

# Conflicts of Interest – Briefing Note – V4 (1.04.2019)

## Overview

The CCG has refreshed its Conflicts of Interest Policy to ensure that it continues to comply with the revised NHS England Managing Conflicts of Interest Statutory Guidance published in June 2016 and updated in June 2017. The Policy enables the CCG to demonstrate that it is acting fairly and transparently and in the best interest of our patients and local population. It is drafted to ensure that the CCG operates within the legal framework, but without being bound by over-prescriptive rules that stifle innovation. The Policy aims to:

- safeguard clinically led commissioning, whilst ensuring objective investment decisions;
- enable the CCG to demonstrate that it is acting fairly and transparently and in the best interest of our patients and local population;
- uphold confidence and trust in the NHS;
- support the CCG to understand when conflicts (whether actual or potential) may arise and how to manage them if they do; and
- ensure that the CCG operates within the legal framework.

Finally, it will uphold confidence and trust between patients and GPs, in recognition that individual commissioners want to behave ethically but may need support and training to understand when conflicts (whether actual, potential or perceived) may arise and how to manage them if they do.

## Conflicts of Interest Guardian

The CCG's Conflicts of Interest Guardian is our Lay Member (Governance and Audit Committee Chair) – Julian Huppert. He is supported by the CCG Secretary / Associate Director of Corporate Affairs. In the first instance, please contact Sharon Fox [sharon.fox3@nhs.net](mailto:sharon.fox3@nhs.net) if you do have any queries, or want to seek advice on the Conflicts of Interests Policy or any concerns that you may have.

The role of the Conflicts of Interest Guardian is as follows:

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

## Definition of an Interest

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 could potentially find themselves in a position of being at once commissioner and a provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring.

Interests can be captured in four different categories:

**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; and
- 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 Governing Body 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 (which could be done by cross referring to the separate declarations made by those GP partners, rather than by repeating the same information verbatim).

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.

A range of conflicts of interest case studies has been prepared by NHS England. This will be used to support training within the CCG. Further detail is provided in the Policy. Members and employees should use the Declarations of Interest Template set out in Appendix 1 of the Policy. A Register of Interests will be maintained by the CCG and will be published on the CCG’s web-site.

## **Declarations**

All CCG members and employees are required to declare any relevant and material personal or business interests and any relevant and material personal or business interest of their spouse; civil partner; cohabitee, family member or close friend which may influence or may be perceived to influence their judgement.

## **Decision-making in meetings**

Where certain members of a decision-making group / meeting have a material interest, they should either be excluded from relevant parts of meetings, or join in the discussion but not participate in the decision-making itself (i.e., not have a vote). The Chair of the meeting has responsibility for deciding whether there is a conflict of interest and the appropriate course of corresponding action. All decisions, and details of how any conflict of interest issue has been managed, should be recorded in the minutes of the meeting and published in the registers. The meeting will need to decide in advance who will take the chair’s role for discussions and decision-making in the event that the chair of a meeting is conflicted, or how that will be decided at a meeting where that situation arises.

## **Secondary employment**

The Policy also sets out requirements in relation to secondary employment. The CCG will require that individuals obtain prior permission 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. 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. Further detail is set out in Section 9.2 of the Policy. Lay Members should also refer to this Policy to see how this applies to them.

## **Gifts and Hospitality**

In line with the CCG’s Standards of Business Conduct and Commercial Sponsorship Policy, the CCG will maintain a Register of Gifts and Hospitality and a Register of Commercial Sponsorship. The table below, taken from the Standards of Business Conduct and Commercial Sponsorship Policy sets out the values of Gifts and Hospitality that should be declared:

Gifts /Hospitality	Value	Acceptable	Does it need to be declared
Gifts from suppliers or contractors	Under £6	√	No
	Over £6	X	N/a
Gifts from other sources (excluding cash or vouchers) <i>e.g. patients, families and service users</i>	Under £50	√	No
	Over £50	√*	Yes (whether accepted or not)* Must be treated with caution & can only be accepted on behalf of the organisation <b>not</b> in a personal capacity
Multiple small gifts over the course of 12 months from the same or closely related source (Cumulative total)	Under £50	√	No
	Over £50	√*	Yes - whether accepted or not
Hospitality (meals and refreshments)	Under £25	√	No
	Between £25-£75	√	Yes
	Over £75	X*	Should be refused unless senior approval is given. Should be declared whether accepted or not.

All gifts and hospitality whether accepted or refused should be declared under the CCG's Register of Gifts and Hospitality.

### Regular review

The CCG will review its Register of Interests on a six-monthly basis, however, all members and employees should declare their interests as soon as they become aware of it, and in any event, not later than 28 days after becoming aware.

If you are found to have accepted, or given, any bribe or inducement that is in breach of CCG policy, and/or the Bribery Act 2010 you will face action which may include an investigation by the Local Counter Fraud Specialist that could result in criminal and/or disciplinary action being taken against you in line with the CCG Disciplinary Policy or be referred to the appropriate regulatory body.

### Conflicts of Interest Mandatory Training

All CCG Governing Body Members, Executive members of formal CCG Committees, Primary Care Commissioning Committee members, Clinical Leads involved in taking procurement decision, governance staff, others involved in procurement decisions and those Band 8a and above are required to undertake mandatory Conflicts of Interest Training. Module 1 of the training covers what conflicts of interest are; how to declare and manage conflicts of interest, including individuals' responsibilities; and how to report any concerns. The CCG's Corporate Governance Team will contact individuals direct to ensure that training is completed on an annual basis in line with the requirements from NHSE.