

Governing Body (Public) Meeting

DATE: 30th May 2013

Title	Conflicts of Interest
<p>Recommended action for the Governing Body</p>	<p>That the Governing Body:</p> <p>Approve Conflict of Interest Policy (Annex A) And</p> <p>Note The contents of the report attached and completion of actions against the guidance published by NHS England on 28 March 2013 Gateway ref: 0005, as follows:</p> <ol style="list-style-type: none"> 1. To note the status of compliance against each requirement 2. Note the actions being taken for the areas reported as amber (B3- B5)
<p>Executive Summary</p>	<p>Managing conflicts in interest appropriately is essential for protecting integrity of the overall NHS Commissioning system. Commissioners require greater and highest levels of transparency so that it can be demonstrated that conflicts of interest are managed in a way that cannot undermine the probity and accountability of the organisation. This in specific applies to Clinical Commissioning Groups (CCGs) when dealing with a member practice.</p> <p>The paper is presented in two sections:</p> <ol style="list-style-type: none"> 1. Providing a summary of compliance against the changes made to internal policy and procedures in line with the recent guidance published by the NHS Commissioning Board on 28 March 2013 “Managing Conflicts of Interest – Guidance for CCGs”. Gateway ref: 0005 2. The Conflict of interest policy (Annex A) has been revised in line with the guidance published by the NHS Commissioning Board on 28 March 2013 “Managing Conflicts of Interest – Guidance for CCGs”. Gateway ref: 0005 <p>The policy has been further strengthened in the areas of proactively management of conflicts of interests, when CCG deals with contractors, bidders (potential/actual) and areas where conflict may arise due to member practice or member</p>

	of the Governing Body may be in a conflict, whilst key decisions are being taken.	
Which objective does this paper support?	Patients: Improve the health and wellbeing of people in Bexley in partnership with our key stakeholders	✓
	People: Empower our staff to make BCCG the most successful CCG in (south) London	✓
	Pounds: Delivering on all of our statutory duties and become an effective, efficient and economical organisation	✓
	Process: Commission safe, sustainable and equitable services in line with the operating framework and which improves outcomes and patient experience	✓
Organisational implications	Key Risks <small>(corporate and/or clinical)</small>	If conflicts are not managed effectively it could lead to challenges on procurements and damage to the reputation of the CCG and individuals within the CCG
	Equality and Diversity	None – the conflicts policy applies equally
	Patient impact	Designed to improve openness and transparency which should increase trust in commissioning decisions
	Financial	None
	Legal Issues	Policy is compliant with legislation, guidance, CCG constitution and NHS constitution
	NHS constitution	The policy is in line with the constitution.
Consultation (Public, member or other)	All relevant staff within the CCG.	
Audit (Considered / Approved by Other Committees / Groups)	Executive Management Committee	
Communications Plan	The policy will be published on the CCG's website	
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	Clinical Lead Varun Bhalla Locality Lead, North Bexley	Executive Sponsor Simon Evans- Evans Director of Governance & Quality
Date	07 May 2013	

Introduction

The NHS England published new guidance document “Managing Conflicts of Interest – Guidance for CCGs”. At Bexley CCG an internal review of the processes and key documentation was undertaken, ensuring compliance with the requirements of the new guidance published Gateway ref: 0005.

The new guidance was published in addition to the previous publications and relevant legislative frameworks (section 14O of Health and Social Care act 2013), including NHS Code of Conduct and Business, Managing Conflicts of Interest where GP practices are potential providers of CCG commissioned services and the CCGs internal constitution, Standing Orders and Standing Financial Instructions.

Bexley CCG has accepted all the requirements published in the above guidance documents. Majority of the requirements have been in place since the inception of the CCG and the additional requirements as per the guidance have been adopted. Each of the requirement, CCGs response and status is explained in table below. The table has three main sections and relevant requirements are grouped under these heading.

- 1. Statutory Requirements** - 14O of the National Health Service Act 2006, inserted by the Health and Social Care Act 2012
- 2. Statutory Requirements** - The NHS (Procurement, Patient Choice and Competition) Regulations 2013
- 3. Additional Actions taken by Bexley Clinical Commissioning Group – Good Practice**

Summary of actions

Requirements and guidance	Bexley CCGs response and actions	Status
A. Statutory Requirements - 140 of the National Health Service Act 2006, inserted by the Health and Social Care Act 2012		
<p>1. Maintain one or more registers of interest of: the members of the group, members of its governing body, members of its committees or sub-committees of its governing body, and its employees.</p> <p>2. Publish, or make arrangements to ensure that members of the public have access to these registers on request</p> <p>3. Make arrangements to ensure individuals declare any conflict or potential conflict in relation to a decision to be made by the group, and record them in the registers as soon as they become aware of it, and within 28 days; and</p>	<p>Bexley CCG has a register of interest completed by all members of its governing body and employees</p> <p>Bexley CCG has a register of interest published on the web-site and as part of the Governing Body meeting papers, updated regularly</p> <p>Bexley CCG has published its Conflict of Interest Policy on its web-site that requires individuals to declare interests within 28 days</p>	<p>No further action required Members need to complete the register</p> <p>New registers to be published by 30 July 2013 to include member and staff declarations</p> <p>No further action required</p> <p>New registers to be published by 30 July 2013 to include member and staff declarations</p> <p>No further action required</p>
<p>4. Make arrangements, set out in their constitution, for managing conflicts of interest, and potential conflicts of interest in such a way as to ensure that they do not and do not appear to, affect the integrity of the group's decision-making processes.</p>	<p>Bexley CCG has published its constitution on its web-site that explains these arrangements</p>	<p>No further action required</p>

