

## Governing Body meeting (held in public)

**DATE: 24 March 2016**

<b>Title</b>	<b>Conflicts of Interest (including Gifts and Hospitality) Policy</b>
This paper is for <b>Decision</b>	
<b>Recommended action for the Governing Body</b>	That the Governing Body:  <b>Approve</b> the new conflicts of interest including gifts and hospitality policy.
<b>Potential areas for Conflicts of interest</b>	None identified in this report.
<b>Executive summary</b>	<p>The policy sets out the process for the management of conflicts of interest within the organisation. As a public body, the CCG is expected to act in line with the highest standards of probity and give confidence that its decisions are robust and fair.</p> <p>The policy is to protect both the organisation and individuals involved from any appearance of impropriety and demonstrate transparency to the public and other related parties.</p> <p>This revised policy includes greater clarity on how conflicts are appropriately managed at formal meetings, and sets out the roles and responsibilities of various managers and committee members in ensuring that all those expected to, declare their interests.</p> <p>Committee chairs have vital a role to play by ensuring that all their committee members are compliant with their declarations and that they manage conflicts of interests effectively.</p> <p>Training is key to the effective management of conflicts and the policy sets out a number of ways in which staff and committee members will be trained in the management of conflicts.</p> <p>The report includes a new declaration of interest form that is more straightforward to complete, although gathers the same information as the</p>

## Clinical Commissioning Group

	previous one.	
	This revision also takes account of the co-commissioning of primary care and how conflicts in relation to this are managed.	
How does this paper support the CCGs objectives?	<b>Patients:</b>	Having an effective conflicts policy supports the CCG in appropriately commissioning services that improve the health and wellbeing of people in Bexley.
	<b>People:</b>	The policy details training and support for staff and committee members to ensure that they are knowledgeable and aware of the policy and understand their role in ensuring conflicts are appropriately managed.
	<b>Pounds:</b>	Managing conflicts appropriately helps give assurance that the CCG is securing the best service it can for the money it has.
	<b>Process:</b>	Having an effective conflicts policy supports the CCG in its commissioning of services.
What are the Organisational implications	Key risks	The risk of not managing conflicts of interests within the organisation's decision making process.
	Equality	None identified in this report.
	Financial	Failure to manage conflicts of interests may have financial consequences for the organisation.
	Data	Not applicable.
	Legal issues	Failure to manage conflicts of interests may have legal consequences for the organisation.
	NHS constitution	Failure to manage conflicts of interests may lead to a breach of the NHS constitution.
Engagement	Not applicable.	
Audit trail	The policy replaces the previous one.	
Comms plan	The policy once approved will be published and rolled out to staff.	
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Date	11 March 2016	

## NHS BEXLEY CLINICAL COMMISSIONING GROUP

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### Conflicts of Interest (including Gifts and Hospitality Policy)

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<b>Sponsor's name &amp; Title:</b>	Simon Evans-Evans, Director of Governance and Quality
<b>Review date:</b>	March 2017
<b>Supersedes:</b>	Conflicts of Interest (including Gifts and Hospitality Policy) V 1.04
<b>Description:</b>	Bexley CCG's Conflict of Interest Policy (including Gifts and Hospitality)
<b>Audience:</b>	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
28/01/16	Jon Winter,	Assistant Director of Communications and Corporate Services
01/03/16	Simon Evans-Evans	Director of Governance and Quality

<b>Approved by:</b>	Executive Management Committee	<b>Date:</b>	14/05/2013
<b>Ratified by:</b>	Governing Body	<b>Date</b>	09/06/14
<b>Revision approved</b>	Governing Body	<b>Date</b>	

### (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>
Elinam Attipoe	01/02/2016	2.1	For consultation	Draft
Jon Winter	13/03/16	2.2	Revision	For approval

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# Conflicts of Interests Policy

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## 1. Introduction

- 1.1. This policy sets out how NHS Bexley Clinical Commissioning Group (NHS Bexley CCG) will manage conflicts of interest. The CCG membership, the Governing Body and employees have a legal obligation to act in the best interest of the organisation and in accordance with the CCG's constitution and to avoid or manage situations where there may be potential conflicts of interests.
- 1.2. Effective day to day management and handling of conflicts of interests is crucial for the maintenance of public trust in the commissioning process of the CCG. It also serves to give confidence to patients, providers, parliament and tax payers that the CCG's commissioning decisions are robust, fair and transparent and offer value for money.
- 1.3. NHS Bexley CCG has opted to take on co-commissioning opportunities in order to commission care for its patients and the people of Bexley. Co-commissioning should enable provision of care in a more coherent and joined-up way. This policy should in addition minimise the CCG's exposure to a greater risk of conflicts of interest, both real and perceived, especially opting to take on delegated budgets and functions from NHS England.

## 2. Conflicts of Interest – scope and definition

- 2.1. NHS Bexley CCG is a public body and therefore expected to conduct its affairs in line with the standard expected in public life. Successful commissioning depends on maintaining the confidence and respect of the local community. Reputation is the key tool for commissioners and it is crucial that GPs' parallel roles in commissioning and direct service provision are not seen to be affected by any factors that might damage public confidence. The policy is therefore to protect both the organisation and individuals involved from any appearance of impropriety and demonstrate transparency to the public and other interested parties.
- 2.2. 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.

2.3. A conflict of interest occurs where an individual's ability to exercise judgement, or act in a 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, for a conflict of interest to occur.

2.4. "For the purposes of Regulation 6 [National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 20137], a conflict will arise where an individual's ability to exercise judgement or act in their role in the commissioning of services is impaired or influenced by their interests in the provision of those services." Monitor

2.5. It is a perception of wrongdoing, impaired judgement or undue influence that can be as detrimental as any of them actually occurring. Such conflicts may create problems such as inhibiting free discussion that could:

- Result in decisions or actions that are not in the interest of the CCG and the public it was established to serve;
- Risk the impression that the CCG or an individual within the CCG has acted improperly.

2.6. Conflicts of interest can arise in any area of the CCG's business and specifically (But not limited to) need to be addressed in meeting or discussion on:

- Procurement, including tendering
- Commissioning
- Pathway design

2.7. Conflicts 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 create 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.

2.8. 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

2.9. This policy is relevant to:

- All CCG staff;
- Members (All members must complete Annex A);
- Members of the Governing Body;
- Members of any Committee or Sub-committee;
- People working for and on behalf of Bexley CCG;
- Contractors and
- Bidders.

2.10. 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 (see also section 11):

#### **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 conflicted person 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 conflicted person is involved;
- The sale of assets at below market value to a conflicted person ;
- Awarding a contract for the provision of health services to a GP practice, in which partners are members of the decision making group.

#### **3.3. Indirect pecuniary interests**

This arises when a close relative or an individual with a close, social or business connection of a conflicted person 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, child of the conflicted person, or directly connected in some other way. For example, a conflicted person is involved in a decision to award a contract to an organisation where the conflicted person’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 conflicted persons 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**

3.7.1. The conflicted person may have competing loyalties between the CCG to which they owe a primary duty and some other person or entity, including their GP Practice and patients.

3.7.2. 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, the Governing Body and staff 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 the conflicted 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. Materiality of conflicts of interest**

4.1. 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.

4.2. 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

4.3. 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.

#### **5. Recording Conflicts of Interests**

5.1. 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 the 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 conflicts 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.

5.2. 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:

5.2.1. Acknowledging the conflict in itself is sufficient, and no other action needs to be taken;

5.2.2. 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;

5.2.3. 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;

5.2.4. 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;

5.2.5. The identified conflicts of interests may be referred to the Conflicts of Interests Panel.

5.3. 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.

5.4. 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)

5.5. 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 member's meeting and governing body or committee meeting.

5.6. A declaration of interests form is provided for this purpose (Annex A) listing the types of interest to be declared.

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

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

5.9. 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.

5.10. In case of a decision that may require the Chair's action and the interested party may be the CCG's Chair in their capacity as a GP, 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 Conflicts of Interests Panel and reported to the Governing Body.

5.11. 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 on the panel (Lay Member, Secondary Care Specialist or Nurse).

5.12. Interests and gifts will be recorded on the CCG'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 to the public and inspection of the register of members' interests will be encouraged, as appropriate.

5.13. 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 Body's Committees and Sub committees;
- Its employees;

A template of the register that will be maintained is provided in Annex B of this policy

5.14. Where the conflicted person benefits from the decision, this will be reported in the annual report and accounts, as a matter of best practice.

5.15. All payments or benefits in kind to members for CCG work or governing body members will be reported in the CCG's accounts and annual report, with amounts for each member listed for the year in question.

#### 5.16. **Changes of Interests**

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

5.16.2. 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.

#### 5.17. **Data protection**

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 acts in the best interests of the group, the public and patients the group was established to serve. 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.

### 6. **Managing Conflicts of Interests**

6.1 Authors of reports to committees should check the declarations of interests registers to identify possible conflicts, and raise any concerns with the executive lead of the committee stating the likely conflict and the member of the committee likely to be conflicted during the meeting. The executive lead should consider the likely conflict and, with the chair of the committee, make a decision on managing the conflict.

At every committee meeting, the Chair will declare the meeting quorate and ensure that this is recorded in the minutes.

- Declarations of interests will be a standing item on the agenda.
- A copy of individual committee members' declaration of interest will be available at each meeting to enable the chair to check in advance for any conflicts that could affect or potentially affect items on the agenda.
- If there is any doubt whether a conflict could arise, a declaration must be made in the minutes.
- Any declaration should be noted both at the beginning of the meeting and under the relevant item.
- The minutes must state how the chair managed a declared interest, either by the conflicted party withdrawing from the meeting for the item or remaining during the meeting but not participating in the decision making.
- Any declaration arising during the meeting must be minuted together with the chair's decision on how it is to be managed

The chair should ensure that the executive summary of the meeting explicitly confirms that actual or potential conflicts of interest were declared and how they were managed.

- In the event of a Decision Making Group (DMG) having to decide upon a question in which one or more members of the DMG are conflicted, 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 the quorum. The conflicted person must not vote on matters affecting their own interests, even where the use of the waiver (see clause 7) has been approved by the chair and used. A copy of individual

committee members' declaration of interest will be available at the meeting.

6.1.1. Where GP clinical input is required and all relevant clinical GB members have declared an interest which precludes them from taking any part in the discussion/decision the CCG's Accountable Officer should refer the identified conflicts of interests to the Conflicts of Interests Panel their decision.

6.1.2. 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;
- Any referral to the Conflicts of Interests Panel

## **6.2. Conflict of Interest panel**

6.2.1. When a matter is first considered, potential conflicts should be taken into account and reported to the relevant Director. Where conflicts or potential conflicts are likely to result in either a DMG not being quorate OR it is a matter of great significance to the CCG the accountable officer (or if not available the Chief Financial officer or if not available the Director of Governance and Quality or if not available the Director of Commissioning) will decide whether to convene a Conflicts of Interest Panel.

6.2.2. The CCG's constitution requires that no DMG is quorate unless 50% of the members are present at the meeting.

6.2.3. A Conflicts of Interest Panel should be created so that:

- No member of the panel is conflicted
- the panel can take evidence from individuals or groups to explore the nature of the conflicts and assess whether the conflict has had a material impact on the recommendations before it including from conflicted parties such as GPs, members of the governing body or CCG staff or non-conflicted parties as experts such as other non-conflicted clinicians
- the panel can call to hear evidence in person or accept written depositions
- the panel will meet in a timely fashion so as not to delay decision making unduly
- the likely chair of the panel will be informed at the earliest opportunity and will decide the membership of the panel and from whom evidence is required in consultation with the accountable officer (or if not available the Chief Financial officer or if not available the Director

- of Governance and Quality or if not available the Director of Commissioning)
- the panel will normally receive papers at least three days before it sits

#### 6.2.4. Outcome from the Panel

- 6.2.4.1. The Conflicts of Interests Panel will then prepare a report making recommendations to the DMG whether to accept or reject the recommendations in the proposal, on the basis that the proposal has been unduly influenced by conflicted persons (the conflicts panel is not making a recommendation on whether the proposal is a good or bad proposal):

The Conflicts of Interests Panel report will include mandatory instructions as to how any conflicts should be managed in the DMG which could include any of clauses 5.2.1, 5.2.2, or 5.2.3 of this policy, where this would lead to the DMG not being quorate the panel will authorise

- The quoracy for the meeting to be changed to 40%
- Additional members co-opted to the committee to make up the quorum

That the decision is taken by the governing body or another committee or sub-committee of the CCG that would be quorate

- 6.2.4.2. Where the Panel deems that it is appropriate for a conflicted person to be part of the decision making process at a DMG then the waiver process in clause 7 will be used

- 6.2.4.3. The Conflicts of Interests Panel report may include a recommendation to the chair whether the provisions in clause 5.2.4 of this policy should be considered

#### **6.2.5. Membership of the Conflicts of Interests Panel**

- 6.2.5.1. The Panel should consist of five people and chaired by a statutory member of the Governing Body. The membership should where possible be drawn from the following (with a majority of non-manager members):

- Lay member for Governance
- Lay members for PPI,
- GB Nurse
- GB Secondary Care Specialist
- Chief Officer
- Chief Finance Officer
- Non-voting member of the GB
- Member appointed from either a non-Conflicted GP or other CCG Managers.
- Clinical Member from a CCG in South East London

6.2.5.2. The lay member for governance will normally be the chair or if not available the lay member for PPI or if not available one of the other statutory members of the governing body

6.2.6. The Conflicts of Interests Panel will report to the Governing Body and share reports with the Audit and Integrated Assurance Committee. In addition the Conflicts of Interests Panel has oversight of the process and the power to review how conflicts have been managed in any particular incidence for the purpose of learning.

### **6.3. Managing conflict of interests arising at a DMG**

6.3.1. The committee chair is responsible for managing conflicts of interest that arise in a meeting, with advice from the executive member of the committee. Refer to 6.1 above

6.3.2. Where members are required to withdraw from a meeting that does not affect the meeting quoracy then a vote can proceed as normal

6.3.3. Where more than 50% of the members of a meeting are required to withdraw from a meeting or part of it, the chair shall:

- Defer the matter to another meeting of the DMG, which may be quorate
- Refer the matter to the conflicts of interest panel in line with clause 6.2.1

6.3.4. Where a conflict is identified the conflict and the action will be recorded in the minutes of the meeting and the register of interests updated accordingly.

## **7. Waiver**

7.1. The 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 CCG. The application of a waiver 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
- 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 CCG.

7.2. Where the accountable officer and chair and the lay member for governance (or the chair of the conflicts panel) have approved the use of the waiver. 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.

7.3. 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.

## **8. Declaration of Gifts or Hospitality**

8.1. Any gift of hospitality offered over £25 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

## **9. Procurement issues – individual conflicts of interest**

9.1. 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

9.2. 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.

9.3. 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.

## **10. Procurement issues and competition**

10.1. 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.

10.2. 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.

10.3. 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.

10.4. 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:

10.5. 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;

- 10.6. 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
- 10.7. 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
- 10.8. 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.
- 10.9. 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.
- 10.10. A statement shall be made in each paper to the governing body (or committee) when asking for a decision in relation to procurement, to the effect that none of the staff involved (or advisors) have been, or are, conflicted, and if they were/are how that was/is being managed.

## **11. Roles and Responsibilities**

- 11.1. 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.
- 11.2. 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.
- 11.3. Interests and perceived interests that may impact on the work of the governing body or other DMG 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 the 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 the 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 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 the 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 the 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.

11.4. 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.

11.5. 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.

## **12. Training**

The CCG has the following training arrangements in place to assist it in ensuring that all those who work and are involved in the activities of the CCG understand the policy and its requirements:

- Lunch and learn sessions on conflicts of interest will be run for all staff on an occasional basis.

- Training on conflicts of interest will be included as part of the mandatory counter fraud training for all staff.
- Governing Body members will receive induction on Conflicts of Interests and the need for declaration when they join the governing body. In addition, there will be sessions at governing body seminars during the year.
- Induction sessions for newly appointed clinical leads and committee members when they are appointed will include conflicts of interests and declarations of interests.

The CCG will automate the process of issuing and monitoring the completion of the declaration of interests forms using a workflow on the Vibe platform, once this is fully operational

### **13. Success Criteria/monitoring the effectiveness of this policy**

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).

### **14. 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.

### **15. 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.

## **Annex A**

### **DECLARATION OF INTEREST FORM FOR MEMBERS AND EMPLOYEES**

#### **NHS Bexley CCG 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*. The declaration of interest form should be completed annually for the year from 1 April to 31 March. New declaration of interest forms will be circulated on or around 1 March to all governing body and committee members, staff and all others on current registers for completion for the subsequent year.

Anybody new joining the organisation will be asked to complete a form for the current year. Anybody joining the organisation after 1 February will only be required to complete one declaration of interest form to cover both the remaining period of that year (ie up until 31 March) and the following year.

As part of the induction process the CCG's HR advisor / consultant will provide a Declaration of Interest form to:

- All newly appointed members of the CCG's governing body.
- All newly employed members of staff on a permanent contract with the CCG.

All committee and sub-committee chairs upon appointment of new members should ensure that any new member has been issued with a Declaration of Interest form to complete.

The Primary Care Project Manager will provide all newly appointed Clinical Leads a Declaration of Interests form upon appointment as part of their induction.

All Assistant Directors/Managers employing temporary contract staff will provide the new staff with a Declarations of Interests form to complete.

The responsible manager for CSU staff working for the CCG will provide the staff member with a declaration of interests form for the staff to complete.

The chair of any formally constituted working group or ad hoc group will ensure any members of that group who have not completed a Declarations of Interests form complete one

For any other staff not in any of the above category, the responsible manager should provide the staff with a declaration of interests form to complete

All completed declarations of interest forms should be returned within 10 working days to the Corporate Governance and Risk Manager. If a form is not submitted within the 10 working days the responsible director shall be informed and a reminder sent asking for the form to be returned within seven days.

If a member of the governing body, a reporting committee or formally established working group/ad hoc group verbally changes their declarations at a meeting, details of this are passed on by the meeting's minute taker to the Corporate Governance and Risk Manager within five working days, who will update the member's form and email it back to them to be signed and returned within 10 working days.

The CCG has made the above arrangements to ensure that 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 decisions 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 10 working days.
- If any assistance is required in order to complete this form, then the individual should contact: [elinam.attipoe@nhs.net](mailto:elinam.attipoe@nhs.net) (Corporate Governance and Risk Manager).
- The completed and signed form should be sent by both email and hard copy to: [elinam.attipoe@nhs.net](mailto:elinam.attipoe@nhs.net)
- Any changes to interests declared must also be registered within 28 days by completing and submitting a new declaration form.
- The register for members of the Governing Body and committees will be published on the CCG's web-site, under Governing Body section of [www.bexleyccg.nhs.uk](http://www.bexleyccg.nhs.uk).
- A register for all CCG employees will be kept but will not be published unless required as part of the CCG's regulatory requirements. Where a request for publication is made under another statute, the Director of Governance and Quality will review the request and decide on whether it was in the public interest or staff and the organisation to publish the register.
- 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**

<b>NAME:</b>	<b>POSITION HELD IN THE CCG:</b>
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**Nature of Interest being declared (Scope, Value, Self, or Partner, Close Family)**

*Please complete EACH box and state N/A where necessary*

Area	Details of Interest	Personal interest or that of a family member, close friend or other acquaintance
Roles and responsibilities held within member practices.		
Directorships (including non-executive) and partnerships in private companies or PLCs (with the exception of those of dormant companies)		
Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the NHS		
Majority or controlling share holdings in organisations likely or possibly seeking to do business with the NHS		
A position of authority in a 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 an individual or their department		
Interests in pooled funds that are under separate management		
Any other role or relationship which the public <b>could perceive</b> would impair or otherwise influence the individual's judgment or action in their role within the CCG and or NHS England.		

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 CCG perspective but material from a related party viewpoint then the CCG must disclose it.

**I confirm that I have declared all interests that I am aware might affect or be seen to affect my impartiality or judgment. I will ensure that the interests I have will not conflict with my work for the Clinical Commissioning Group. I consent for the information I have provided to be used for the purpose described in the CCG's constitution and policy.**

**Signed:** \_\_\_\_\_ **Dated:** \_\_\_\_\_

**Annex B**

**DECLARATION of GIFTS AND HOSPITALITY FORM**

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

**Signed:**.....

**Date:**.....

## 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 and related to any decision to be made by the CCG. The declared conflict must 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.

**NHS Bexley Clinical Commissioning Group  
Register of Interests**

<b>Name</b>	<b>Position within Bexley CCG</b>	<b>Interests Held</b>	<b>Contract value</b>	<b>Declaration last updated</b>	<b>Other interests declared related to an agenda item at a meeting</b>	<b>Registered gifts and hospitality</b>

## **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 [elinam.attipoe@nhs.net](mailto:elinam.attipoe@nhs.net).
- The completed form should be sent to [elinam.attipoe@nhs.net](mailto:elinam.attipoe@nhs.net).
- 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, the CCG must be notified by completing a new declaration form and submitting it to [elinam.attipoe@nhs.net](mailto:elinam.attipoe@nhs.net).
- 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.

**DECLARATION OF INTERESTS BY CONTRACTORS**

Name of Organisation	
<b>Interests</b> Type of Interest	<b>Details</b>
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	

**Sign:**.....

**Date:**.....

**DECLARATION OF INTERESTS BY INDIVIDUALS REPRESENTING MEMBERS**

Name of Representative		
Type of Interest	Details of Interest	Personal interest or that of a family member, close friend or other acquaintance?
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		

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: .....