

NHS WEST ESSEX CLINICAL COMMISSIONING GROUP

Managing Conflicts of Interest Policy

WE CCG Policy Reference:

WECCG63

Brief Description (max 50 words)	This policy sets out the requirements in relation to declaring and recording declarations of interests and how conflicts of interests will be managed. It applies to all members of the CCG as described in the target audience section below.
Target Audience	All CCG staff

Version Number	3.6
Accountable Officer	Chief Officer
Responsible Officer	Head of Governance and Corporate Services
Date Approved	13 th December 2018
Approved By	Executive Committee
Date Summary presented to Board	To be on the January 2019 paper
Review Date	December 2019
Stakeholders engaged in development	Policy Review Group, Head of Information Governance for confidentiality statement
Equality Impact Assessment	Complete

SUSTAINABILITY STATEMENT: We declare that NHS West Essex Clinical Commissioning Group will demonstrate commitment to promoting environmental and social sustainability through our actions as a corporate body and as a commissioner. We aim to reduce our carbon footprint by 28% from a 2013 baseline by 2020.

Amendment History

Version	Date	Reviewer Name(s)	Comments
2.0	9.7.2015	Kerry Franklin	Complete review and total re-write of previous policy.
2.1	13.7.2015	Kerry Franklin	Incorporation of comments from governance, internal audit, counter fraud and procurement.
2.2	20.7.2015	Governance Team	Incorporated comments from Executive Committee.

2.3	30.7.2015	Kerry Franklin	Incorporated comments from Audit Committee as an update on version 2.2 which was presented to the Board. Board approval provided with these changes to provide version 2.3.
2.4	05.04.2016	Dannii Owens	Following approval of the updated Declaration of Interest form, this has been added to appendix A
2.5	31.10.16	Simone Surgenor	Full redraft of the CCGs Conflicts of Interest Policy, following the publication of NHS England's Mandatory Guidance.
3.0	24.07.2017 – 04.09.2017	Dannii Owens and Grainne Stephenson	Full redraft following the release of the latest NHSE guidance – Managing Conflicts of Interest: Revised statutory guidance for CCGs 2017
3.1	05.09.17	Dannii Owens	Proof read and some amendments made
3.2	15.09.2017	Dannii Owens, Grainne Stephenson and Dorothy Blundell	Agreement reached over queries raised around gifts and hospitality, regularity of requesting Declarations of Interest forms for decision making staff, slightly changed the approach for raising concerns
3.3	27/09/2018	Dannii Owens	<p>General - Updated policy names as appropriate</p> <p>Ch. 3 - Amended definitions of the types of conflicts of interest which could arise to broaden them outside of just commissioning</p> <p>Ch. 6 – Included sentence on consent being sought via the Declaration of Interest forms</p> <p>Ch. 7 – Inclusion that staff still required to declare gifts and hospitality when declining</p> <p>Ch. 8 – new form created for sponsored events</p> <p>Ch. 9.3 – Lay Member for Primary Care replaces Lay Member for PPE in chairing the Primary Care Commissioning Committee</p> <p>Ch. 9 – further points added to responsibilities for Director of Corporate Services, Members and attendees of meetings, minute takers and managers and staff</p> <p>Ch. 10.3 – Inclusion of how Chairs of meetings could manage situations where members / attendees six monthly updates not received</p> <p>Ch. 12 – removal of Chief Officers name</p>
3.4	18/10/2018	Grainne Stephenson and Dannii Owens	<p>All appendices, except A, changed to links to the staff intranet</p> <p>Links added for the principles for good governance</p> <p>Chapter – reworded to strengthen the confidentiality section</p> <p>Added a sponsored event form</p> <p>General tidy up of the format and wording throughout document</p> <p>Ch 9.8 and 10.1 – strengthened wording</p>

			around profound and acute interests Ch. 2 – tidied up wording
3.5	19/10/2018	Dannii Owens and Grainne Stephenson	Complete redraft based on the NHS England policy draft
3.6	03/12/2018	Policy Review Group	Comments received from PRG

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1. POLICY SUMMARY

Adhering to this policy will help to ensure that we use NHS money wisely, providing best value for taxpayers and accountability to our patients for the decisions we take.

