

Governing Body meeting (held in public)

DATE: 29 September 2016

Title	Conflicts of Interest (including Gifts and Hospitality) Policy
This paper is for Decision	
Recommended action for the Governing Body	<p>That the Governing Body:</p> <p>Note that this document was discussed at the Audit & Integrated Assurance Committee and a recommendation was made that the due to the current Conflict of Interest consultation the policy would be used in the meantime</p> <p>Agree this policy will be used in the meantime and revised following new guidance.</p>
Potential areas for Conflicts of interest	None identified in this report
Executive summary	<p>The report is the revised Conflicts of Interest Policy following the new statutory guidance from NHS England in June 2016 on the management of conflicts of interest within CCGs. The policy was approved by the EMC at its meeting on 8 September 2016</p> <p>The new policy increases the number of those expected to make declarations of interest and the number of Registers of Interest required to be published on the CCG's website. The policy also lays emphasis on gifts and hospitality. Declarations of interests are to be obtained from governing body and committee members, employees and all GPs and their practice staff every six months as opposed to annually and to ensure the registers of interests are accurate and up-to-date.</p> <p>In order to manage conflicts of interest more effectively the guide demands that all CCGs should have a minimum of three lay members and to appoint the chair of the audit committee (AIAC) as a Conflicts of Interest Guardian.</p> <p>The new policy retains the CCG's Conflicts of Interest Panel although not explicitly referred to in the guide as It is felt the panel will add to the robust management of conflicts of interest within the CCG.</p>

Clinical Commissioning Group

	<p>NHS England has introduced an annual mandatory training (on-line) on conflicts of interest for all including CCG employees, governing body and committee members. All GP partners/directors and all staff involved in the work or the decision-making of the CCG are to take the annual mandatory training. NHS England will provide details of the mandatory training in the autumn.</p> <p>The CCG has an added responsibility in that it will audit conflicts of interest management as part of its annual internal audit process. NHS England will provide a template for the audit for the purposes of uniformity.</p>	
How does this paper support the CCGs objectives?*	Patients:	Improve the health and wellbeing of people in Bexley in partnership with our key stakeholders
	People:	Empower our staff to make NHS Bexley CCG 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
What are the Organisational implications	Key risks	Failure to have in place an appropriate and robust conflicts of interest management policy
	Equality	Failure to have in place an appropriate and robust conflicts of interest management policy may lead to the organisation being seen as having an unfair system of managing conflict of interest.
	Financial	Failure to have in place an appropriate and robust conflicts of interest management policy may lead to financial loss for the organisation
	Data	None identified in the report
	Legal issues	Failure to have in place an appropriate and robust conflicts of interest management policy may lead to a legal challenge
	NHS constitution	Failure to have in place an appropriate and robust conflicts of interest management policy may lead to breach of the NHS constitution
Engagement	Not applicable	
Audit trail	The policy was presented and approved by EMC.	
Comms plan	The policy will be rolled out to employees and published on the website	
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Date	15 September 2016
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NHS BEXLEY CLINICAL COMMISSIONING GROUP

Conflicts of Interest (including Gifts and Hospitality) Policy

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Sponsor's name & Title:	Anne Douse, Director of Quality, Performance and Governance
Review date:	September 2017
Supersedes:	Conflicts of Interest (including Gifts and Hospitality Policy) V2.3
Description:	Bexley CCG's Conflicts 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
	Jon Winter,	Assistant Director of Communications and Corporate Services
	Anne Douse	Director of Quality and Governance

Approved by:	Executive Management Committee	Date:	14/05/2013
Ratified by:	Governing Body	Date	09/06/2014
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Ratified by:	Governing Body	Date	29/09/2016

(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
Anne Douse	30/08/16	2.3	Revised to include new NHSE guidance	Approval

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Conflicts of Interest (including Gifts and Hospitality) Policy

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 interest 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.
- 1.4. This policy adheres to the NHS England's guidance, Managing Conflicts of Interest: Revised Statutory Guidance for CCGs published in June 2016

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 conflicts of interest policy respects the seven principles of public life promulgated by the Nolan Committee. The seven principles are:

- **Selflessness:**
Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends;
- **Integrity:**
Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties;
- **Objectivity:**
In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit;
- **Accountability:**
Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office;
- **Openness:**
Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty:**
Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest;
- **Leadership:**
Holders of public office should promote and support these principles by leadership and example.

2.3 In addition, the CCG needs to bear in mind that:

- A perception of wrongdoing, impaired judgement or undue influence can be as detrimental as any of them actually occurring;
- If in doubt, it is better to assume the existence of a conflict of interest and manage it appropriately rather than ignore it.
- For a conflict of interest to exist, financial gain is not necessary.

3.0 Identification and management of conflicts of interest.

31. Conflicts of interest are a common and sometimes unavoidable part of the delivery of healthcare. As such, it may not be possible or desirable to completely eliminate the risk of conflicts. Instead, it is preferable to recognise the associated risks and put measures in place to manage the conflicts appropriately when they do arise.

- 3.2 As a minimum, CCGs should have robust systems in place to identify and manage conflicts of interest. This will involve creating an environment in which CCG staff, governing body and committee members, and member practices feel able, encouraged and obliged to be open, honest and upfront about actual or potential conflicts. Transparency in this regard will lead to effective identification and management of conflicts. The effect should be to make everyone aware of what to do if they suspect a conflict and ensure decision-making is efficient, transparent and fair. To this end, CCGs should implement this statutory guidance in a manner that is clear and robust, but not overly prescriptive or complex.
- 3.3 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. In some circumstances, it could be reasonably considered that a conflict exists even when there is no actual conflict. In these cases it is important to still manage these perceived conflicts in order to maintain public trust.
- 3.4 "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
- 3.5 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.
- 3.6 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
- 3.7 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 Appendix E; Declaration of Conflict of Interest for Bidders/Contractors.
- 3.8 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

3.9 This policy is relevant to:

- All CCG staff;
- Members (All members must complete Appendix 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.

3.10 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.

3.11 Process and Requirements

Interests can be captured in four different categories:

i) **Financial Interests:**

This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:

- A director, including a non-executive director, or senior employee in a private company or public limited company or other organisation which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A shareholder (or similar ownership interests), a partner or owner of a private or not-for-profit company, business, partnership or consultancy which is doing, or which is likely, or possibly seeking to do, business with health or social care organisations.
- A management consultant for a provider.

