

<b>MEETING:</b>	<b>Governing Body</b>			<b>AGENDA ITEM:</b>	7
<b>DATE:</b>	13 December 2018				
<b>TITLE:</b>	Conflicts of Interest policy – annual review				
<b>AUTHOR:</b>	Russell Carpenter, Head of Governance/Board Secretary				
<b>LEAD DIRECTOR:</b>	Robert Majilton, Deputy Chief Officer				
<b>LINK TO RISKS:</b>	Governing Body Assurance Framework	n/a as this paper relates to corporate governance and not commissioning decision	Corporate Risk Register	n/a as this paper relates to corporate governance and not commissioning decision	

<b>Reason for presenting this paper:</b>	
For Action	
For Approval	
For Decision	
For Assurance	
For Information	
For Ratification	✓

### Summary of Purpose and Scope of Report:

The Governing Body is asked to **RATIFY** amendments to CCG Conflicts of Interest policy to reflect (a) ongoing development of the Buckinghamshire Integrated Care System (b) review of policy breach reporting and investigation arrangements

Both sets of amendments were previously approved by the Audit Committee in September 2018 under delegated authority.

#### **Amendment to CCG conflicts of interest policy to reflect emerging ICS governance arrangements.**

As of September 2018, a number of Programme Boards accountable to the CCG Executive Committee have been dissolved. These are replaced by ICS Programme Boards with multi-organisational membership and decision making authority limited to that held by roles from each statutory organisation. There is no collective authority unless otherwise delegated by statutory bodies. This leaves some complications in managing and mitigating conflicts of interest which arise. Therefore a section 12 addition is proposed to the current CCG Conflicts of Interest policy to describe some of these complications and how they will be mitigated (Appendix A).

This section has also been further amended following circulation to the Audit Committee to remove referral to the word “committee” in an ICS context, as legally no ICS group or board

can be referred to as a “committee” legislatively. The Audit Committee was informed of this subsequent amendment. Audit Committee approved without further comment.

**Amendment to CCG conflicts of interest policy to reflect review of policy breach reporting and investigation arrangements.**

There has also been a review and refinement of breach investigation arrangements described within the policy, having identified that the policy did not consider the role of line managers in breach investigations.

Amendment – section 11 Breach of conflicts of interest policy	Rationale
<p>The Conflicts of Interest Guardian will record anonymised details of, and investigate the alleged breach with support from the <b>Accountable Officer or</b> Deputy Accountable Officer and act in accordance with all relevant law and CCG policies (e.g. whistleblowing and Human Resources). Breaches will be reported to the Audit Committee as standing agenda item.</p> <p><b>Depending on the nature of the alleged breach of policy, with a judgement to be reached by the investigator/s, an employee or contractor’s line manager, in respect of the role being performed for or on behalf of the CCG, may be involved in the investigation. As a matter of course, line manager/s will also be provided with a copy of the findings and recommendations after they have been shared with the individual or individuals subject to investigation.</b></p>	<p>Investigations may also involve the Accountable Officer not the Deputy Accountable Officer. The current policy did not indicate a point at which the employee or contractor’s line manager may be involved in an investigation and its findings/ recommendations</p>

Audit Committee was assured HR advice had been sought which stated that circumstances may vary where a line manager may become involved in an investigation. This was as a result of concern raised that a line manager may aim to influence an outcome of an investigation. This may relate to either how the investigator works, or how the investigated individual receives the results. The above wording was subsequently agreed, with an acknowledgement that an exception would be if it were the line manager that had prompted the original investigation.

**Authority to make a decision – process and/or commissioning (if relevant)**

Ratification of this policy by Governing Body is described within the CCG Scheme of Reservation and Delegation

**Conflicts of Interest: (please tick accordingly)**

No conflict identified	✓
Conflict noted, conflicted party can participate in discussion and decision (see below)	
Conflict noted, conflicted party can participate in discussion but not decision (see below)	
Conflict noted, conflicted party can remain but not participate in discussion (see below)	
Conflicted party is excluded from discussion (see below)	
Governance assurance (see below)	
This paper does not relate to commissioning decisions where material conflicts may otherwise be evident	

**Strategic aims supported by this paper (please tick)**

Better Health in Bucks – to commission high quality services that are safe, accessible to all and achieve good patient outcomes for all	✓
---	---

Better Care for Bucks – to commission personalised, high value integrated care in the right place at the right time	✓
Better Care for Bucks – to ensure local people and stakeholders have a greater influence on the services we commission	✓
Sustainability within Bucks – to contribute to the delivery of a financially sustainable health and care economy that achieves value for money and encourages innovation	✓
Leadership across Bucks – to promote equity as an employer and as clinical commissioners	✓

**Governance requirements:** (Please tick each box as is relevant to the paper)

Governance Element	Y	N	N/A	Comments/Summary
Patient & Public Involvement			✓	This paper describes implementation of national statutory guidance
Equality			✓	
Quality			✓	
Financial			✓	
Risks	✓			Failure to follow policy could bring the CCGs' reputation into disrepute.
Statutory/Legal	✓			The consequences of failing to manage conflicts of interest properly could have significant implications
Prior consideration by Committees etc.		✓		None
Membership Involvement		✓		No members have had particular contribution to this paper as it relates to CCG governance. However one member has a connection to the breach identified within the report.

**Supporting Papers:**

Appendix A – proposed wording changes to CCG Conflicts of Interest policy to reflect emerging ICS governance arrangements
---

## **CCG Governing Body 13.12.18, agenda item 07a.**

### **CCG Conflicts of Interest policy update October 2018**

## **12. Managing conflicts of interest within an Integrated Care System**

### Legislative implications

The Integrated Care System for Buckinghamshire consists of a number of groups/partnerships/forums to which functions, tasks and authorities for decisions (both process/transactional and commissioning) may be delegated on behalf of a number of statutory NHS organisations. Where this occurs, procedural documentation such as terms of reference, Constitutions and schemes of reservation and delegation will require appropriate amendment. Legislatively these boards are termed “groups”, “partnerships” or “forums”, but may not be explicitly named as such. It is also recognised that they cannot be referred to as “boards”, “joint”, “in common” or “committee” as these terms relate only to governance arrangements for statutory organisations, between clinical commissioning groups and, in some specific situations, Local Authorities.

### Registers for newly formed ICS groups/partnerships/forums

As regards managing and mitigating conflicts of interest, the principles already described within this policy will apply. Where new groups/partnerships/forums are formed with functions, tasks and authorities for decisions delegated to them by statutory NHS organisations, the CCG’s existing registers will be reviewed and updated accordingly.

### Registers for disbanded CCG Boards or Committees

Any previously published registers for Boards or Committees which are disbanded will be archived but remain within the existing CCG master register for declarations published on its website. As this in Microsoft Excel these archives are hidden tabs and therefore not included in published versions.

### Materiality

As regards establishing materiality of an existing or newly declared conflict, Chairs and support staff for ICS groups/partnerships/forums should follow same principles as currently in place (including use of available CCG checklists and registers). This will also be dependent upon the content of terms of reference and descriptions of delegated authority (if any), whether to individual members or ICS groups/partnerships/forums as a whole. Terms of Reference and descriptions of delegated authority must clearly distinguish between process/transactional decisions and commissioning decisions in order for delegated authority and mitigation of conflicts of interest to function effectively. The role of a meeting may relate only to discussion, and or recommendation (rather than decision), with Conflicts to be managed accordingly.

### Provider representation/membership on ICS groups/partnerships/forums

Where ICS groups/partnerships/forums are Chaired or Deputy Chaired by substantive staff from provider organisations, certain decisions (especially commissioning related) may or may not be executable. If authority is delegated, mitigations would include:

- (1) An alternative CCG Chair should be identified to transact a decision, subject to the board or committee remaining quorate to transact within its terms of reference
- (2) Escalate to the statutory organisation committee or board or to whom it is accountable, or if relating to a decision in which committee or board to which it is accountable is equally conflicted, escalate to a CCG committee or board which is not conflicted and has authority.

### Exception to inclusion within CCG registers

These exceptions will be the statutory or other constituted (or equivalent) board/or committees which are unique to statutory organisations. CCG published registers will therefore include its constituted committees (i.e. Governing Body, Executive Committee, Quality and Performance Committee, Finance Committee, Audit Committee). But it will exclude all the equivalents of the statutory partners within the ICS; namely Buckinghamshire Healthcare NHS Trust, Oxford Health NHS Foundation Trust, South Central Ambulance Service NHS Trust, Buckinghamshire County Council and FedBucks (a GP Provider Company for Buckinghamshire, which acts in the ICS on behalf of the county’s other GP Provider Company, Medicas).

This policy will be reviewed in light of any subsequent national guidance or work through the ICS development on COI in an Integrated Care System.