As a member of staff you should...	As an organisation we will...
<ul style="list-style-type: none"> • Familiarise yourself with this policy and follow it. Refer to the guidance for the rationale behind this policy. • Use your common sense and judgement to consider whether the interests you have could affect the way taxpayers' money is spent. • Regularly consider what interests you have and declare these as they arise. If in doubt, declare. • NOT misuse your position to further your own interests or those close to you. • NOT be influenced, or give the impression that you have been influenced by outside interests. • NOT allow outside interests you have to inappropriately affect the decisions you make when using taxpayers' money. 	<ul style="list-style-type: none"> • Ensure that this policy and supporting processes are clear and help staff understand what they need to do. • Identify a team or individual with responsibility for: <ul style="list-style-type: none"> ○ Keeping this policy under review to ensure they are in line with the guidance. ○ Providing advice, training and support for staff on how interests should be managed. ○ Maintaining register(s) of interests. ○ Auditing this policy and its associated processes and procedures at least once every three years. • NOT avoid managing conflicts of interest. • NOT interpret this policy in a way which stifles collaboration and innovation with our partners

2. INTRODUCTION

NHS West Essex Clinical Commissioning Group (the CCG) and the people who work with and for us collaborate closely with other organisations, delivering high quality care for our patients.

These partnerships have many benefits and should help ensure that public money is spent efficiently and wisely, but there is a risk that conflicts of interests may arise.

Providing best value for taxpayers and ensuring that decisions are taken transparently and clearly are both key principles in the NHS Constitution. We are committed to maximising our resources for the benefit of the whole community. As an organisation and as individuals, we have a duty to ensure that all our dealings are conducted to the highest standards of integrity and that NHS monies are used wisely so that we are using our finite resources in the best interests of patients.

This policy aims to help our staff manage conflicts of interest risks effectively. It should act as an enabler for staff and for the CCG, allowing the organisation to conduct its business efficiently with openness and

transparency. Whilst the policy conforms with the NHS England statutory guidance¹, in addition the CCG has chosen to strengthen our management of conflicts of interest by putting further measures in place. The policy will be reviewed annually, or sooner if required.

3. PURPOSE

This policy will help our staff manage conflicts of interest risks effectively. It:

- Introduces consistent principles and rules
- Provides simple advice about what to do in common situations
- Supports good judgement about how to approach and manage interests

This policy should be considered alongside these other organisational policies:

- Procurement Policy
- Anti-Fraud and Bribery Policy
- Confidential Reporting (Whistleblowing) Policy
- Policy for Relations with the Pharmaceutical Industry and other Commercial Organisations
- Recruitment and Selection Policy

4. SCOPE

This policy applies to all staff, including those temporarily employed by the CCG.

Individuals contracted to work on behalf of the group or otherwise providing services or facilities to the group will be made aware of their obligation with regard to declaring conflicts or potential conflicts of interest. This requirement will be written into their contract for services².

5. DEFINITIONS

For the purpose of this policy the following definitions apply.

Conflict of interest – a set of circumstances by which a reasonable person would consider that an individual's ability to apply judgement or act, in the context of delivering, commissioning, or assuring taxpayer funded health and care services is, or could be, impaired or influenced by another interest they hold.

A conflict of interest may be:

- Actual - there is a material conflict between one or more interests
- Potential – there is the possibility of a material conflict between one or more interests in the future

Staff may hold interests for which they cannot see potential conflict. However, caution is always advisable because others may see it differently and perceived conflicts of interest can be damaging. All interests should be declared where there is a risk of perceived improper conduct.

Financial – this is where an individual may get direct financial benefits from the consequences of a decision they are involved in making. Examples can be viewed in Appendix A.

Non-financial professional – this is where an individual may obtain a non-financial professional benefit from the consequences of a decision they are involved in making, such as increasing their professional reputation or status or promoting their professional career. Examples can be viewed in Appendix A.

¹ Managing Conflicts of Interest: Revised Statutory Guidance for CCGs 2017 - published 16 June 2017

² Section 8.1.3 of the CCG's Constitution

Non-financial personal – 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. Examples can be viewed in Appendix A.

Indirect interests – this is where an individual has a close association with an individual who has a financial interest or a non-financial professional or personal interest and could stand to benefit from a decision they are involved in making. Examples can be viewed in Appendix A.

Decision making staff – Some staff are more likely than others to have a decision making influence on the use of taxpayers' money, because of the requirements of their role. For the purposes of this guidance these people are referred to as 'decision making staff'. This includes:

- All members of the Board, both voting and non-voting attendees
- Members and attendees of the sub-committees of the Board
- Executive and non-executive directors (or equivalent roles) who have decision making roles which involve the spending of tax payers money
- Members of advisory groups, such as the Transformation Boards, which contribute to direct or delegated decision making on the commissioning or provision of taxpayer funded services
- Members of new care models / joint providers / commissioner groups / committees
- Members of procurement sub-committees
- Those at Agenda for Change band 8d and above
- Administrative and clinical staff who have the power to enter into contracts on behalf of their organisation
- Administrative and clinical staff involved in decision making concerning the commissioning of services, purchasing of goods, medicines, medical devices or equipment and formulary decisions.

