

POLICY ON BUSINESS CONDUCT AND MANAGEMENT OF CONFLICTS OF INTEREST

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A.	DECLARATION OF INTEREST FORM	
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1.0 Scope

This policy applies to NHS Vale of York Clinical Commissioning Group (CCG). This policy applies to all employees, members, committee and sub-committee members of the group and members of the governing body (and its committees).

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 services.

2.0 Introduction

Section 14O of the 2006 Act (Health Act 2006) requires the CCG to make arrangements to manage conflicts and potential conflicts of interest. This is to ensure that decisions made by the group will be taken and seen to be taken without any possibility of the influence of external or private interest.

The CCG's Constitution includes details on the management of conflicts of interest and should be read in conjunction with the policy.

The requirements of the Act are strengthened by the Code of Conduct: Code of Accountability in the NHS (DH and Appointments Commission (2004), the Code of Accountability for NHS Boards (DH 1994) and the Code of Conduct for NHS Managers (DH 2002)). These requirements are also explicitly laid out in CCG employees' contract of employment. Further guidance is also available via Standards of Business Conduct for NHS Staff (HSG(93)5 DH). Guidance specific to CCGs is published in Managing Conflicts of Interest – Technical Appendix 1 (NHS Commissioning Board February 2012).

These measures implemented by the CCG are designed to contribute to the CCG's obligation to ensure adequate measures are in place to prevent acts of bribery within the meaning of the Bribery Act 2010.

3.0 Policy Statement on Business Conduct and Conflicts of Interest

As a statutory NHS body the CCG will embody public service values and principles in all business the organisation conducts. High standards of corporate and personal conduct, based on the principle that patients come first, is a requirement for all members and employees of the CCG.

The following principles will govern the activities of the CCG:

Accountability: Everything done by members and employees of the CCG must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.

Probity: There should be an absolute standard of honesty in dealing with the assets and resources of the NHS and the CCG. Integrity should be the hallmark of all personal conduct in decisions affecting patients, staff and suppliers, and in the use of information acquired in the course of CCG business.

Transparency: There should be sufficient transparency about CCG activities to promote confidence between the CCG and its staff, patients and the public.

Members, committee and sub-committee members of the group and members of the governing body and employees will at all times comply with the requirements of the constitution in relation to conflicts of interest (see section 8) and will be aware of their responsibilities as outlined in it. They must also comply with the requirements set out in the policy. They should act in good faith and in the interests of the group and should follow the *Seven Principles of Public Life*, set out by the Committee on Standards in Public Life (the Nolan Principles) (see Appendix F of the Constitution).

The CCG expects all members, committee and sub-committee members of the group and members of the governing body and employees to:

- Ensure that the interests of the public remain paramount at all times
- Be impartial and honest in the conduct of their official business
- Use the public funds entrusted to them to the best advantage of the service, always ensuring value for money
- Comply with the requirements of Constitution, Standing Orders and Prime Financial Policies, other financial policies and all instructions relating to corporate governance
- Comply with the Department of Health Code of Conduct / Code of Accountability

It is also the responsibility of members, committee and sub-committee members of the group and members of the governing body and employees to ensure that they do not:

- Abuse their official position for personal gain or to benefit their family or friends
- Seek to advantage or further private business or other interests in the course of their official duties.

4.0 Definition of Conflicts of Interest

'Towards establishment: Creating responsive and accountable CCGs' (NHS Commissioning Board February 2012) defines a conflict of interest as follows:

'A conflict of interest occurs where an individual's ability to exercise judgement or act in one role is or could be impaired or otherwise influenced by his or her involvement in another role or relationship. The individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise. A potential for competing interests and/or a perception of impaired judgement or undue influence can also be a conflict of interest.'

It goes on to say in Technical Appendix 1:

"The important things to remember are that:

- ***a perception of wrong doing, impaired judgement or undue influence can be as detrimental as any of them actually occurring;***

- *if in doubt, it is better to assume a conflict of interest and manage it appropriately rather than ignore it;*
- *for a conflict to exist, financial gain is not necessary.”*

The CCG recognises that conflicts of interest are unavoidable and therefore has in place arrangements to seek to manage this.

