters into a new business or relationship), a further declaration should be made to reflect the change in circumstances as soon as possible, and in any event within 28 days. This could involve a conflict of interest ceasing to exist or a new one materialising. If an individual's circumstances change, it is their responsibility to make a further declaration as soon as possible and in any event within 28 days, rather than waiting to be asked.

5.3 Registers of Interest

5.3.1 It is statutory requirement that CCGs must maintain one or more registers of interest of: the members of the group, members of its governing body, members of its committees or sub-committees of its governing body, and its employees. CCGs must publish interests of decision-making staff, and make arrangements to ensure that members of the public have access to these registers on request.

5.3.2 Herts Valleys CCG will maintain registers of interest and registers of gifts and hospitality

5.3.3 Declarations must be made by, and registers of interest will be created and maintained for:

All CCG employees, including:

- All full and part time staff.
- Any staff on sessional or short term contracts.
- Any students and trainees (including apprentices).
- Agency staff.
- Seconded staff.

In addition, any self-employed consultants or other individuals working for the CCG under a contract for services should make a declaration of interest in accordance with this guidance, as if they were CCG employees.

Members of the Board: All members of the CCG's committees, sub-committees/sub-groups, including:

- Co-opted members.
- Appointed deputies.
- Any members of committees/groups from other organisations.

Where the CCG is participating in a joint committee alongside other CCGs, any interests which are declared by the committee members should be recorded on the register(s) of interest of each participating CCG.

Member practices

This includes each provider of primary medical services which is a member of the CCG under Section 14O (1) of the 2006 Act. Declarations should be made by the following groups:

- GP partners (or where the practice is a company, each director)
- Any individual directly involved with the business or decision-making of the CCG.

5.3.4 All interests declared must be transferred to the relevant CCG register by the Corporate Governance team within 10 working days.

- 5.3.5** An interest should remain on the public register for a minimum of 6 months.
- 5.3.6** The CCG will retain a private record of historic interests for a minimum of 6 years after the date on which it expired. The CCG's published register of interests will state that historic interests are retained by the CCG for the specified timeframe, with details of whom to contact to submit a request for this information.
- 5.3.7** The template for the CCG register of interests can be found in appendix 2
- 5.4 Registers of gifts, hospitality and sponsorship**
- 5.4.1** The CCG will maintain registers of gifts, hospitality and sponsorship.
- 5.4.2** All the individuals listed in section 5.3.3 should consider the risks associated with accepting offers of gifts, hospitality, sponsorship and entertainment when undertaking activities for or on behalf of the CCG or their GP practice. This is especially important during procurement exercises, as the acceptance of gifts could give rise to real or perceived conflicts of interests, or accusations of unfair influence, collusion or canvassing.
- 5.5 Gifts**
- 5.5.1** Gifts offered to CCG staff, Board members, committee members and individuals within member practices by providers or contractors linked (currently or prospectively) to the CCG's business should be declined. The person to whom the gifts were offered should also declare the offer to the Head of Corporate Governance (hertsvalleysccg.corporate.office@nhs.net) so the offer which has been declined can be recorded on the register.
- 5.5.2** Gifts under £50 can be accepted from non-suppliers and non-contractors, and do not need to be declared. Gifts with a value of over £50 can be accepted on behalf of an organisation, but not in a personal capacity and must be declared. Gifts offered from other sources should also be declined if accepting them might give rise to perceptions of bias or favouritism, and a common sense approach should be adopted as to whether or not this is the case.
- 5.5.3** If you are in any doubt as to whether to accept a gift, it is better to politely decline the offer.
- 5.5.4** The only exceptions to the presumption to decline gifts relates to items of little financial value (i.e., up to £6) such as promotional diaries, calendars, stationery and other gifts acquired from meetings, events or conferences, and items such as flowers and small tokens of appreciation from members of the public to staff for work well done. Gifts of this nature do not need to be declared to the Head of Corporate Governance (hertsvalleysccg.corporate.office@nhs.net), nor recorded on the register.
- 5.5.5** Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever their value and whatever their source, and the offer which has been declined must be declared to the Head of Corporate Governance (hertsvalleysccg.corporate.office@nhs.net) and recorded on the register.
- 5.5.6** For further information on what to do if offered a gift, see appendix 8.

5.6 Hospitality

5.6.1 The CCG does not wish to prevent people from accepting appropriate hospitality. However, individuals should be able to demonstrate that the acceptance or provision of hospitality would be of benefit to patients.

5.6.2 Modest hospitality provided in normal and reasonable circumstances is acceptable, although it should be on a similar scale to that which the CCG might offer in similar circumstances (e.g., tea, coffee, light refreshments at meetings). A common sense approach should be adopted as to whether hospitality offered is modest or not. Hospitality of this nature does not need to be declared to the Head of Corporate Governance (hertsvalleysccq.corporate.office@nhs.net), nor recorded on the register, unless it is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business in which case all such offers (whether or not accepted) should be declared and recorded.

5.6.4 In the case of modest hospitality offered by pharmaceutical companies, the CCG requires clarity on what products are to be promoted. If the product(s) has been rejected for use in west Herts, the offer should be declined. Advice should be sought from the Pharmacy and Medicines Optimisation Team where appropriate.

5.6.3 Offers of hospitality which go beyond modest or of a type that the CCG itself might offer, should be politely refused. A non-exhaustive list of examples includes:

- Hospitality of a value of above £75 per attendee.
- In particular, offers of overseas travel and accommodation.

There may be some limited and exceptional circumstances where accepting the types of hospitality referred to in this paragraph may be contemplated. Hospitality of between £25 and £75 can be accepted, but must be declared to the Head of Corporate Governance (hertsvalleysccq.corporate.office@nhs.net), and recorded on the register, whether accepted or not. Hospitality under £25 can be accepted and does not need to be declared. If the value of the hospitality is over £75, it must be declared and prior approval should be sought from a Director or the Head of Corporate Governance before accepting such offers, and the reasons for acceptance should be recorded in the CCGs register of gifts and hospitality. Otherwise such offers must be refused.

In addition, particular caution should be exercised where hospitality is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business. Offers of this nature can be accepted if they are modest and reasonable but advice should always be sought from the Head of Corporate Governance as there may be particular sensitivities, for example if a contract re-tender is imminent. All offers of hospitality from actual or prospective suppliers or contractors (whether or not accepted) should be declared and recorded.

5.6.4 The total value of hospitality provided by any specific company to the CCG must not exceed £1,000 in one financial year.

5.6.5 With regard to the Provision of Hospitality by the Clinical Commissioning Group, The Code of Conduct: Code of Accountability in the NHS advises that the use of NHS monies for

hospitality and entertainment, including hospitality at conferences or seminars, should be carefully considered. It advises that all expenditure on these items should be capable of justification, as reasonable in the light of general practice in the public sector. It reminds NHS organisations that hospitality or entertainment is open to challenge by auditors and that ill-considered actions can damage respect for the NHS in the eyes of the community.

5.6.6 For further information on what to do if offered hospitality, see appendix 8.

5.7 Shareholding and Other Ownership Interests

Holding shares or other ownership interests can be a common way for staff to invest their personal time and money to seek a return on investment. However, conflicts of interest can arise when staff personally benefit from this investment because of their role with the CCG. For instance, if they are involved in their organisation's procurement of products or services which are offered by a company they have shares in then this could give rise to a conflict of interest. Staff should declare, as a minimum, any shareholdings and other ownership interests in any publicly listed, private or not-for-profit company, business, partnership or consultancy which is doing, or might be reasonably expected to do, business with their organisation. If these shareholdings or other ownership give rise to risk of conflicts of interest they need to be considered and actions to mitigate risks need to be put in place.

5.8 Patents

The development and holding of patents and other intellectual property rights allows staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas. However, conflicts of interest can arise when staff that hold patents and other intellectual property rights are involved in decision making and procurement. Staff should declare patents and other intellectual property rights they hold (either individually, or by virtue of their association with a commercial or other organisation). Employees should seek prior permission from the CCG before entering into any agreement with bodies regarding product development, research, work on pathways, etc., where this impacts on the CCG's own time, or uses its equipment, resources or intellectual property. Where this give rise to a conflict of interest then this risk needs to be mitigated.

Donations

Acceptance of donations made by suppliers or bodies seeking to do business with the CCG should be treated with caution and not routinely accepted. In exceptional circumstances a donation from a supplier may be accepted but should always be declared. A clear reason should be recorded as to why it was deemed acceptable, alongside the actual or estimated value.

Loyalty interests

Conflicts of interest can arise when decision making is influenced through association with colleagues or organisations out of loyalty to the relationship they have, rather than through an objective process. Loyalty interests should be declared by staff involved in

decision making where they: hold a position of authority in another NHS organisation or commercial, charity, voluntary, professional, statutory or other body which could be seen to influence decisions they take in their NHS role, could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners. Where holding loyalty interests gives rise to a conflict of interest then they need to be considered and the risks mitigated.

5.9 Commercial Sponsorship

5.9.1 This section should be read in conjunction with section 5.19 “Joint working with the pharmaceutical industry”

5.9.2 CCG staff, governing body and committee members, and GP member practices (in their CCG commissioning role) may be offered commercial sponsorship for courses, conferences, post/project funding, meetings and publications in connection with the activities which they carry out for or on behalf of the CCG or their GP practices. All such offers (whether accepted or declined) must be declared so that they can be included on the CCG’s register of gifts, hospitality and commercial sponsorship, and the Head of Corporate Governance should provide advice on whether or not it would be appropriate to accept any such offers. If such offers are reasonably justifiable then they may be accepted, with the written approval of a director or the Head of Corporate Governance.

5.9.3 Acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the CCG or be dependent on the purchase or supply of goods or services. Sponsors should not have any influence over the content of an event, meeting, seminar, publication or training event. The CCG should not endorse individual companies or their products. It should be made clear that the fact of sponsorship does not mean that the CCG endorses a company’s products or services. Sponsorship of CCG events by appropriate external bodies should only be approved if a reasonable person would conclude that the event will result in clear benefit for the CCG and the NHS;

5.9.4 During dealings with sponsors there must be no breach of patient or individual confidentiality or data.

5.9.5 No information should be supplied to a company for their commercial gain and information which is not in the public domain should not normally be supplied unless there is a clear benefit to the NHS or patients.

5.9.6 At the CCG’s discretion, sponsors or their representatives may attend or take part in the event but they should not have a dominant influence over the content or the main purpose of the event. The involvement of a sponsor in an event should always be clearly identified in the interest of transparency.

5.9.7 For further information on what to do if offered sponsorship, see appendix 8.

5.10 Declarations of offers of gifts, hospitality and sponsorship

5.10.1 Declarations of offers of gifts, hospitality and sponsorship should be made by completing the appropriate form (appendix 3) and forwarding to the Head of Corporate Governance (hertsvalleysccg.corporate.office@nhs.net).

- 5.10.2** All declarations must be made promptly and will be transferred to a gifts and hospitality register.
- 5.10.3** The gifts and hospitality register will be published on the CCG public website.
- 5.10.4** In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be removed from the publicly available registers. Where an individual believes that substantial damage or distress may be caused, to him/herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such requests must be made in writing to the Head of Corporate Governance (hertsvalleys.corporate.office@nhs.net).
- 5.10.5** Decisions not to publish information must be made by the Conflicts of Interest Guardian for the CCG, who should seek appropriate legal advice where required, and the CCG should retain a confidential un-redacted version of the registers.
- 5.10.6** All individuals who are required to make a declaration of interests or a declaration of gifts or hospitality should be made aware that the registers will be published in before publication. This should be done by the provision of a fair processing notice that details the identity of the data controller, the purposes for which the registers are held and published, and contact details for the data protection officer. This information should additionally be provided to any individuals who have been named in the registers because they have a relationship with the person making the declaration.
- 5.10.7** The registers of interests (including the register of gifts and hospitality) will be published via a web link as part of the CCG's Annual Report and Annual Governance Statement. Up to date copies of registers can be requested via a Freedom of Information request to the CCG.
- 5.11** **Secondary employment**
- 5.11.1** It is the responsibility of all staff, committee members, contractors and others engaged under contract (see point 5.3.3) to make the CCG aware if they are employed or engaged in, or wish to be employed or engage in, any employment or consultancy work in addition to their work with the CCG. The purpose of this is to ensure that the CCG is aware of any potential conflict of interest. Examples of work which might conflict with the business of the CCG, including part-time, temporary and fixed term contract work, include:
- Employment with another NHS body.
 - Employment with another organisation which might be in a position to supply goods/services to the CCG.
 - Directorship of a GP federation.
 - Self-employment in a capacity which might conflict with the work of the CCG or which might be in a position to supply goods/services to the CCG.
- 5.11.2** The CCG requires that individuals obtain prior permission from a director to engage in secondary employment, and reserve the right to refuse permission where it believes a conflict will arise which cannot be effectively managed. CCGs should ensure that they have clear and robust organisational policies in place to manage issues arising from secondary employment.

5.11.3 In particular, it is unacceptable for pharmacy advisers or other advisers, employees or consultants to the CCG on matters of procurement to themselves to be in receipt of payments from the pharmaceutical or devices sector.

5.12 The appointment of board members, committee members and senior employees

5.12.1 On appointment of board members, committee members and senior employees, the CCG will consider whether conflicts of interest should exclude individuals from being appointed to the relevant role. This will be considered on a case-by-case basis, with advice being sought from the Conflicts of Interest Guardian.

5.12.2 The CCG will assess the materiality of the interest, in particular whether the individual (or any person with whom they have a close association as listed in sections 3 and 5.3.3) could benefit (whether financially or otherwise) from any decision the CCG might make.

5.12.3 The CCG will determine the extent of the interest and the nature of the appointee's proposed role within the CCG. If the interest is related to an area of business significant enough that the individual would be unable to operate effectively and make a full and proper contribution in the proposed role, then that individual will not be appointed to the role.

5.12.4 Any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to a CCG should recognise the inherent conflict of interest risk that may arise and should not be a member of the Board or of a committee or sub-committee of the CCG, in particular if the nature and extent of their interest and the nature of their proposed role is such that they are likely to need to exclude themselves from decision-making on so regular a basis that it significantly limits their ability to effectively perform that role.

5.13 Conflicts of Interest Guardian

5.13.1 CCGs are required to have a Conflicts of Interest Guardian in order to strengthen scrutiny and transparency of decision making processes. This role is undertaken by the CCG Audit Committee Chair (paul.smith52@nhs.net), supported by the Head of Corporate Governance, who should have responsibility for the day-to-day management of conflicts of interest matters and queries.

5.13.2 The CCG Head of Corporate Governance will keep the Conflicts of Interest Guardian well briefed on conflicts of interest matters and issues arising.

5.13.3 The Conflicts of Interest Guardian will, in collaboration with the CCG's governance lead:

- Act as a conduit for GP practice staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest.
- Be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to conflicts of interest.
- Support the rigorous application of conflicts of interest principles and policy.
- Provide independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation.
- Provide advice on minimising the risks of conflicts of interest.

5.14 Managing conflicts of interest at meetings

- 5.14.1** The chair of a meeting of the CCG's Board or any of its committees, sub-committees or groups has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage the conflict of interest.
- 5.14.2** The chair, with support of the CCG's Head of Corporate Governance should proactively consider ahead of meetings what conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for particular agenda items of private sessions/meetings are not sent to conflicted individuals in advance of the meeting where relevant.
- 5.14.3** On circulation of the meeting agenda, delegates should be asked to confirm in writing prior to the meeting whether they believe themselves to be conflicted or potentially conflicted regarding one or more the agenda items.
- 5.14.4** The chair should ask at the beginning of each meeting if anyone has any conflicts of interest to declare in relation to the business to be transacted at the meeting. Each member of the group should declare any interests which are relevant to the business of the meeting whether or not those interests have previously been declared. Any new interests which are declared at a meeting must be included on the CCG's relevant register of interests to ensure it is up-to-date.
- 5.14.5** Any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be included on the CCG's register of gifts and hospitality to ensure it is up-to-date.
- 5.14.6** It is the responsibility of each individual member of the meeting to declare any relevant interests which they may have. However, should the chair or any other member of the meeting be aware of facts or circumstances which may give rise to a conflict of interests but which have not been declared then they should bring this to the attention of the chair who will decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest.
- Declarations of interest in respect to board and committee meeting agenda items should be declared at the time the agenda and papers are circulated to enable the chair to plan how any conflicts should be managed at the meeting.
 - Perceptions of conflicts of interests should be considered even if an actual conflict does not exist, if there is a perception of a conflict of interest, the individual should consider recusing themselves from the meeting.
 - On reviewing the committee or board agenda and accompanying papers, members should inform the chair and secretary details on the specific agenda items and the type of conflict based on the following:

| | |
|---|---|
| Financial Interests | This is where an individual may get direct financial benefits from the consequences of a commissioning decision. |
| Non-Financial Professional Interests | This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. |
| Non-Financial Personal Interests | This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. |
| Indirect Interests | This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision. |

- Interests that have previously been declared should also be included in the pre-meeting declaration. There is no need for GPs to make a general statement regarding the fact that they are practicing local GPs and members of federations. However if their status as a GP or federation member places them in conflict regarding a specific agenda item then they should state this, along with the type of interest as listed above.

5.14.7 Managing conflicts when making joint decisions with other partners

Conflicts of interest management is important in the context of joint decision-making processes, especially working with Sustainability and Transformation Partnerships (STPs) Integrated Care Systems (ICSs), other CCGs and local partners such as Local Authorities to jointly commission services. Appropriate governance arrangements must be put in place that ensure that conflicts of interest are identified and managed appropriately without compromising the CCG's ability to make robust commissioning decisions. The chair of the meeting has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage the conflict of interest.

5.14.8 When a member of the meeting (including the chair or vice chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or vice chair or remaining non-conflicted members where relevant as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:

- Where the chair has a conflict of interest, deciding that the vice chair (or another non-conflicted member of the meeting if the vice chair is also conflicted) should chair all or part of the meeting.
- Requiring the individual who has a conflict of interest (including the chair or vice chair if necessary) not to attend the meeting.

- Ensuring that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict.
- Requiring the individual to leave the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the individual to leave the room and in public meetings to either leave the room or join the audience in the public gallery.
- Allowing the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared.
- Noting the interest and ensuring that all attendees are aware of the nature and extent of the interest, but allowing the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion. The conflicts of interest case studies include examples of material and immaterial conflicts of interest.

At the start of meetings, the chair should summarise all interests received prior to the meeting and call for any other interests in respect of the agenda items. Just prior to individual agenda items being discussed, the chair should confirm any declarations of interest referred to earlier in the meeting. The chair, in discussion with meeting attendees if appropriate, should agree on a course of action to manage those conflicts. This very much depends on an assessment of the facts at the time, but a number of options are available to the chair of the meeting:

- Ask the individual to leave the meeting when the agenda item on which an individual is conflicted is discussed.
- Allow the individual to take part in the discussion but leave the meeting when the decision is made.
- Note the interest but allow them to take part in the discussion and the decision making.

Details on how individual conflicts of interest were managed which should be reflected in the minutes of the meeting. It is the responsibility of each individual member of the meeting to declare any relevant interests which they may have. However, should the chair or any other member of the meeting be aware of facts or circumstances which may give rise to a conflict of interests but which have not been declared then they should bring this to the attention of the chair who will decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest.

5.15 Primary Care Commissioning Committee and sub groups

5.15.1 Meetings of the primary care commissioning committee, including the decision-making and deliberations leading up to the decision, will be held in public unless the CCG has concluded it is appropriate to exclude the public where it would be prejudicial to the public interest to hold that part of the meeting in public.

Examples of where it may be appropriate to exclude the public include:

- Information about individual patients or other individuals which includes sensitive personal data is to be discussed.
- Commercially confidential information is to be discussed, for example the detailed contents of a provider's tender submission.
- Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is to be discussed.
- To allow the meeting to proceed without interruption and disruption.

5.15.2 The primary care commissioning committee must be constituted to have a lay and executive majority, where lay refers to non-clinical. This ensures that the meeting will be quorate if all GPs had to withdraw from the decision-making process due to conflicts of interest. The primary care commissioning committee should have a lay chair and lay vice chair. GPs can, and should, be members of the primary care commissioning committee to ensure sufficient clinical input, but must not be in the majority. A standing invitation will be made to the CCG's local HealthWatch representative and a local authority representative from the local Health and Wellbeing Board to join the primary care commissioning committee as non-voting attendees, including, where appropriate, for items where the public is excluded for reasons of confidentiality.

5.16 Minute taking at meetings

5.16.1 If any conflicts of interest are declared or otherwise arise in a meeting, the chair must ensure the following information is recorded in the minutes:

- Who has the interest?
- The nature of the interest and why it gives rise to a conflict, including the magnitude of any interest.
- The items on the agenda to which the interest relates.
- How the conflict was agreed to be managed.
- Evidence that the conflict was managed as intended (for example recording the points during the meeting when particular individuals left or returned to the meeting).

5.17 Procurement

5.17.1 "Procurement" relates to any purchase of goods, services or works and the term "procurement decision" should be understood in a wide sense to ensure transparency of decision making on spending public funds.

5.17.2 The CCG will comply with the NHS procurement regime, and the European procurement regime:

- The NHS procurement regime – the NHS (Procurement, Patient Choice and Competition (No.2)) Regulations 2013: made under S75 of the 2012 Act; apply only to NHS England and CCGs; enforced by NHS Improvement.
- The European procurement regime – Public Contracts Regulations 2015 (PCR 2105): incorporate the European Public Contracts Directive into national law; apply to all public contracts over the threshold value (€750,000, currently £589,148); enforced through the Courts. The general principles arising under the Treaty on the Functioning of the European Union of equal treatment, transparency, mutual recognition, non-discrimination and proportionality may apply even to public contracts for healthcare services falling below the threshold value if there is likely to be interest from providers in other member states.

- 5.17.3** The National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 201323 state:
“CCGs must not award a contract for the provision of NHS health care services where conflicts, or potential conflicts, between the interests involved in commissioning such services and the interests involved in providing them affect, or appear to affect, the integrity of the award of that contract; and CCGs must keep a record of how it managed any such conflict in relation to NHS commissioning contracts it has entered into”.
- 5.17.4** Paragraph 24 of PCR 2015 states: “Contracting authorities shall take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all economic operators”. Conflicts of interest are described as “any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure”.
- 5.17.5** The Procurement, Patient Choice and Competition Regulations (PPCCR) place requirements on commissioners to ensure that they adhere to good practice in relation to procurement, run a fair, transparent process that does not discriminate against any provider, do not engage in anti-competitive behaviour that is against the interest of patients, and protect the right of patients to make choices about their healthcare. Furthermore the PPCCR places requirements on commissioners to secure high quality, efficient NHS healthcare services that meet the needs of the people who use those services. The PCR 2015 are focussed on ensuring a fair and open selection process for providers.
- 5.17.6** An area in which conflicts could arise is where the CCG commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of the CCG has a financial or other interest. This may most often arise in the context of co-commissioning of primary care, particularly with regard to delegated commissioning, where GPs are current or possible providers.
- 5.17.7** The CCG will utilise a procurement template, provided in appendix 5, which sets out factors that the CCG will address when drawing up their plans to commission general practice services.
- 5.17.8** The CCG will make the evidence of their management of conflicts publicly available, and the relevant information from the procurement template will be used to complete a register of procurement decisions (see 5.15.9).
- 5.17.9** The CCG will maintain a register of procurement decisions taken, either for the procurement of a new service or any extension or material variation of a current contract. The template is provided in appendix 6.
- 5.17.10** A register of procurement decisions must be updated whenever a procurement decision is taken. The CCG will:
- Ensure that the register is available in a prominent place on the CCG’s public website.

- Make the register available upon request for inspection at the CCG's head office.

5.17.11 The CCG will ensure that planned service developments and possible procurements are transparent and publically available.

5.17.12 As part of all procurement processes the CCG will ask bidders to declare any conflicts of interest. This allows commissioners to ensure that they comply with the principles of equal treatment and transparency. When a bidder declares a conflict, the CCG must decide how best to deal with it to ensure that no bidder is treated differently to any other. Please see appendix 7 for a declaration of interests for bidders/ contractors template.

5.157.13 The CCG will retain an internal audit trail of how the conflict or perceived conflict was dealt with to allow the provision of information at a later date if required. Commissioners are required under regulation 84 of the Public Contract Regulations 2015 to make and retain records of contract award decisions and key decisions that are made during the procurement process (there is no obligation to publish them). Such records must include "communications with economic operators and internal deliberations" which should include decisions made in relation to actual or perceived conflicts of interest declared by bidders. These records must be retained for a period of at least three years from the date of award of the contract.

5.18 Contract management

5.18.1 Any contract monitoring meeting needs to consider conflicts of interest as part of the process. The chair of a contract management meeting should invite declarations of interests; record any declared interests in the minutes of the meeting; and manage any conflicts appropriately and in line with this policy. This equally applies where a contract is held jointly with another organisation such as the Local Authority or with other CCGs under lead commissioner arrangements.

5.18.2 The individuals involved in the monitoring of a contract should not have any direct or indirect financial, professional or personal interest in the incumbent provider or in any other provider that could prevent them, or be perceived to prevent them, from carrying out their role in an impartial, fair and transparent manner.

5.18.3 The CCG will consider any potential conflicts of interest when circulating any contract or performance information/reports on providers, and manage the risks appropriately.

5.19 Raising concerns and breaches

5.19.1 It is the duty of every CCG employee, Board member, committee, sub-committee or group member and GP practice member to speak up about genuine concerns in relation to the administration of the CCG's policy on conflicts of interest management, and to report these concerns. These individuals should not ignore their suspicions or investigate themselves, but rather raise their concerns with the Conflicts of Interest Guardian, in line with the CCG's whistleblowing policy.

5.19.2 Any suspicions or concerns of acts of fraud or bribery can be reported online via <https://www.reportnhsfraud.nhs.uk> or via the NHS Fraud and Corruption Reporting Line on 0800 0284060. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting the NHS. All calls are dealt with by

experienced trained staff and any caller who wishes to remain anonymous may do so.

- 5.19.3** If conflicts of interest are not effectively managed, the CCG could face civil challenges to decisions made. For instance, if breaches occur during a service re-design or procurement exercise, the CCG risks a legal challenge from providers that could potentially overturn the award of a contract, lead to damages claims against the CCG, and necessitate a repeat of the procurement process. This could delay the development of better services and care for patients, waste public money and damage the CCG's reputation. In extreme cases, staff and other individuals could face personal civil liability.
- 5.19.4** Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption.
- 5.19.5** The CCG will ensure that individuals who fail to disclose any relevant interests or who otherwise breach the CCG's rules and policies relating to the management of conflicts of interest are subject to investigation and, where appropriate, to disciplinary action. CCG staff, Board and committee members in particular should be aware that the outcomes of such action may, if appropriate, result in the termination of their employment or position with the CCG.
- 5.19.6** Statutorily regulated healthcare professionals who work for, or are engaged by, the CCG are under professional duties imposed by their relevant regulator to act appropriately with regard to conflicts of interest. The CCG will report statutorily regulated healthcare professionals to their regulator if they believe that they have acted improperly, so that these concerns can be investigated. Statutorily regulated healthcare professionals should be made aware that the consequences for inappropriate action could include fitness to practise proceedings being brought against them, and that they could, if appropriate, be struck off by their professional regulator as a result.
- 5.20 Investigation of potential breaches**
- 5.20.1** Any potential breach of the conflicts of interest elements of this policy will be investigated and actual breaches published on the CCG website. This includes the treatment of service contracts where a breach of conflicts of interest was identified.
- 5.20.2** Potential breaches highlighted during the course of CCG business, reported to the Conflicts of Interest Guardian or identified in any other way will be documented by the Head of Corporate Governance and investigated.
- 5.20.3** A conflicts of interest panel will be assembled by the Head of Corporate Governance. The panel will be chaired by a lay member and a minimum of two other CCG lay members will be members of the panel.
- 5.20.4** All documented evidence will be compiled by the Head of Corporate Governance and circulated to panel members at least five working days prior to the panel meeting.
- 5.20.5** Witnesses may be invited to the meeting if appropriate.
- 5.20.6** The panel meeting will be minuted by the Head of Corporate Governance, or their nominee

and minutes will be kept on file for a minimum of six years.

5.20.7 The role of the panel is to assess whether an actual breach has occurred and to decide on a course of action to reflect the consequences of that breach.

5.20.8 The potential courses of action available to the panel include:

- Stipulate how the risk of future similar breaches can be mitigated against.
- Recommendation of disciplinary action.
- Seek advice from local counter fraud services.
- If appropriate, referral of the matter to NHS Protect.
- Referral to professional regulatory body

5.20.9 In the case of a potential breach not being ruled as an actual breach, the panel may make recommendations to mitigate the risk of an actual breach occurring in the future.

5.20.10 If the panel rules that an actual breach of the policy has occurred, the individual in breach will be informed and the CCG will report this outcome to the NHS England Director of Commissioning Operations as soon as possible after the panel meeting. Additionally a written report will be sent to the Director of Commissioning Operations within five working days of the panel meeting.

5.20.11 Reports of any actual breaches will be anonymised and reported on the CCG website. If the matter has been reported to NHS Protect, the report will not be published until at a time advised by NHS Protect.

5.21 Joint working with the pharmaceutical industry

5.21.1 Introduction

The Department of Health (DH) and the Association for British Pharmaceutical Industry (ABPI) seek to encourage collaborative working for the benefit of the local healthcare economy and ultimately the patient.

Pharmaceutical companies that are members of the ABPI are required to comply with the ABPI Code of Practice for the Pharmaceutical Industry 2016¹⁵, which regulates the promotion of prescription medicines and certain other non-promotional activities.

The ABPI guidance seeks to provide a framework and greater clarity for pharmaceutical companies about various aspects of Joint Working and Sponsorship.

5.21.2 This section should be read in conjunction with section 5.7 “Commercial sponsorship”.

5.21.3 This section of the policy is intended to:

- Ensure transparency for all our stakeholders on our approach to joint working with the pharmaceutical industry.
- Promote ethical working relationships between the pharmaceutical industry and the NHS and should be used in conjunction with the DH/ABPI document “Moving beyond sponsorship: Interactive toolkit for joint working between the NHS and the pharmaceutical industry”

- 5.21.4** Joint working can be defined as “situations where, for the benefit of patients, one or more pharmaceutical companies and the NHS pool skills, experience and/or resources for the joint development and implementation of patient centred projects and share a commitment to successful delivery”.
- 5.21.5** The key requirements from this definition are:
- Any joint working project must be focused on benefits to patients
 - There must be a “pooling” of resources between the pharmaceutical company or companies and the NHS organisation(s) involved. Each party must, therefore, make a significant contribution to the Joint Working project to avoid the arrangement being construed as merely a gift, benefit in kind, donation or some other non-promotional/commercial practice. Resources may come in various forms, including people, expertise, equipment, communication channels, information technology and finance.
- 5.22.6** Other principles to be applied to any instances of joint working and sponsorship are:
- All joint working and sponsorship will support projects that address local and national priorities, and will maintain the freedom of clinicians to prescribe the most clinically appropriate and effective treatment for individual patients.
 - Joint working and sponsorship will be conducted in an ethical, open and transparent manner.
 - Joint working will take place at a corporate (organisational) level, and not with individual healthcare professionals or NHS administrative staff.
 - Joint working contracts will be negotiated on fair and reasonable terms, in line with NHS values.
 - Confidentiality of information received in the course of the joint working arrangement will be respected and never used outside the scope of the project. All patient identifiers will be removed from data to preserve and respect patient confidentiality in line with the Data Protection Act 1998.
 - In the interests of transparency, the overall arrangements for joint working and sponsorship must be made public via the CCG website.
 - Joint working and sponsorship is based on mutual trust and respect. Pharmaceutical companies must comply with the ABPI Code at all times. All NHS employed staff should comply with NHS, the CCG and relevant professional body codes of conduct at all times.
 - Clinical and prescribing policies or guidelines must be based upon principles of evidence-based medicine and cost effectiveness. They will be consistent with national recommendations including the National Institute for Health and Clinical Excellence (NICE), expert bodies such as the Royal College of General Practitioners (RCGP) and local guidance.
 - The Pharmaceutical industry should not have undue influence.
 - Sponsorship must not provide personal benefit.
- 5.21.7** Any Joint Working/Sponsorship must ensure that all arrangements are neutral, free from preference regarding the use of the company’s product over other more clinically appropriate or cost effective products or services. In addition, arrangements must be in keeping with local guidelines and formularies.

- 5.21.8** The CCG will act in a transparent, objective manner, never endorsing any individual company or product through such agreements.
- 5.21.9** Where joint working is being contemplated, full consideration of the proposal must be given before any agreement is made. Advice should be sought from the Pharmacy and Medicines Optimisation Team and the Head of Corporate Governance. Legal advice may also be necessary.
- 5.21.10** There must be a specific agreement for each joint working project which contains information on:
- The name of the joint working project, the parties to the agreement, the date and the term of the agreement.
 - The expected benefits for patients, the NHS and the pharmaceutical company.
 - How the success of the project will be measured, when and by whom. A set of baseline measurements must be established at the outset of the project to track and measure the success of the project aims, particularly patient outcomes. For longer term projects (>1 year) patient outcomes should be analysed at least every six months as a minimum to ensure that anticipated patient benefits are being delivered.
 - An outline of the financial arrangements.
 - The roles and responsibilities of the CCG and the pharmaceutical company. All aspects of input from the company should be included such as training, support for service redesign, business planning, data analysis etc.
 - The agreement should specify criteria that result in high certainty that both parties can meet their commitments. For example, both parties should be able to demonstrate that they have the capability, resource or track record to deliver on the commitments they are making.
 - The planned publication of any data or outcomes.
 - Procedures for dealing with Freedom of Information Act requests.
 - If a pharmaceutical company enters into a joint working agreement on the basis that its product is already included in an appropriate place on the local formulary, a clear reference to this should be included in the joint working agreement so that all the parties are clear as to what has been agreed.
 - The agreement should include contingency arrangements to cover possible unforeseen circumstances such as changes to summaries of product characteristics and updated clinical guidance. Agreements should include a dispute resolution clause and disengagement/exit criteria including an acknowledgement by the parties that the project might need to be amended or stopped if a breach of the ABPI Code is ruled.
- 5.21.11** Approval must be obtained from Commissioning Executive before the project proceeds. This will allow a full evaluation of the joint working agreement including governance issues and the overall impact of the joint working to be assessed in relation to healthcare priorities.
- 5.21.12** Joint Working offers of any kind from pharmaceutical companies must be declared and registered whether refused or accepted and be available for public scrutiny on request.
- 5.21.13** The CCG will encourage competitor companies to collaborate on any such ventures. If several companies are able to provide the same arrangements they should all – or at least a selection – be approached to ascertain their willingness to undertake joint working. If willing

to do so, they could then share a joint working arrangement.

5.21.14 Any joint working arrangements will be reported to the audit committee.

5.21.15 Primary care rebate schemes

A primary care rebate scheme (PCRS) is an agreement between a Clinical Commissioning Group and a pharmaceutical company that provides an economic benefit to the commissioner and, in theory, may increase the volume sales of a company's product. These are different to national patient access schemes which are negotiated nationally by the Department of Health to enable patient access for very high cost drugs that have clear clinical benefits. PCRS could be seen to undermine national pricing agreements between the Department of Health and Industry.

- The CCG believes that the pharmaceutical industry should supply medicines to the NHS using transparent pricing mechanisms, wherever possible.
- The CCG does accept rebates from pharmaceutical companies. The decision as to whether to accept a rebate is made by the Pharmacy & Medicines Optimisation Team based on the PrescQIPP operating model¹⁷.

6. MONITORING COMPLIANCE

6.1 Every meeting of the Audit Committee will receive the following reports:

- The CCG Decision Register.
- The Gifts, Hospitality and Commercial Sponsorship Register.
- Status report on Declarations of Interest Register.
- Status report on conflicts of interest training compliance.

6.2 The CCG will commission an annual internal audit to assess compliance with this policy.

6.3 The CCG will submit to NHS England quarterly self-certification to confirm that:

- There are processes in place to ensure individuals declare any conflict or potential conflict of interest as soon as they become aware of it, and within 28 days, ensuring accurate, up-to-date registers are complete for: conflicts of interest, procurement decisions and gifts and hospitality.
- These registers are available on the CCG's website and, upon request, at the CCG's head office.
- Confirmation that any breaches have been managed according the process outlined in this policy.

6.4 The CCG will submit to NHS England annual self-certification to confirm that:

- The CCG has a clear policy for the management of conflicts of interest.
- The CCG has a minimum of three lay members.
- The CCG's audit chair has taken on the role of the conflicts of interest guardian, supported by the Head of Corporate Governance.
- A minimum of 90% of CCG staff have completed the mandatory conflicts of interest online training as of 31 January each year.

7. EDUCATION AND TRAINING

7.1 Training will be provided to all employees as part of the staff induction programme, Board members and members of CCG committees and sub-committees on the management of conflicts of interest. This is to ensure staff and others within the CCG understand what conflicts are and how to manage them effectively.

7.2 Induction training will cover the following:

- What is a conflict of interest?
- Why is conflict of interest management important
- What are the responsibilities of the organisation you work for in relation to conflicts of interest?
- What should you do if you have a conflict of interest relating to your role, the work you do or the organisation you work for (who to tell, where it should be recorded, what actions you may need to take and what implications it may have for your role).
- How conflicts of interest can be managed.
- What to do if you have concerns that a conflict of interest is not being declared or managed appropriately.
- What are the potential implications of a breach of the CCG's rules and policies for managing conflicts of interest?

7.3 The following will be required to undergo annual training via the NHS England online module:

- CCG Board Members
- Executive members of formal CCG committees and sub-committees
- Primary Care Commissioning Committee members
- Clinicians involved in commissioning or procurement decisions
- CCG governance leads
- Anyone involved or likely to be involved in taking a procurement decision(s)

8. REFERENCES

1. Standards of Business Conduct for NHS Staff 1993 (HSG (93)5)
2. Code of conduct for NHS managers
http://www.nhsemployers.org/~media/Employers/Documents/Recruit/Code_of_conduct_for_NHS_managers_2002.pdf
3. Leadership and management for all doctors
http://www.gmc-uk.org/guidance/ethical_guidance/management_for_doctors.asp
4. Ensuring transparency and probity. Guidance on conflicts of interest for GPs in their role as commissioners and providers
<https://www.bma.org.uk/advice/employment/commissioning/ensuring-transparency-and-probity>
5. Standards for members of NHS boards and Clinical Commissioning Group governing bodies in England
<http://www.professionalstandards.org.uk/docs/default-source/publications/standards/standards-for-members-of-nhs-boards-and-ccgs-2013.pdf?sfvrsn=2>
6. Code of conduct: code of accountability in the NHS
http://www.nhsbsa.nhs.uk/Documents/Sect_1_-_D_-_Codes_of_Conduct_Acc.pdf
7. Commercial sponsorship – ethical standards for the NHS
http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/dr_consum_dh/groups/dh_digitalassets/@dh/

[@en/documents/digitalasset/dh_4076078.pdf](#)

8. The functions of a clinical commissioning group

<https://www.england.nhs.uk/wp-content/uploads/2013/03/a-functions-ccgs.pdf>

9. Managing conflicts of interest: revised statutory guidance for CCGs

<https://www.england.nhs.uk/publication/managing-conflicts-of-interest-revised-statutory-guidance-for-ccgs-2017/>

10. The 7 principles of public life

<https://www.gov.uk/government/publications/the-7-principles-of-public-life>

11. Good governance standards for public services

<http://www.opm.co.uk/publications/good-governance-standard-for-public-services/>

12. The NHS core principles

<http://www.nhs.uk/NHSEngland/thenhs/about/Pages/nhscoreprinciples.aspx>

13. The Equality Act 2010

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

14. The UK Corporate Governance Code

<https://www.frc.org.uk/Our-Work/Publications/Corporate-Governance/Final-Draft-UK-Corporate-Governance-Code-2016.pdf>

15. The ABPI code of practice

<http://www.pmcpa.org.uk/thecode/Documents/Code%20of%20Practice%202016%20.pdf>

16. The Medicines Act 1968

<http://www.legislation.gov.uk/ukpga/1968/67>

17. PrescQIPP operating model

<https://www.prescqipp.info/primary-care-rebates/send/31-pi/467-oe-pis-governance-review-board-operating-model>

18. Managing Conflicts of Interest in the NHS

<https://www.england.nhs.uk/wp-content/uploads/2017/02/guidance-managing-conflicts-of-interest-nhs.pdf>

9. ASSOCIATED DOCUMENTATION

- Anti-Fraud and Bribery Policy
- Working Time Regulation Policy
- Procurement Policy
- Whistleblowing Policy

Appendices

Appendix 1: Template Declaration of interests for CCG members and employees

| Name: | | | | |
|--|---|---------------------------|--|--|
| Position within, or relationship with, the CCG (or NHS England in the event of joint committees): | | | | |
| Type of Interest | Description of Interest (including for indirect Interests, details of the relationship with the person who has the interest) | Date From & To | | Actions to be taken to mitigate risk (to be agreed with line manager or a senior CCG manager) |
| | | | | |
| | | | | |
| | | | | |

The information submitted will be held by the CCG for personnel or other reasons specified on this form and to comply with the organisation's policies. This information will be held in electronic form in accordance with GDPR/Data Protection Act 2018. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCG holds.

I confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to the CCG as soon as practicable and no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then civil, criminal, or internal disciplinary action may result.

Please note that if you do declare interests, we are required to publish the information on the CCG website.

I do/do not [delete as applicable] give my consent for this information to be published on the CCG Website. If consent is NOT given please give reasons:

Signed:

Date:

Signed (CCG Manager):

Position:

Date:

PLEASE RETURN THIS FORM TO: hertsvalleysccg.corporategovernance@nhs.net

Link to the HVCCG policy: <https://hertsvalleysccg.nhs.uk/about-us/what-we-do/managing-conflicts-interest>

For further questions: katy.patrick@nhs.net

Types of interest

| Type of Interest | Description |
|---|--|
| Financial Interests | <p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. • A shareholder (or similar owner interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations. • A management consultant for a provider. • In secondary employment (see policy chapter 5.9). • In receipt of secondary income from a provider. • In receipt of a grant from a provider. • In receipt of any payments (for example honoraria, one off payments, day allowances or travel or subsistence) from a provider. • In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role. • Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider). |
| Non-Financial Professional Interests | <p>This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision, such as increasing their professional reputation or status or promoting their professional career. This may, for example, include situations where the individual is:</p> <ul style="list-style-type: none"> • An advocate for a particular group of patients. • A GP with special interests e.g., in dermatology, acupuncture etc. • A member of a particular specialist professional body (although routine GP membership of the RCGP, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared). |

| Type of Interest | Description |
|---|--|
| | <ul style="list-style-type: none"> • An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE). • A medical researcher. |
| Non-Financial Personal Interests | <p>This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include, for example, where the individual is:</p> <ul style="list-style-type: none"> • A voluntary sector champion for a provider. • A volunteer for a provider. • A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation. • Suffering from a particular condition requiring individually funded treatment. • A member of a lobby or pressure group with an interest in health. |
| Indirect Interests | <p>This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above). For example, this should include:</p> <ul style="list-style-type: none"> • Spouse / partner. • Close relative e.g., parent, grandparent, child, grandchild or sibling. • Close friend. • Business partner. |

Appendix 2: Herts Valleys CCG Register of Interests

| Herts Valleys CCG Register of Interests July 2016 | | | | | | | | | | |
|---|--|--|---------------------|--------------------------------------|----------------------------------|-------------------------------------|--------------------|------------------|----|-------------------------------|
| Name | Current position (s) held- i.e. Governing Body, Member practice, Employee or other | Declared Interest- (Name of the organisation and nature of business) | Type of Interest | | | Is the interest direct or indirect? | Nature of Interest | Date of Interest | | Action taken to mitigate risk |
| | | | Financial Interests | Non-Financial Professional Interests | Non-Financial Personal Interests | | | From | To | |
| | | | | | | | | | | |
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Standards of Business Conduct V2.5



Appendix 3: DECLARATION OF HOSPITALITY/GIFTS/SPONSORSHIP

Name: _____ **Position:** _____
Date: _____ **Directorate and Division:** _____

PLEASE RETURN THIS FORM TO: hertsvalleysccg.corporategovernance@nhs.net
 Link to the HVCCG policy: <https://hertsvalleysccg.nhs.uk/about-us/what-we-do/managing-conflicts-interest>
 For further questions: katy.patrick@nhs.net

ALL QUESTIONS TO BE COMPLETED

| | |
|--|--|
| NATURE of the hospitality/sponsorship/gift offered to you | |
| Was the gift accepted or declined? REASON (for declining) | |
| TOTAL value (if you are unsure please ask the donor for an estimated cost) | £ |
| NUMBER of items? | |
| REASON hospitality/sponsorship/gift was offered to you | |
| DONOR of hospitality/sponsorship/gift | |
| DATE of the hospitality/sponsorship/gift | |
| APPROVAL considered by (refer to policy for authority levels) | Approval given: *Yes Name: Role: <i>"I confirm that, to the best of my knowledge, the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to the CCG as soon as practicable and no later than 28 days after the interest arises. I am aware that, if I do not make full, accurate and timely declarations then civil, criminal, professional regulatory or internal disciplinary action may result."</i> |



| | |
|--|-------------------|
| | Signature: |
| Reason for non-approval <i>(if applicable)</i> | |



Appendix 5: Procurement checklist

| | |
|---|--------------------------|
| Service: | |
| Question | Comment/ Evidence |
| 1. How does the proposal deliver good or improved outcomes and value for money – what are the estimated costs and the estimated benefits? How does it reflect the CCG’s proposed commissioning priorities? How does it comply with the CCG’s commissioning obligations? | |
| 2. How have you involved the public in the decision to commission this service? | |
| 3. What range of health professionals have been involved in designing the proposed service? | |
| 4. What range of potential providers have been involved in considering the proposals? | |
| 5. How have you involved your Health and Wellbeing Board(s)? How does the proposal support the priorities in the relevant joint health and wellbeing strategy (or strategies)? | |
| 6. What are the proposals for monitoring the quality of the service? | |



| | |
|--|--|
| 7. What systems will there be to monitor and publish data on referral patterns? | |
| 8. Have all conflicts and potential conflicts of interests been appropriately declared and entered in registers? | |
| 9. In respect of every conflict or potential conflict, you must record how you have managed that conflict or potential conflict. Has the management of all conflicts been recorded with a brief explanation of how they have been managed? | |
| 10. Why have you chosen this procurement route e.g., single action tender? ¹ | |
| 11. What additional external involvement will there be in scrutinising the proposed decisions? | |
| 12. How will the CCG make its final commissioning decision in ways that preserve the integrity of the decision-making process and award of any contract? | |
| Additional question when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) or direct award (for services where national tariffs do not apply) | |
| 13. How have you determined a fair price for the service? | |

¹Taking into account all relevant regulations (e.g. the NHS (Procurement, patient choice and competition) (No 2) Regulations 2013 and guidance (e.g. that of Monitor).



| | |
|---|--|
| Additional questions when qualifying a provider on a list or framework or pre selection for tender (including but not limited to any qualified provider) where GP practices are likely to be qualified providers | |
| 14. How will you ensure that patients are aware of the full range of qualified providers from whom they can choose? | |
| Additional questions for proposed direct awards to GP providers | |
| 15. What steps have been taken to demonstrate that the services to which the contract relates are capable of being provided by only one provider? | |
| 16. In what ways does the proposed service go above and beyond what GP practices should be expected to provide under the GP contract? | |
| 17. What assurances will there be that a GP practice is providing high-quality services under the GP contract before it has the opportunity to provide any new services? | |



Appendix 6: Template Procurement decisions and contracts awarded template

| Ref No | Contract/ Service title | Procurement description | Existing contract or new procurement (if existing include details) | Procurement type – CCG procurement, collaborative procurement with partners | CCG clinical lead (Name) | CCG contract manger (Name) | Decision making process and name of decision making committee | Summary of conflicts of interest noted | Actions to mitigate conflicts of interest | Justification for actions to mitigate conflicts of interest | Contract awarded (supplier name & registered address) | Contract value (£) (Total) and value to CCG | Comments to note |
|--------|-------------------------|-------------------------|--|---|--------------------------|----------------------------|---|--|---|---|---|---|------------------|
| | | | | | | | | | | | | | |

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

Signed:

On behalf of:

Date:

Please return to hertsvalleysccg.office.corporate@nhs.net



Appendix 7: Template Declaration of conflict of interests for bidders/contractors

| | |
|---|----------------|
| Name of Organisation: | |
| Details of interests held: | |
| Type of Interest | Details |
| Provision of services or other work for the CCG or NHS England | |
| Provision of services or other work for any other potential bidder in respect of this project or procurement process | |
| Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions | |



| | | |
|--|-------------------------------------|--|
| Name of Relevant Person | [complete for all Relevant Persons] | |
| Details of interests held: | | |
| Type of Interest | Details | Personal interest or that of a family member, close friend or other acquaintance? |
| Provision of services or other work for the CCG or NHS England | | |
| Provision of services or other work for any other potential bidder in respect of this project or procurement process | | |
| Any other connection with the CCG or NHS England, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions | | |

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

Signed:

On behalf of:



Appendix 8: Examples of Gifts, hospitality, commercial sponsorship and secondary employment

| Example | Category | Acceptable? | Conditions / action required |
|---|-------------|-------------|---|
| Chocolates or small gifts from members of public, patients or staff | Gifts | Yes | <ul style="list-style-type: none"> Must not exceed the value of £6. There is no need to declare or enter on the register. |
| Diaries, calendars, stationery or other inexpensive office items | Gifts | Yes | <ul style="list-style-type: none"> Must not exceed the value of £6. Only acceptable if received at a conference, meeting or other organised event. There is no need to declare or enter on the register. |
| Gift offered by a current or prospective supplier / contractor | Gifts | No | <ul style="list-style-type: none"> Must be declined, declared and entered on the register |
| Personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) | Gifts | No | <ul style="list-style-type: none"> Must be declined, declared and entered on the register |
| Modest hospitality such as a working lunch in the course of working meetings, trade fairs or conferences | Hospitality | Yes | <ul style="list-style-type: none"> Must not exceed the value of £75. If received from a current or prospective supplier / contractor, must be declared and entered on the register |
| Dinner offered at high quality restaurant / hotel | Hospitality | No | <ul style="list-style-type: none"> If the value of hospitality is over £75, it must be declined, declared and entered on the register |
| Working lunch provided by a pharmaceutical company for a locality meeting. | Hospitality | Yes | <ul style="list-style-type: none"> A written agreement must be in place and the sponsorship disclosed in any papers relating to the meeting, including any minutes taken, as well as entered into the register. |



| Example | Category | Acceptable? | Conditions / action required |
|--|----------------------------------|-------------|--|
| | | | <ul style="list-style-type: none"> Advice should be sought from the Pharmacy and Medicines Optimisation Team as to the local status of the product(s) being promoted. The total value of hospitality provided by any specific company to the CCG must not exceed £1,000 in one financial year. |
| Entertainment from an existing supplier to mark a special occasion, e.g. the opening of new premises | Hospitality | Yes | <ul style="list-style-type: none"> Must be approved by a director in advance, declared and entered into the register All such special occasions must be discussed first with the Communications Team and approved by a director |
| Sponsorship for training courses, conferences, post/project funding, meetings and publications | Commercial sponsorship | Yes | <ul style="list-style-type: none"> Must be approved in advance by a director, declared and enter on the register |
| Sponsorship for attending conferences abroad | Commercial sponsorship | No | <ul style="list-style-type: none"> In general, all such offers should be declined. There may be exceptional circumstances in which an offer might be acceptable; the advice of the Head of Corporate Governance should be sought. All offers must be declared and entered on the register. |
| Payment for advisory work for a pharmaceutical company. | Secondary employment | No | <ul style="list-style-type: none"> Must be declined, declared and entered on the register |
| Offer of part-time employment with an existing or prospective supplier / contractor | Secondary employment Standard | Yes | <ul style="list-style-type: none"> Must be approved by a director. The CCG may refuse permission if it is believed that an unacceptable conflict of interest arises as a result. |



| Example | Category | Acceptable? | Conditions / action required |
|---------|----------|-------------|--|
| | | | <ul style="list-style-type: none"><li data-bbox="1272 459 2000 523">• All secondary employment must be declared and entered onto the register of declarations of interest. |



Policy Brief

Standards of Business Conduct

Briefing No. 017

Date: xx

In this briefing

Background
Definitions
Procedures
Consequences

National guidance

Click on the following link to access the national guidance

<https://www.england.nhs.uk/commissioning/pc-co-comms/coi/>

Further information

Policy owner

Katy Patrick
Head of Corporate Governance

katy.patrick@nhs.net

Briefs for specific groups:

(please click to download)

[Staff](#)

[Board and Committee members](#)

[Practices](#)

[Chairs](#)

Background

This policy has been produced to ensure compliance with NHS England revised statutory guidance on managing conflicts of interest. It replaces the previous conflicts of interest policy (2015) and also the Business Code of Conduct (2013). The policy also covers the CCG's agreed approach to joint working with the pharmaceutical industry.

Definition

A conflict of interest occurs where an individual's ability to exercise judgement, or act in a role is, could be, or is seen to be impaired or otherwise influenced by his or her involvement in another role or relationship. In some circumstances, it could be reasonably considered that a conflict exists even when there is no actual conflict. In these cases it is important to still manage these perceived conflicts in order to maintain public trust.

Procedures to be followed

- All Board and Committee members, staff and member practices are required to complete a declaration of interests and confirm it is up to date every six months.
- Gifts should not be accepted from current or prospective CCG suppliers.
- Modest hospitality is permitted, as is commercial sponsorship as long as this is gains prior approval from a director.
- The CCG is required to publish registers of declarations of interest and registers of gifts, hospitality and commercial sponsorship.
- Staff are required to gain permission from a director before accepting any offers of secondary employment.
- Joint working with the pharmaceutical industry is permissible subject to a written agreement and transparency.

Consequences of a breach

Breaches of this policy could lead to criminal proceedings including for offences such as fraud, bribery and corruption.

Appendix 10 – Equality Analysis - Equality Impact Assessment Screening Form

Very occasionally it will be clear that some proposals will not impact on the protected equality groups and health inequalities groups.

Where you can show that there is no impact, positive or negative, on any of the groups please complete this form and include it with any reports/papers used to make a decision on the proposal.

| | |
|---|---|
| Name of policy / service | Standards of Business Conduct |
| What is it that is being proposed? | This is an annual review of the Herts Valleys CCG Standards of Business Conduct policy |
| What are the intended outcome(s) of the proposal | <p>The purpose of this document is to ensure that the CCG maintains the highest standards of probity and that all business relationships lead to clear benefits for patients.</p> <p>This policy is intended to:</p> <ul style="list-style-type: none"> • Enable the CCG to deliver its statutory duty to manage conflicts of interest. • Enable individuals to demonstrate that they are acting fairly and transparently and in the best interest of patients and the local population. • Uphold confidence and trust in the NHS. • Safeguard clinically led commissioning, whilst ensuring objective decision making. • Support individuals to understand when conflicts of interest (whether actual or potential) may arise and how to manage them if they do. • Ensure that the CCG operates within the legal framework. • Uphold the reputation of the CCG and its staff in the way in conducts business. |
| Explain why you think a full Equality Impact Assessment is not needed | This is a policy revision and there are no significant changes |
| On what evidence/information have you based | The policy relates to internal stakeholders |

| | |
|---|----------------------------------|
| your decision? | |
| How will you monitor the impact of policy or service? | Self-certification |
| How will you report your findings? | To executive and audit committee |

| | |
|---|---|
| Having considered the proposal and sufficient evidence to reach a reasonable decision on actual and/or likely current and/or future impact I have decided that a full Equality Impact Assessment is not required. | |
| Assessors Name and Job title | Rod While, Head of Corporate Governance |
| Date | November 2019 |

Appendix 11: Summary of key aspects of the guidance on managing conflicts of interest relating to commissioning of new care models

Introduction

1. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring. They arise in many situations, environments and forms of commissioning.
2. Where CCGs are commissioning new care models², particularly those that include primary medical services, it is likely that there will be some individuals with roles in the CCG (whether clinical or non-clinical), that also have roles within a potential provider, or may be affected by decisions relating to new care models. Any conflicts of interest must be identified and appropriately managed, in accordance with this statutory guidance.
3. This annex is intended to provide further advice and support to help CCGs to manage conflicts of interest in the commissioning of new care models. It summarises key aspects of the statutory guidance which are of particular relevance to commissioning new care models rather than setting out new requirements. Whilst this annex highlights some of the key aspects of the statutory guidance, CCGs should always refer to, and comply with, the full statutory guidance.

Identifying and managing conflicts of interest

4. The statutory guidance for CCGs is clear that any individual who has a material interest in an organisation which provides, or is likely to provide, substantial services to a CCG (whether as a provider of healthcare or provider of commissioning support services, or otherwise) should recognise the inherent conflict of interest risk that may arise and should not be a member of the governing body or of a committee or sub-committee of the CCG.
5. In the case of new care models, it is perhaps likely that there will be individuals with roles in both the CCG and new care model provider/potential provider. These conflicts of interest should be identified as soon as possible, and appropriately managed locally. The position should also be reviewed whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests. For example where an individual takes on a new role outside the CCG, or enters into a new business or relationship, these new interests should be promptly declared and appropriately managed in accordance with the statutory guidance.
6. There will be occasions where the conflict of interest is profound and acute. In such scenarios (such as where an individual has a direct financial interest which gives rise to a conflict, e.g., secondary employment or involvement with an organisation which benefits financially from contracts for the supply of goods and services to a CCG or aspires to be a new care model provider), it is likely that CCGs will want to consider whether, practically, such an interest is manageable at all. CCGs should note that this can arise in relation to both clinical and non-clinical members/roles. If an interest is not manageable, the appropriate course of action may be to refuse to allow the circumstances which gave rise to the conflict to persist. This may require an individual to step down from a particular role and/or move to another role within the CCG and may require

² Where we refer to 'new care models' in this note, we are referring to any Multi-speciality Community Provider (MCP), Primary and Acute Care Systems (PACS) or other arrangements of a similar scale or scope that (directly or indirectly) includes primary medical services.

the CCG to take action to terminate an appointment if the individual refuses to step down. CCGs should ensure that their contracts of employment and letters of appointment, HR policies, governing body and committee terms of reference and standing orders are reviewed to ensure that they enable the CCG to take appropriate action to manage conflicts of interest robustly and effectively in such circumstances.

7. Where a member of CCG staff participating in a meeting has dual roles, for example a role with the CCG and a role with a new care model provider organisation, but it is not considered necessary to exclude them from the whole or any part of a CCG meeting, he or she should ensure that the capacity in which they continue to participate in the discussions is made clear and correctly recorded in the meeting minutes, but where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.
8. CCGs should take all reasonable steps to ensure that employees, committee members, contractors and others engaged under contract with them are aware of the requirement to inform the CCG if they are employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the CCG (for example, in relation to new care model arrangements).
9. CCGs should identify as soon as possible where staff might be affected by the outcome of a procurement exercise, e.g., they may transfer to a provider (or their role may materially change) following the award of a contract. This should be treated as a relevant interest, and CCGs should ensure they manage the potential conflict. This conflict of interest arises as soon as individuals are able to identify that their role may be personally affected.
10. Similarly, CCGs should identify and manage potential conflicts of interest where staff are involved in both the contract management of existing contracts, and involved in procurement of related new contracts.

Governance arrangements

11. Appropriate governance arrangements must be put in place that ensure that conflicts of interest are identified and managed appropriately, in accordance with this statutory guidance, without compromising the CCG's ability to make robust commissioning decisions.
12. We know that some CCGs are adapting existing governance arrangements and others developing new ones to manage the risks that can arise when commissioning new care models. We are therefore, not recommending a "one size fits" all governance approach, but have included some examples of governance models which CCGs may want to consider.
13. The principles set out in the general statutory guidance on managing conflicts of interest (paragraph 19-23), including the Nolan Principles and the Good Governance Standards for Public Services (2004), should underpin all governance arrangements.
14. CCGs should consider whether it is appropriate for the Governing Body to take decisions on new care models or (if there are too many conflicted members to make this possible) whether it would be appropriate to refer decisions to a CCG committee.

Primary Care Commissioning Committee

15. Where a CCG has full delegation for primary medical services, CCGs could consider delegating the commissioning and contract management of the entire new care model to its Primary Care Commissioning Committee. This Committee is constituted with a lay and executive majority, and

includes a requirement to invite a Local Authority and Healthwatch representative to attend (see paragraph 97 onwards of the CCG guidance).

16. Should this approach be adopted, the CCG may also want to increase the representation of other relevant clinicians on the Primary Care Commissioning Committee when new care models are being considered, as mentioned in Paragraph 98 of this guidance. The use of the Primary Care Commissioning Committee may assist with the management of conflicts/quorum issues at governing body level without the creation of a new forum/committee within the CCG.
17. If the CCG does not have a Primary Care Commissioning Committee, the CCG might want to consider whether it would be appropriate/advantageous to establish either:
 - a) A **new care model commissioning committee** (with membership including relevant non-conflicted clinicians, and formal decision making powers similar to a Primary Care Commissioning Committee (“NCM Commissioning Committee”); or
 - b) A separate **clinical advisory committee**, to act as an advisory body to provide clinical input to the Governing Body in connection with a new care model project, with representation from all providers involved or potentially involved in the new care model but with formal decision making powers remaining reserved to the governing body (“NCM Clinical Advisory Committee”).

NCM Commissioning Committee

18. The establishment of a NCM Commissioning Committee could help to provide an alternative forum for decisions where it is not possible/appropriate for decisions to be made by the Governing Body due to the existence of multiple conflicts of interest amongst members of the Governing Body. The NCM Commissioning Committee should be established as a sub-committee of the Governing Body.
19. The CCG could make the NCM Commissioning Committee responsible for oversight of the procurement process and provide assurance that appropriate governance is in place, managing conflicts of interest and making decisions in relation to new care models on behalf of the CCG. CCGs may need to amend their constitution if it does not currently contain a power to set up such a committee either with formal delegated decision making powers or containing the proposed categories of individuals (see below).
20. The NCM Commissioning Committee should be chaired by a lay member and include non-conflicted GPs and CCG members, and relevant non-conflicted secondary care clinicians.

NCM Clinical Advisory Committee

21. This advisory committee would need to include appropriate clinical representation from all potential providers, but have no decision making powers. With conflicts of interest declared and managed appropriately, the NCM Clinical Advisory Committee could formally advise the CCG Governing Body on clinical matters relating to the new care model, in accordance with a scope and remit specified by the Governing Body.
22. This would provide assurance that there is appropriate clinical input into Governing Body decisions, whilst creating a clear distinction between the clinical/provider side input and the

commissioner decision-making powers (retained by the Governing Body, with any conflicts on the Governing Body managed in accordance with this statutory guidance and constitution of the CCG).

23. From a procurement perspective the Public Contracts Regulations 2015 encourage early market engagement and input into procurement processes. However, this must be managed very carefully and done in an open, transparent and fair way. Advice should therefore be taken as to how best to constitute the NCM Clinical Advisory Committee to ensure all potential participants have the same opportunity. Furthermore it would also be important to ensure that the advice provided to the CCG by this committee is considered proportionately alongside all other relevant information. Ultimately it will be the responsibility of the CCG to run an award process in accordance with the relevant procurement rules and this should be a process which does not unfairly favour any one particular provider or group of providers.
24. When considering what approach to adopt (whether adopting an NCM Commissioning Committee, NCM Clinical Advisory committee or otherwise) each CCG will need to consider the best approach for their particular circumstances whilst ensuring robust governance arrangements are put in place. Depending on the circumstances, either of the approaches in paragraph 17 above may help to give the CCG assurance that there was appropriate clinical input into decisions, whilst supporting the management of conflicts. When considering its options the CCG will, in particular, need to bear in mind any joint / delegated commissioning arrangements that it already has in place either with NHS England, other CCGs or local authorities and how those arrangements impact on its options.

Provider engagement

25. It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may include NHS, third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if a commissioner engages selectively with only certain providers (be they incumbent or potential new providers) in developing a service specification for a contract for which they may later bid. CCGs should be particularly mindful of these issues when engaging with existing / potential providers in relation to the development of new care models and CCGs must ensure they comply with their statutory obligations including, but not limited to, their obligations under the National Health Service (Procurement, Patient Choice and Competition) (No 2) Regulations 2013 and the Public Contracts Regulations 2015.

Further support

If you have any queries about this advice, please contact: england.co-commissioning@nhs.net