Staff – At the CCG we use the skills of many different people, all of whom are vital to our work. This includes people on differing employment terms, who for the purposes of this policy we refer to as 'staff' and are listed below:

- All salaried employees
- All prospective employees
- Contractors and sub-contractors
- Agency staff
- Those undertaking work experience
- Apprentices

Gift – this includes any item of cash or goods, or any service, which is provided for personal benefit, free of charge or at less than its commercial value.

Hospitality – this includes offers of meals, refreshments, travel, accommodation and other expenses.

Sponsored events – this is where NHS events are sponsored by external parties, it can involve full or part funding and provides opportunities for learning, development and partnership working.

Breach – situation when interests have not been identified, declared or managed appropriately and effectively. This may happen innocently, accidentally or because of the deliberate actions of staff or organisations.

6. PRINCIPLES

The CCG will observe the principles of good governance in the way it does business. These include:

- The Nolan Principles
- The Good Governance Standards for Public Services (2004), Office for Public Management (OPM) and Chartered Institute of Public Finance and Accountancy (CIPFA)

- The seven key principles of the NHS Constitution
- The Equality Act 2010
- The UK Corporate Governance Code
- Standards for member of NHS boards and CCG governing bodies in England.

All those with a position in public life should adhere to the Nolan Principles. These are set out in the CCG's Constitution.

In addition, to support the management of conflicts of interest, this CCG 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, sensible 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.

In addition to the above, the CCG will always bear in mind:

- 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.

7. DECLARATIONS OF INTEREST

7.1 When to declare any interests

A Declaration of Interest form should be completed by **all members of staff**:

- On appointment with the CCG, following receipt of a conditional offer letter and prior to start date;
- On appointment into a new role or a change in responsibility within the CCG;
- At the beginning of a new project / piece of work;
- As soon as circumstances change and new interests arise;
- In a meeting when interests staff hold are relevant to the matters in discussion; and
- On an annual basis, except for decision-making staff, where a return should be made every six months. This is to be in the form of a confirmation e-mail to state where there are no changes to the Declaration of Interest form.

It is the responsibility of the staff member to ensure that declarations of interest should be made as soon as reasonably practicable and by law within 28 days after the interest arises (this could include an interest an individual is pursuing). If staff are in any doubt as to whether an interest is material then they should declare it, so that it can be considered.

All staff attending Board, sub-committees of the Board and / or Transformation Boards will be asked at the beginning of each meeting, to verbally declare any declarations of interest that affect meeting agendas. If a new declaration is declared then an updated form must be completed by the member of staff and returned to the Governance Team.

The Governance Team will prompt decision making staff on a six monthly and all other staff on an annual basis to review declarations they have made and, as appropriate, update them or make a nil return.

A Declaration of Interest should be made by each member practice of the CCG on an annual basis. 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.

A Declaration of Interest form can be downloaded [here](#). Any declaration of interest forms must be sent to the Governance Team for updates to the Register of Interests via WECCG.governance@nhs.net

7.2 Types of interest to be declared

Staff members must declare:

- Both actual and potential conflicts of interest
- Indirect and direct interests
- Financial interests
- Non-financial professional interests
- Non-financial personal interests

Examples of conflicts of interest can be seen in Appendix A. There is also a suite of case studies provided by NHS England which can be seen [here](#).

8. RECORDS AND PUBLICATION

8.1 Maintenance

The CCG will maintain a number of registers, including the following:

- The main Register of Interests will hold Declaration of Interests for all staff, members / attendees of the Board, sub-committees of the Board and Transformation Boards.
- A Register of Interest for decision making staff which will be updated every six months with the relevant committees receiving their members and attendees updated information.
- A Gifts and Hospitality Register which will include all declared offers of gifts and / or hospitality which have been offered to CCG staff.
- A Register of breaches.

On receiving an updated Declaration of Interest form, the Governance Team will update the main database within two weeks of receipt. At the point the decision making staff declarations of interest are formally reviewed every six months, corresponding databases will be updated to reflect changes received within the previous six month period.

Interests of decision making staff will remain on the public register for a minimum of six months. In addition, the CCG will retain a private record of historic interests for a minimum of six years after the date of expiry.

8.2 Publication

Policy Ref: WECCG63

Version: 3.6

Approved: 13th December 2018 by the Executive Committee

Review date: December 2019

We will publish the interests declared by decision making staff in the Decision Makers Register of Interest. This information will be refreshed on a six monthly basis and the updated Register of Interests will then be made available to the public on the CCG's website and at the CCG head office. A Register of Interests template can be downloaded [here](#).

The Gifts and Hospitality Register will be updated bi-monthly when it will be presented to the Audit Committee for noting. It will be uploaded annually on the CCG's website. A template for the Gifts and Hospitality Register can be downloaded [here](#).

The Register of Breaches will be presented to the Audit Committee on an annual basis, and sooner if required. This will then be made publically available on the CCG's website. A template for the Register of Breaches can be downloaded [here](#).