5.0 Management of Conflict of Interests

5.1 Governing Body Responsibilities

The CCG Governing Body will ensure that it has systems and processes in place to support all member practices, and all individuals who hold positions of authority or who can make or influence decisions, to:

- declare their interests through a public Register of Interests;
- declare any relevant interests during discussions and proceedings so that any comments they make are fully understood by all others to be within that context
- ensure that where this conflict could have or could be perceived to have a material impact on any decision or process, the individual will play no part in influencing or making the relevant decision.

5.2 Principles for the Management Conflicts of Interest in CCG Business

In order to minimise the impact of potential conflicts of interest the CCG will adhere to the following principles in undertaking its commissioning activities:

openness: early engagement with patients, the public and with health and wellbeing boards in relation to proposed commissioning plans;

transparency: documenting clearly the approach that will be taken at every stage in the commissioning cycle;

responsiveness and best practice: ensuring that commissioning intentions respond to local health needs and reflects evidence of best practice – securing ‘buy in’ from patients and clinicians to the clinical case for change

securing expert advice: ensuring that plans take into account advice from appropriate health, social care or other professional advisers, e.g. through clinical networks; and draw on commissioning support, for example for more formal consultations and for procurement processes;

engaging with providers: early engagement with both incumbent and potential new providers over potential changes to the services commissioned for a local population;

creating clear and transparent commissioning specifications: that reflect the depth of engagement and set out the basis on which any contract will be awarded;

following proper procurement processes and legal arrangements, including even handed approaches to providers;

ensuring sound record-keeping, including an up to date register of interests: applying best practice in sound record-keeping, making

appropriate information available and accessible, and maintaining a register of interest with a clear system for declaration of interests;

dispute resolution: having systems for resolving disputes, clearly set out in advance.

These principles are adhered to via the CCG's Procurement Strategy.

Where the CCG commissions services from GP practices, the general safeguards described above will be supplemented by additional safeguards which will form a separate **Code of Conduct** to ensure maximum transparency and probity and provide reassurance that commissioning decisions have been made fairly and in the best interests of patients. This will be particularly the case where a single source tender route is used. This Code of Conduct will cover how the system can be assured that these extra services are not part of the 'core' primary medical services contract.

5.3 Declaration of Interests

All individuals covered by the scope of this policy are required to declare any relevant personal or business interests and any relevant personal or business interests of their spouse, civil partner, cohabitee, family member or any other relationship which may influence or may be perceived to influence their judgement.

Individuals will declare any interest that they have, in relation to a decision to be made in the exercise of the commissioning functions of the group, in writing to the governing body, as soon as they are aware of it and in any event no later than 28 days after becoming aware.

Where an individual is unable to provide a declaration in writing, for example, if a conflict becomes apparent in the course of a meeting, they will make an oral declaration at the meeting, and provide a written declaration as soon as possible thereafter.

As per section 8.23 of the Constitution a conflict of interest will include:

- direct pecuniary interest: where an individual may financially benefit from the consequences of a commissioning decision (for example, as a provider of services);
- an indirect pecuniary interest: for example, where an individual is a partner, member or shareholder in an organisation that will benefit financially from the consequences of a commissioning decision;
- a non-pecuniary interest: where an individual holds a non-remunerative or not-for profit interest in an organisation, that will benefit from the consequences of a commissioning decision (for example, where an individual is a trustee of a voluntary provider that is bidding for a contract);
- a non-pecuniary personal benefit: where an individual may enjoy a qualitative benefit from the consequence of a commissioning decision which cannot be given a monetary value (for example, a reconfiguration of hospital services which might result in the closure of a busy clinic next door to an individual's house).

- where an individual is closely related to, or in a relationship, including friendship, with an individual in the above categories.

Examples of interests that will be deemed to be relevant and material will include but are not limited to:

- Roles and responsibilities held within member practices.
- Membership of a Partnership (whether salaried or profit sharing) seeking to enter into any contracts with the CCG
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG.
- Directorships, including non-executive Directorship held in private or public limited companies seeking to enter into contracts with the CCG
- Shareholdings of companies in the field of health and social care seeking to enter into contracts with the CCG
- Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care.
- Any interest that they are (if registered with the General Medical Council) required to declare in accordance with paragraph 55 of the GMC's publication Management for Doctors or any successor guide.
- Any interest that they (if they are registered with the Nursing and Midwifery Council) would be required to declare in accordance with paragraph 7 of the NMC's publication Code of Professional Conduct or any successor Code.
- Any interest which does or might constitute a conflict of interest in relation to the specification for or award of any contract to provide goods or services to the CCG.
- Any research funding or grants that may be received by the individual or any organisation that they have an interest or role in.
- Any role or relationship which the public could perceive would impair or otherwise influence the individual's judgement or actions in their role within the CCG.

Should there be any doubt about the relevance of an interest, this should be discussed with the Chair of the CCG, Chair of the Audit Committee (Lay Member with Responsibility for Governance) or the Accountable Officer.

If in doubt, the individual concerned should assume that a potential conflict of interest exists.

It must be stressed that, in all instances, whilst advice and guidance is available, the question of whether or not to declare an interest is one which is a matter for the judgement of the individual themselves. In most cases a decision is straightforward but in cases of doubt the better option will usually be to declare an interest and so have all facts in the open. It must be remembered that an individual may be required to, and must be able to, justify any given circumstance. This is not intended to be threatening or onerous. Neither is the intent to be unnecessarily intrusive in an individual's private affairs. However, transparency demands that individuals are explicitly and clearly aware of their responsibilities and duties in this context.

NHS employees are advised not to engage in outside employment which may conflict with their NHS work. They are advised to tell their employer if they think they may be risking a conflict of interest in this area.

This policy is not, nor does it purport to be, a full statement of the law – further assistance or guidance may be obtained from the Governance and Legal Adviser.

5.4 Recording Interests

The Executive Assistant to the Governing Body, on behalf of the CCG Chair, will maintain a register of all relevant and material interests and positions of influence declared by the CCG members and employees together with the date that the interest was declared.

Separate registers will be maintained for CCG members, Governing Body members, members of its committees or sub-committees and the committees or sub-committees of its governing body and employees.

These details will be kept up-to-date by means of annual review of the Register in which any changes to interests declared during the preceding 12 months will be incorporated. All interests will be confirmed at least annually.

During the shadow year, the interests declared will also be included on the NHS North Yorkshire and York Cluster Register of Interests.

All interests declared will be published in the Annual Report for the CCG. They will be declared in the NHS North Yorkshire and York Cluster Annual Report in the shadow year.

The Registers will be available to the public and to the CCG's internal and external auditors. The Registers will be published on the CCG website.

5.5 Changes of Interests

Where an individual changes role or responsibility within a CCG any change to the individual's interest should be declared.

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 further declaration should be made to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising. This declaration should take place at the time the circumstances change and not be limited to the annual review.

5.6 Declaring Interests at Meetings

At all meetings including external and public meetings, all CCG members should declare any interest that they have in any agenda item before it is discussed or as soon as it becomes apparent. Even if the interest has already been declared in the Register of Interests, it should be declared in meetings where matters relating to that interest are discussed. All interests declared will be recorded in the Minutes of the meetings, as well as being included on the Register.

The chair of the meeting will have the responsibility for deciding whether there is a conflict of interest and the course of action to take. The chair of the

meeting may wish to seek further guidance from the CCG Chair, Chair of the Audit Committee or Accountable Officer.

If the withdrawal of a CCG member has the effect of rendering the meeting in question inquorate, the Chair reserves the right to adjourn and reconvene the meeting when appropriate membership can be ensured.

The CCG's Constitution covers the arrangements for the management of the meeting should the chair of the meeting have a conflict and also where 50% of the members of the Governing Body or a Committee are prevented from taking a decision because of conflicted interests.

All decisions should be recorded in the minutes of the meeting.

5.7 Declaration of Interests on Appointment

Individuals applying for posts at the CCG or seeking appointment to the Governing Body will be required to declare any potential conflicts of interest during the appointment process. Where a question arises as to whether this may impact on the ability to appointment individuals further guidance should be sought from the CCG Chair, Chair of the Audit Committee or Accountable Officer. These interests will be recorded. Further guidance is available in 'Towards Establishment: Creating Responsive and Accountable CCGs.'

6.0 Declaration of Interests in relation to procurement

The group recognises the importance in making decisions about the services it procures in a way that does not call into question the motives behind the procurement decision that has been made. The group will procure services in a manner that is open, transparent, non-discriminatory and fair to all potential providers.

The group will publish a Procurement Strategy approved by its governing body which will ensure that:

- a) all relevant clinicians (not just members of the group) and potential providers, together with local members of the public, are engaged in the decision-making processes used to procure services;
- b) service redesign and procurement processes are conducted in an open, transparent, non-discriminatory and fair way

Where a relevant and material interest or position of influence exists in the context of the specification for, or award of, a contract the Committee 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. In addition, where employees, members, committee and sub-committee members of the group

or members of the governing body (and its committees) are to be part of the tender evaluation panel or decision making process regarding the award of the contract any potential conflict of interest must be declared at the earliest opportunity. Failure to do this could result in the procurement process being declared invalid and possible suspension of the relevant member from the CCG.

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

- 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. Guidance within the GMC's core guidance Good Medical Practice (2006) and reiterated in its document Conflicts of Interest (2008) Indicates, in such cases, that:

"You must act in your patients best interests when making referrals and when providing or arranging treatment of care.

You must not ask for or accept any inducement, gift or hospitality which may affect or be seen to affect the way you prescribe, treat or refer patients. You must not offer such inducements to colleagues.

*- if you have financial or commercial interest in organisations providing healthcare or in pharmaceutical or other biomedical companies, these interests must not affect the way you prescribe for, treat or refer patients.
- if you have a financial or commercial interest in an organisation to which you plan to refer a patient for treatment or investigation, you must also tell the patient about your interest. When treating NHS patients you must also tell the healthcare provider."*

The GMC also provides the following general guidance:

*- you may wish to note on the patient's record when an unavoidable conflict of interest arises; and
- if you have a financial interest in an institution and are working under an NHS employers' policy you should satisfy yourself, or seek other assurance from your employing or contracting body, that systems are in place to ensure transparency and to avoid, or minimise the effects of, conflicts interest. You must follow the procedures governing the schemes.*

The CCG will also adhere to the principles and guidance set out in the 'Principles and Rules for Cooperation and Competition (NHS & DH July 2010) and the Procurement Guide for Commissioners of NHS Funded Services (NHS & DH July 2010).

7.0 The Bribery Act 2010

The Bribery Act 2010 came into force on 1st July 2011 and repeals, in their entirety, the Prevention of Corruption Acts 1906 to 1916 and the common law offence of Bribery.

It creates three relevant offences of bribing another person, being bribed and the failure of commercial organisations to prevent bribery.

Employees, members, committee and sub-committee members of the group and members of the governing body (and its committees) should be aware that in committing an act of bribery they may be subject to a penalty of up to 10 years imprisonment, an unlimited fine, or both. They may also expose the organisation to a conviction punishable with an unlimited fine.

They should also be aware that a breach of this Act, or of this guidance, renders them liable to disciplinary action by the CCG whether or not the breach leads to prosecution. Where a material breach of this guidance is found to have occurred the likely sanction will be dismissal.

In short, the offences cover the offering, promising or giving of a financial or other advantage and the requesting, agreeing to receive or accepting of a financial or other advantage where the overall intention of such an action is to bring about an improper performance or a relevant function or activity.

It should be noted that there need not be any actual giving and receiving for financial or other advantage to commit the offence.

The organisation may be liable where a person associated with it commits an act of bribery.

8.0 Consultation, Approval and Ratification Process

Involved in the consultation of the policy is the CCG Governing Body.

This policy will be approved and ratified by the CCG Governing Body.

9.0 Document Control including Archiving Arrangements

The previous version of this policy will be removed from the intranet and will be available if required by contacting the author.

10.0 Training and Awareness

This document will be made available to all employees via the CCG intranet. Further guidance on its implementation will be available via Induction and staff briefing processes. The policy will be brought to the attention of all officers via the Induction Process.

11.0 Equality and Diversity

The CCG recognises the diversity of the local community and those in its employ. Our aim is therefore to provide a safe environment free from discrimination and a place where all individuals are treated fairly, with dignity and appropriately to their need, regardless of age, disability, race, nationality, ethnic or national origin, gender, religion, beliefs, sexual orientation, gender reassignment or employment status. The CCG recognises that equality impacts on all aspects of its day to day operations and has produced an Equality and Human Rights Strategy and Equal Opportunities Policy to reflect this. All policies and procedures are assessed in accordance with the Equality & Diversity Assessment Toolkit, the results for which are monitored centrally.

12.0 Review

This strategy will be reviewed every three years. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.

Any changes to the policy will be approved by the Governing Body.

13.0 Monitoring

The CCG monitors and reviews its performance in relation to the policy through a programme of internal and external audit work, and through the oversight of the CCG Governing Body and Audit Committee.

14.0 References

- Code of Conduct: Code of Accountability in the NHS (DH and Appointments Commission (2004)
- Code of Accountability for NHS Boards (DH 1994)
- Code of Conduct for NHS Managers (DH 2002).
- Standards of Business Conduct for NHS Staff (DH HSG(93)5).
- *Seven Principles of Public Life*, Committee on Standards in Public Life (the Nolan Principles)
- 'Towards establishment: Creating responsive and accountable CCGs' together with Technical Appendix 1 "Managing conflicts of Interest"(NHS Commissioning Board February 2012)
- 'Principles and Rules for Cooperation and Competition (NHS & DH July 2010)
- Procurement Guide for Commissioners of NHS Funded Services (NHS & DH July 2010).
- Bribery Act 2010.

15.0 Associated Documentation

- CCG Constitution, incorporating Conflicts of Interest, Standing Orders and Prime Financial Policies
 - Procurement Strategy
 - Policy on Declaration of Hospitality and Gifts
 - Whistleblowing Policy
 - Training Needs Analysis
 - Induction Policy.

APPENDIX A

NHS VALE OF YORK CLINICAL COMMISSIONING GROUP – DECLARATION OF INTEREST GUIDANCE

Notes:

- Within 28 days of a relevant event, members need to register their financial and other interests.
- If any assistance is required, please contact the Executive Assistant to the Governing Body.
- The signed hard copy of a declaration of interest form should be sent to the Executive Assistant to the Governing Body.
- Any changes to interests declared must also be registered within 28 days of the relevant event.
- The register will be published in the Annual Report.
- Members and employees must provide sufficient detail of each interest so that a member of the public would be able to understand clearly the sort of financial or other interest the member has and the circumstances in which a conflict of interest with the business or running of the CCG might arise.
- If in doubt as to whether a conflict of interest could arise, a declaration of the interest should be made.

Interests that must be declared:

- Roles and responsibilities held within member practices
- Directorships, including non – executive directorships, held in private companies or PLCs
- Ownership or part – ownership of private companies, businesses or consultancies likely or possibly seeking to do business with NHS Richmond
- Material Shareholdings of companies in the field of health and social care
- Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care
- Any connection with a voluntary or other organisation contracting for NHS Services
- Research/ funding grants that may be received by the individual or any organisation they have an interest or role in
- Any other role or relationship which the public could perceive would impair or otherwise influence the individual's judgement or actions in their role with the PCT
- Whether such interests are those of the individual themselves or a family member, any other relationship or other acquaintance of the individual.

Where there are no interests to declare a nil return must be submitted

NHS VALE OF YORK CLINICAL COMMISSIONING GROUP – DECLARATION OF INTEREST PROFORMA

Name	
Position with the CCG	
Type of interest	Details
Roles and Responsibilities held within member practices	Personal interest or that of a family member, close friend or other acquaintance?
Directorships, including non- executive directorships, held in private companies or PLCs	
Ownerships or part – ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG	
Material shareholdings of companies in the field of health and social care	
Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care	
Any connection with a voluntary or other organisation contracting for NHS services	
Research funding / grants that may be received by the individual or any organisation they have an interest or role in	
Any other role or relationship which the public could perceive would impair or otherwise influence the individual's judgement or actions in their role within the CCG	
No Interests to declare	

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information provided and to review the accuracy of the information provided regularly and no longer than annually. I give my consent for the information to be used for the purposes described in the CCG Constitution and published accordingly.

Signed: Date:.....