<p>4.1 Appointing governing body or committee members</p>	<p>At the time of appointment of Governing Body members conflicts were considered and declared and reported to the Governing Body in Oct 2012.</p>	<p>No further action required</p>
<p>4.2 Excluding individuals from meetings or decision-making when a conflict of interest arises</p>	<p>Bexley CCG has published its constitution on its web-site that explains these arrangements.</p> <p>In addition decisions that require chairs action and may relate to GPs will be undertaken by the Chief Officer in conjunction with an independent member appointed from the Governing Body membership (in order of appointed: lay member, secondary care Dr. or Nurse).</p> <p>The register is updated regularly and presented to the Governing Body. Specific interests are dealt with the items of the agenda at the time of meeting.</p>	<p>Reflected in the revised policy and approved constitution. No further action required.</p>

B. Statutory Requirements - The NHS (Procurement, Patient Choice and Competition) Regulations 2013

<p>1. Must manage conflicts and potential conflicts of interests when awarding a contract by prohibiting the award of a contract where the integrity of the award has been or appears to have been affected by a conflict</p>	<p>All contracts awarded and conflicts of interest declared are published on the CCG's website.</p>	<p>No further action required.</p>
<p>2. Must keep appropriate records of how they have managed any conflicts in individual cases.</p>	<p>Minutes of the meetings are published and confirms any updates/changes to the register of interest and is also recorded how the conflict was managed when arose.</p>	
<p>3. The safeguards needed to manage conflicts of interest will vary to some degree depending on the way in which a service is commissioned</p>	<p>Procurement Strategy and Policy is being reviewed and Appendix 4 of the guidance published has been adopted and will be applied in procuring services. This includes Competitive tendering, Any Qualified Provider (AQP) and single tenders with GPs.</p>	<p>In progress completion expected in June 2013</p>
<p>4. Monitoring referral patterns and referral management system</p>	<p>A system is being put in place ensuring that all referral patterns are monitored by the CCG ensuring single tender basis is well covered.</p>	<p>In progress completion expected in June 2013</p>
<p>5. Designing Service Requirements</p>	<p>Service redesign team is in place and consultation with wider groups is undertaken at the service redesign stage. Working with all involved ensuring the process is undertaken on equal basis for all</p>	<p>In progress completion expected in June 2013</p>

C. Additional Actions taken by Bexley Clinical Commissioning Group – Good Practice		
1. Revised template for managing the conflicts of interest register published	The revised template has been adopted by the CCG and will be at the GB meeting on 30/05/2013	No further action required
2. Revised template form for declarations has been issued for staff of CCG to use	The CCG has adopted the templates included in Annexes of the policy and will be at the GB meeting on 30/05/2013	No further action required
3. Revised template for recording conflict of interest for bidders and contractors has been issued	The CCG has adopted the templates included in Annexes of the policy and will be at the GB meeting on 30/05/2013	No further action required
4. Training session for all Governing Body members was held on 24/04/2013. A further session will be held in June 2013.	Bexley CCG Governing Body members received a training sessions with case studies, specific to the Clinical Commissioning Groups, published by NHS Confederation and NHS England	No further action required

Conclusions and Recommendations

The Governing Body is requested:

1. To note the status of compliance against each requirement
2. To approve the revised policy
3. Note the actions being taken for the areas reported as amber (A1-3 and A4.2) and (B3- B5)

Report prepared by:

Nabil Jamshed
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 Bexley Clinical Commissioning Group
 08/05/2013



Bexley Clinical Commissioning Group

NHS BEXLEY CLINICAL COMMISSIONING GROUP

Conflicts of Interest (including Gifts and Hospitality Policy)

Author's name & Title:	Nabil Jamshed, Corporate Governance and Risk Manager
Sponsor's name & Title:	Simon Evans-Evans, Director of Governance and Quality
Review date:	August 2014
Supersedes:	Conflicts of Interest (including Gifts and Hospitality Policy) V 1.0
Description:	Bexley CCG's Conflict of Interest Policy (including Gifts and Hospitality)
Audience:	All Staff of Bexley CCG (including members of the Governing Body), All contractors, Bidders and members of the CCG.

Consultation

Date	Name	Title and /or Organisation
16/04/2013	Keith Wood	Lay member, Governance
16/04/2013	Howard Stoate	Chairman CCG
16/04/2013	Sarah Blow	Chief Officer
16/04/2013	Sarah Valentine	Director of Commissioning
07/05/2013	Simon Evans-Evans	Director of Governance and Quality
10/05/2013	Executive Management Committee	Sub-Committee of the Governing Body membership include:

Approved by:	Executive Management Committee	Date:	14/05/2013
Ratified by:	Governing Body	Date	

(Version control

First version should be labelled 'V0.1', once ratified, please label 'V1.0')

Name	Date	Version	Reason	Status
<i>Person making the entry</i>	<i>Date of entry</i>	<i>Version control</i>	<i>New / revision / consultation etc</i>	<i>Draft / for approval / approved</i>
Good Governance Institute	12/09/12	1.00	New	For approval
Simon Evans-Evans	01/10/12	1.01	Revision	DRAFT
Simon Evans-Evans	08/10/12	1.02	Revision	DRAFT
Nabil Jamshed	01/04/13	1.0.3	Revision	For approval

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1. Introduction

- 1.1.1. This policy sets out how Bexley Clinical Commissioning Group (Bexley CCG) will manage conflicts of interest.
- 1.1.2. The members and governing body have a legal obligation to act in the best interests of Bexley CCG, and in accordance with the clinical commissioning group's constitution and terms of establishment created by the NHS Commissioning Board, and to avoid or manage situations where there may be a potential conflict of interest.