This could also include an individual being:

- In secondary employment;
- In receipt of secondary income from a provider;
- In receipt of a grant from a provider;
- In receipt of any payments (for example honoraria, one-off payments, day allowances or travel or subsistence) from a provider;
- In receipt of research funding, including grants that may be received by the individual or any organisation in which they have an interest or role; and
- Having a pension that is funded by a provider (where the value of this might be affected by the success or failure of the provider).

ii) **Non-financial professional interests:**

This is where an individual may obtain a non-financial professional benefit from the consequences of a commissioning decision such as increasing their professional reputation or status or promoting their professional career. This may for example include situations where the individual is:

- An advocate for a particular group of patients;
- A GP with special interests e.g., in dermatology, acupuncture etc.
- A member of a particular specialist professional body (although routine GP membership of the RCGP, British Medical Association (BMA) or a medical defence organisation would not usually by itself amount to an interest which needed to be declared);
- An advisor for the Care Quality Commission (CQC) or the National Institute for Health and Care Excellence (NICE);
- A medical researcher.

GPs and practice managers, who are members of the governing body or committee of the CCG, should declare details of their roles and responsibilities held within their GP practices.

iii) **Non-financial personal interests:**

This is where an individual may benefit personally in ways which are not directly linked to their professional career and do not give rise to a direct financial benefit. This could include for example where an individual is:

- A voluntary sector champion for a provider;
- A volunteer for a provider;
- A member of a voluntary sector board or has any other position of authority in or connection with a voluntary sector organisation;
- Suffering from a particular condition requiring individually funded treatment;
- A member of a lobby or pressure group with an interest in health.

iv) **Indirect Interests:**

This is where an individual has a close association with an individual who has a financial interest, a non-financial professional interest or a non-financial personal interest in a commissioning decision (as those categories are described above) for example, a:

- Spouse / partner
- Close relative e.g., parent, grandparent, child, grandchild or sibling;
- Close friend;
- Business partner

A declaration of interest for a “business partner” in a GP partnership should include all relevant collective interests of the partnership, and all interests of their fellow GP partners (which could be done by cross referencing to the separate declarations made by those GP partners, rather than by repeating the same information verbatim).

Whether an interest held by another person gives rise to a conflict of interests will depend upon the nature of the relationship between that person and the individual, and the role of the individual within the CCG.

3.12 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.

3.13 Apparently unconnected interests

In the interest 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.

4.0 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 Quality, Performance and Governance or the Chief Officer or the Lay Member of the Governing Body with responsibility for Audit and Governance matters.

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.

5.0 Identification of conflicts of interest

- 5.1 Conflicts of interest are a common and sometimes unavoidable part of the delivery of healthcare. As such, it may not be possible or desirable to completely eliminate the risk of conflicts. Instead, it may be preferable to recognise the associated risks and put measures in place to manage the conflicts appropriately when they do arise.
- 5.2 As a minimum, CCGs should have robust systems in place to identify and manage conflicts of interest. This will involve creating an environment in which CCG staff, governing body and committee members, and member practices feel able, encouraged and obliged to be open, honest and upfront about actual or potential conflicts. Transparency in this regard will lead to effective identification and management of conflicts. The effect should be to make everyone aware of what to do if they suspect a conflict and ensure decision-making is efficient, transparent and fair.
- 5.3 Bexley CCG's Accountable Officer has overall accountability for the CCG's management of conflicts of interest. The Director of Quality, Performance and Governance is the executive lead for the CCG's:
- Day-to-day management of conflicts of interest matters and queries
 - Maintaining the CCG's register(s) of interest and the other registers referred to in this Guidance;
 - Supporting the Conflicts of Interest Guardian to enable them to carry out the role effectively;
 - Providing advice, support and guidance on how conflicts of interest should be managed and
 - Ensuring that appropriate administrative processes are put in place.
- The Director of Quality, Performance and Governance will be supported by the Corporate Governance and Risk Manager.

6.0 Declaring interests

- 6.1 All should make a declaration of interest as soon as is reasonable and within 28 days after the interest arises. All employees and members should make their declaration by completing the Declaration of Interest Form attached as Appendix A. Further opportunities to make declarations include:
- On appointment to any position within the CCG, including the governing body, any committee, panel or working group.
 - Declarations of interest should be made on a six-monthly basis. Declarations should be made by all relevant individuals every six months and where there are no interests to declare a 'Nil return' should be recorded.
 - Attendees at all Bexley CCG meetings are to declare their interests as a standing item on the agenda. This should be undertaken before any item is

discussed. Even where the interest has been declared and recorded in the register, it should still be declared at meetings where matters relating to that interest are on the agenda and will be discussed. Declaration of interests made should be recorded in the minutes of the meetings.

- Whenever an individual's role, responsibility or circumstances change in a way that affects the individual's interests (e.g., where an individual takes on a new role outside Bexley CCG or enters into a new business or relationship), a further declaration should be made to reflect the change in circumstances as soon as possible and in any event within 28 days. This could involve a conflict of interest ceasing to exist or a new one materialising. It is the responsibility of individuals to make a declaration of interests that their circumstances have changed.

6.2 All issues including making new declarations of interests or updating declarations of interests made should be referred to the Corporate Governance and Risk Manager of the CCG.

6.3 The following are the categories of Bexley CCG staff expected to make declarations of interest as stated in Paragraph 6.1:

- Bexley CCG full time and permanent employees;
- All Bexley CCG part-time employees;
- Any Bexley CCG employee on sessional or short term contracts;
- Any student and trainee (including apprentices) working for Bexley CCG;
- Agency staff working for Bexley CCG and
- Any staff member seconded to Bexley CCG;
- Any CSU and local authority employee working for Bexley CCG.

In addition, any self-employed consultants or other individuals working for the CCG under a contract for services should make a declaration of interest in accordance with this guidance, as if they were CCG employees.

Where the CCG is participating in a joint committee alongside other CCGs, any interests which are declared by the committee members should be recorded on the register(s) of interest of each participating CCG.

6.4 All members of Bexley CCG (i.e., each practice) are required to make a declaration of interest. This includes each provider of primary medical services which is a member of Bexley CCG under Section 14O (1) of the 2006 Act.

Declarations should be made by the following groups:

- GP Partners (or where the practice is a company, each director);
- Any individual directly involved with the business or decision-making of the CCG:
 - Salaried GPs
 - Sessional GPs
 - Practice Managers
 - Practice Nurses.

All interests must be declared and promptly transferred to Bexley CCG's Corporate Governance and Risk Manager for uploading on to the CCG's register of interest.