8.3 Confidentiality

If decision making staff have substantial grounds for believing that publication of their interests should not take place then they should contact the Governance Team to explain why. In exceptional circumstances, for instance where publication of information might put a member of staff at risk of harm, information may be withheld or redacted on public registers. However, this would be the exception and information will not be withheld or redacted merely because of a personal preference.

8.4 Wider transparency initiatives

The CCG fully supports wider transparency initiatives in healthcare, and we encourage staff to engage actively with these.

Relevant staff are strongly encouraged to give their consent for payments they receive from the pharmaceutical industry to be disclosed as part of the Association of British Pharmaceutical Industry (ABPI) Disclosure UK initiative. These "transfers of value" include payments relating to:

- Speaking at and chairing meetings
- Training services
- Advisory board meetings
- Fees and expenses paid to healthcare professionals
- Sponsorship of attendance at meetings, which includes registration fees and the costs of accommodation and travel, both inside and outside the UK
- Donations, grants and benefits in kind provided to healthcare organisations

Further information about the scheme can be found on the ABPI website:
<http://www.abpi.org.uk/our-work/disclosure/about/Pages/default.aspx>

9. GIFTS AND HOSPITALITY

The CCG recognises that there will be occasions when staff are offered gifts and / or hospitality and requests that these are politely declined. The only exception is hospitality offered in the form of refreshments associated with training courses, conferences and meetings. Such occasions need not be declared.

Staff members are still required to complete a Gifts and Hospitality form, which can be downloaded [here](#), where they are offered gifts and / or hospitality. This is to maintain openness and transparency in our dealings with external organisations. The completed form should be returned to the Governance Team who will log the information on the Gifts and Hospitality Register within two weeks of receipt. This will be

presented on a bi-monthly basis to the Audit Committee and made available to the public on the CCG's [website](#). A Gifts and Hospitality Register can be downloaded [here](#).

10. MANAGEMENT OF INTERESTS

10.1 General

If an interest is declared but there is no risk of a conflict arising then no action is warranted. However, if a material interest is declared then the general management actions that could be applied include:

- restricting staff involvement in associated discussions and excluding them from decision making
- removing staff from the whole decision making process
- removing staff responsibility for an entire area of work
- removing staff from their role altogether if they are unable to operate effectively in it because the conflict is so significant

Each case will be different and context-specific, and the line manager will always clarify the circumstances and issues with the individuals involved. Staff should maintain a written audit trail of information considered and actions taken. Advice can be sought from the Governance Team.

Staff who declare material interests should make their line manager or the person(s) they are working to aware of their existence.

Examples of how to manage potential conflicts of interest can be viewed in Appendix B.

10.2 Profound and acute conflicts of interest

There will be occasions where the conflict of interest is profound and acute. In such these scenarios (such as where an individual has a direct financial interest which gives rise to a conflict, for example, employment outside the CCG or involvement with an organisation which benefits financially from contracts for the supply of goods and services) it is likely that the CCG will consider whether, practically, such an interest is manageable at all. The CCG is aware that such a conflict could arise in relation to both clinical and non-clinical roles. If it is not manageable the appropriate course of action may be to refuse to allow the circumstances which gave rise to the conflict to persist. The CCG may therefore require an individual to step down from a particular role and / or move to another within the CCG.

The CCG's policy on outside employment is detailed in the Business Code of Conduct, which can be viewed [here](#).

10.3 Process to follow in meetings and available checklists

Chairs and the minute takers for all meetings of the CCG's Board, sub-committees and other groups should follow the process as outlined in the Declaration of Interest Checklist, which can be downloaded [here](#).

A template to be used for every meeting where an interest is raised can be downloaded [here](#).

A template for the recording of minutes can be downloaded [here](#).

10.4 Procedure to follow for managing conflicts of interest in meetings

The chair or vice chair will decide how to manage the conflict of interest. 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 not to attend all or part of the meeting.

- Ensuring that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter that gives rise to the conflict.
- Requiring the individual to leave the discussion when the relevant matters are being discussed and when any decisions are taken in relation to these.
- Allowing the individual to participate in some or all of the discussion when the relevant matters are being discussed but requiring them to leave the meeting when any decisions are being taken in relation to these.
- 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 discussions and decisions relating to the matters. This is only likely to be applicable where it is decided that the declared interest is immaterial or irrelevant to the matter under discussion.
- Removing the member from the group or process altogether.
- If exclusion of an individual with a conflict of interest will mean that the meeting is no longer quorate, the affected agenda item will be postponed until a quorum can be achieved without a conflict.
- When a conflict of interest is declared it must be recorded in the minutes with reference to the agenda item the conflict affects as per chapter 11.6.
- Upon receipt of the six monthly Register of Interest for their committee / group, the chair of the meeting should determine the best course of action for those members and / or attendees who have not completed their six monthly return. This could include requiring the individual concerned to not attend all or part of the meeting.

The default response should not always be to exclude members with interests, as this may have a detrimental effect on the quality of the decision being made. Good judgement is required to ensure proportionate management of risk.

Where the conflict of interest relates to outside employment and an individual continues to participate in meetings pursuant to the preceding two bullet points, they 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 minutes. Where it is appropriate for them to participate in decisions they must only do so if they are acting in their CCG role.

The Conflict of Interest Guardian and Head of Governance & Corporate Services are available to offer advice when necessary.

11. ROLES AND RESPONSIBILITIES

It is the responsibility of the CCG to make arrangements for managing the actual or potential conflicts of interest in such a way to ensure that they do not and, do not appear to, affect the integrity of the group's decision making.

11.1 Chair of any meeting

The chair of any meeting has responsibility for:

- Deciding whether there is a conflict of interest and will take appropriate action in order to manage any conflicts.
- Determining the best course of action where a member or attendee has not completed their six monthly declaration of interest return, in line with Chapter 7.
- Determining the extent of any interest declared. May request advice from the Head of Governance & Corporate Services and the Governance Team.
- Consulting with the Head of Governance and Corporate Services and / or the Conflict of Interest Guardian (Deputy Chair of the CCG Board) for the CCG where necessary.
- Proactively considering ahead of meetings what conflicts are likely to arise and how they should be managed.
- At the beginning of every meeting, asking if anyone has any conflicts of interest to declare in relation to the business to be transacted.

- Ensuring that any conflicts of interest declared at the meeting are properly minuted. A template to be used at all meetings for the recording of conflicts of interest declared can be downloaded [here](#).
- Managing any conflicts of interest which arise appropriately and in accordance with this policy. This includes assessing the materiality of a conflict of interest that has been declared.
- Acknowledging if they themselves have a conflict of interest and decide that the vice chair should chair all or part of a meeting.

11.2 Vice chair of any meeting

The vice chair of any meeting has responsibility for:

- Taking on the responsibilities of the chair as detailed above, whereby the chair is not in attendance or has a conflict of interest themselves.

11.3 Lay Members

The Lay Member for Governance has responsibility for:

- Holding the role of Conflicts of Interest Guardian for the CCG. They will consult and advise the chairs and vice chairs where necessary.

The Lay Member for Primary Care has responsibility for:

- Chairing the Primary Care Commissioning Committee.

11.4 Head of Governance and Corporate Services and the Governance Team

The Head of Governance and Corporate Services and the Governance Team have responsibility for:

- Consulting and advising the chairs and vice chairs where necessary.
- The day to day management of conflicts of interest.
- Maintaining the registers referred to in this policy.
- Supporting the Conflicts of Interest Guardian.
- Providing advice, guidance and support on managing conflicts of interest. This includes assessing the materiality of a conflict of interest that has been declared.
- Ensuring that appropriate administrative processes are put in place.
- Working with the Chief Officer and relevant senior managers to refuse to allow circumstances to persist where a profound and acute interest arises. Please see chapter 10.2 for further information.
- Providing advice to managers where a conflict of interest has been declared following offer of employment which needs to be managed.
- Upon receipt of an updated Declaration of Interest form outside of the six monthly review, will liaise with the relevant chairs to ensure they are aware of the update.

11.5 Members and attendees of meetings

Members and attendees of meetings have responsibility for:

- At the beginning of any meeting, declaring any conflicts of interest which are relevant to business to be discussed.
- Bringing to the attention of the chair any fact or circumstance which may give rise to a conflict of interest.
- Completing their six monthly declaration of interest return in a timely manner.
- Declaring any changes to their interests within 28 days.
- Discussing and agree with their line manager any mitigating actions which need to be put in place to manage conflicts of interest, citing these on their Declaration of Interest form.

11.6 Minute taker

The minute taker of any meeting has responsibility for:

- Working with the chair of the meeting, ensuring that any conflicts of interest declared are properly minuted. A template to be used at all meetings for the recording of conflicts of interest declared can be downloaded [here](#). A copy of this should be shared with the Governance Team via WECCG.governance@nhs.net to be stored.

11.7 Chief Officer

The Chief Officer has responsibility for:

- Overall accountability for the CCG's management of conflicts of interest.
- Working with the Head of Governance Corporate Services and relevant senior managers to refuse to allow circumstances to persist where a profound and acute interest arises. Please see chapter 10.2 for further information.

11.8 Line Managers

Line managers have responsibility for:

- Discussing any declared interests with the relevant staff member, agreeing actions to be implemented in order to mitigate any risk associated with the conflict which should be cited on the Declaration of Interest form.
- Receiving the completed Declaration of Interest form from those who have been offered a position of employment. Agree actions to be put in place to mitigate any risk associated with the conflict.
- Working with the Chief Officer and Head of Governance and Corporate Services to refuse to allow circumstances to persist where a profound and acute interest arises

11.9 Staff

All staff have responsibility for:

- Completing their annual declaration of interest return in a timely manner.
- Declaring any changes to their interests within 28 days.
- Discussing and agreeing with their Line Manager any mitigating actions which need to be put in place to manage conflicts of interest, citing these on their Declaration of Interest form.

12. MANAGING CONFLICTS OF INTERESTS THROUGHOUT THE COMMISSIONING CYCLE

The CCG's procurement processes for recognising and managing any potential or actual conflicts of interest are covered within the [Procurement Policy](#).

All formal contract monitoring meetings are to consider conflicts of interest, with the chair of the meeting inviting declarations of interest from attendees. This will include the process for recording any declared interests and how these are managed, in the minutes of the meeting.

The commercial sensitivity of information is to be considered in terms of which information should be disseminated.

As part of a procurement process, it is good practice to 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 commissioners must decide how best to deal with it to ensure that no bidder is treated differently to any other. A declaration of interests template for bidders / contractors can be downloaded [here](#).

This will include:

- The detail of the decision;

- Who was involved in the decision (for example governing body or committee members and others with decision making responsibilities); and
- A summary of any conflicts of interest in relation to the decision and how this was managed by the CCG.

Procurement should be managed in an open and transparent manner, compliant with procurement and other relevant law, to ensure there is no discrimination against or in favour of any provider. Procurement processes should be conducted in a manner that does not constitute anti-competitive behaviour – which is against the interest of patients and the public.

Those involved in procurement exercises for and on behalf of the CCG should keep records that show a clear audit trail of how conflicts of interest have been identified and managed as part of procurement processes. At every stage of procurement steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the processes.

13. RAISING CONCERNS AND BREACHES OF POLICY

There may 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 other organisations. For the purposes of this policy these situations are referred to as 'breaches'.

13.1 Identifying and reporting breaches

Staff who are aware about breaches of this policy, or who are concerned that there has been, or may be, a breach, should report these concerns as a matter of urgency using the following steps:

Step One

If you have a concern about a breach to this policy, in the first instance you should raise this with the Head of Governance and Corporate Services and / or the Governance Team.

Step Two

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, the Lay Member for Governance has been nominated by the Board as the Conflicts of Interest Guardian and can be contacted via stephen.king5@nhs.net.

Step Three

You may also write directly to the Chief Officer at the following address:

Chief Officer
NHS West Essex CCG
Building 4 Spencer Close,
St Margaret's Hospital
The Plain,
Epping
CM16 6TN

In an instance where you have followed step two or step three, either the Lay Member or the Chief Officer will arrange to meet with you within 10 working days (or within another mutually agreed timeframe) to discuss the matter further. This will involve asking whether you would like your concern and any proposed action to address that concern, summarised in writing and would include, where practicable, a proposed timetable for resolution.

Details of how concerns will be investigated and how the CCG ensures confidentiality can be read within the [Confidential Reporting \(Whistleblowing\) Policy](#).

The Chief Officer and the Head of Governance and Corporate Services will be responsible for making any final decision in relation to confirming the status of the concern becoming a breach.

To ensure that interests are effectively managed staff are encouraged to speak up about actual or suspected breaches. Every individual has a responsibility to do this. For further information about how concerns should be raised staff should refer to the Confidential Reporting Policy.

The CCG will investigate each reported breach according to its own specific facts and merits, and give relevant parties the opportunity to explain and clarify any relevant circumstances.

Following investigation the CCG will:

- Decide if there has been or is potential for a breach and if so what the severity of the breach is.
- Assess whether further action is required in response – this is likely to involve any staff member involved and their line manager, as a minimum.
- Consider who else inside and / or outside the CCG should be made aware.
- Take appropriate action as set out in the next section.

13.2 Taking action in response to breaches

Inappropriate or ineffective management of interests can have serious implications for the CCG and staff. There will be occasions where it is necessary to consider the imposition of sanctions for breaches.

Sanctions should not be considered until the circumstance surrounding breaches have been properly investigated. However, if such investigations establish wrongdoing or fault then the organisation can and will consider the range of possible sanctions that are available, in a manner which is proportionate to the breach.

Action taken in response to breaches of this policy will be in accordance with the disciplinary procedures of the CCG and could involve organisational staff support (such as Human Resources), fraud (such as the Local Counter Fraud Specialist), members of the management or executive teams and organisational auditors.

Breaches could require action in one or more of the following ways:

- Clarification or strengthening of existing policy, process and procedures.
- Consideration as to whether HR/employment law/contractual action should be taken against staff or others, which might include:
 - Informal action (such as reprimand, or signposting to training and / or guidance)
 - Formal disciplinary action (such as formal warning, the requirement for additional training, re-arrangement of duties, re-deployment, demotion, or dismissal)
- Consideration being given to escalation to external parties. This might include referral of matters to external auditors, NHS Protect, the Police, statutory health bodies (such as NHS England, NHS Improvement or the Care Quality Commission), and / or health professional regulatory bodies.
- Contractual action, such as exercise of remedies or sanctions against the body or staff which caused the breach.
- Legal action, such as investigation and prosecution under fraud, bribery and corruption legislation.

Communications and management of any media interest

Communications and responses to media interest in relation to conflicts of interest will be guided by the same principles that underpin the conduct of public bodies and their agents.

13.3 Learning and transparency concerning breaches

Reports on breaches, the impact of these, and action taken will be considered by the Audit Committee. To ensure that lessons are learnt and management of interests can continually improve, anonymised information on breaches, the impact of these, and action taken will be prepared and published as appropriate, or made available for inspection by the public upon request.

13.4 Recording breaches

For confirmed or actual breaches, as part of the record, the CCG will describe the event, identify risks, consider actions and counter fraud, including whether to notify the Local Counter Fraud Specialist.

For information please see the [Anti-Fraud and Bribery Policy](#).

The Governance Team will maintain a register of breaches, a template of which can be downloaded [here](#).

The CCG will report any breaches of this policy to NHS England. In addition, any breaches will be included as part of the CCG's Conflicts of Interest self-certification and any breaches are to be anonymised and published on the CCG's website.

13.5 Investigating breaches of this policy

If full, accurate and timely declarations are not made then civil, criminal or internal disciplinary action may result. The CCG's Disciplinary Policy can be viewed [here](#).

APPENDIX A – Examples of Conflicts of Interest

Financial Interests

- 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. This includes involvement with a potential provider of a new care model.
- 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
- A provider of clinical private practice
- An individual being
 - In employment outside of the CCG
 - In receipt of secondary income
 - In receipt of a grant from a provider
 - In receipt of any payments from a provider (for example, honoraria, one off payments, day allowances or travel or subsistence)
 - 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

- An advocate for particular group of patients
- A GP with special interests
- An active member of a particular specialist professional body (although routine GP membership of the Royal College of General Practitioners [RCGP], British Medical Association [BMA] or a medical defence organisation would not usually in 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)
- Engaged in a research role
- The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas
- GPs and practice managers, who are members of the Board or committees and / or groups of the CCG, should declare details of their roles and responsibilities within their GP practices

Indirect interests

- A spouse / partner
- Close family friend or relative
- Close friend or associate
- 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*

A range of conflict of interest case studies can be found [here](#)

APPENDIX B – Examples of how to manage conflicts of interest

1. Shareholdings and other ownership issues

- 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 the organisation.
- Where shareholdings or other ownership interests are declared and give rise to risk of conflicts of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.
- There is no need to declare shares or securities held in collective investment or pension funds or units of authorised unit trusts.

1.1 What should be declared

- Staff name and their role with the organisation.
- Nature of the shareholdings/other ownership interest.
- Relevant dates.
- Other relevant information (for example. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

2. Patents

- 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), including where applications to protect have started or are ongoing, which are, or might be reasonably expected to be, related to items to be procured or used by the organisation.
- Staff should seek prior permission from the organisation before entering into any agreement with bodies regarding product development, research, work on pathways and so on, where this impacts on the organisation's own time, or uses its equipment, resources or intellectual property.
- Where holding of patents and other intellectual property rights give rise to a conflict of interest then the general management actions outlined in this policy should be considered and applied to mitigate risks.

2.1 What should be declared

- Staff name and their role with the organisation.
- A description of the patent.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy)

3. Loyalty interests

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.
- Sit on advisory groups or other paid or unpaid decision making forums that can influence how an organisation spends taxpayers' money.
- Are, or could be, involved in the recruitment or management of close family members and relatives, close friends and associates, and business partners.

- Are aware that their organisation does business with an organisation in which close family members and relatives, close friends and associates, and business partners have decision making responsibilities.

3.1 What should be declared

- Staff name and their role with the organisation.
- Nature of the loyalty interest.
- Relevant dates.
- Other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

4. Donations

- Donations made by suppliers or bodies seeking to do business with the organisation should be treated with caution and not routinely accepted. In exceptional circumstances they 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.
- Staff should not actively solicit charitable donations unless this is a prescribed or expected part of their duties for the organisation, or is being pursued on behalf of the organisation's own registered charity or other charitable body and is not for their own personal gain.
- Staff must obtain permission from the organisation if in their professional role they intend to undertake fundraising activities on behalf of a pre-approved charitable campaign for a charity other than the organisation's own.
- Donations, when received, should be made to a specific charitable fund (never to an individual) and a receipt should be issued.
- Staff wishing to make a donation to a charitable fund in lieu of receiving a professional fee may do so, subject to ensuring that they take personal responsibility for ensuring that any tax liabilities related to such donations are properly discharged and accounted for.

4.1 What should be declared

- The organisation will maintain records in line with the above principles and rules and relevant obligations under charity law.

5. Sponsored events

- Sponsorship of events by appropriate external bodies will only be approved if a person could reasonably conclude that the event will result in clear benefit for the organisation and the NHS.
- During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection rules and legislation.
- No information should be supplied to the sponsor from whom they could gain a commercial advantage, and information which is not in the public domain should not normally be supplied.
- At the organisation'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.
- Staff within the organisation involved in securing sponsorship of events should make it clear that sponsorship does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to the event.
- Staff arranging sponsored events must declare this to the organisation via the Sponsorship Form which can be downloaded [here](#).

5.1 What should be declared

- The organisation will maintain records regarding sponsored events in line with the above principles and rules.

6. Sponsored research

- Funding sources for research purposes must be transparent.
- Any proposed research must go through the relevant health research authority or other approvals process.
- There must be a written protocol and written contract between staff, the organisation, and/or institutes at which the study will take place and the sponsoring organisation, which specifies the nature of the services to be provided and the payment for those services.
- The study must not constitute an inducement to prescribe, supply, administer, recommend, buy or sell any medicine, medical device, equipment or service.
- Staff should declare involvement with sponsored research to the organisation.

6.1 What should be declared

- The organisation will retain written records of sponsorship of research, in line with the above principles and rules.
- Staff should declare:
 - their name and their role with the organisation.
 - Nature of their involvement in the sponsored research.
 - relevant dates.
 - Other relevant information (e.g. what, if any, benefit the sponsor derives from the sponsorship, action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

7. Sponsored posts

- External sponsorship of a post requires prior approval from the organisation.
- Rolling sponsorship of posts should be avoided unless appropriate checkpoints are put in place to review and withdraw if appropriate.
- Sponsorship of a post should only happen where there is written confirmation that the arrangements will have no effect on purchasing decisions or prescribing and dispensing habits. This should be audited for the duration of the sponsorship. Written agreements should detail the circumstances under which organisations have the ability to exit sponsorship arrangements if conflicts of interest which cannot be managed arise.
- Sponsored post holders must not promote or favour the sponsor's products, and information about alternative products and suppliers should be provided.
- Sponsors should not have any undue influence over the duties of the post or have any preferential access to services, materials or intellectual property relating to or developed in connection with the sponsored posts.

7.1 What should be declared

- The organisation will retain written records of sponsorship of posts, in line with the above principles and rules.
- Staff should declare any other interests arising as a result of their association with the sponsor, in line with the content in the rest of this policy.

Additional information in relation to sponsorship is contained in the [Policy for Joint Working and Commercial Sponsorship with the Pharmaceutical Industry and Other Commercial Organisations.](#)

8. Clinical private practice

Clinical staff should declare all private practice on appointment, and/or any new private practice when it arises³ including:

- Where they practise (name of private facility).
- What they practise (specialty, major procedures).
- When they practise (identified sessions/time commitment).

Clinical staff should (unless existing contractual provisions require otherwise or unless emergency treatment for private patients is needed):

- Seek prior approval of their organisation before taking up private practice.
- Ensure that, where there would otherwise be a conflict or potential conflict of interest, NHS commitments take precedence over private work.⁴
- Not accept direct or indirect financial incentives from private providers other than those allowed by Competition and Markets Authority guidelines:
https://assets.publishing.service.gov.uk/media/542c1543e5274a1314000c56/Non-Divestment_Order_amended.pdf

Hospital Consultants should not initiate discussions about providing their Private Professional Services for NHS patients, nor should they ask other staff to initiate such discussions on their behalf.

89.1 What should be declared

- Staff name and their role with the organisation.
- A description of the nature of the private practice (e.g. what, where and when staff practise, sessional activity, etc).
- Relevant dates.
- Any other relevant information (e.g. action taken to mitigate against a conflict, details of any approvals given to depart from the terms of this policy).

³ Hospital Consultants are already required to provide their employer with this information by virtue of Para.3 Sch. 9 of the Terms and Conditions – Consultants (England) 2003: https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf

⁴ These provisions already apply to Hospital Consultants by virtue of Paras.5 and 20, Sch. 9 of the Terms and Conditions – Consultants (England) 2003: https://www.bma.org.uk/-/media/files/pdfs/practical_advice_at_work/contracts/consultanttermsandconditions.pdf