2. Scope and Definitions

- 2.1.1. From Authorisation Bexley CCG will be a public body, and accordingly will need to conduct its affairs in line with the standards expected in public life.
- 2.1.2. Successful commissioning depends on maintaining the confidence and respect of the local community. Reputation is a key tool for commissioners, and it is critical that the GPs' parallel roles in commissioning and direct service provision are not seen to be effected by any factors which might damage public confidence. The aim of this policy is to protect both the organisation and the individuals involved from any appearance of impropriety and demonstrate transparency to the public and other interested parties.
- 2.1.3. This conflict of interest policy respects the seven principles of public life promulgated by the Nolan Committee. The seven principles are:
 - selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership
- 2.1.4. Conflicts of interest may arise where an individual's personal interests, or a connected person's interests and/or loyalties conflict with those of the clinical commissioning group. Such conflicts may create problems such as inhibiting free discussion that could:
 - Result in decisions or actions that are not in the interests of the clinical commissioning group and the public it was established to serve

- Risk the impression that the clinical commissioning group or an individual within the CCG has acted improperly

2.1.5. Conflicts of interest can arise in any area of the CCGs business and specifically (but not limited to) need to be addressed in meeting or discussions on:

- Procurement, including tendering
- Commissioning
- Pathway design

2.1.6. Conflict of interest issues also affect good procurement practice, and poor management of conflict of interest may diminish the service options the CCG may commission. The CCG needs to carefully manage how it works with any potential suppliers, and where and how the CCG receives any form of technical advice. Competition law relies on careful attention to not creating a conflict of interest, either directly within the CCG or indirectly for any particular potential supplier of service. All contractors and bidders must complete Annex C – Declaration of Conflict of Interest for Bidders/Contractors

2.1.7. In this policy we focus on:

- Individual and personal conflicts of interest
- Corporate behaviours and working approaches which may also create a conflict of interest
- Procurement and competition law

2.2. This policy is relevant to:

2.2.1. all CCG staff

2.2.2. members (All members must complete Annex A)

2.2.3. members of the governing body

2.2.4. members of any committee or sub-committee

2.2.5. people working for and on behalf of Bexley CCG.

2.2.6. Contractors

2.2.7. Bidders

2.2.8. Any person falling into the above categories will be known as the “Conflicted Person”. The activities and behaviours of all can affect the good governance and reputation of the CCG, and thereby the CCG’s ability to effectively work to improve the health of the people of Bexley.

3. Process and Requirements

The conflicted person should declare an interest in the following circumstances:

3.1. General

Where they think there is an actual conflict of interest or where they think there may be a potential conflict of interest, the default position is to declare the interest

3.2. Direct pecuniary interest.

The most easily recognisable form of conflict of interest arises when a governing body member obtains, or is perceived to obtain, a direct financial benefit over and above the agreed remuneration and terms of service package agreed by the remuneration committee. Examples include:

- the award of a contract to a company or other business with which a board member is involved
- the sale of assets at below market value to a governing body member
- awarding a contract for provision of health services to a GP practice, in which partners are members of the council of members or governing body.

3.3. Indirect pecuniary interests

This arises when a close relative or an individual with a close social or business connection of a governing body member benefits from the decisions of the group. The conflicted person will benefit indirectly if their financial affairs are bound with those of the relative in question through the legal concept of “joint purse”, as would be the case if the relative were the spouse, partner, dependent child of the governing body member, or directly connected in some other way. For example, the members or governing body member being involved in a decision to award a contract to an organisation where the member’s spouse is a director.

3.4. Non-pecuniary or personal interests

These occur where an individual holds a non-remunerative or not-for-profit interest in an organisation, that will or may benefit from the consequences of a commissioning decision, this could include where the conflicted person is a trustee of a voluntary organisation that is bidding for a contract.

3.5. Non-pecuniary personal benefit

These occur where Governing Body members receive no financial benefit, but are influenced by external factors. For instance:

- to gain some other intangible benefit or kudos; or
- a reconfiguration of a service which may lead to the closure of a busy clinic close to the conflicted members house or business

3.6. Related benefits

This arises when the conflicted person is closely related to, or in a significant relationship with (including friendship and club/organisational membership) with an individual in any of the above categories. For instance when awarding contracts to family members, friends or personal business contacts or members of the same voluntary group or other organisation.

3.7. Conflicts of loyalty

The conflicted person may have competing loyalties between the clinical commissioning group to which they owe a primary duty and some other person or entity, including their GP practice, and patients.

The conflicted person should at all times avoid using knowledge gained in other roles to influence decisions so as to acquire a competitive advantage over other service providers.

3.8. Privileged information

The conflicted person should not use confidential information acquired in the pursuit of their role within the CCG to benefit themselves or another connected person, or create the impression of having done so. The section of this policy dealing with procurement provides further details of this. In short, no individual involved with the CCG should provide a third party with information that is not otherwise available and in the public domain. It should be noted that under Freedom of Information and Data Protection good practice most non-commercially sensitive or person-identifiable data will normally be in the public domain. However, members of the CCG and the governing body should take care not to provide any third party with a possible advantage by sharing privileged, personal or commercial information, or by providing information that may be commercially useful in advance of that information being made available publically (such as by informing a potential supplier of an up and coming procurement in advance of other potential bidders).

3.9. Apparently unconnected interests

In the interests of maintaining the reputation of the CCG, the conflicted person should also seek to avoid the perception of joint interest or patronage with any individual or organisation where there may be the perception of a conflict of interest, even where there is no actual joint interest or joint purse. Common sense and judgement should be applied, for example, when the conflicted person has an association with an individual connected to a supplier. For example, although relations between a governing body member and their neighbour may be quite formal, not declaring an interest should the neighbour concerned be the director of a company with which the CCG is doing business would not be helpful. When in doubt – declare it.

4. Managing conflicts of interest

4.1. Recording a conflict or interest

4.1.1. The CCG Chair and the lay member of the CCG governing body responsible for Governance are available to support any relevant persons over conflict of interest issues. It is important that relevant person feels free to raise conflict of interest issues, both as they pertain to themselves and as they pertain to colleagues. It is important that discussions around conflict of interest are properly aired and that all feel free to challenge others, and be challenged themselves, in the best interests of the good governance and reputation of the CCG

4.1.2. Recording a conflict of interest does not suggest either any impropriety or that an individual may not be part of a given decision or process. Neither does recording a conflict absolve the individual or CCG from appropriately managing the conflict situation. The individual concerned and the CCG need to decide whether the existence of a conflict means that:

- Acknowledging the conflict in itself is sufficient, and no other action needs to be taken
- The conflict suggests that it is not appropriate for the individual concerned to be part of the decision-taking, but may stay while the issue at hand is debated
- The conflict would be better managed if the individual removed themselves from any discussion about the issue and did not receive any information about the matter at hand
- The conflict is so significant that without other action it would not be appropriate for the individual concerned to remain in the position they hold. The CCG may decide that temporary removal from office is sufficient, or it may be that the conflict is so significant that it is not possible for the individual concerned to remain in post

4.1.3. It is critical that all concerned feel comfortable with discussion of their own and other people's conflicts of interests, and that the CCG governing body may make a final call on managing a conflict of interest.

4.2. Changes of Interests

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

4.2.2 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 group 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.

4.3. Data protection

4.3.1 The information in the conflict of interest register will be processed in accordance with data protection principles as set out in the Data Protection Act 1998. Data will be processed only to ensure that the conflicted person act in the best interests of the group and the public and patients the group was established to serve. The information provided will not be used for any other purpose, unless otherwise stated within statutory legislation. Signing the declaration form will also signify that you consent to your data being processed for the purposes set out in this policy.

4.4. Declaring Interests at Meetings

4.4.1. Where the conflict is material to the discussion of any CCG meeting so that the individual concerned withdraws from discussions pertaining to that agenda item, taking account of the steps in the decision making process (e.g. presentation, questions, deliberations and decision). The conflict and the action will be recorded in the minutes of the meeting and the register of interests updated accordingly.

4.4.2. It is the responsibility of the CCG chair to monitor quorum. Should the withdrawal of the conflicted person result in the loss of quorum, the item cannot be decided upon at that meeting. The chair of the meeting may appoint a designated officer to ensure quorum will be sustained and decision is followed after discussions.

4.5. Waiver

4.5.1. Where permitted under the clinical commissioning group's constitution or the conditions of its establishment, the members or governing body has the power to waive restrictions on any clinical professional governing body member participating in a CCG meeting or governing body business, where to authorise such a conflict would be in the interests of the clinical commissioning group. The application of a waiver¹ can, therefore, be used in the following situations:

- a member or member of the governing body is a clinical professional providing healthcare services to the clinical commissioning group that do not exceed the average for other practices and NHS entities commissioned to provide services by the clinical commissioning group; or

¹ Adapted from the NHS Model Standing Orders, Reservation and Delegation Of Powers and Standing Financial Instructions, Department of Health, 2006. It is currently unclear as to whether clinical commissioning groups will be able to implement a similar approach once they become statutory bodies, independent of the primary care trust cluster. This guidance note will be updated accordingly in line with future guidance from the Department of Health or NHS Commissioning Governing body.

- Where the conflicted person has a pecuniary interest arising out of the delivery of some professional service on behalf of the clinical commissioning group, and the conflict has been adjudged by the chair and the governance lay member not to bestow any greater pecuniary benefit to other professionals in a similar relationship with the clinical commissioning group.
- Where the chair and the governance lay member have approved the use of the waiver, the chair must have discussed it with the Accountable Officer before the meeting. In such circumstances where the waiver is used, the conflicted person:
 - must disclose his/her interest as soon as practicable at the start of the meeting
 - may participate in the discussion of the matter under consideration; but
 - must not vote on the subject under discussion.

4.5.2. The minutes of the meeting will formally record that the waiver has been used, and that this policy and the governing document provisions have been observed in managing that authorised conflict. Where a member has withdrawn from the meeting for a particular item, the group secretariat will ensure that the minutes for that member do not contain such information that may compound the potential conflict, but do not unnecessarily disadvantage the member in their performance of their functions and legal responsibilities.

4.6. Decisions taken where a member, committee member or governing body member has an interest

4.6.1. In the event of the members or governing body having to decide upon a question in which the conflicted person has an interest, all decisions will be made by vote, with a simple majority required. A quorum must be present for the discussion and decision; interested parties will not be counted when deciding whether the meeting meets quorum. The conflicted person must not vote on matters affecting their own interests, even where the use of the waiver has been approved by the chairman and used. All interests of members should be recorded and declared using the form provided in Annex D of this policy.

4.6.2. *Where GP clinical input is required and all relevant clinical GB members have declared an interest which preclude them from taking any part in the discussion/decision the BCCG Chief Officer & Vice Chair can request relevant clinicians from Bromley/Greenwich to attend the meeting to ensure there is appropriate GP clinical input in the decision making process to improve patient care services. (This option would be used on very rare occasions).*

4.6.3.

- 4.6.4. Where appropriate clinical advice may be sought from the Non GP Clinical members of the Governing Body or Clinicians from other CCGs acting as an advisory group
- 4.6.5. All decisions under a conflict of interest will be recorded and reported in the minutes of the meeting. The report will record:
- the nature and extent of the conflict
 - an outline of the discussion
 - the actions taken to manage the conflict
 - use of the waiver and reasons for its implementation
 - All interests declared will be reported and maintained via the register of interest, published on the CCG's website on a regular basis (at least every two months, with the formal Governing Body papers)
- 4.6.6. Where the conflicted person benefits from the decision, this will be reported in the annual report and accounts, as a matter of best practice.
- 4.6.7. All payments or benefits in kind to members for CCG work or governing body members will be reported in the clinical commissioning group's accounts and annual report, with amounts for each member listed for the year in question.
- 4.6.8. Independent external mediation will be used where conflicts cannot be resolved through the usual procedures.

4.7. Materiality of conflicts of interest

- 4.7.1. Conflicts or potential conflicts need to be decided on a case-by-case basis, and it is not useful to draw an arbitrary line around materiality. A possible conflict relating to a small amount of business can nevertheless be significant depending on context and type. The safest approach is to refrain from behaviours and actions that may appear to constitute a conflict of interest, and wherever sensible to declare any potential conflicts, or discuss with others whether such a conflict exists or is material. It is important to record all such discussions in case of later challenge.

If in any doubt the conflicted person should seek Guidance from the Director of Governance and Quality or the Chief Officer or the Chair or the Lay Member of the Governing Body with responsibility for Governance

- 4.7.2. As a Broad guideline the following should always be declared:

- Directorships, including non-executive directorships, held in private companies or PLCs (who do, will or could conduct their business in the field of health and social care);

- Ownership or part-ownership of private companies , businesses or consultancies likely or possibly seeking to do business within the CCG
- Shareholdings (more than 5%) 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 CCHG.

4.8. Declaration of Gifts or Hospitality

4.8.1. Any gift of hospitality offered over £100 or equivalent should be recorded. The recipient of the gift is obliged to inform the Governance Secretariat who will record the gift in an appropriate manner. Such records will be reviewed by the Audit and Integrated Assurance Committee on a six monthly basis. All gifts or hospitality received must be recorded in the hospitality register using Annex B of this policy

4.9. Recording Interests

4.9.1. The conflicted person is required to:

- declare interests before their appointment
- update the declaration at least annually
- update their declaration should circumstances change
- declare their interests in relation to any items on the agenda at the start of each members' meeting and governing body or committee meeting

4.9.2. A declaration of interests form is provided for this purpose (Annex A) listing the types of interest to be declared. To be effective, the declaration of interests form must be completed prior to appointment, then updated at least annually and when any material changes occur.

4.9.3. In relation to the bidding process, the declaration of interest form (Annex D) must be completed at the time of bid initiation process.

4.9.4. All contractors appointed by or acting on behalf of Bexley CCG must declare their relevant interest using form provided in (Annex D)

4.9.5. The conflicted person should err on the side of caution when making declaration. If in doubt as to whether a conflict of interest could arise, a declaration of the interest should be made.

4.9.6. In case of a decision by the Governing Body or a decision that may require chairs action and the interested party may be the chairman in his capacity as a G.P, member practice, representing the practice on behalf of the partners, part of a collaboration or any other formal entity (organisational type) that may be an actual or potential supplier of the service; the decision will be taken by the Chief Officer in collaboration with an independent member from the Governing Body (in order of appointed: lay member, secondary care Dr. or Nurse). All decisions by the Governing Body will be reported to the next Governing Body meeting (in public), including contracts awards.

4.9.7. All procurement activities to be managed in line with the procurement strategy and policy. However, any procurement greater than or equal to £250,000 to have an independent member of the governing body (in order of appointed: lay member, secondary care Dr. or Nurse).

4.9.8. Interests and gifts will be recorded on the clinical commissioning group's register of interests and register of gifts and hospitality, which will be maintained by the group secretariat on behalf of the Chief Officer. The register will be accessible by the public and inspection of the register of members' interests will be encouraged, as appropriate.

4.9.9. The CCG will maintain and publish one or more registers of the interests of:

- The members of the CCG
- The members of the Governing Body
- The members of the CCG committees and sub committees and members of the governing bodies committees and sub committees
- Its employees
- A template of the register that will be maintained is provided in Annex B of this policy

4.9.10. The register of interest will list the names of the companies and relevant interest held. However a separate register of all contracts and procurement will also be published on the CCGs website, which will contain all the necessary details of conflicted individuals, members, entities and any other type of organisational arrangements.

4.10. Procurement issues – individual conflicts of interest

4.10.1 Where a relevant and material interest or position of influence exists in the context of the specification for, or award of, a contract the conflicted person 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, or any formal role in the procurement process

4.10.1 The conflicted person will be expected to declare any interest early in any procurement process if they are to be a potential bidder in that process (using form provided in Annex D). Failure to do this could result in the procurement process being declared invalid and possible suspension of the relevant member from the group.

4.10.2 Potential conflicts will vary to some degree depending on the way in which a service is being commissioned, for example:

- Where a group 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 group members have an interest are amongst those bidding.
- Where the group is commissioning a service through Any Qualified Provider a conflict could arise where one or more GP practices (or other providers in which group members have an interest) are amongst the qualified providers from whom patients can choose. In case of AQP process in specific, additional assessment and identification of potential or actual conflict is undertaken in line with the CCG's procurement strategy and policy.

4.11. Procurement issues and competition

4.11.1. Competition law places responsibilities on corporate bodies around fairness and transparency when preparing tenders or procurements. This is relevant to conflict of interest, where the CCG needs to ensure that all potential bidders for procurements or tenders to be led by the CCG have an equal and fair opportunity to make a bid for that work. In particular the CCG (including CCG members and staff) should not behave in a way that:

- Gives one potential bidder for a contract any material advantage over others, including through having access to privileged or commercial information not available to all; or
- Shapes an offer for tender or procurement in a way that advantages or disadvantages an organisation that might bid for the service

4.11.2. These issues are particularly complex where the CCG needs to take technical advice from potential bidders for a service, or where the CCG wishes to involve possible suppliers in shaping strategy or service specifications.

4.11.3. It is important that the CCG balances an inclusive approach to partnership working, gaining the best technical input and advice and at the same time acting in a fair manner and complying with competition law. Where potential suppliers feel a conflict of interest may have been created and one supplier advantaged over others they may apply for a judicial review around the procurement process. This may lead to a situation where the best possible suppliers for a service the CCG wishes to commission for are unable to bid, because the CCG has created a conflict of interest in the way it has behaved.

4.11.4. For these reasons, staff, members and members of the governing body need to be very sensitive over commercial information, including when participating in open or invited forums at which service developments and CCG strategies are discussed. To help manage the conflicting balances of obtaining the best possible advice and not creating an advantage to particular supplier(s) the following principles need to be observed:

- When setting up service development working groups, or holding a forum where external colleagues are invited to comment on strategy or service specifications (directly or indirectly) then no particular favour should be shown to colleagues from one organisation over another. All organisations with a useful and valid contribution who may potentially be a supplier for service should have the opportunity to provide input
- In running any such advisory groups or open forums, a careful note should be made of any information shared with potential suppliers, so that at a later date this information can also be made available to others developing a tender response. In other words, if one potential supplier in the course of providing technical advice to the CCG has access to information, this should be openly shared with all other potential suppliers should a tender or procurement be later issued
- The CCG should be especially mindful of creating a situation where by taking technical advice it does not create a procurement that rules out suppliers not asked to provide advice by specifying one particular type of solution
- The guiding principles are to be even handed when involving potential suppliers, and ensuring that information is always equally available to all who could be potential suppliers to the CCG. Suppliers' days can be a very useful way of identifying potential suppliers and of creating an even playing field in terms of sharing information.

- All contractors and bidders involved in a procurement activity or provision of services that the CCG commissions, must declare their interest using the form provided in Annex D of this policy.

5. Roles and Responsibilities

5.1.1. The conflicted person should declare any relevant and material interests, and any gifts or hospitality offered and received in connection with their role in the clinical commissioning group. The conflicted person should also declare any perceived conflicts of interests that might affect the work of the CCG, in line with this policy using the Declaration form provided in the appendices.

5.1.2. Declaration of interest is an on-going and dynamic process. The conflicted person should declare interests that arise as time goes by. New circumstances for the CCG will change and potentially create new conflicts of interest.

5.1.3. Interests and perceived interests that may impact on the work of the governing body and should be declared 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 contacts with Bexley CCG and which relate to the functions exercised by the group
- Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the group
- Directorships, including non-executive Directorship held in private or public limited companies seeking to enter into contracts with Bexley CCG and which relate to the functions exercised by the group
- Material Shareholdings of companies in the field of health and social care seeking to enter into contracts with the Bexley CCG and which relate to the functions exercised by the group
- Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care
- Advisory positions, whether paid or unpaid, to any current or potential suppliers to Bexley CCG
- Any interest that they are (if registered with the General Medical Council) would be 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 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 Bexley CCG and which relate to the functions exercised by the group

- 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 group

5.1.4. The conflicted person should declare any interests of family members or close associates that could be perceived to create a conflict of interest, and whether any past or current associations with individuals could likewise create such a perception.

5.1.5. If in any doubt the conflicted person should seek Guidance from the Director of Governance and Quality or the Chief Officer or the Chair or the Lay Member of the Governing Body with responsibility for Governance and then take a view. In these circumstances, it is sensible to record this discussion and review the situation at regular intervals.

6. Training

6.1.1. Staff will be provided with training on conflict of interest as appropriate to their level at a regular interval.

7. Success Criteria/monitoring the effectiveness of this policy

7.1.1. Each year the governing body of the CCG will discuss the CCG's management of conflict of interest, and the effectiveness of this policy in maintaining the good reputation of the CCG and good procurement practice. The CCG governing body may ask the audit committee to review the effectiveness of this policy, and assure the governing body around the robustness of the mechanisms put in place to maintain good governance (such as the conflict of interest recording mechanisms).

8. Review

This policy will be reviewed as per the schedule on the front of this document, or earlier in case of new guidance or changes in existing practice.

9. Breaches of this policy

Breaches of the policy may result in the conflicted person or member of staff being removed from office or position within the CCG or if it may result in instigation of the CCG disciplinary process in line with its disciplinary policy.

10. References

1. NHS England - Managing conflicts of interests: Guidance for clinical commissioning groups. Gateway Ref. 0005 (March 2013)

<http://www.england.nhs.uk/wp-content/uploads/2013/03/manage-con-int.pdf>

2. Code of Conduct: Managing conflicts of interest where GP practices are potential providers of CCG-commissioned services. (October 2012)

<http://www.england.nhs.uk/wp-content/uploads/2012/09/c-of-c-conflicts-of-interest.pdf>

3. Standards for members of NHS boards and CCG governing bodies in England. Professional Standards Authority, November 2012

<http://www.professionalstandards.org.uk/docs/psa-library/november-2012---standards-for-board-members.pdf?sfvrsn=0>

Annex A - DECLARATION OF INTEREST FORM FOR MEMBERS AND EMPLOYEES

NHS Bexley Clinical Commissioning Group DECLARATION OF INTEREST Guidance Notes

NHS Bexley Clinical Commissioning Group

Member / employee/ governing body member / committee or sub-committee member (including committees and sub-committees of the governing body) declaration form: financial and other interests

This form is required to be completed in accordance with the CCG's Constitution and section 14O of *The National Health Service Act 2006*.

Notes:

- Each CCG must make arrangements to ensure that the persons mentioned above declare any interest which may lead to a conflict with the interests of the CCG and the public for whom they commission services in relation to a decision to be made by the CCG.
- A declaration must be made of any interest likely to lead to a conflict or potential conflict as soon as the individual becomes aware of it, and within 28 days.
- If any assistance is required in order to complete this form, then the individual should contact nabil.jamshed@bexley.nhs.uk
- The completed form should be sent by both email and signed hard copy to nabil.jamshed@bexley.nhs.uk
- Any changes to interests declared must also be registered within 28 days by completing and submitting a new declaration form.
- The register will be published on the CCG's web-site, under Governing Body section of www.bexleyccg.nhs.uk
- Any individual – and in particular members and employees of the CCG - must provide sufficient detail of the interest, and the potential for conflict with the interests of the CCG and the public for whom they commission services, to enable a lay person to understand the implications and why the interest needs to be registered.
- If there is any doubt as to whether or not a conflict of interests could arise, a declaration of the interest must be made.

Interests that must be declared (whether such interests are those of the individual themselves or of a family member, close friend or other acquaintance of the individual) include:

- 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 the CCG;
- shareholdings (more than 5%) of companies in the field of health and social care;
- a position 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 in which they have an interest or role;
- 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.

If there is any doubt as to whether or not an interest is relevant, a declaration of the interest must be made.

DECLARATION of INTERESTS FORM for employee(s)/ governing body member(s)/ committee or sub-committee member(s) (including committees and sub-committees of the governing body):

Name:			
Position within the CCG			
Interests			
Type of Interest	Details	Personal interests or that of a family member or close friend?	
Roles and responsibilities held within member practices Directorships, including non-executive directorships, held in private companies or PLCs	<i>Details</i>	<i>Materiality²</i>	
		<i>Value</i>	
Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG Shareholdings (more than 5%) of companies in the field of health and social care	<i>Details</i>	<i>Materiality</i>	
		<i>Value</i>	
Positions of authority in an organisation (e.g.	<i>Details</i>	<i>Materiality</i>	

² Related party disclosures must be in accordance with IAS 24 *Related Party Disclosures*. HM Treasury considers Government Departments and their agencies, and Department of Health Ministers, their close families and entities controlled or influenced by them, as being parties related to NHS bodies. A disclosure is required if a transaction (or series of transactions) is material on either side, i.e. if a transaction is immaterial from the PCT perspective but material from a related party viewpoint then the PCT must disclose it.