6.5 Any declared interest should remain on the public register for a minimum of 6 months after the interest has expired. In addition, the CCG must retain a private record of historic interests for a minimum of 6 years after the date on which it expired. The CCG's published register of interests should state that historic interests are retained by the CCG for the specified timeframe.

7.0 Register of interests

7.1 Bexley CCGs has in place a number of Declarations of Interests Registers detailing actual or potential conflicts of interest pertaining to individuals required to make a declaration (Refer to paragraph 6). The CCG's declaration of interest form is attached as Appendix A.

7.2 The declaration of interest form contains the following information:

- Name of the person declaring the interest;
- Position within or relationship with the CCG (or NHS England in the event of joint committees);
- Type of interest e.g., financial interests, non-financial professional interests;
- Description of interest, including for indirect interests details of the relationship with the person who has the interest;
- The dates from which the interest relates.

8.0 Register of Gifts and Hospitality

8.1 Bexley CCG has a Register of Gifts and Hospitality for governing body, committee, sub-committee, panel and working group members. There is another register of Gifts and Hospitality for all employees. It is the objective of the CCG that all those involved in the work of the CCG including employees do not accept gifts and hospitality or other benefits which might reasonably be seen as compromising their professional judgement or integrity. The Gifts and Hospitality Form is attached as Appendix B.

8.2 A 'gift' is any item of cash or goods or any service which is provided for personal benefit, free of charge or at less than its commercial value. All gifts of any nature offered to CCG staff, governing body and committee members and individuals within GP member practices by suppliers or contractors linked (currently or prospectively) to the CCG's business should be declined, whatever their value. The person to whom the gifts were offered should also declare the offer to the Corporate Governance and Risk Manager who has designated responsibility for maintaining the register of gifts and hospitality so the offer which has been declined can be recorded on the register.

8.3 Gifts offered from other sources should also be declined if accepting them might give rise to perceptions of bias or favouritism. A common sense approach should be adopted as to whether or not this is the case. The only exceptions to the presumption to decline gifts relates to items of little financial value (i.e., less than £10) such as diaries, calendars, stationery and other gifts acquired from meetings, events or conferences and items such as flowers and small tokens of

appreciation from members of the public to staff for work well done. Gifts of this nature do not need to be declared to the team or the Corporate Governance and Risk Manager.

- 8.4 Any personal gift of cash or cash equivalents (e.g. vouchers, tokens, offers of remuneration to attend meetings whilst in a capacity working for or representing the CCG) must always be declined, whatever their value and whatever their source, and the offer which has been declined must be declared to the Corporate Governance and Risk Manager.

9.0 Hospitality

- 9.1 Bexley CCG does not believe in a blanket ban on governing body, committee members and employees accepting or providing hospitality is neither practical nor desirable from a business point of view. All CCG staff need to consider the risks associated with accepting offers of gifts, hospitality and entertainment when undertaking activities for or on behalf of Bexley CCG or their GP practice. This is especially important during procurement exercises, as the acceptance of gifts could give rise to real or perceived conflicts of interests, or accusations of unfair influence, collusion or canvassing. However, individuals should be able to demonstrate that the acceptance or provision of hospitality would benefit Bexley CCG and the NHS as a whole.

- 9.2 Modest hospitality provided in normal and reasonable circumstances may be acceptable although it should be on a similar scale to that which the CCG might offer in similar circumstances (e.g., tea, coffee, light refreshments at meetings). A common sense approach should be adopted as to whether hospitality offered is modest or not. Hospitality of this nature does not need to be declared to the team or individual who has designated responsibility for maintaining the register of gifts and hospitality, nor recorded on the register, unless it is offered by suppliers or contractors linked (currently or prospectively) to Bexley CCG's business in which case all such offers (whether or not accepted) should be declared and recorded.

- 9.3 There is a presumption that offers of hospitality which go beyond modest or of a type that Bexley CCG itself might offer, should be politely refused. A non-exhaustive list of examples includes:

- Hospitality of a value of above £25; and
- In particular, offers of foreign travel and accommodation.

There may be some limited and exceptional circumstances where accepting the types of hospitality referred to above may be contemplated. Express prior approval should be sought from the line manager before accepting such offers and the reasons for acceptance should be recorded in the CCGs register of gifts and hospitality. Hospitality of this nature should be declared to the Corporate Governance and Risk Manager who should record it in the appropriate register whether accepted or not. In addition, particular caution should be exercised where hospitality is offered by suppliers or contractors linked (currently or prospectively) to Bexley CCG's business. Offers of this nature can be accepted

if they are modest and reasonable but advice should always be sought from the Corporate Governance and Risk Manager, the Director of Quality, Performance and Governance or the Governing Body lay member responsible for Audit and Governance as there may be particular sensitivities, for example if a contract re-tender is imminent. All offers of hospitality from actual or prospective suppliers or contractors (whether or not accepted) should be declared and recorded.

10.0 Commercial Sponsorship

10.1 Bexley CCG staff, governing body and committee members and GP member practices may be offered commercial sponsorship for courses, conferences, post/project funding, meetings and publications in connection with the activities which they carry out for or on behalf of Bexley CCG or their GP practices. All such offers should first be cleared with either:

- Bexley CCG's Conflict of Interest Guardian,
- Accountable Officer or
- the Director of Quality and Governance.

10.2 If such offers are reasonably justifiable and otherwise in accordance with this policy then they may be accepted. The offer if accepted, the person receiving the offer should notify the Corporate Governance and Risk Manager who will treat it in the normal way as a Declaration of Interest.

10.3 Notwithstanding the above, acceptance of commercial sponsorship should not in any way compromise commissioning decisions of the CCG or be dependent on the purchase or supply of goods or services. Sponsors should not have any influence over the content of an event, meeting, seminar, publication or training event.

10.4 Bexley CCG, its membership and staff should not endorse individual companies or their products. It should be made clear that the fact of sponsorship does not mean that the CCG endorses a company's products or services. During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection legislation. Furthermore, no information should be supplied to a company for their commercial gain unless there is a clear benefit to the NHS. As a general rule, information which is not in the public domain should not be supplied.

11.0 Declaration of offers and receipt of gifts and hospitality

11.1 All gifts and hospitality must be declared and promptly transferred to the CCG's register of gifts and hospitality. Bexley CCG's Gifts and Hospitality Register is attached as Appendix C

11.2 Gifts and Hospitality to be declared include any gifts and hospitality declared in meetings. Information required to be provided for a declaration of gifts and hospitality should contain the following:

- Recipient's name;

- Current position(s) held by the individual within the CCG;
- Date of offer and/or receipt;
- Details of the gifts of hospitality;
- The estimated value of the gifts or hospitality;
- Details of the supplier / Offeror (e.g. their name and the nature of their business);
- Details of previous gifts and hospitality offered or accepted by this Offeror / supplier;
- Details of the officer reviewing/approving the declaration made and date;
- Whether the offer was accepted or not; and
- Reasons for accepting or declining the offer.

The gifts and hospitality template is attached as Appendix B.

12.0 Publication of Registers

12.1 Bexley CCG will publish the following registers on its websites and will be available for public consumption:

- Declaration of Interest Register for Bexley CCG's governing body and committee members;
- Declaration of Interest Register for Bexley GP Practices
- Gifts and Hospitality Register for Bexley CCG's governing body and committee members
- Gifts and Hospitality Register for Bexley GP Practices

12.2 In exceptional circumstances, where the public disclosure of information could give rise to a real risk of harm or is prohibited by law, an individual's name and/or other information may be redacted from any published register(s) as in 12.1. Where an individual believes that substantial damage or distress may be caused, to him/herself or somebody else by the publication of information about them, they are entitled to request that the information is not published. Such requests must be made in writing to Bexley CCG's Conflicts of Interest Guardian (Chair of Integrated Audit and Assurance Committee). The Guardian will consider the request and if necessary seek legal advice before a decision. However the CCG will retain the confidential un-redacted version of the register(s).

12.3 Bexley CCG will collate and process the following registers for all categories of employees:

- Declaration of Interest Register;
- Gifts and Hospitality Register.

The registers will not be published but retain for audit and for the monitoring purposes. External requests received for a copy of any employees' register under other legislation will be referred to the CCG's Conflicts of Interest Guardian for a decision.

13.0 Appointments and roles and responsibilities within Bexley CCG

13.1 Everyone working or involved in the business of Bexley CCG has a responsibility to manage appropriately conflicts of interest.

13.2 **Secondary employment**

13.2.1 All governing body and committee members and contractors of Bexley CCG are required to inform the CCG if they are employed or engaged in or wish to be employed or engage in any employment or consultancy work in addition to their work with the CCG. The purpose of this is to ensure that the CCG is aware of any potential conflict of interest. Examples of work which might conflict with the business of the CCG, including part-time, temporary and fixed term contract work, include:

- Employment with another NHS body;
- Employment with another organisation which might be in a position to supply goods/services to Bexley CCG;
- Directorship of a GP Federation; and
- Self-employment, including private practice, in a capacity which might conflict with the work of the CCG or which might be in a position to supply goods/services to the CCG.

13.2.2 All Bexley CCG employees are to obtain prior permission to engage in secondary employment. Bexley CCG reserves the right to refuse permission for an employee to engage in secondary employment where the CCG believes a conflict will arise which cannot be managed effectively. Employees should refer to the staff handbook or seek guidance from the CCG's HR consultant.

13.3 **Appointing governing body and committee members and directors**

13.3.1 The CCG should consider prior to appointing governing body, committee or sub-committee members and directors whether conflicts of interest would exclude individuals from being appointed to the relevant role. This will need to be considered on a case-by-case basis but the CCG's constitution should reflect the CCG's general principles. Where there appears to be a conflict the CCG should assess the materiality of the interest, in particular whether the individual or any person close to them could benefit from any decision they contribute to make while engaged in the CCG's business. If the interest is related to an area of business significant enough that the individual would be unable to operate effectively and make a full and proper contribution in the proposed role, then that individual should not be appointed to the role. This will be particularly relevant for governing body, committee and sub-committee member appointments but should also be considered for all employees and especially those operating at senior level.

13.3.2 Bexley CCG recognises that any candidate who has a material interest in any organisation which provides, or is likely to provide, substantial services to the CCG (whether as a provider of healthcare or commissioning support services, or otherwise) may have inherent conflict of interest. The candidate should therefore not be appointed as the nature of the conflict may be such that the person may have to exclude him/herself from decision-making on a regular

basis. This may significantly limit their ability to effectively perform in the role they have applied for.

13.4 Bexley CCG Lay Members

13.4.1 Lay members play a critical role in the governance of Bexley CCG, providing scrutiny, challenge and an independent voice in support of robust and transparent decision-making and management of conflicts of interest. They chair a number of CCG committees, including the Audit and Integrated Assurance Committee and the Primary Care Co-Commissioning Committee.

13.4.2 Bexley CCG currently has three lay members and one of them with the requisite qualifications and expertise serves as the chair of the Audit and Integrated Assurance Committee. The second lay member has knowledge of the local area and therefore responsible for patient participation and involvement. The third lay member has the qualification and expertise and able to express informed opinion and views on legal issues and procurement

13.5. Conflicts of Interest Guardian

13.5.1 To further strengthen scrutiny and transparency of Bexley CCGs' decision-making processes, the CCG has appointed a Conflicts of Interest Guardian (akin to a Caldicott Guardian). The Conflicts of Interest Guardian is the chair of the Audit and Integrated Assurance Committee (AIAC) and will chair the CCG's Conflicts of Interest Panel. The Conflicts of Interest Guardian will be supported by the Director of Quality, Performance and Governance as the executive lead for the CCG.

13.5.2 The Conflicts of Interest Guardian in collaboration with the Director of Quality, Performance and Governance will:

- Act as a conduit for GP practice staff, members of the public and healthcare professionals who have any concerns with regards to conflicts of interest;
- Be a safe point of contact for employees or workers of the CCG to raise any concerns in relation to this policy;
- Support the rigorous application of conflict of interest principles and policies;
- Provide independent advice and judgment where there is any doubt about how to apply conflicts of interest policies and principles in an individual situation;
- Provide advice on minimising the risks of conflicts of interest.

13.5.3 Whilst the Conflicts of Interest Guardian has an important role in the management of conflicts of interest within Bexley CCG, the executive team have an on-going responsibility for ensuring the robust management of conflicts of interest, and all CCG employees, governing body and committee members and member practices continue to have individual responsibility in playing their part on an on-going and daily basis.

14.0 Procurement and competition

- 14.1 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.
- 14.2 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.
- 14.3 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.
- 14.4 For these reasons, employees and members of the governing body and committees 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.

- 14.5 All employees, governing body and other committee members involved in the CCG's tender process including putting together tender documents together and the evaluation of the bids are required to complete a declaration of interest form. This is attached as Appendix D
- 14.6 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 Appendix F of this policy.
- 14.7 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.

15.0 Managing conflicts of interest at meetings and decision-making process

- 15.1 The chair of the CCG's governing body meetings or any of its committees, sub-committees or groups has ultimate responsibility for deciding whether there is a conflict of interest and for taking the appropriate course of action in order to manage the conflict of interest.
- 15.2 In the event that the chair of a meeting has a conflict of interest, the vice-chair will be responsible for deciding the appropriate course of action in order to manage the conflict of interest. If the vice-chair is also conflicted then the remaining non-conflicted voting members of the meeting should agree between themselves how to manage the conflict(s).
- 15.3 In making such decisions, the chair (or vice-chair or remaining non-conflicted members as above) may wish to consult with the Conflicts of Interest Guardian or the Director of Quality and Governance. It is good practice for the chair, with support of the CCG's Director of Quality, Performance and Governance if required, the Conflicts of Interest Guardian, to proactively consider ahead of meetings what conflicts are likely to arise and how they should be managed, including taking steps to ensure that supporting papers for particular agenda items of private sessions/meetings are not sent to conflicted individuals in advance of the meeting where relevant.
- 15.4 To support chairs in their role, they should have access to a declaration of interest register of members of the committee prior to meetings, which should include details of any declarations of conflicts which have already been made by members of the group.
- 15.5 Every meeting should have on the agenda for consideration prior to any business, declaration of interests. Each member of the group should declare any interests which are relevant to the business of the meeting whether or not

those interests have previously been declared. The secretary to meeting should ensure the new declarations are recorded in the minutes and the Corporate Governance and Risk Manager is notified so that it is recorded in the CCG's relevant register of interests to ensure it is up-to-date.

15.6 Similarly, any new offers of gifts or hospitality (whether accepted or not) which are declared at a meeting must be included on the CCG's register of gifts and hospitality to ensure it is up-to-date.

15.7 It is the responsibility of each individual member of a meeting to declare any relevant interests which they may have. However, should the chair or any other member of the meeting be aware of facts or circumstances which may give rise to a conflict of interests but which have not been declared then they should bring this to the attention of the chair. The chair should decide whether there is a conflict of interest and the appropriate course of action to take in order to manage the conflict of interest.

15.8 When a member of the meeting (including the chair or vice-chair) has a conflict of interest in relation to one or more items of business to be transacted at the meeting, the chair (or vice-chair or remaining non-conflicted members where relevant as described above) must decide how to manage the conflict. The appropriate course of action will depend on the particular circumstances, but could include one or more of the following:

- Where the chair has a conflict of interest, the vice-chair (or another non-conflicted member of the meeting if the vice-chair is also conflicted) should chair all or part of the meeting;
- Require the individual who has a conflict of interest (including the chair or vice-chair if necessary) not to attend the meeting;
- Ensure that the individual concerned does not receive the supporting papers or minutes of the meeting which relate to the matter(s) which give rise to the conflict;
- Require the individual to withdraw from the discussion when the relevant matter(s) are being discussed and when any decisions are being taken in relation to those matter(s). In private meetings, this could include requiring the individual to withdraw from the room and in public meetings to either withdraw from the room or join the audience in the public gallery;
- Allow the individual to participate in some or all of the discussion when the relevant matter(s) are being discussed but requiring them to withdraw from the meeting when any decisions are being taken in relation to those matter(s). This may be appropriate where, for example, the conflicted individual has important relevant knowledge and experience of the matter(s) under discussion, which it would be of benefit for the meeting to hear, but this will depend on the nature and extent of the interest which has been declared;

- Note the interest and ensure that all attendees are aware of the nature and extent of the interest, but allow the individual to remain and participate in both the discussion and in any decisions. This is only likely to be the appropriate course of action where it is decided that the interest which has been declared is either immaterial or not relevant to the matter(s) under discussion.

16.0 Conflict of Interest panel

- 16.1 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 decision-making group 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 Quality, Performance and Governance or if not available the Director of Commissioning) will decide whether to convene a Conflicts of Interest Panel.
- 16.2 The CCG's constitution requires that no decision-making body is quorate unless 50% of the members are present at the meeting.
- 16.3 A Conflicts of Interest Panel should be created so that no member of the panel is conflicted. The membership will be drawn in consultation with the chair of the panel from;
- Non-conflicted members of the governing body and
 - Those with the expertise on conflicts of interest.
- 16.4 The panel can take evidence from individuals or groups to explore the nature of the conflict 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.
- 16.5 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 Quality, Performance and Governance or if not available the Director of Commissioning). The panel will normally receive papers at least three days before it sits
- 16.6 Outcome from the Panel:
The Conflicts of Interests Panel will then prepare a report making recommendations to the decision-making group 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):
- 16.7 The Conflicts of Interests Panel report will include mandatory instructions as to how any conflicts should be managed in the decision-making group, where this

would lead to the decision-making group not being quorate the panel will authorise:

- The quoracy for the meeting to be changed to 40% of members present at the meeting including one clinical member;
- 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;
- Where the Panel deems that it is appropriate for a conflicted person to be part of the decision making process at a decision-making group then the waiver process will be used;
- The Conflicts of Interests Panel report may include a recommendation to the chair.

16.8 Membership of the Conflicts of Interests Panel

16.8.1 The Panel should consist of five people and chaired by the Conflicts of Interest Guardian or a Nominated Lay Member of the Governing Body. The membership should where possible be drawn from the following (with a majority of non-manager members):

- Conflicts of Interest Guardian – Chair
- Lay members for PPI,
- Lay member for Legal and Commercial
- GB Registered 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

16.9 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.

17.0 Primary Care Co-Commissioning Committees and Sub-Committees

17.1 The Primary Care Co-Commissioning Committee must have a lay chair and lay vice-chair. To ensure appropriate oversight and assurance and to ensure the CCG's Audit and Integrated Assurance Committee (AIAC) chair should not hold the position of chair of the primary care co-commissioning committee. This is because CCG AIAC chairs would conceivably be conflicted in this role due to the requirement that they attest annually to the NHS England Board that Bexley CCG has:

- Had due regard to the statutory guidance on managing conflicts of interest; and

- Implemented and maintained sufficient safeguards for the commissioning of primary care.

17.2 The CCG's AIAC chair can however serve on the primary care co-commissioning committee provided appropriate safeguards are put in place to avoid compromising their role as the Conflicts of Interest Guardian. Ideally the CCG's AIAC chair would also not serve as vice-chair of the primary care co-commissioning committee. However, if this is required due to specific circumstances (for example where there is a lack of other suitable lay candidates for the role), this will need to be clearly recorded and appropriate further safeguards may need to be put in place to maintain the integrity of their role as Conflicts of Interest Guardian in circumstances where they chair all or part of any meetings in the absence of the primary care co-commissioning committee chair.

17.3 There are three general practice co-commissioning models:

- **Greater involvement** is simply an invitation to Bexley CCG to collaborate more closely with NHS England, London region team to ensure that decisions taken about healthcare services are strategically aligned across the local health economy.
- **Joint commissioning** enables one or more CCGs to assume responsibility for jointly commissioning primary medical services with their local NHS England London team through a joint committee. It is a requirement for each joint committee to have a register of interests and for the interests of both CCG and NHS England representatives to be included on this register. These interests should also be recorded on the CCG's main register(s) of interests.
- **Delegated commissioning** enables CCGs to assume responsibility for commissioning general practice services.

17.4 Bexley CCG has established a primary care joint-commissioning committee for the discharge of its primary medical services functions. The interests of all primary care joint-commissioning committee members must be recorded on the CCG's register(s) of interests.

17.5 The primary care joint-commissioning committee should:

- For joint commissioning, it is a joint committee established between Bexley CCG and NHS England; and
- In the case of delegated commissioning, it is a committee established by Bexley CCG.

17.6 As a general rule, meetings of the primary care commissioning committee, including the decision-making and deliberations leading up to the decision, should be held in public unless the CCG has concluded it is appropriate to exclude the public where it would be prejudicial to the public interest to hold that part of the meeting in public. Examples of where it may be appropriate to exclude the public include:

- Information about individual patients or other individuals which includes sensitive personal data is to be discussed;
- Commercially confidential information is to be discussed, for example the detailed contents of a provider's tender submission;
- Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is to be discussed;
- To allow the meeting to proceed without interruption and disruption

17.7 Membership of primary care co-commissioning committees (for joint and delegated arrangements)

- The primary care co-commissioning committee must be constituted to have as majority lay members and the executive where lay refers to non-clinical. This is to ensure that the meeting will be quorate if all GPs had to withdraw from the decision-making process due to conflicts of interest.
- The primary care co-commissioning committee should have a lay member as chair and vice-chair.
- GPs should be members of the primary care co-commissioning committee to ensure sufficient clinical input, but should not be in the majority. CCGs may consider appointing retired GPs or out-of-area GPs to the committee to ensure clinical input so as to minimise the risk of conflicts of interest.
- Representatives of Bexley Healthwatch and LB Bexley Health and Wellbeing Board may be invited join the primary care co-commissioning committee as non-voting attendees especially for items where the public is excluded for reasons of confidentiality.
- Other individuals may be invited to attend the primary care co-commissioning committee on an ad-hoc basis to provide expertise to support the decision-making process.

17.8 Bexley CCG should consider reciprocal arrangements with other CCGs, for example exchanging GP representatives from their respective GP member practices, or sharing lay or executive members, in order to ensure a majority of lay and executive members and to support effective clinical representation within the primary care co-commissioning committee.

17.9 Where a CCG is engaged in joint commissioning arrangements alongside NHS England, the joint role of NHS England in decision-making will provide an additional safeguard in managing conflicts of interest. However, CCGs should still satisfy themselves that they have appropriate arrangements in place in relation to conflicts of interest with regard to their own role in the decision-making process. NHS England representatives need to take similar precautions.

18.0 Primary care co-commissioning committee decision-making processes and voting arrangements

18.1 The primary care co-commissioning committee is a decision-making committee, which should be established to exercise the discharge of the primary medical services functions. Bexley CCG has therefore amended its constitution to include the committee.

18.2 In accordance with Bexley CCG's constitution, the quorum for meetings is 50% of members must be present to make a quorum. The majority of those present must be lay members and executives on the committee. In the interest of minimising the risks of conflicts of interest, GPs do not have voting rights on the primary care co-commissioning committee. The arrangements do not however preclude GP participation in strategic discussions on primary care issues, subject to appropriate management of conflicts of interest. They apply to decision-making on procurement issues and the deliberations leading up to the decision.

18.3 Sub-committee and sub-groups of the primary care co-commissioning group must submit their minutes to the primary care co-commissioning committee detailing any conflicts of interest and how these have been managed.

19.0 Minute-taking

19.1 If any conflicts of interest are declared or otherwise arise in a meeting, to ensure transparency in the decision-making process, the chair must ensure the following information is recorded in the minutes:

- who has the interest;
- the nature of the interest and why it gives rise to a conflict, including the magnitude of any interest;
- the items on the agenda to which the interest relates;
- how the conflict was agreed to be managed; and
- Evidence that the conflict was managed as intended (for example recording the points during the meeting when particular individuals left or returned to the meeting).

20.0 Managing conflicts of interest throughout the commissioning cycle

20.1 Bexley CCG needs to manage conflict of interest appropriately throughout the whole commissioning cycle. At the outset of a commissioning process, Bexley CCG needs to identify relevant interests of all individuals involved and clear arrangements put in place to manage any conflicts of interest. This includes consideration as to which stages of the process a conflicted individual should not participate in and in some circumstances, whether that individual should be involved in the process at all.

20.1.1 The way in which services are designed can either increase or decrease the extent of perceived or actual conflicts of interest. Particular attention should be given to public and patient involvement in service development. Public involvement supports transparent and credible commissioning decisions. It should happen at every stage of the commissioning cycle from needs

assessment, planning and prioritisation to service design, procurement and monitoring. CCGs have legal duties under the Act to properly involve patients and the public in their respective commissioning processes and decisions.

20.1.2 It is good practice to engage relevant providers, especially clinicians, in confirming that the design of service specifications will meet patient needs. This may include providers from the acute, primary, community, and mental health sectors, and may include NHS, third sector and private sector providers. Such engagement, done transparently and fairly, is entirely legal. However, conflicts of interest, as well as challenges to the fairness of the procurement process, can arise if a commissioner engages selectively with only certain providers developing a service specification for a contract for which they may later bid. Provider engagement should follow the three main principles of procurement law, namely equal treatment, non-discrimination and transparency. This includes ensuring that the same information is given to all at the same time and procedures are transparent. This mitigates the risk of potential legal challenge.

20.1.3 CCGs will need to be able to recognise and manage any conflicts or potential conflicts of interest that may arise in relation to the procurement of any services or the administration of grants. Procurement relates to any purchase of goods, services or works and the term “procurement decision” should be understood in a wide sense to ensure transparency of decision making on spending public funds. The decision to use a single tender action, for instance, is a procurement decision and if it results in the commissioner entering into a new contract, extending an existing contract, or materially altering the terms of an existing contract, then it is a decision that should be recorded.

20.1.4 NHS England and CCGs must comply with two different regimes of procurement law and regulation when commissioning healthcare services: the NHS procurement regime, and the European procurement regime:

- The NHS procurement regime – the NHS (Procurement, Patient Choice and Competition (No.2)) Regulations 2013: made under S75 of the 2012 Act; apply only to NHS England and CCGs; enforced by NHS Improvement;
- The European procurement regime – Public Contracts Regulations 2015 (PCR 2105): incorporate the European Public Contracts Directive into national law; apply to all public contracts over the threshold value (€750,000, currently £589,148); enforced through the Courts. The general principles arising under the Treaty on the Functioning of the European Union of equal treatment, transparency, mutual recognition, non-discrimination and proportionality may apply even to public contracts for healthcare services falling below the threshold value if there is likely to be interest from providers in other member states.

Whilst the two regimes overlap in terms of some of their requirements, they are not the same – so compliance with one regime does not automatically mean compliance with the other.

21.0 Internal audit

21.1 Bexley CCG needs to undertake an audit of conflicts of interest management as part of its internal audit on an annual basis. NHS England will provide the scope and remit and template for the audit. Bexley CCG should complete the audit in quarter three or quarter four of the financial year, to enable the updates to be implemented prior to the audit taking place.

21.2 The results of the audit should be reflected in the CCG's annual governance statement and should be discussed in the end of year governance meeting with NHS regional teams.

22.0 Raising concerns and breaches

22.1 It is the duty of every Bexley CCG employee, governing body, committee or sub-committee member and GP practice member to speak up about genuine concerns in relation to the administration of the CCG's policy on conflicts of interest management and to report these concerns. Individuals should not ignore their suspicions or investigate themselves, but rather speak either to their line manager, the Director of Quality, Performance and Governance the CCG's Conflicts of Interest Guardian or any other member of the executive on these matters.

22.2 Any non-compliance with the CCG's conflicts of interest policy should be reported in accordance with the terms of that policy and CCG's Whistleblowing policy. Effective management of conflicts of interest requires an environment and culture where individuals feel supported and confident in declaring relevant information, including notifying any actual or suspected breaches of the rules. In particular, the team or individual designated by the CCG to provide advice, support, and guidance on how conflicts of interest should be managed, should ensure that organisational policies are clear about the support available for individuals who wish to come forward to notify an actual or suspected breach of the rules, and of the sanctions and consequences for any failure to declare an interest or to notify an actual or suspected breach at the earliest possible opportunity.

22.3 Anonymised details of breaches should be published on Bexley CCG's website for the purpose of learning and development.

23.0 Reporting breaches

23.1 Bexley CCG's employees should in the first instance report any suspected or known breaches of the CCG's Conflicts of interest to their line manager. Governing body members, committee or sub-committee members and GP practice members should report suspected or known breaches of the CCG's conflicts of interest policies to the CCG's Conflicts of Interest Guardian in the first instance to raise any concerns. They are able to contact the Conflicts of Interest Guardian on a strictly confidential basis. The CCG's Conflict of Interest Guardian is the Chair of the Audit and Integrated Assurance Committee.

23.2 Anyone who wishes to report a suspected or known breach of the policy, who is not an employee or worker of the CCG, should comply with their own organisation's whistleblowing policy, since most such policies should provide protection against detriment or dismissal.

23.3 Bexley CCG's Conflicts of Interest Guardian is in a position to cross reference to and comply with other CCG policies on raising concerns, counter fraud, or similar as and when appropriate. All such notifications should be treated with appropriate confidentiality at all times in accordance with the CCG's policies and applicable laws and the person making such disclosures should expect an appropriate explanation of any decisions taken as a result of any investigation. Furthermore, providers, patients and other third parties can make a complaint to NHS Improvement²⁴ in relation to a commissioner's conduct under the Procurement Patient Choice and Competition Regulations. The regulations are designed as an accessible and effective alternative to challenging decisions in the courts.

24.0 Fraud or Bribery

24.1 Any suspicions or concerns of acts of fraud or bribery can be reported online via <https://www.reportnhsfraud.nhs.uk> or via the NHS Fraud and Corruption Reporting Line on 0800 0284060. This provides an easily accessible and confidential route for the reporting of genuine suspicions of fraud within or affecting the NHS. All calls are dealt with by experienced trained staff and any caller who wishes to remain anonymous may do so.

25.0 Civil implications

25.1 If conflicts of interest are not effectively managed, CCGs could face civil challenges to decisions they make. For instance, if breaches occur during a service re-design or procurement exercise, the CCG risks a legal challenge from providers that could potentially overturn the award of a contract, lead to damages claims against the CCG, and necessitate a repeat of the procurement process. This could delay the development of better services and care for patients, waste public money and damage the CCG's reputation. In extreme cases, staff and other individuals could

26.0 Criminal implications

26.1 Failure to manage conflicts of interest could lead to criminal proceedings including for offences such as fraud, bribery and corruption. This could have implications for the CCG and linked organisations and the individuals who are engaged by them.

26.2 The Fraud Act 2006 created a criminal offence of fraud and defines three ways of committing it:

- Fraud by false representation;
- Fraud by failing to disclose information; and,
- Fraud by abuse of position

An essential ingredient of the offences is that, the offender's conduct must be dishonest and their intention must be to make a gain, or cause a loss (or the risk of a loss) to another. Fraud carries a maximum sentence of 10 years imprisonment and /or a fine if convicted in the Crown Court or 6 months imprisonment and/or a fine in the Magistrates' Court. The offences can be committed by a body corporate.

26.3 Bribery is generally defined as giving or offering someone a financial or other advantage to encourage that person to perform their functions or activities. The Bribery Act 2010 reformed the criminal law of bribery, making it easier to tackle this offence proactively in both the public and private sectors. It introduced a corporate offence which means that commercial organisations, including NHS bodies, will be exposed to criminal liability, punishable by an unlimited fine, for failing to prevent bribery. The offences of bribing another person, being bribed and bribery of foreign public officials can also be committed by a body corporate. The Act repealed the UK's previous anti-corruption legislation (the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Acts of 1906 and 1916 and the common law offence of bribery) and provides an updated and extended framework of offences to cover bribery both in the UK and abroad. The offences of bribing another person, being bribed or bribery of foreign public officials in relation to an individual carries a maximum sentence of 10 years imprisonment and/or a fine if convicted in the Crown Court and 6 months imprisonment and/or a fine in the Magistrates' Court. In relation to a body corporate the penalty for these offences is a fine.

27.0 Disciplinary implications

27.1 CCGs should ensure that individuals who fail to disclose any relevant interests or who otherwise breach the CCG's rules and policies relating to the management of conflicts of interest are subject to investigation and where appropriate, to disciplinary action. CCG staff, governing body and committee members in particular should be aware that the outcomes of such action may, if appropriate, result in the termination of their employment or position with Bexley CCG.

28.0 Professional regulatory implications

28.1 Statutorily regulated healthcare professionals who work for, or are engaged by, Bexley CCG are under professional duty imposed by their relevant regulators to act appropriately with regard to conflicts of interest. Bexley CCG will report statutorily regulated healthcare professionals to their regulator if the CCG believes that they have acted improperly, so that these concerns can be investigated. The consequences of inappropriate action by any healthcare professional may include fitness to practise proceedings being brought against

them and that they could, if appropriate, be struck off by their professional regulator as a result.

29.0 Conflicts of interest training

29.1 All Bexley CCGs employees, governing body, committee and sub-committee members are expected to complete NHS England's annual on-line mandatory training on conflicts of interest. The training is to ensure all understand what conflicts of interest are and how to manage them effectively.

29.2 The mandatory training is to equip people on the following:

- What is a conflict of interest;
- Why is conflict of interest management important;
- What are the responsibilities of the organisation you work for in relation to conflicts of interest;
- What should you do if you have a conflict of interest relating to your role, the work you do or the organisation you work for (who to tell, where it should be recorded, what actions you may need to take and what implications it may have for your role);
- How conflicts of interest can be managed;
- What to do if you have concerns that a conflict of interest is not being declared or managed appropriately;
- What are the potential implications of a breach of the CCG's rules and policies for managing conflicts of interest?

29.3 All Bexley CCG employees are able to access the on-line training through the Workforce system. All governing body, committee and sub-committee members should contact the Corporate Governance and Risk Manager on how to access the online training course.

29.4 Bexley CCG is required to record the completion rate of all categories of employees and others involved in the work of the CCG as part of the annual conflicts of interest audit. NHS England will also continue to provide face-to-face training on conflicts of interest to key individuals within CCGs and to share good practice across CCGs and NHS England.

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

The Declaration of Interest form is required to be completed in accordance with the CCG's Constitution and section 14O of *The National Health Service Act 2006* and NHS England guidance 'Managing Conflicts of Interest: Revised Statutory Guidance for CCGs, Version 6 June 2016. The declaration of interest form should be completed annually in March but updated every six months (in August) 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 (i.e. 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 ten working days to the Corporate Governance and Risk Manager. If a form is not submitted within the ten working days the responsible director will 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 ten 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 ten working days.
- If any assistance is required in order to complete this form, then the individual should contact: elinam.attipoe@nhs.net (Corporate Governance and Risk Manager).
- The completed and signed form should be sent by both email or hard copy to: elinam.attipoe@nhs.net
- Any changes to interests declared must also be registered within twenty-eight 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.
- 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

NAME:	POSITION HELD IN THE CCG:
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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 could perceive 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:** _____

DECLARATION of GIFTS AND HOSPITALITY FORM

Recipient Name	Position	Date of Offer	Date of Receipt (If applicable)	Details of Gift / Hospitality	Estimated Value	Supplier / Offeror. Named and nature of Business	Details of Previous Offers or Acceptance by this Offeror / Supplier	Details of the officer reviewing and approving the declaration made and date	Declined or Accepted	Reason for Accepting or Declining	Other Comments

The information submitted will be held by Bexley CCG for personnel or other reasons specified on this form and to comply with the organisation’s policies. This information may be held in both manual and electronic form in accordance with the Data Protection Act 1998. Information may be disclosed to third parties in accordance with the Freedom of Information Act 2000 and published in registers that the CCG holds.

I confirm that the information provided above is complete and correct. I acknowledge that any changes in these declarations must be notified to Bexley CCG as soon as practicable and no later than 28 days after the interest arises. I am aware that if I do not make full, accurate and timely declarations then civil, criminal, professional regulatory or internal disciplinary action may result.

I **do / do not (delete as applicable)** give my consent for this information to published on registers that the CCG holds. If consent is NOT given please give reasons:

Signed:

Position:

Date:

Please return to **Corporate Governance and Risk Manager**

Bexley CCG Declaration of Gifts and Hospitality Register

Name	Position	Date of Offer	Declined or Accepted	Date of Receipt (if applicable)	Details of Gift / Hospitality	Estimated Value	Supplier / Offeror Name and Nature of Business	Reason for Accepting or Declining

Declaration of actual, potential or perceived conflict of interest

Name of Tender:

Name	
Post held within the CCG	
Directorate	
Actual, potential or perceived conflict of interest declared	
Any position I hold or have held (paid or unpaid) at any of the organisations bidding for the tender, or that potentially could be bidding (This will include Non-Executive and Trustee positions)	
Any position held by a member of my immediate family or friend (paid or unpaid) at one of the bidding organisations, or that potentially could be bidding (Either at Board or senior level)	
Any person affiliated with or close connection, to one of the bidding organisations (or that potentially could be bidding)	
Any personal pecuniary interest (a current personal payment) or a non-personal interest (involves payment or other benefit that benefits a department or organisation for which I have managerial responsibility but which is not received personally) in a topic under consideration by the review.	

<p>Any personal non-pecuniary interest which might include but not limited to:</p> <ul style="list-style-type: none"> • A clear opinion about the tender under consideration, whether publicly stated or not which could reasonably be interpreted as prejudicial to an objective evaluation of the tender • Holding office in a professional or other organisation or advocacy group with a direct interest in the tender under consideration • Other reputational risks in relation to the tender bidding process. 	
<p>Any other interest not specified above but which I believe could be regarded as either influencing my advice or role or to be perceived to influence my advice or role.</p>	

I understand that the contents of this declaration will be processed as a CCG record for review and audit purposes. The information will be provided to NHS England and other regulators and to third parties if requested under the Freedom of Information Act 2000.

Signed: _____ Date: _____

Appendix E

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

Appendix F

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.
- The completed form should be sent to 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.
- 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	
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	

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 I have provided.

Signed:

Date: