

Berkshire West CCG

STANDARDS OF BUSINESS CONDUCT POLICY

Gifts, Hospitality (incorporating sponsorship arrangements) and Conflicts of interest

Author	NHS England/Corporate Affairs and Governance Team
Date/Version	March 2019 v0.3
Reviewed by CCG Committee	Approved by exception for 1 year (May 2021)
Approved	Chief Officer
Notified to:	Governing Body
Date:	14 April 2020
Next Review date:	May 2021 or earlier subject to policy/legislative changes

Table of Contents

1.	INTRODUCTION.....	3
2.	POLICY SCOPE	3
3.	PURPOSE	3
4.	ROLES AND RESPONSIBILITIES	3
5.	CONFLICTS OF INTEREST	5
6.	GIFTS AND HOSPITALITY	9
7.	COMMERCIAL SPONSORSHIP AND JOINT WORKING ARRANGEMENTS	11
8.	WORKING FOR OTHER ORGANISATIONS WHILE EMPLOYED BY THE CCG.....	12
9.	MANAGING CONFLICTS OF INTEREST WITHIN AN INTEGRATED CARE SYSTEM.....	12
10.	PROCUREMENT DECISIONS AND CONTRACT MONITORING PROCESSES	13
11.	BREACHES OF THE POLICY	13
12.	FRAUD OR BRIBERY	14
13.	CONSULTATION.....	14
14.	TARGET AUDIENCE.....	14
15.	COMMUNICATION	14
16.	TRAINING	14
17.	REFERENCES FOR THIS POLICY	14
	Annex 1 – Nolan Principles	16
	Annex 2 – Short Guide for Staff	17
	Annex 3 – Sponsorship Checklist	18
	Appendix 1	19
	Appendix 1	20
	Appendix 2	22
	Appendix 3	25

1. INTRODUCTION

- 1.1. It is a long-established principle that public sector bodies, like the NHS, must be impartial and honest in the conduct of their business and that their employees should remain beyond suspicion. As a public sector employer the CCG must ensure that it operates systems which allow public accountability and openness. The policy should be read in conjunction with the CCG's constitution (specifically the relevant section on conflicts of interest) and the policies on standards of business conduct, whistleblowing, counter fraud and bribery, and the disciplinary procedure.

2. POLICY SCOPE

This policy applies to all employees (regardless of position held), as well as volunteers, non-executive directors, governors, staff engaged with the CCG via an agency, honorary contract holders, local authority and university employees who work on CCG premises or who are integrated with the CCG, consultants, contractors, and/or any other parties who have a business relationship with the CCG. (*short guide for staff attached at Annex 2*)

3. PURPOSE

This policy outlines the strict ethical standards which are expected of Berkshire West Clinical Commissioning Committee employees in the conduct of NHS business. It respects the seven principles of public life promulgated by the Nolan Committee (Annex 1). The seven principles are:

- selflessness
- integrity
- objectivity
- accountability
- openness
- honesty
- leadership

In particular, this Policy sets out how Berkshire West CCG will manage conflicts of interest arising in respect of the following:

- The work of a CCG employee or officer of the CCG
- the work of the Governing Body, the CCG Committees, delegated committees and other key groups
- the procurement of services

To support CCGs in this area, NHS England issues statutory guidance under Sections 140 and 14Z8 of the Health and Care Act 2012. This policy has been developed in accordance with that guidance.

4. ROLES AND RESPONSIBILITIES

4.1. The Governing Body

The Governing Body has a legal obligation to act in the best interests of the CCG, and in accordance with the group's constitution, and to avoid situations where there may be a potential conflict of interest.

The Governing Body of the CCG has ultimate responsibility for all actions carried out by staff and committees throughout the CCG's activities. This responsibility includes the stewardship of significant public resources and the commissioning of healthcare to the community.

The Governing Body is responsible for approving this policy (though may delegate detailed consideration to another committee or group). The Governing Body receives assurance via the Audit Committee that the CCG is compliant with the policy and with the latest NHS England Managing Conflicts of Interest Statutory Guidance.

4.2. Chief Officer (Accountable Officer)

The CCG Chief Officer as Accountable Officer has overall responsibility for ensuring that this policy and supporting systems and processes are in place. Together with the CCG Audit Committee Chair, the Chief Officer will provide formal attestation to NHS England each quarter that the CCG is compliant with the latest NHS England Managing Conflicts of Interest Statutory Guidance.

4.3. Conflicts of Interest Guardian (Audit Committee Chair)

The Audit Committee Chair will act as the CCG Conflicts of Interest Guardian. Supported by the Governing Body Secretary / Head of Corporate and Governance, the Conflicts of Interest Guardian 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 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.

Together with the CCG Chief Officer, the Audit Committee Chair will provide formal attestation to NHS England annually and quarterly that the CCG is compliant with the latest NHS England Managing Conflicts of Interest Statutory Guidance.

4.4. Audit Committee

The CCG Audit Committee will provide assurance to the Governing Body that the process for managing conflicts of interest is regularly reviewed and that it is in line with statutory Guidance. It will do this by:

- Review of the conflicts of interest registers as a minimum on an *annual* basis
- Review of reports of potential breaches of this policy and how they have been handled
- Review of associated reports as required

4.5. Governing Body Secretary

The Governing Body Secretary will be responsible for maintaining the register of interests and ensuring that these are publicly available. The Governing Body Secretary will support staff by dealing with queries and issues, and engaging the Conflicts of Interest Guardian when appropriate.

4.6. Chairs of Committees

Chairs of all Committees are responsible for ensuring that they manage relevant declarations of interest made at each meeting in line with this policy.

4.7. Executive Directors and Senior Managers

Executive Directors and Senior Managers should ensure that all members of staff are aware of this policy and the processes to be followed.

4.8. All staff and officers of the CCG

CCG employees, members of the Governing Body and members of Councils of Practices should ensure that they familiarise themselves with this Policy and ensure that they comply with the processes and procedures set out within the document, in particular the regular declaration of conflicts of interest and offers of gifts and hospitality.

5. CONFLICTS OF INTEREST

5.1. Managing Conflicts of interest

5.2. Managing conflicts of interest appropriately is essential for protecting the integrity of the NHS commissioning system and for protecting individual CCGs and GP practices from any perceptions of wrongdoing. Conflicts of interest are not possible to avoid in all instances, however, recognising where and how they arise and dealing with them appropriately will enable the CCG to demonstrate proper governance and decision making with regard to the use of public funds.

5.2.1. A conflict of interest occurs where an individual's ability to exercise judgement or act, in the context of delivering, commissioning in one role is, or could be, impaired or otherwise influenced by his or her involvement in another role or relationship. In some circumstances, there could be public perception 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 the trust of the public.

5.2.2. Conflicts of interest can arise in many situations, environments and forms of commissioning, with an increased risk in primary care commissioning, out-of-hours commissioning and involvement with integrated care organisations, as clinical commissioners may here find themselves in a position of being at once commissioner and provider of services. Conflicts of interest can arise throughout the whole commissioning cycle from needs assessment, to procurement exercises, to contract monitoring.

5.2.3. The individual does not need to exploit his or her position or obtain an actual benefit, financial or otherwise for there to be a conflict of interests. A potential for competing interests and/or a perception of impaired judgement or undue influence can also be a conflict of interest. An individual may also have a conflict as a result of interests associated with partners or close family members.

5.2.4. Types of conflicts of interest that can arise include the following:-

- direct financial interest
- indirect financial interest
- non-financial personal interest
- non-financial indirect interests

5.3. Direct Financial Interest

5.3.1. This is the most recognisable conflict of interest and arises when a Governing Body or staff member obtains, or is perceived to obtain, a direct financial benefit over and above the agreed remuneration and terms of service package. Examples include:-

- the award of a contract to a company or other business with which a governing body member is involved
- the sale of assets at below market value to a Governing Body member
- the commissioning of enhanced services from GPs

5.4. Indirect Financial Interest

5.4.1. This arises when a close relative of a Governing Body or staff member benefits from the decisions of the CCG. They will benefit indirectly if their financial affairs are bound with those of the relative in question through the legal concept of 'joint purse', as would be the case if the relative were the spouse, partner, dependent child of the Governing Body member, or directly connected in some other way. For example, the Governing Body or staff member being involved in a decision to award a contract to an organisation where the member's spouse is a director.

5.5. Non-Financial Personal Interest

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

- to gain some other intangible benefit or kudos
- awarding contracts to friends or personal business contacts

5.6. Non-Financial Indirect Interest

5.6.1. Governing Body or staff members may have competing loyalties between the CCG to which they owe a primary duty (when acting in their capacity as Governing Body or staff members) and some other person or entity, including their GP practice, and patients.

5.7. Family members or close associates

5.7.1. Conflicts of interest may also arise where an individual has a close association with another individual who would stand to benefit from a decision they are involved in making. These associations may arise through relationships with close family members and relatives, close friends and associates, and business partners. It would be unrealistic to expect staff to know of all interests that people in these classes might hold. However, if staff do know of material interests, then these should be declared.

5.8. Registers of Interest

5.8.1. The CCG will maintain one or more registers of interest of:

- The members of the group (those who are members of or regularly attend Council of Practices),
- Members of the governing body,
- Members of the committees or sub-committees of its governing body, and
- Employees.

A proforma Register of Interests is attached at Appendix 1.

5.8.2. The registers will be reported as a minimum annually to Audit Committee. Following that meeting they will be published on the CCG websites and will be accessible to the public.

5.8.3. A member of staff may make representations that information on their interests should not be published. This is where the public disclosure of information could give rise to a real risk of harm or is prohibited by law.

Decisions not to publish information must be made by the Conflicts of Interest Guardian for the CCG, who should seek appropriate legal advice where required, and the CCG should retain a confidential un-redacted version of the register(s).

5.9. Declarations of Interest

5.9.1. Staff and officers of the CCG are required to declare any relevant and material interests, and any gifts or hospitality offered and received in connection with their role in the CCG. Interests that should be declared include:-

- any directorships of companies likely to be engaged with the business of the clinical commissioning group
- previous or current employment or consultancy positions
- voluntary or remunerated positions, such as trusteeship, local authority positions, other public positions
- membership of professional bodies or mutual support organisations
- investments in unlisted companies, partnerships and other forms of business, major shareholdings and beneficial interests
- gifts or hospitality offered by external bodies and whether this was declined or accepted in the last twelve months
- donations (a charitable financial payment) in the form of cash or through the application of a will or similar directive
- any other conflicts that are not covered by the above

5.9.2. It is not possible to define all instances in which an interest may be a real or perceived conflict. It is for each individual to exercise their judgement in deciding whether to register any interests that may be construed as a conflict. Individuals can seek guidance from the Director responsible for Corporate Governance (the CFO), the Head of Corporate Affairs, the Governing Body Secretary or the Conflicts of Interest Guardian, but may decide to declare when in doubt.

5.9.3. A declaration of interests form is attached at Appendix 2.

5.9.4. The declaration of interests form must be completed in the following instances:-

5.10. On Appointment

5.10.1. Applicants for any appointment to the CCG or its Governing Body or its Committees are required to declare any relevant interests. If any potential conflicts of interests arise these will be considered on a case by case basis.

5.10.2. If it is considered that any individual has a material interest in an organisation which provides/is likely to provide substantial business to the CCG they shall not be entitled to be a member of the Governing Body. A material interest can be defined as being so significant that the individual would be unable to make a full and proper contribution to the Governing Body as this interest would preclude them from having involvement in the majority of discussions and decisions.

5.11. Quarterly refreshment

5.11.1. The CCG is required to have systems in place to satisfy themselves as a minimum on an *annual* basis that their register of interests is accurate and up-to-date. Declarations of interest should be obtained from all relevant individuals at least annually, staff are prompted to update their declarations of interest, or, make a “nil return” where there are no interests or changes to declare on a quarterly basis.

5.12. Change of Role or Responsibility

5.12.1. Where an individual changes role or responsibility within the CCG or at the beginning of a new project/piece of work or its Governing Body, any change to the individual's interests should be declared. Regular email reminders will be sent to all CCG employees on a quarterly basis to ensure that the registers are kept up to date.

5.13. Other Change of Circumstances

5.13.1. Where an individual's circumstances change in a way that affects their interests (e.g. where an individual takes on a new role outside the CCG or sets up a new business or relationship), a further declaration should be made to reflect the change in circumstances. This could involve a conflict of interest ceasing to exist or a new one materialising.

5.14. Secondary Employment

5.14.1. In particular, it is the responsibility of all individuals to inform their line manager if they are employed or engaged in, or wish to be employed or engaged in, any employment or consultancy work in addition to their work with the CCG. 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 an organisation which might be in a position to supply goods/services to the CCG including paid advisory position and paid honorariums which relate to bodies likely to do business with the CCG;
- Directorships e.g. of a GP federation or non-executive roles;
- Self-employment, including private practice, charitable trustee roles, political roles and consultancy work, 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;

All staff are required to obtain prior permission to engage in outside employment and the CCG reserves the right to refuse permission where it believes a conflict will arise which cannot be effectively managed. It is unacceptable for pharmacy advisers or other advisers, employees or consultants to the CCG on matters of procurement to themselves be in receipt of payments from the pharmaceutical or devices sector. A Declaration of Secondary Employment Form is attached at Annex 3.

5.14.2. Advisory Panels/Board

Requests to participate on advisory boards, fee paid or not, should be considered on a case by case basis, and include only those managed by public authorities such as universities or educational academies. Any other requests, including pharmaceutical companies, should be politely declined and declared, irrespective of whether advisory board relates to a drug which is or is not on the formulary.

5.15. At meetings of the Governing Body and Primary Care Commissioning Committee

5.15.1. For Governing Body and Primary Care Commissioning Committee, existing declarations are incorporated within the meeting 'Sign-in' sheet for review and updating by the relevant member at each meeting.

5.15.2. All members of the Governing Body and delegated Committees and Programme Boards are additionally required to state aloud any interests in any particular agenda item at the beginning of the meeting, or before that item is discussed, or as soon as it becomes apparent that the interest exists. Declarations of interest will be recorded in minutes of meetings accordingly.

5.16. Handling conflicts - decisions taken with an Interest

5.16.1. It is important that the interests of those who are involved in Governing Body, delegated Committees and Programme Boards (strategic decision making groups) are well known to those involved. Chairs should consider any known interests of members in advance, and begin each meeting by asking for declaration of relevant interest. Members are required to declare their interests in relation to any items on the agenda at the start of each meeting and as they arise. The vice-chair (or other non-conflicted member) should chair all or part of the meeting if the Chair has an interest that may prejudice their judgement.

5.16.2. Where a member has an actual or potential interest the Chair should consider the following approaches and ensure that the action chosen is recorded in the minutes of that meeting.

- requiring the member to not attend the meeting
- ensuring that the member does not receive meeting papers relating to the nature of their interest
- requiring the member to not attend all or part of the discussion and decision on the related matter
- noting the nature and extent of the interest, but judging it appropriate to allow the member to remain and participate
- removing the member from the group or process altogether

It is considered that the response should not always be to exclude members with interests, as this may have a detrimental effect on the quality of the decision being made.

5.16.3. If the exclusion of a member on account of an interest results in loss of quorum, any necessary vote may be taken partially by email to obtain the vote of those members not present, and restore the quorum for that decision.

5.16.4. All decisions under a conflict of interest will be recorded by the Governing Body or Committee Secretary and reported in the minutes of the meeting. The report will record:

- the nature and extent of the conflict
- an outline of the discussion
- the actions taken to manage the conflict

5.16.5. Where a Governing Body member benefits from the decision, this will be reported in the annual report and accounts, as a matter of best practice. All payments or benefits in kind to Governing Body members will be reported in the CCG accounts and annual report, with amounts for each Governing Body member listed for the year in question.

5.17. Primary Care Commissioning

5.17.1. Primary care commissioning carries an increased risk of conflicts of interest, as clinical commissioners may find themselves in a position of being at once commissioner and provider of services.

5.17.2. The Primary Care Commissioning Committee has arrangements in place to mitigate this risk. GPs may not hold the position of Chair or Vice Chair (Its Chair is a lay member, and its Vice Chair is the Nurse Director). GPs may not vote on decisions relating to their own practices. These arrangements are declared to NHS England and are captured in the Committee Terms of Reference.

6. GIFTS AND HOSPITALITY

6.1. Registers of Gifts and Hospitality

- 6.1.1. It is the responsibility of the CCG to ensure that robust processes are in place to make sure that individuals do not accept gifts or hospitality or other benefits, which might reasonably be seen to compromise professional judgement or integrity when undertaking activities for or on behalf of the CCG or their GP Practice.
- 6.1.2. The CCG will maintain one or more registers of gifts and hospitality. The Governing Body Secretary has operational responsibility for maintaining these registers and making them available to the public.
- 6.1.3. The obligation to declare any offer of gifts, hospitality and commercial sponsorship extends to all managers and staff employed by the CCG, the members of the Council of Practices, and the Governing Body

6.2. Gifts

- 6.2.1. A 'gift' is defined as 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.
- 6.2.2. The overarching principle applying in all circumstances: Staff should not accept gifts that may affect, or be seen to affect, their professional judgement. 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 business should be declined, whatever their value.

Subject to this, low cost branded promotion aids may be accepted where they are under the value of common industry standard of £6 in total, and need not be declared.

- 6.2.3. Gifts from other sources (e.g. patients, families, service users):
- Gifts of cash and vouchers to individuals should always be declined
 - Gifts valued at over £50 should be treated with caution and only accepted on behalf of an organisation, not in a personal capacity. These should be declared by staff.
 - Modest gifts accepted under a value of £50 do not need to be declared. A common sense approach should be applied to the valuing of gifts.
 - Multiple gifts from the same source over a 12 month period should be treated in the same way as single gifts over £50 where the cumulative value exceeds £50.
- 6.2.4. In principle all members of staff, where possible, are required to submit a formal request using the Gifts and Hospitality form (Appendix 2) before accepting any offer of gifts or hospitality.

6.3. Hospitality offered by others to the CCG

- 6.3.1. Modest hospitality is an accepted courtesy of a business relationship. However, the CCG or individual receiving the hospitality should never put themselves in a position where there could be any suspicion that their business decisions could have been influenced by accepting hospitality from others.
- 6.3.2. Hospitality is defined as meals, refreshments, travel, accommodation and other expenses in relation to attendance at meetings, conferences, education and training events etc. These may be accepted where they are moderate and in keeping with what is normal in public sector business relationships and where, as far as it can reasonably be assessed by the potential receiver, will not be deemed by others (and in particular by members of the general public) to influence a business decision.

Meals and refreshments:

- Under a value of £25 – may be accepted and need not be declared
- Of a value between £25 and £75 – may be accepted and must be declared

- Over a value of £75 – should be refused unless (in exceptional circumstances) senior approval is given

Travel and accommodation:

- Modest offers to pay some or all of the travel and accommodation costs related to attendance at events may be accepted and must be declared
- Offers which go beyond modest should only be accepted in exceptional circumstances. Express prior approval from a senior a member of staff should be sought before accepting such offers, and the reasons for acceptance must be declared.
- In addition, particular caution should be exercised where hospitality is offered by suppliers or contractors linked (currently or prospectively) to the CCG's business. All offers (whether or not accepted) should be declared.

6.3.3. Hospitality should be recorded in the Gifts & Hospitality Register. The Gifts & Hospitality Register in Appendix 2 should be completed and returned to the Governing Body Secretary.

6.4. Hospitality offered by the CCG to others

6.4.1. The use of NHS funds for hospitality should be carefully considered. All expenditure on these items should be capable of justification, to both internal and external auditors, as reasonable in light of accepted practice in the public sector

7. COMMERCIAL SPONSORSHIP AND JOINT WORKING ARRANGEMENTS**7.1.1 Sponsored events**

7.1.2 NHS events by external parties offering to meet some or part of the costs of running an event for the benefit of NHS staff and patients is valued. Sponsorship by commercial companies, including the pharmaceutical sector, is a common practice and reduces NHS expenditure. However, the CCG is therefore required to ensure that proper safeguards are in place to prevent conflicts occurring. All appropriate guidance is to be adhered to and records regarding sponsored events in line with the principles and rules are to be maintained in accordance with NHS England guidance. Please refer to Annex 3 (Sponsorship Checklist).

7.1.3 The 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. The CCG should not endorse individual companies or their products. It should be made clear to the sponsor that their sponsorship of an event or the availability of publicity material about the company or product will not constitute an endorsement by CCGs and that this will be made clear to the public and those attending the events. During dealings with sponsors there must be no breach of patient or individual confidentiality or data protection legislation 1998. 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 normally be supplied.

7.1.4 To adhere to reporting and accountability requirements, recommendations to accept any form of sponsorship will require Committee approval in advance. Recommendations for Sponsorship offered by the pharmaceutical sector are to be made to the Medicines Optimisation Committee.

7.2 Sponsored research

Whilst research is vital in helping the NHS to transform services and improve outcomes, funding sources for research purposes must be transparent and go through the relevant health research authority or other

approvals process. There must be a written protocol and written contract between staff, the organisation, and/or institutes at which the study will take. Staff must declare involvement with sponsored research on the declaration of interests form attached as Appendix 2.

7.3 Sponsored posts

Sponsored posts are positions within an organisation that are funded, in whole or in part, by organisations external to the NHS. However, safeguards are required to be put in place to ensure that deployment of sponsored posts does not cause a conflict of interest between the aims of the sponsor and the aims of the organisation, particularly in relation to procurement and competition. Written records of sponsorship of posts in line with the principles and rules are to be retained and any declarations as a result of their association with the sponsor are to be declared.

8. WORKING FOR OTHER ORGANISATIONS WHILE EMPLOYED BY THE CCG

- 8.1 An individual member of staff can choose to work for another organisation in their own time and be paid a fee/salary for such work. This work will be considered separate to the work that the individual staff member carries out while employed by the CCG. The staff member must make it clear to the third party organisation that they are undertaking the work as a private person and not as an agent or representative of the CCG and the work must not conflict with the aims and policies of the CCG.
- 8.2 Staff should declare any existing outside employment on appointment and any new outside employment when it arises. Where a risk or conflict of interest is identified, the general management actions outlined in this guidance is to be considered and applied to mitigate the risk.

9. MANAGING CONFLICTS OF INTEREST WITHIN AN INTEGRATED CARE SYSTEM

Legislative implications

The Integrated Care System for Berkshire West has no legislative basis. It consists of a number of groups/partners/forums to which functions, tasks and authorities for decisions (both process/transactional and commissioning) may be delegated on behalf of a number of statutory NHS organisations. Where this occurs, procedural documentation such as terms of reference, constitutions and schemes of reservation and delegation will require appropriate amendment. Legislatively these boards are termed “groups”, “partnerships” or “forums”, but may not be explicitly named as such. It is also recognised that they cannot be referred to as “boards”, “Joint”, “in common” or “committee” as these terms relate only to governance arrangements for statutory organisations, between clinical commissioning groups and, in some specific situations, Local Authorities.

Registers for newly formed ICS groups/partnerships/forums

As regards managing and mitigating conflicts of interest, the principles already described within this policy will apply. Where new groups/partnerships/forums are formed with functions, tasks and authorities for decisions delegated to them by statutory NHS organisations, the CCG’s existing registers will be reviewed and updated accordingly.

Registers for disbanded CCG Boards or Committees

Any previously published registers for Boards or Committees which are disbanded will be archived but remain within the existing CCG master register for declarations published on its website.

Materiality

As regards establishing materiality of an existing or newly declared conflict, Chairs and support staff for ICS groups/partnerships/forums should follow same principles as currently in place (including use of available CCG checklists and registers). This will also be dependent upon the content of terms of reference and descriptions of delegated authority (if any), whether to individual members or ICS groups/partnerships/forums as a whole. Terms of Reference and descriptions of delegated authority must clearly distinguish between process/transactional decisions and commissioning decisions in order for delegated authority and mitigation of conflicts of interest to function effectively. The role of a meeting may relate only to discussion, and or recommendation (rather than decision), with Conflicts to be managed accordingly.

Provider representation/membership on ICS groups/partnerships/forums

Where ICS groups/partnerships/forums are Chaired or Deputy Chaired by substantive staff from provider organisations, certain decisions (especially commissioning related) may or may not be executable. If authority is delegated, mitigations would include:

- (a) An alternative CCG Chair should be identified to transact a decision, subject to the board or committee remaining quorate to transact within its terms of reference
- (b) Escalate to the statutory organisation committee or board or to whom it is accountable, or if relating to a decision in which committee or board to which it is accountable is equally conflicted, escalate to a CCG committee or board which is not conflicted and has authority.

Exception to inclusion within CCG registers

These exceptions will be the statutory or other constituted (or equivalent) board/or committees which are unique to statutory organisations. CCG published registers will therefore include its constituted committees (i.e. Governing Body, Clinical Commissioning Committee, Quality Committee, Finance Committee, Audit Committee). But it will exclude all the equivalents of the statutory partners within the ICS; namely Berkshire Healthcare NHS Foundation Trust, Royal Berkshire NHS Foundation Trust, West Berkshire Council.

10. PROCUREMENT DECISIONS AND CONTRACT MONITORING PROCESSES

- 10.1 Procurement is to be managed in an open and transparent manner, compliant with procurement and other relevant law, to ensure there is no discrimination against or in favour of any provider. Records are to be kept that show a clear audit trail of how conflicts of interest have been identified and managed as part of the procurement process (including the decision to use a single tender action). At every stage of the procurement process steps should be taken to identify and manage conflicts of interest to ensure and to protect the integrity of the process. NHS Improvement and NHS England have published detailed and specific guidance on the procurement process.
- 10.2 In accordance with *NHS England: Managing Conflicts of Interest: Revised Statutory Guidance 2017* the CCG will maintain and publish a register of all procurement decisions.

11. BREACHES OF THE POLICY

- 11.1 The CCG will view instances where this policy is not followed as serious and may take disciplinary or other relevant action against individuals, which may result in dismissal. Any unwitting failure to declare a relevant and material interest or position of influence and/or to record a relevant or material interest or position of influence and/or to record a relevant or material interest or position of influence that has been declared will

not necessarily render void any decision made by the CCGs or its properly constituted committees or sub-committees, although CCGs will reserve the right to declare such a contract void.

12. FRAUD OR BRIBERY

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.

13. CONSULTATION

All staff and officers of the CCG are to be consulted on this policy.

14. TARGET AUDIENCE

The target audience for the policy is the CCG Governing Body, members of staff and any other person working on behalf of the CCG or members of the CCG committees.

15. COMMUNICATION

The policy will be sent to members of the Governing Body and the wider CCG membership via email and placed on the CCG intranet site.

16. TRAINING

CCG employees, governing body members, members of CCG committees and sub-committees and practice staff with involvement in CCG business will be required to complete an NHS England online training package on an annual basis. The CCG will be required to record their completion rates as part of their annual conflicts of interest audit.

17. REFERENCES FOR THIS POLICY

Please find listed below details of organisations used in researching this protocol.

- The CCG Constitution
- Standards for members of NHS Boards and Clinical Commissioning Group governing bodies in England; NHS Professional Standards Authority
- Managing Public Finance: HM Treasury
- Counter Fraud Policy
- Related HR Policies
- NHS Commissioning Board – Towards establishment: *Creating responsive and accountable clinical commissioning groups* (February 2012)
- NHS Commissioning Board – Towards establishment: *Technical Appendix 1 - Managing conflicts of interest*

(February 2012)

- NHS Commissioning Board – Code of Conduct: *Managing conflicts of interest where GP practices are potential providers of CCG commissioned services* (June 2012)
- ICSA Guidance Note 120228 – *Model conflicts of interest policy for clinical commissioning group board members* (February 2012)
- NHS Confederation / RCGP Centre for Commissioning – *Managing conflicts of interest in clinical commissioning groups* (September 2011)
- NHS England – *Managing Conflicts of Interest: Statutory Guidance for CCGs* (December 2014)
- NHS England – *Managing Conflicts of Interest: Revised Statutory Guidance for CCGs* (June 2016)
- NHS England – *Managing Conflicts of Interest in the NHS: Guidance for staff and organisations* (7 February 2017)
- NHS Improvement – *Guidance on Procurement, Patient Choice and Competition*
- NHS England – *Managing Conflicts of interest: Revised Statutory Guidance for CCGs* (June 2017)
- NHS England – *Best Practice Update on Conflicts of Interest Management: Call for Action for CCGs* (February 2019)
- Buckinghamshire Clinical Commissioning Group: *Conflicts of Interest Policy*
- Bracknell and Ascot, Slough, Windsor, Ascot and Maidenhead: *Standards of Business Conduct Policy*

Annex 1 – Nolan Principles

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare any resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour whatever it occurs.

Annex 2 – Short Guide for Staff

Do: Make sure you understand the guidelines on standards of business conduct and consult your line managers if you are not sure;

Make sure you are not in a position where your private interests and NHS duties may conflict;

Declare to your employer any relevant interest. If in doubt, as yourself:

- 1) Am I, or might I be, in a position where I (for my family/friends) could gain from the connection between my private interests and my employment?
- 2) Do I have access to information which could influence purchasing decisions?
- 3) Could my outside interest be in any way detrimental to the NHS or to patients' interests?
- 4) Do I have any other reason to think I may be risking a conflict of interest?

If still unsure – **Declare it!**

Adhere to the ethical code of the Chartered Institute of Purchasing and Supply if you are involved in any way with the acquisition of good and services;

Seek your employer's permission before taking on outside work, if there is any question of it adversely affecting your NHS duties;

Obtain your employer's permission before accepting any commercial sponsorship;

Do not:

Accept any gifts, inducements or inappropriate hospitality;

Abuse your past or present official position to obtain preferential rates for private deals;

Unfairly advantage one competitor over another or show favouritism in awarding contracts;

Misuse or make available official "commercial in confidence" information.

Annex 3 – Sponsorship Checklist

No	Question	Yes or No
1	During the sponsored event will any marketing of commercial products or services take place?	
2	Can any reasonable person conclude that the event will result in a clear benefit for the CCG and the NHS?	
3	Can you confirm that when dealing with the sponsor of an event there will be no breach of patient or individual confidentiality or data protection rules and legislation?	
4	Can you confirm that no information will be supplied to a sponsor from which they may gain a commercial advantage, and information which is not in the public domain?	
5	During the sponsored event, and at the CCGs discretion, sponsors or their representatives may attend or take part in an event but they should not have a dominant influence over the content or the main purpose of the event. Can you confirm?	
6	That the involvement of a sponsor in any event should clearly be identified in the interest of transparency. Do you confirm?	
7	That it will be made clear to a prospective sponsor that acceptance of 'sponsorship' does not equate to endorsement of a company or its products and this should be made visibly clear on any promotional or other materials relating to an event. Do you confirm?	
8	That a declaration of involvement with arranging sponsored events is declared to the CCG. Do you confirm?	
9	Can you confirm that the sponsored event does not form part of any research by the sponsor?	

Appendix 1

Declaration of Interest

Berkshire West CCG

Member, governing body member, committee and sub-committee member and employee declaration form: financial and other interests

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

Notes:

- Within 28 days of a relevant event, CCG members, the members of its Governing Body, members of its committees or sub-committees (including those of its Governing Body) and employees need to register their financial and other interests.
- If any assistance is required in order to complete this form, then the member or employee should contact the Head of Corporate Affairs on behalf of the CFO as Director responsible for Corporate Governance.
- The completed form should be sent by both email and signed hard copy to the Head of Corporate Affairs.
- Any changes to interests declared must also be registered within 28 days of the relevant event by completing and submitting a new declaration form.
- The register will be published or otherwise made accessible to members of the public on request.
- Governing Body members, committee and sub-committee members and employees 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 that person 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 or potential conflict of interests could arise, a declaration of the interests should be made.

Interests that must be declared:

1. Roles and responsibilities held within member practices;
2. Directorships, including non-executive directorships, held in private companies or PLCs;
3. Ownership or part-ownership of private companies, businesses or consultancies likely or possibly seeking to do business with the CCG;
4. Shareholdings (more than 5%) of companies in the field of health and social care;
5. Positions of authority in an organisation (e.g. charity or voluntary organisation) in the field of health and social care;
6. Any connection with a voluntary or other organisation contracting for NHS services;
7. Research funding/grants that may be received by the individual or any organisation they have an interest or role in; and
8. 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 whether such interest are those of the individual themselves or a family member, close friend or other acquaintance of the individual

Appendix 1

Declaration of Interests for CCG members and employees (Including any Declaration of offers, Sponsorship and receipt of gifts and hospitality)				
Name:				
Position within, or relationship with, the CCG				
Detail of interests held (complete all that are applicable):				
Type of Interest* *See reverse of form for details	Description of Interest (including for indirect interests, details of the relationship with the person who has the interest)	Date Interest relates		Actions to be taken to mitigate risk
		From	To	(to be agreed with line manager or a senior CCG manager)
Financial Interests				
Non-Financial Professional Interests				
Non-Financial Personal Interests				
Indirect Interests				

The information submitted will be held by the 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 the CCG as soon as practicable, 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, or internal disciplinary action may result.

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

Signed:

Date:

Signed:

Date:

(Line Manager or Senior CCG Manager)

Appendix 2

Declaration of gifts and hospitality

Recipient Name	Position	Date of Officer	Date of Receipt (if applicable)	Details of Gift/Hospitality	Estimated Value	Supplier/Offeror or: Name 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	Reasons for accepting or Declining	Other Comments

The information submitted will be held by the 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 the CCG as soon as practicable as 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.

[This paragraph applies to decision making staff only] **I do / I do not (delete as applicable)** give my consent for this information to be published on registers that the CCG holds. If consent is NOT given please give reasons:

Signed:

Date:

Position:

Signed:

Date:

(Line Manager or Senior CCG Manager)

Types of Interest - Declaration of Interest

Type of Interest	Description
Financial Interests	<p>This is where an individual may get direct financial benefits from the consequences of a commissioning decision. This could, for example, include being:</p> <ul style="list-style-type: none"> • 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 owner 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; • In secondary employment (see paragraph 56 to 57) • 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).
Non-Financial Professional Interests	<p>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:</p> <ul style="list-style-type: none"> • 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, BMA or a medical defence organisation would not usually by itself amount to an interest which needed to be declared); • An advisor for Care Quality Commission (CQC) or National Institute for Health and Care Excellence (NICE); • A medical researcher. • The development and holding of patents and other intellectual property rights which allow staff to protect something that they create, preventing unauthorised use of products or the copying of protected ideas; or • GPs and practice managers, who are members of the governing body or committees of the CCG, should declare details of their roles and responsibilities held within their GP practices.
Non-Financial Personal Interests	<p>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 the individual is:</p> <ul style="list-style-type: none"> • A voluntary sector champion for a provider; • A volunteer for a provider; • A member of a voluntary sector board or has any other position or 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 groups with an interest in health.

<p>Indirect Interests</p>	<p>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, this should include:</p> <ul style="list-style-type: none"> • Spouse/partner; • Close relative e.g., parent, grandparent, child, grandchild or sibling; • Close friend; or Business partner.
----------------------------------	--

Offers and Receipt of Gifts and Hospitality

Overarching principle applying in all circumstances: Staff should not accept gifts that may affect, or be seen to affect, their professional judgement.

A 'gift' is designed as 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.

- Low cost branded promotional aids may be accepted where they are under the value of a common industry standard of £6 in total, and need not be declared.
- Gifts of under £50 (rather than £10) can be accepted from non-suppliers and non-contractors, and do not need to be declared ; and gifts with a value of over £50 can now be accepted on behalf of an organisation, but not in a personal capacity

Overarching principle applying in all circumstances: Staff should not accept hospitality that may affect, or be seen to affect, their professional judgement.

'Hospitality': Means offers of meals, refreshments, travel, accommodation, and other expenses in relation to attendance at meetings, conferences, education and training events, etc.

- Meals and Refreshments: Under the value of £25 – may be accepted and need not be declared
- Of a value between £25 and £75 – may be accepted and must be declared
- Over a value of £75 – should be refused

Please return to:

Lynn Casey-Sturt, Governing Body Secretary, Corporate Affairs and Governance Team

Appendix 3

Declaration of Secondary Employment Form

Personal Details and Existing position

Full Name		Title	
-----------	--	-------	--

Job Title	
Department	
Directorate	
Hours of work per week	
Pattern of hours (e.g Mon to Fri 8am – 5pm)	
Days worked	

Other Employment/Work Details

I have other employment/work or I am considering other employment/work including Bank/Locum Agency, the details of which are below:

Organisation/Company/Agency			
Job Title			
Description of work undertaken			
Type of work	(Circle as appropriate): Paid Unpaid Voluntary Casual		
Hours per week		Pattern of hours	
Annual leave entitlement		Date starting/commenced	

Declaration

'I declare that the above information is correct and that Secondary Employment in this instance does not present a conflict of interest nor have a detrimental effect on my work with the organisation. I will inform my Line Manager if there are any changes to the above. I understand that false information given with regard to this Secondary Employment could be treated as Gross Misconduct or fraudulent and dealt with accordingly under the Disciplinary/Counter Fraud Policy. To prevent and detect fraud I consent to the disclosure of relevant information from this form to and by the NHS Counter Fraud Service'

Employee (signed)		Date	
Manager (approved)		Date	