<p>charity or voluntary organisation) in the field of health and social care</p> <p>Any connection with a voluntary or other organisation contracting for NHS services</p>		<p><i>Value</i></p>	
<p>Research funding/grants that may be received by the individual or any organisation they have an interest or role in</p> <p>[Other specific interests?]</p>	<p><i>Details</i></p>	<p><i>Materiality</i></p>	
<p>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</p> <p>Roles and responsibilities held within member practices</p>	<p><i>Details</i></p>	<p><i>Materiality</i></p>	
<p>Directorships, including non-executive directorships, held in private companies or PLCs</p> <p>Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG</p>	<p><i>Details</i></p>	<p><i>Materiality</i></p>	

Shareholdings (more than 5%) 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	<i>Details</i>	<i>Materiality</i>	
		<i>Value</i>	
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	<i>Details</i>	<i>Materiality</i>	
		<i>Value</i>	
[Other specific interests?]	<i>Details</i>	<i>Materiality</i>	
		<i>Value</i>	

I have read and understood the group policy on conflicts of interest and hospitality and agree to abide by it. I understand that it is against the law to accept inducements or rewards or to corruptly show favour or disfavour in an official capacity. 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:

Declarations of members of the CCG as organisations

Name of Relevant Organisation:	
Interests	
Type of Interest	Details
Provision of services or other work for the CCG	
Provision of services or other work for any other potential bidder in respect of this project or procurement process	
Any other connection with the CCG, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions	

Declarations of individuals representing members

Name of Relevant Person		<i>[complete for all Relevant Persons]</i>	
Interests			
Type of Interest	Details	Materiality and Value	Personal interest or that of a family member, close

			friend or other acquaintance?
Provision of services or other work for the CCG		Materiality (%)	
		Value	
Provision of services or other work for any other potential bidder in respect of this project or procurement process		Materiality (%)	
		Value	
Any other connection with the CCG, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions		Materiality (%)	
		Value	

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

Signed:

Date:

Annex B - DECLARATION of GIFTS OR HOSPITALITY FORM

NHS Bexley Clinical Commissioning Group

DECLARATION of GIFTS OR HOSPITALITY FORM:

Name:				
Position within the CCG				
Date	Gift or Hospitality Received <i>(for example. Airline ticket/Accommodation)</i>	Received From and circumstances	Details of Gift of Hospitality <i>(Normal/business class/how many nights stay)</i>	Estimated (E) or Actual (A) value
				£
				£
				£
				£
				£
				£

Annex C – REGISTER OF INTEREST TEMPLATES

NHS Bexley Clinical Commissioning Group

This Register of Interests (**Register**) includes all interests declared by members, employees, governing body members and members of committees or sub-committees, (including committees and sub-committees of the governing body) of **NHS Bexley Clinical Commissioning Group** (the CCG).

In accordance with the CCG's constitution and section 14O of *The National Health Service Act 2006*, the CCG's accountable officer must be informed of any interest which may lead to a conflict with the interests of the CCG and the public for whom they commission services in relation to a decision to be made by the CCG, that needs to be included in the Register within 28 days of the individual becoming aware of the potential for a conflict. The Register will be updated regularly (at no more than 3-monthly intervals).

Interests that must be declared (whether such interests are those of the individual themselves or of a family member, close friend or other acquaintance of the individual) include:

- 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 the CCG;
- shareholdings (more than 5%) of companies in the field of health and social care;
- a position 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 in which they have an interest or role;
- 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.

Annex D – DECLARATION OF CONFLICT OF INTERESTS FOR BIDDERS /

CONTRACTORS

NHS Bexley Clinical Commissioning Group

Bidders/potential contractors/service providers declaration form: financial and other interests

This form is required to be completed in accordance with the CCG's Constitution.

Notes:

- All potential bidders/contractors/service providers, including sub-contractors, members of a consortium, advisers or other associated parties (Relevant Organisation) are required to identify any potential conflicts of interest that could arise if the Relevant Organisation were to take part in any procurement process and/or provide services under, or otherwise enter into any contract with, the CCG.
- If any assistance is required in order to complete this form, then the Relevant Organisation should contact nabil.jamshed@bexley.nhs.uk
- The completed form should be sent to nabil.jamshed@bexley.nhs.uk
- Any changes to interests declared either during the procurement process or during the term of any contract subsequently entered into by the Relevant Organisation and the CCG must notified to the CCG by completing a new declaration form and submitting it to nabil.jamshed@bexley.nhs.uk
- Relevant Organisations completing this declaration form 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 person concerned 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 interests could arise, a declaration of the interests should be made.

Interests that must be declared (whether such interests are those of the Relevant Person themselves or of a family member, close friend or other acquaintance of the Relevant Person), include the following:

- the Relevant Organisation or any person employed or engaged by or otherwise connected with a Relevant Organisation (Relevant Person) has provided or is providing services or other work for the CCG;
- a Relevant Organisation or Relevant Person is providing services or other work for any other potential bidder in respect of this project or procurement process;
- the Relevant Organisation or any Relevant Person has any other connection with the CCG, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions.

Declarations of contractors:

Name of Relevant Organisation:	
Interests	
Type of Interest	Details
Provision of services or other work for the CCG	
Provision of services or other work for any other potential bidder in respect of this project or procurement process	
Any other connection with the CCG, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions	

Declarations of individuals representing members

Name of Relevant Person		<i>[complete for all Relevant Persons]</i>	
Interests			
Type of Interest	Details	Materiality and Value	Personal interest or that of a family member, close friend or other acquaintance?
Provision of services or other work for the CCG		Materiality (%)	
		Value	
Provision of services or other work for any other potential bidder in respect of this project or procurement process		Materiality (%)	
		Value	
Any other connection with the CCG, whether personal or professional, which the public could perceive may impair or otherwise influence the CCG's or any of its members' or employees' judgements, decisions or actions		Materiality (%)	
		Value	

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

Signed:

Date: