



Buckinghamshire
Clinical Commissioning Group

CONFLICTS OF INTEREST POLICY

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DOCUMENT CONTROL SUMMARY

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VERSION CONTROL SUMMARY

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Jan 2014 v1.0	Kate Holmes	Approved. For review Jan 2015
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27 th Sept 2016 v2.4	Russell Carpenter	Re-write and changes to reflect new NHS England Guidance
13th June 2017 v 2.5	Russell Carpenter	Amendments to breaches section post internal audit report findings and published of revised NHSE England guidance for CCGs June 2017. Director of Corporate Affairs changed to Deputy Accountable Officer. New CCG logos. Updated policy not subject to additional approval post ratification by Governing Bodies 13/10/2016. Updated requirement for “nil returns” at six monthly reviews.
21 June 2017 v 2.6	Russell Carpenter	Following updated NHS England guidance June 2017: Sections 4.2 and 6: Switch from six monthly to annual reviews Section 14: inclusion of breach definition. Only decision making staff now requires declarations to be published. CCG staff Band 8 and above published to capture those groups of staff that have a material influence on how taxpayers’ money is spent. All other registers remain the same. Further update on “decision-making staff” whose declarations would be published on CCG websites and capture of CSU staff declarations. Secondary employments to be included in declarations, cross reference to hospitality, gifts and sponsorship policy in relation to receipt of consultancy fees. Updated links and page references for revised national statutory guidance published June 2017.
September 2017 v2.7	Russell Carpenter	Section 14: strengthened section on breach investigation including panel terms of reference. Approved and ratified by Audit Committee 27/09/2017
January 2018	Russell Carpenter	Updated to reflect merger; logo and CCG name
September 2018 V2.8	Russell Carpenter	Update to section 11: re line manager involvement in breach investigations. Addition of section 12 on Managing conflicts of interest within an Integrated Care System
July 2019 V2.9	Russell Carpenter	Update to section 12 to reflect introduction of Primary Care Networks, with title changed to reflect change in language to Integrated Care Partnership.

October 2020 V2.10	Gemma Richardson	Update of all hyperlinks to statutory guidance published by NHS England.
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1. Introduction

1.1 Purpose and Scope

This policy applies to Buckinghamshire CCG and sets out how the CCG will manage conflicts of interest. It will not always be possible to avoid conflicts of interest. However, by recognising where and how they arise, and dealing with them appropriately, commissioners will be able to ensure proper governance and demonstrate that decision-making is appropriate.

This policy should be read in conjunction with the CCG's constitutions (specifically the relevant section on conflicts of interest), and the policies on standards of business conduct, whistleblowing, gifts and hospitality, counter fraud and bribery, and the disciplinary procedure.

This policy applies to all individuals, whether Members, employees or appointed individuals who are working for the CCG, and persons serving on committees and other decision-making groups established by the CCG (including representatives of third-party organisations and members of the public). It also applies to any relevant 'in attendance' members; that is, any individual who sits on a committee or acts in an advisory capacity.

1.2 Objectives

This policy outlines:

- How the CCG and member clinicians in commissioning roles work within legal frameworks (including the Bribery Act 2010) to demonstrate transparency, fairness and probity in decision making and to ensure that they do not seek advantage.
- How conflicts of interest – personal and business interests that are perceived or actual – must be declared by members of committees, member practices, employees and others such as contractors. This applies declarations at meetings and for inclusion on published registers.
- The processes in place to manage declarations and maintain published registers of interests on the CCG website.

1.3 Legal requirements

The consequences of failing to manage conflicts of interest properly could have significant implications both legal and reputational. All individuals impacted by this policy should act in good faith and in the interests of the CCG. Furthermore, they should reflect the expectations set out in the Standards for Members of NHS Boards and Clinical Commissioning Groups and act in accordance with the Nolan Principles and other internal documents as listed in section 1.1. Non-compliance with this policy will be investigated by the Audit Committee. Any individual failing to comply with the policy may face disciplinary action.

1.4 Review

This policy will be reviewed annually, or otherwise when new guidance is published which prompts it earlier. The Audit Committee will review this policy in tandem with annual internal audit of management of conflicts of interest in accordance with guidance provided by NHS England. The Audit Committee will also oversee

quarterly self-certification of compliance to NHS England and an annual assessment as part of the NHS England integrated assurance framework for CCG.

2. Definition of an interest

This is documented in statutory guidance published by NHS England (December 2014, updated June 2016, updated June 2017), **pages 10 to 13**, and in Question and Answer documents for both primary care and CCG employees.

<https://www.england.nhs.uk/wp-content/uploads/2017/06/revised-ccg-conflict-of-interest-guidance-v7.pdf>

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- Declarations of Interest – primary care FAQ
- Declarations of Interest – CCG employees FAQ

3. Principles

A number of principles for good governance to be considered when discharging this policy include:

- The Seven Principles of Public Life (commonly known as the Nolan Principles);
- The Good Governance Standards of Public Services;
- The Seven Key Principles of the NHS Constitution;
- The Equality Act 2010.

4. Declarations

4.1 Requirements

National statutory guidance also includes how interests should be identified and managed, and templates for declaration. NHS England's template declaration form also describes the types of interest to be declared:

<https://www.england.nhs.uk/publication/conflicts-of-interest-management-templates/>

GP member practices/GP Partners must also declare any interest that they would be required to declare in accordance with paragraphs 10-13 of the GMC's Financial and Commercial Arrangements and Conflicts of Interest (2013) or any successor guidance.

Any nursing staff must declare any interest that they would be required to declare in accordance with paragraph 21 (Uphold your position as a registered nurse or midwife) of the NMC's publication Code of Professional Conduct or any successor Code.

For CCG lay members of the Governing Body, there is additional criteria that disqualify people from being appointed as per Regulation 12(6) of the NHS Clinical Commissioning group) Regulations 2012.

4.2 At appointment and on annual review

All applicants for roles on the Governing Body and Executive Committee should be tested for conflicts of interest before appointment (see section 8 for further detail). All members of CCG committees and employees will also be required to complete a declaration on appointment. These declarations will be transferred to registers published on the CCG website, to be reviewed annually.

Where an individual changes role or responsibility within the CCG any change to the individual's interest should be declared as soon as they are aware, and in any event within 28 days. Otherwise a nil return is to be documented to confirm that there are no changes, which will be evidenced within the minutes for the meeting where the register has been formally circulated and reviewed. Where review relates to staff members who are not otherwise members of committees which review their register, email based nil returns stored centrally alongside original signed declarations are acceptable.

4.3 Changing circumstances

Wherever an individual's circumstances change in a way that affects the individual's interests (e.g. where an individual takes on a new role outside of the CCG or sets up a new business or relationship), a revised declaration should be made to the Head of Governance/Board Secretary to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising.

4.4 Secondary employment

In particular, it is the responsibility of all individuals to inform their line manager 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, in order to enable the CCG to be aware of any potential conflict of interest. Members are required to obtain prior permission to engage in such secondary employment and the CCG reserves the right to refuse permission where it believes a conflict will arise which cannot be effectively managed. Secondary employments should be included in declarations. For instructions in relation to receipt of consultancy fees, please refer to the hospitality, gifts and sponsorship policy. It is unacceptable for pharmacy advisers or other advisers, employees or consultants to the CCG on matters of procurement to themselves be in receipt of payments from the pharmaceutical or devices sector.

4.5 Reporting declarations

Declarations should be reported to Locality Business Support Managers for member practices in primary care and localities, and the Head of Governance/Board Secretary for employee declarations and those of committees other than localities. The Head of Governance/Board Secretary oversees maintenance of registers and publication of these on the CCG's website.

4.6 Additional information

Summary guides have also been published by NHS England for:

- GPs in commissioning roles
- Conflicts of Interest Guardians
- CCG Head of Governance/Board Secretary
- CCG Lay Members
- CCG Admin Teams
- Healthwatch Representatives on Primary Care Commissioning Committees

These can be found through the following link:

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

5. Governance arrangements and decision making

5.1 Standing item

All CCG committee and sub-committee meetings have declarations of interest as a standing agenda item, with interests to be declared by all members even if the interest has been declared on registers, for an agenda item of potential conflict. These must be recorded in the minutes, as well as the agenda item for which conflict has been declared. All relevant register entries will also be made available for the Chair in advance of the meeting.

Where such a declaration is made, the following information shall also be recorded in the minutes of the meeting.

- who has the interest;
- the nature of the interest and why it gives rise to a conflict;
- how the conflict was agreed to be managed; and
- evidence that the conflict was managed as intended.

5.2 Managing declared conflicts

In circumstances where a potential perceived or actual conflict is known to exist, the **chair** of the meeting has ultimate responsibility for agreeing how to manage any conflict of interest in the meeting. Possible actions may include (but are not limited to):

- Asking conflicted individuals to leave the meeting when the relevant matter(s) are being discussed;
- Allowing conflicted individuals to participate in some of the discussion, but asking them to leave the meeting at the point of decision-making;
- Restricting access to papers in advance of the meeting.

Were this to result in an absence of members to the extent that the meeting would no longer be quorate, then the meeting would be unable to make any formal decisions. The Chair reserves the right to adjourn and reconvene the meeting when appropriate membership can be ensured. This would need to be recorded in the minutes.

Should it never be possible to have a quorate decision through the need to exclude conflicted voting members for a certain item, such items/decisions will be escalated as described within the committee's terms of reference.

The above will apply not only in relation to formal CCG decision making meetings, but equally at contract monitoring meetings with providers, and also where a contract is held jointly with another organisation such as the Local Authority or with other CCG's under lead commissioner arrangements.

Other points in relation to managing conflicts at meetings:

- All papers to committees where commissioning decisions or recommendations are anticipated must use the standard cover sheet including conflicts of interest declarations and mitigating actions.
- No individual who is conflicted should author/present, irrespective of whether a subject matter expert.
- Minutes must also record where a meeting is or is not quorate to make the decision or recommendation requested of it, and action to be taken if quorum is not met for whatever reason.

Governing Body

In the event of the Governing Body needing to make a decision in which a Governing Body member has declared a potential conflict of interest (real or perceived) in accordance with this policy, the conflicted individual may be excluded from all discussions and voting in relation to the matter in question.

If a quorum is still present for the discussion and decision, the Governing Body may continue to make decisions.

In the event that exclusion renders the Governing Body inquorate due to the number of conflicted individuals, alternative quorum arrangements may be made, as per the Constitution. This may also require co-opting clinical expertise from outside the membership of the CCG or individuals from the Health and Wellbeing Board or escalating the decision to another committee. The management of conflicts of interest will be reported in the minutes of the meeting.

Where, having adhered to the requirements of this policy, a Member practice benefits from a decision through payment or benefits in kind, this will be reported in the CCG's annual report and accounts, as a matter of best practice.

See paragraphs 72 to 94 of the guidance (Managing conflicts of interest at meetings) for further details.

Advice on conflict management should be sought from the Conflict of Interest Guardian and Head of Governance/Board Secretary. The decision of the Chair of the governing body on questions of order, relevancy and regularity and their interpretation of the constitution, standing orders, scheme of reservation and delegation and prime financial policies at the meeting, shall be final.

A template for recording minutes has been published, under "Annex F" as follows;
<https://www.england.nhs.uk/publication/conflicts-of-interest-management-templates/>

6. Maintaining Registers of Interests

Details of which individuals need to declare interests is documented in statutory guidance published by NHS England (December 2014, updated June 2016, updated June 2017), **pages 22 to 28**, and in Question and Answer documents for both primary care and CCG employees. This also refers to review annually.

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

The CCG will maintain registers for the following:

- All GP Practices (divided by locality), including GP Partners (or, where the practice is a company, its directors) and any other individual directly involved with the business or decision making of the CCG;
- All members of the Governing Body, the Governing Body's committees, sub-committees; and
- All employees of the CCG, including agency staff and seconded staff.
- All employees of the Commissioning Support Unit involved in decision making on behalf of the CCG.

In terms of registers published on the website, updated NHS England guidance published June 2017 requires these to include only decision-making staff, including but not limited to:

- All governing body members;
- Members of advisory groups which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services such as working groups involved in service redesign or stakeholder engagement that will affect future provision of services;
- Members of the Primary Care Commissioning Committee (PCCC);
- Members of other committees of the CCG e.g., audit committee, remuneration committee etc.;
- Members of new care models joint provider / commissioner groups / committees;
- Members of procurement (sub-)committees;
- Those at Agenda for Change band 8d and above;
- Management, administrative and clinical staff who have the power to enter into contracts on behalf of the CCG; and
- Management, administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of good, medicines, medical devices or equipment, and formulary decisions.

These groups will likely include employees, and therefore only those declarations for employees at Band 8a and above are published on the website in order to capture those groups of staff that have a material influence on how taxpayers' money is spent.

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 make a written request that the information is not published. The Conflicts of Interest Guardian will make the decision whether or not such information should

be published, who may seek independent legal advice if required. The CCG will always retain a confidential un-redacted version of the relevant register(s).

7. Declarations of gifts and hospitality

This is covered by a separate CCG policy and also **pages 22 and 28** of the statutory guidance. Updating these declarations will fall within the same timescale as declarations of interest. A definition of a gift is given within statutory guidance. Gifts and hospitality are considered one-off benefits and a different declaration is required. Declarations should also include those offers of commercial sponsorship which could include grants (for which there is also a separate policy), even when such offers have been declined.

Under the Bribery Act 2010 it is a criminal offence to accept a bribe, which the offer of a gift or hospitality could be construed as if it is not managed appropriately. A bribe is offering an incentive to someone to perform a relevant function or activity improperly (e.g. to improperly enable the briber to secure or retain a business contract or to gain an advantage over a competitor by obtaining confidential information).

A template form for declarations of gifts and hospitality can be found here:
<https://www.england.nhs.uk/publication/conflicts-of-interest-management-templates/>

The above provisions for registers of interests shall apply in respect of gifts and hospitality for publication on the website (i.e. in relation to damage or distress from publication).

8. Roles and responsibilities

Oversight of the management of conflicts of interest will be provided by the Accountable Officer, supported by the Deputy Accountable Officer and Head of Governance/Board Secretary. A number of additional considerations are also required.

Appointment of Governing Body or Committee Members

When appointments are being made to the Governing Body or its committees, the CCG will consider on a case-by-case basis as to whether conflicts of interest should exclude individuals from being appointed.

The following will be taken into consideration:

- a. The materiality of the interest - in particular whether the individual (or a family member or business partner) could benefit from any decision the Governing Body might take. This will be particularly relevant for any profit sharing member of any organisation but will also be considered for all employees and especially those operating at senior or Governing Body level;
- b. The extent of the interest – if the interest is related to an area of business significant enough that the individual would be unable to make a full and proper contribution to the Governing Body, that individual will be excluded from becoming a member of the Governing Body.
- c. 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 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, 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.

The role of lay members

CCG lay members play a critical role in CCGs, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest. They also chair a number of CCG committees, including the Audit Committee and the Primary Care Commissioning Committee.

By statute, the CCG must have at least three lay members; one of whom must have qualifications, expertise or experience such as to enable the person to express informed views about financial management and audit matters and serve as the chair of the audit committee. Another should have knowledge of the geographical area covered in the CCG's constitution such as to enable the person to express informed views about the discharge of the CCG's functions.

National guidance also stipulates that the primary care commissioning committee must have a lay chair and lay vice chair (**page 29**).

<https://www.england.nhs.uk/wp-content/uploads/2017/06/revised-ccg-conflict-of-interest-guidance-v7.pdf>

To provide appropriate oversight and assurance, and to ensure the CCG audit chair's position as Conflicts of Interest Guardian is not compromised, the audit chair should not hold the position of chair of the primary care commissioning committee.

Conflicts of Interest Guardian

To further strengthen scrutiny and transparency of CCG decision-making processes, the audit chair is appointed Conflicts of Interest Guardian and will be supported in their role by the Head of Governance/Board Secretary.

The latter will have responsibility for the day-to-day management of conflicts of interest matters and queries, and to keep the Conflicts of Interest Guardians well briefed on conflicts of interest matters and issues arising.

The Guardian has the following responsibilities:

- 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 this policy;
- Support the rigorous application of this policy;
- Provide independent advice and judgment where there is any doubt about how to apply this policy in an individual situation; and
- Provide advice on minimising the risks of conflicts of interest.

Page 30 of the national statutory guidance further describes the role of the conflict of interest guardian.

Responsibilities of CCG member practices

The most obvious area in which conflicts of interest could arise is where the CCG commissions (or continues to commission by contract extension) healthcare services, including GP services, in which a member of either CCG has a financial or other interest. This is inherent when commissioning services in primary care where GPs are current or possible providers.

It is the responsibility of all Members to familiarise themselves with this policy and comply with its provisions. Any updates shall be circulated to Members, who will be asked to confirm that they have read this policy and that they have completed online training provided by NHS England. CCGs have to 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.

Responsibilities of CCG employees

Line managers must ensure their team members are aware of this policy and the processes to be followed to manage conflicts of interest. Furthermore, they must make sure that staff also complete the online training provided by NHS England.

9. Managing conflicts of interest throughout the commissioning cycle

Service design

Engagement with relevant providers, especially clinicians, in confirming the design of a service specification is entirely permissible, provided it is done fairly, transparently and in a non-discriminatory manner.

Conflicts of interest can occur 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. Therefore steps should be taken to ensure that any potential providers are all subject to equal process and information.

The CCGs will, as far as possible, specify the outcomes that they wish to see delivered through a new service, rather than state the way in which these outcomes are to be achieved. As well as supporting innovation, this will help to prevent bias towards particular providers in the specification of services.

Procurement

The NHS Act and associated regulations set out the statutory rules with which commissioners are required to comply when procuring or contracting for the provision of clinical services. They need to be considered alongside Public Contract Regulations (revised 2015), and where appropriate, EU procurement rules. Other statutory guidance the CCG should abide by is Monitor's 'Substantive Guidance on the Procurement, Patients Choice and Competition regulations (2013)'.

The above requirements will apply not only to those participating in procurement, but also anyone seeking information in relation to procurement.

The 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.

Where a relevant and material interest or position of influence exists in the context of the specification for, or award of, a contract, then the member will be expected to:

- Declare the interest;
- Ensure that the interest is recorded in the register;
- Withdraw from all discussion on the specification or award;
- Not have a vote in relation to the specification or award.

Members will be expected to declare any interest early in any procurement process if they are to be a potential bidder in that process. Failure to do this could result in the procurement process being declared invalid and possible suspension of the relevant member from the CCG (following due process with ConSultHR for CCG employees/appointees or NHS England for Member Practice representatives).

If necessary, the CCGs shall prohibit the award of a contract where the integrity of the award has been, or appears to have been, affected by a conflict. If the contract

has already been awarded, the CCGs may, if necessary, seek to terminate the contract, or may remove the relevant individual from their post.

Potential conflicts will vary to some degree depending on the way in which a service is being commissioned e.g.:

- Where a CCG is commissioning a service through Competitive Tender (i.e. seeking to identify the best provider or set of providers for a service) a conflict of interest may arise where GP practices or other providers in which CCG members have an interest are amongst those bidding.
- Where the CCG is commissioning a service through Any Qualified Provider a conflict could arise where one or more GP practices (or other providers in which CCG members have an interest) are amongst the qualified providers from whom patients can choose.

Statutory guidance published by NHS England (December 2014, updated June 2016, updated June 2017), **details a number of annexes to be used for procurement related declarations:**

- Annex G: Procurement checklist
- Annex H: Template Register of procurement decisions and contracts awarded
- Annex I: Template Declaration of interests for bidders/ contractors

Please refer to the following link for these documents:

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

Declarations of external conflicts of interest will be expected from bidders in advance of the PQQ (Pre-Qualification Questionnaire) stage to avoid spending time completing the PQQ in the event that the response would be excluded as a result of an irreconcilable conflict of interest.

Register of procurement decisions

The CCGs will maintain a register of procurement decisions which will include the details of the decision, who was involved in making the decision, and a summary of any conflicts of interest in relation to the decision and how this was managed by the CCGs. It will also detail the award decision taken.

The register will be updated whenever a procurement decision is taken and be made publically available both on the website and by having a copy available in the office for inspection. Once agreed, details of the contract and contract value (including any qualified provider contracts) will also be made available on the CCG website.

These records will be retained for a period of at least three years from the date of award of the contract. The register will form part of the CCGs' Annual Accounts and will thus be signed off by external auditors.

10. Raising concerns

Where a Member or employee has genuine concerns in relation to this policy and/or any breaches of this policy, they need not investigate their concerns but should report the matter to the Conflicts of Interest Guardian in accordance with the terms of this policy and the CCGs' whistleblowing policy. Suspicions or concerns relating to acts of fraud or bribery can be reported online via <https://cfa.nhs.uk/> or via the NHS Fraud and Corruption Reporting Line on 0800 028 4060.

11. Breach of conflicts of interest policy

There will be situations when interests will not be identified, declared or managed appropriately and effectively. This may happen innocently, accidentally, or because of the deliberate actions of staff or organisations. For the purposes of this policy these situations are referred to as 'breaches'.

Non-compliance with this policy may result in civil challenges to the CCGs' decisions, criminal proceedings for offences such as fraud, bribery and corruption, professional regulatory proceedings and/or disciplinary action. If the situation arises where a contract has been entered into and a breach of this policy has occurred, the CCGs will investigate and take action appropriate to circumstances.

The CCGs will view instances where this policy is not followed as serious and may take disciplinary or other relevant action against individuals, which may result in dismissal. Any unwitting failure to declare a relevant and material interest or position of influence and/or to record a relevant or material interest or position of influence that has been declared will not necessarily render void any decision made by the CCGs or their properly constituted committees or sub-committees, although the CCGs will reserve the right to declare such a contract void.

Where the breach is reported by an employee or worker of another organisation, it will be investigated with the terms of the whistleblowing policy of the relevant employer organisation.

The Conflicts of Interest Guardian will record anonymised details of, and investigate the alleged breach with support from the Accountable Officer or 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. 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 are shared with the individual or individuals subject to investigation.

The CCG will publish anonymised details of material breaches of this policy on its website for learning and development purposes. This will be updated each time the register is updated. Breaches should also be reported to NHS England through its Local Area Team.

Breach investigation and review panel – terms of reference

This may be called at any time to ensure investigations of potential or actual breaches are completed appropriately. The following paragraphs are its terms of reference, to be reviewed at the time this policy is subject to review.

Accountability: It reports to and is accountable to the Audit Committee, reviewing draft investigation reports using an appropriate template. It reports findings and recommendations to Audit Committees and recommends investigation closure through a standing agenda item on conflicts of interest. It may request further information and review draft reports on more than one occasion before recommending closure to Audit Committees.

Membership: comprises a nominated conflict of interest guardian, Accountable Officer, Deputy Accountable Officer or alternative (e.g. Head of Governance/Board Secretary) and counter fraud. For quorum it will require a nominated conflicts of interest guardian and the Deputy Accountable Officer or alternative (e.g. Head of Governance/Board Secretary).

Confidentiality: Its principle to function is to be party to only anonymised information about the potential or actual breach being investigated and that confidentiality is paramount. However it will retain a right to request additional information about a breach that may not be anonymous in order to discharge its function. However any reporting to Audit Committee will retain an anonymous status.

Conflicts of interest: Appropriate mitigations will be taken in relation to any breach investigation where members own declarations of interest become relevant to the nature and scope of investigation.

Breach investigation timescales – led by Accountable Officer or Deputy Accountable Officer or alternative (e.g. CCG Head of Governance/Board Secretary)

Breach class	Timescale for investigation	Scope of investigation
Member of staff in decision making role who does not update (or complete) a declaration within 28 days of becoming aware of it – identified through register maintenance or other source – e.g. internal audit	Within eight weeks – to complete full investigation where determined as material or requires further investigation.	Completion of declaration form with routine line manager/senior CCG manager approval; reported to Audit Committees through breach register entry
Formal internal audit or other informal audit of evidence (e.g. meeting papers) identifies potential breach of policy that may not have otherwise been identified – innocent, accidental or deliberate	<p>Within twelve weeks – referred to breach investigation and review panel and reported to Audit Committees.</p> <p>Note: simple record keeping issue – i.e. incomplete declaration form within 28 days will not require panel review.</p>	<p>CCG conflicts of interest breach investigation template completed and reported to Audit Committees post breach investigation and review panel review (only if initial two week investigation determines material breach), breach register entry and reported to NHS England where concluded as material.</p> <p>Post investigation findings, or at any other point in the timescale, reported to Human Resources for action as may be necessary under other policies</p>
Contract already entered into where breach identified (likely as a consequence of legal challenge, following a procurement for example)	Timescale dependent on wider proceedings related to breach occurrence, i.e. determined by arbitration or judicial review associated with challenge to legality of contract entered into	<p>Breach investigation template and/or other template as may be required by legal process.</p> <p>Reported to Audit Committees post breach investigation and review, breach register entry and reported to NHS England where material</p>

12. Managing conflicts of interest within Integrated Care Partnerships and Primary Care Networks

Legislative implications

The Integrated Care Partnership for Buckinghamshire has no legislative basis. It 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 ICP 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 ICP 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 ICP 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 ICP groups/partnerships/forums

Where ICP 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 ICP; 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 ICP on behalf of the county's other GP Provider Company, Medicas).

Primary Care Networks

These have been introduced from July 2019 to build on the core of current primary care services and enable greater provision of proactive, personalised, coordinated and more integrated health and social care. The CCG has a number of position statements in relation to conflicts of interest and Primary Care Networks described below.

These are in addition to known but managed direct conflicts where Governing Body and other sub-committee voting members are practice partners, which are in turn members of both GP Federations and Primary Care Networks.

Routine mitigations include delegation of authority and/or amendments to meeting quorum in order to transact decisions where direct or indirect conflicts are deemed material. The additional statements below also form part of CCG policy on the basis that they will be subject to continual review as to ongoing monitoring and compliance.

As regards further assurances provided by all providers including Primary Care Networks as is referred to in section b below, this will include the Networks themselves having in place their own policies, procedures and assurances as is outlined in guidance supporting model PCN schedules, which in turn forms part of Direct Enhanced Service contracting arrangements.

a) CCG position statement on Primary Care Network Accountable Clinical Directors and conflicts of interest

CCGs will be responsible for overseeing ongoing assurance of Primary Care Networks delivery against the requirements of the Direct Enhanced Service.

This raises inherent conflicts for decision makers* of CCGs who are also Accountable Clinical Directors of Primary Care Networks.

Furthermore, it would also be a direct conflict of interest for an Accountable Clinical Director for a provider to participate in a CCG's discussions, assurances and

decisions on strategy and financial planning that the provider could be subject to or benefit from. On this basis, CCG Clinical Directors are unable to hold both roles.

b) CCG position statement on conflicts of interests for Primary Care Networks, providers and their sub-contracting arrangements

CCGs have always had a responsibility to seek assurances in identifying and managing conflicts of interest in relation to its commissioning and contracting arrangements. Providers also have a duty to comply with this for their staff and sub-contracting arrangements.

It is the view of the CCG that there is likely to be a direct and material conflict of interest for Accountable Clinical Directors of Primary Care Networks to also hold director roles in providers.

The CCG would, in commissioning and contracting with all providers, seek assurances that actual or potential conflicts have been appropriately identified and mitigated as normally required under standard terms of contract.

c) CCG position statement on support in kind to Primary Care Networks

CCGs might provide support in kind for their Primary Care Networks, e.g. through seconding and paying for staff to help with particular functions or purchasing systems on behalf of Primary Care Networks, e.g. risk stratification.

The CCG would use its existing conflicts of interest policy to determine any course of action for:

1. Particular decisions on procurement or contracting
2. The secondment or offer of support of CCG staff to a Primary Care Network
3. The involvement of CCG staff in design of an offer of support in kind

This may particularly affect CCG staff in decision maker roles.

*Where a decision maker for this purpose is defined as someone with any authority in the CCG scheme of reservation and delegation, and/or is a voting member or a standing invitee to a committee of the CCG.

13. Acknowledgement of external sources

Title / Author	Institution	Link
Managing Conflicts of Interest: Statutory Guidance for CCGs	NHS England	https://www.england.nhs.uk/publication/managing-conflicts-of-interest-revised-statutory-guidance-for-ccgs-2017/
The Bribery Act 2010	HM Government	http://www.legislation.gov.uk/ukpga/2010/23/contents
Health and Social Care Act 2012	HM Government	http://www.legislation.gov.uk/ukpga/2012/7/contents
Nolan Principles	HM Government	https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2
Equality Act 2010	HM Government	http://www.legislation.gov.uk/ukpga/2010/15/contents
NHS Constitution	NHS England	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/480482/NHS_Constitution_WEB.pdf
UK Corporate Governance Code	Financial Reporting Council	https://www.frc.org.uk/Our-Work/Publications/Corporate-Governance/UK-Corporate-Governance-Code-April-2016.pdf
Good Governance Standards for Public Services (2004)	OPM CIPFA	https://www.cipfa.org/policy-and-guidance/reports/good-governance-standard-for-public-services
Procurement, patient choice and competition regulations: guidance (2013)	Monitor	https://www.gov.uk/government/publications/procurement-patient-choice-and-competition-regulations-guidance
Support to manage conflicts of interest for CCGs when commissioning primary care (2015)	NHS Clinical Commissioners, Royal College of GPs	http://www.nhscc.org/latest-news/conflicts-of-interest/
Commissioning; Ensuring transparency and probity. Guidance on conflicts of interest for GPs in their role as commissioners and providers (2014)	British Medical Association (BMA)	http://www.bma.org.uk/support-at-work/commissioning/ensuring-transparency-and-probity
Managing conflicts of interest in clinical commissioning groups (2011)	Royal College of General Practitioners Centre for Commissioning/NHS Confederation	http://www.rcgp.org.uk/~/_media/Files/CIRC/Managing_conflicts_of_interest.ashx
Financial and commercial arrangements and conflicts of interest (2013)	General Medical Council (GMC)	http://www.gmc-uk.org/guidance/ethical_guidance/21161.asp